



Study on passenger transport by taxi, hire car with driver and ridesharing in the EU

ANNEX III – Country Reports

Study contract no. MOVE/D3/SER/2015-564/SI2.715085

GRIMALDI | STUDIO
LEGALE



**Università Commerciale
Luigi Bocconi**

CERTeT
Center for Research
on Regional Economics,
Transport and Tourism

WAVESTONE

Prepared by: Simona Frazzani (Grimaldi), Gabriele Grea (CERTeT Università Luigi Bocconi), Alessandro Zamboni (Wavestone), Noti Kletia (Grimaldi), Dalila Frisani (Grimaldi), Giuseppe Siciliano (CERTeT Università Bocconi), Elena Christodoulou, Marcos Papadopoulos (Andreas Neocleous & Co LLC), Mirjam Louws, Marc Padberg (Kneppelhout Korthals Advocaten), Nora Gahmberg, Tero Jyrama (Hammarström Puhakka Partners, Attorneys Ltd), Carlos Llorente (Lebrero & Llorente Abogados), Daniela Bastianić (Žurić i Partneri), Tania Patsalia, Augustine Almyroudi (M&P Bernitsas), Zuzanna Wencel-Czuryszkiewicz, Artur Swinturn (Magnusson Poland), Jesper Kragh-Skriver, Nikolaj Juhl Hansen (Magnusson Denmark), Rebecca Schäffer (Avocado Rechtsanwälte), Mihkel Miidla, Kaupo Lepasepp (Sorainen Estonia), Agris Repšs, Linda Reneslāce (Sorainen Latvia), Renata Beržanskienė, Vaiva Mašidlauskienė (Sorainen Lithuania), Roland Marko, Paulina Pomorski (Wolftheiss Austria), Radoslav Mikov, Katerina Novakova, Stanislav Cherkezov (Wolftheiss Bulgaria), Jan Miska, Jan Kotous, Katerina Kulhankova (Wolftheiss Czech Republic), Norbert Bálint, László Kenyeres, Ágnes Rozs (Wolftheiss Hungary), Lubos Frolkovic, Marian Sulik (Wolftheiss Slovakia), Agnes Said (Sweden).

Revised by: Simona Frazzani

26 September 2016



EUROPEAN COMMISSION

Directorate-General for Mobility and Transport
Directorate C - Land Unit C.1 - Road Transport
Contact: Peter SZATMARI
E-mail: peter.szatmari@ec.europa.eu

*European Commission
B-1049 Brussels*

***Europe Direct is a service to help you find answers
to your questions about the European Union.***

Freephone number (*):

00 800 6 7 8 9 10 11

(*) The information given is free, as are most calls (though some operators, phone boxes or hotels may charge you).

LEGAL NOTICE

This document has been prepared for the European Commission however it reflects the views only of the authors, and the Commission cannot be held responsible for any use which may be made of the information contained therein.

More information on the European Union is available on the Internet (<http://www.europa.eu>).

Table of Contents

1. AUSTRIA	30
2. BELGIUM.....	62
3. BULGARIA	132
4. CYPRUS	158
5. CROATIA.....	170
6. CZECH REPUBLIC	187
7. DENMARK	207
8. ESTONIA.....	227
9. FINLAND	252
10. FRANCE	276
11. GERMANY.....	326
12. GREECE	376
13. HUNGARY.....	402
14. IRELAND	437
15. ITALY	470
16. LATVIA	541
17. LITHUANIA.....	561
18. LUXEMBOURG.....	575
19. MALTA	595
20. THE NETHERLANDS	633
21. POLAND	665
22. PORTUGAL	697
23. ROMANIA.....	722
24. SLOVAKIA	744
25. SLOVENIA	765
26. SPAIN.....	779
27. SWEDEN	811
28. UNITED KINGDOM.....	836

Methodology

The Annex contains 28 country reports describing the regulatory framework related to passenger transport by taxi, hire with driver and ridesharing. The reports have been prepared based on desk research and replies to the stakeholder consultation.

All country reports follow, to the extent possible, a template in order to facilitate orientation and comparison. The structure of the template was prepared based on the approach that the legislative and regulatory framework has two tiers that distinguish between taxis and hire cars with driver. While this is not the case in all Member States, we have tried to maintain the same structure to avoid overlap and repetition. Each report is accompanied by quantitative data collection covering the available data in terms of the number of licenses, authorisations, and turnover. The quantitative data, together with the qualitative data are used to assess the barriers and incentives as well as the capacity and growth of the national market.

The quantitative data collection has proved to be difficult due to the different quantity and quality of the public data, as well as the quantity and quality of the data provided by the respondents to the stakeholder consultation. Some authorities have confirmed that the national statics offices do not collect data on taxis and hire drivers. In other cases, more data was available at the local level but not at the national level. Where raw data was not available, we have extrapolated them from the reports and studies, as well as from national competition authorities' opinions.

National literature has provided a useful instrument to understand the market changes across the years. The degree of sophistication of the legal literature and the case law in respect of the relevant issues varies a lot, as well as the quality of the data. This is not a surprise given that a number of Member States have smaller markets. Therefore, our review and analysis tends to rely more on a subset of European jurisdictions. The literature and case law are supplemented by information from the press that could provide useful insight with regard to the current situation, especially concerning ridesharing.

The country reports strive to depict the local law in force at time of writing comprehensively, adding necessary information on its historical background. The legal part is entirely descriptive and refrains from assessing the legal framework in terms of completeness or efficiency. The section related to the market analysis is based on the results of the legal analysis and of the additional quantitative data collected. The opinions of the national competition authorities on the national hire transport markets were included to provide a more complete picture.

Local researchers drafted the country reports. A template and prototype report were used as a basis so as to guarantee the same level of awareness of the relevant problems of all researchers involved in the drafting. Once the reports were prepared, they were submitted to CERTeT in order to prepare the market analysis.

At the same time, the authors of this study were closely involved in the revision of the country reports, ensuring completeness and comparability and added the results of the stakeholder consultation.

The authors of the study aggregated the findings of all country reports and prepared the relevant conclusions from the comparative analysis. Throughout the process of drafting the comparative-analytical part, the authors conducted additional fact-finding, notably by way of interviewing national and local authorities or private stakeholders in order to clarify certain parts or integrate the information.

With the purpose to assess not only the law in the abstract, but also in practice, we conducted a number of interviews with national authorities and hire transport operators in all Member States. This was especially necessary for ridesharing, where few Member States already have rules in place, while the others are still observing the market's developments.

COMPARATIVE TABLE

TAXIS

	Licences	Quantitative restrictions	Qualitative requirements	Geographical restrictions	Validity	Airport	Affiliation to dispatch centre	Transferability	Fares
AT	Concession for vehicles Taxi driver licence	No	State exam Physical fitness Financial capability (EUR 7,500 per vehicle)	Yes (also within a city, corresponding to the pricing areas)	5 years	Separate concession	No	No	Fixed
BE	Operator (physical or legal person) licence Driver certificate of professional capacity	Yes (Brussels and Region Wallonia)	Morality, solvency and professional qualification. In Brussel Capital Region, behavioural test	Yes	5 years Flemish Region. 5 years Walloon region. In Brussel Capital Region 2 years for driver certificate of capacity, 7 years for operator 's licence	Separate licence for Zaventem airport, issued by the Zaventem municipality	No	No, only transfer of the legal entity as operator holding the licence.	Maximum fares in all the three regions
BG	Registration certificate for taxi carriers	Municipalities are allowed to set a cap. No	(For registration certificate)	Yes	1 year for taxi permit except Sofia	Separate authorisation from the	No	No	Maximum and minimum

TAXIS

	Licences	Quantitative restrictions	Qualitative requirements	Geographical restrictions	Validity	Airport	Affiliation to dispatch centre	Transferability	Fares
	Taxi permit	cap in Sofia	Reliability and professional competence		(3 years)	airport management			fares determined by Municipal councils
CY	Professional drivers' licence and taxi licence (depending from the type of taxi: rural, intercity; inter-cities.)	Yes	21 years old, reliability and no criminal background Professional Taxi Driver Training Certificate (after passing examination)	Yes, also within the same municipality (Piazza system). Intercity taxis are the only authorised to move between two cites. Rural areas have rural taxis, which are not allowed to go to ports and airport	5 years for professional taxi licence	No separate licence needed. Only intra-cities taxis are allowed to pick up passengers at the airport	No	Yes	Fixed minimum
CZ	Trade licence for the driver and concession for the taxi operator	In general no, but in Prague they have been introduced	No criminal background Professional competence Reliability Skills and knowledge (exam)	No, but municipality may limit the geographical scope of the licence	Taxi driver permit 5 years	Separate authorisation	No obligation	No	Maximum fares
DE	Concession + permit	Yes, except	Personal reliability,	Yes, within the area of	Taxi driver permit 5	There are no specific	No obligation	No	Fixed

TAXIS

	Licences	Quantitative restrictions	Qualitative requirements	Geographical restrictions	Validity	Airport	Affiliation to dispatch centre	Transferability	Fares
	to drivers	Berlin and Hamburg	financial capacity (EUR 2,250 for the first taxi), professional suitability, proved by passing an exam	authorisation and fares	years, 2 years for the concession (1 st issuing)	concessions for airports			
DK	Taxi permit for each taxi vehicle and taxi driver card	Yes	Approved training course, exam, financial capacity (DK 50,000 per 1 st permit, DK 25.000 for the others) reliability, no criminal background	Yes, but the taxi driver can pick up passengers outside its area of authorisation if the final destination of the passenger falls within its area of authorisation	Maximum duration for taxi r permit is 10 years	Yes, separate authorisation	Yes the permit authority has issued more than 10 permits, the holders are obliged to form or join a dispatch centre	No	Maximum fares
EE	Taxi licence and vehicle card	No	Vocational training course and exam. Good repute, no criminal background, Good economic standing	No	Prior 2015 – 5 years After 1.10.2015- timeless	No specific authorisation but taxi operators must have an agreement with the airport management	No obligation	No (vehicle card may be leased together with the vehicle)	Not regulated Maximum fares in Tallinn
EI	Yes	No (but a moratorium)	SPSV Driver Entry Test; no	No, taxi service may	5 years	No special	No obligation	No for driver's licence.	Single national

TAXIS

	Licences	Quantitative restrictions	Qualitative requirements	Geographical restrictions	Validity	Airport	Affiliation to dispatch centre	Transferability	Fares
	SPSV driver licence + SPSV vehicle licence	applies since 2010)	health issues, no criminal conviction	be provided in all territory		licence		Transferability of vehicle licence is prohibited from April 2014	taximeter area. Maximum fares in all the national territory
EL	A registration certificate ("adeia kykloforias"); + special driving licence ("eidiki adeia odigisis")	Yes. Determination of the number by the prefecture + tender procedure every two years	21 years old, medical fitness, no criminal records, driving licence B, fluent in Greek, minimum mandatory education For registration certificate, no criminal records, parking space if more than 5 vehicles, financial capacity and EUR 1,000 must be paid to participate in the tender procedure	Yes	Special driving licence is renewed every 5 years	No special licence	No, but there must be a minimum request of affiliation in an area for the dispatch centre to be authorised to operate	Yes	Minimum fares
ES	A licence for each taxi vehicle (the licence includes data of the vehicle)	Yes, fixed number on the basis of socio-	Local driver permit and driver card (after passing	Yes	No expiration if the requirements are complied	No special licence if the airport is in the same	No obligation	Yes, under control of the authorities	Minimum fares

TAXIS

	Licences	Quantitative restrictions	Qualitative requirements	Geographical restrictions	Validity	Airport	Affiliation to dispatch centre	Transferability	Fares
		economic criteria	an exam), no criminal convictions, high school education		with	municipality. In Barcelona, only taxis with a Spanish intercity licence can operate outside their municipality to serve Catalan ports and airports			
FI	Taxi driver licence	Yes, decided on annual basis by the regional authorities	A good reputation. Taxi entrepreneur course, 6 months of driving experience, economic capability, and no annulment of previous licence	Taxi can serve any place in Finland but the return to municipality rule applies.	5 years	No special licence	No obligation	No (only to relatives without compensation)	Maximum fares
FR	Licence (<i>autorisation de stationnement - ADS</i>) and driver professional card	Yes, fixed by each municipality on the basis of socio-economic criteria	Professional card. Training +national and departmental exam. Vocational	Yes	5 years from 2015	No special licence, but only two pick-ups a day per taxi are allowed at Paris Roissy - CDG	No obligation	No for the licence issued after 2015. For those issued before yes	Maximum. Fares. Fixed fares in Paris from/to the airports

TAXIS

	Licences	Quantitative restrictions	Qualitative requirements	Geographical restrictions	Validity	Airport	Affiliation to dispatch centre	Transferability	Fares
			training every 5 years						
HR	Internal transport licence and taxi permit	Yes. In Zagreb, from 2017, a tender procedure will be launched every 4 years	Reputation Professional qualification (education in public transport and exam)	Yes	10 years	No special licence	No obligation	No	Maximum fares
HU	Operational permit but only to subject registered as a company (also individual)	No	Truthfulness, financial capacity, 21 years old, qualification and fitness conditions, competence and fitness of the vehicle. Vocational training +exam in order to prove competence	Yes, defined by the operational permit	5 years (new vocational training and exam for renewal). 5 years for the operational permit	Tender procedure of the airport management company every 5 years.	No obligation	No	No national regulation. Fixed fares in Budapest
IT	Yes, only to individuals and only one licence per person	Yes, decided by municipalities on the basis of socio-economic criteria	21 years old, driving licence, certificate of professional competence, no convictions, medical fitness	Yes	No time limits	Taxi licensed by the municipality where the airport is located are allowed to pick up passengers	No obligation	Yes, but the holder who has transferred the licence may not participate in new tender procedure	Maximum fares

TAXIS

	Licences	Quantitative restrictions	Qualitative requirements	Geographical restrictions	Validity	Airport	Affiliation to dispatch centre	Transferability	Fares
						at the airport,			
LV	Yes. Licence for carriage of passenger+ vehicle card	No	B driving licence and three years of driving experience, payment of taxes, no criminal convictions, medical fitness	Yes	3 years	No separate licence	No obligations	No	Maximum fares. However, the applicant may submit a business plan containing the applicable fares within the maximum
LT	Yes, licence+permit for each vehicle	No	Mandatory professional certificate+3 years of driving experience	Yes	Licence is valid for 3 years. Permits between 1 and 3 years, depending from the age of the vehicle	No specific licence or requirements	No obligation	No	No, the company must notify to the authorities the proposed fares
LU	Yes. Taxi Licence+taxi driver permit	Yes	Driving B licence, 3 years of experience and commercial activity permit, passing an exam	Yes	5 years for taxi licence; 10 years for the taxi driver permit	Yes, previously issued by the Ministry. From 2016, licences for geographical area 1 cover the airport	No obligation	No	Free fares

TAXIS

	Licences	Quantitative restrictions	Qualitative requirements	Geographical restrictions	Validity	Airport	Affiliation to dispatch centre	Transferability	Fares
MT	Yes. Taxi driver permit+taxi licence	Yes. Public tender procedure for taxi licence	19 years old, certificate of professional competence, no criminal conviction	Yes	5 years for the taxi driver permit. 1 year for the taxi licence	No specific licence or requirements	No obligation	Taxi driver permit is not transferable. Taxi licence is transferable with the vehicle	Maximum fares
NL	Yes. Kiwa business permit+certificate of good conduct (for taxi operator's business) For taxi driver Taxi drivers'card+certificate of good conduct+licensing certificate (vehicle)+permit to use bus lanes (if necessary)	No	No criminal records, proof of reliability, driver's card, CBR taxi driver exam, medical fitness certificate	Yes	5 years for the certificate of good conduct	For Amsterdam Schipol taxi companies must be awarded an EU public tender. Additional quality requirements may be satisfied	Yes, in Amsterdam, Rotterdam, The Hague (TTOs) Only taxis affiliated to a TTO may be hired on the street	No	Maximum fares
PL	Yes. One licence per vehicle	No	B driving licence, physical and medical fitness, no criminal convictions. In Warsaw, having passed an exam after a training course	Yes	2-50 years, decided by the applicant	No specific licence	No obligation	No	Maximum fares
PT	Yes. Taxi operator	Yes, only for	Certificate of	Yes	Taxi operator	Yes, if the	No	No, but it is	Minimum

TAXIS

	Licences	Quantitative restrictions	Qualitative requirements	Geographical restrictions	Validity	Airport	Affiliation to dispatch centre	Transferability	Fares
	licence and taxi vehicle licence	taxi vehicle licence.	suitability, training course+ exam, driving licence, 18 years old		licence 5years	airport is in another municipality such as in case of Porto		possible to transfer the company with the licences	fares
RO	Yes, taxi licence (one for each car but an operator may have more than one licence)	Yes, 1/4000 inhabitants	B driving licence and 2 years' experience, certificate of professional training; No criminal records, medical and psychological fitness, fiscal record, financial standing	Yes	5 years except for airports which have no expiration Seasonal licences: 3 months renewable	Yes, licences are issued by the airport administrator.	Yes, mandatory except in localities where the number of licence in less than 1000	No obligation	Maximum fares
SE	Yes. Taxi licence+taxi service permit	No	Professional exam, medical fitness, financial capacity	No	10 years	The management of the airport signs contract only with taxis operators which met qualitative requirements	No obligations	No	Free fares
SI	Licence+permit for taxis	No	Good reputation, good financial standing; professional competence; at	Yes	5 years	An agreement between the manager of the airport and the taxi company	No obligation	Yes, at local level	Maximum fares

TAXIS

	Licences	Quantitative restrictions	Qualitative requirements	Geographical restrictions	Validity	Airport	Affiliation to dispatch centre	Transferability	Fares
			least one vehicle			is required			
SK	Yes (concessions)	No	21 years, B driving licence, certificate of professional competence (exam), no criminal record, financial standing (EUR 1,000 per vehicle); owned or leased taxi vehicle, garage	Yes	10 years but a short period may be requested	No special licence	No obligation	No	Free fares
UK	Yes, taxi driver licence+taxi vehicle licence+taxi operator licence (if necessary)	Yes, except London	Knowledge test "fit and proper person"	Yes	3 years taxi driver licence, 1 year's taxi vehicle and operator	Bylaws of the airports to regulate access	No obligation	No	Maximum fares

HIRE CAR WITH DRIVER

	Licences (double licence taxi/PHV)	Quantitative restrictions	Qualitative requirements	Geographical restrictions	Return to garage rule	Contract with the client	Airport	Fares
AT	Concession	No	Professional qualification test; 3 years of driving experience Financial guarantee (EUR 18,400 per vehicle)	No	Yes	Request at the place of business	Only pre-booked	Pre-arranged
BE	Yes, but taxi licence may be used for hire car with driver transportation	Yes, in Brussel Capital Region. No restrictions in the Flemish and Wallonia Regions	Morality conditions, the professional qualification and the creditworthiness of the applicant. suitability of the vehicle	Yes	Yes	Yes. In Brussel Capital Region, minimum 3 hours and EUR 90	Only if pre-booked.	Pre-arranged. In Brussel Capital Region, min. EUR 90
BG	Hire transport is not regulated	No regulation	No regulation	No regulation	No regulation	No regulation	No regulation	No regulation
CY	Approval	No	Good reputation (no criminal background) and enough parking places for the vehicles	No	yes	Yes	No regulation	No regulation

HIRE CAR WITH DRIVER

	Licences (double licence taxi/PHV)	Quantitative restrictions	Qualitative requirements	Geographical restrictions	Return to garage rule	Contract with the client	Airport	Fares
CZ	Trade licence and taxi driver permit but no stand-alone category	No	Same that taxis	No	Yes	Yes, prior but not immediately before the commencement of the service	Only pre-booked rides	No taximeter
DE	Yes, same special driver permits as taxis. Taxi vehicle may obtain a licence as PHV except in cities with more than 50,000 inhabitants	No	Same that for taxis	No	Yes	Order received at the place of business of the operator	Only pre-booked rides	No taximeter
DK	Taxi driver licence except if the activity is covers a determined group of people. In case of this second activity only a permit is required	Yes	Financial plan, credit line of EUR 7,000, presentation of a business plan, need to prove that there is demand for the service, experience as professional driver	No	Yes	Yes, and the vehicle must be kept at disposal of the client	Only under a contract with the client	Not regulated
EE	EU professional	No	Professional capacity of the	No	No	Not regulated	Only if pre-	Not regulated, but no

HIRE CAR WITH DRIVER

	Licences (double licence taxi/PHV)	Quantitative restrictions	Qualitative requirements	Geographical restrictions	Return to garage rule	Contract with the client	Airport	Fares
	driver licence		company manager, financial standing, no criminal background, roadworthiness of the vehicles				booked	taximeter
EI	Same SPSV licence than taxis	No, but currently only wheelchair accessible hackney licences are issued	SPSV Driver Entry Test; no health issues, no criminal conviction	yes	Yes	Hackney must be pre-booked.	Pre-booked	Pre-arranged payment
EL	Special driving licence. Registration certificate for vehicles	No, but only travel agencies and car rental are allowed to perform the service	No criminal records, payment of taxes and social security, financial standing, in case of more than 5 vehicles, parking spaces	No	Yes	Minimum 6 hours booking. Only written agreement or order passed through a call centre (no web applications)	Only if pre- booked	No taximeter
ES	Yes, VTC licence	Yes, 1 VTC licence every 30 taxis	Residence in the area of the licence, physical fitness, no criminal records, compliance with social security and tax rules	Yes (80% of the service has to be carried out within the area of licence)	Yes	Yes, a copy of the contract must be in the vehicle	Only if pre- booked	Pre-agreed and indicated in the contract.
FI	No regulation and no	NA	NA	NA	Yes	Limousine service are considered transport	NA	Contractually defined

HIRE CAR WITH DRIVER

	Licences (double licence taxi/PHV)	Quantitative restrictions	Qualitative requirements	Geographical restrictions	Return to garage rule	Contract with the client	Airport	Fares
	distinction form taxis					service only regulated by contractual law		
FR	VTC licence. Taxis driver licence may be used to drive VTC vehicles	No	Professional card, training + exam Financial standing	No	Yes	Contract with the end client	Only pre- booked	No taximeter, pre- agreed fares
HR	Transport operator licence	No	Good reputation Financial standing Professional qualification	No	TBC	Yes, contract must be concluded before the transport and the transport must be intended one-time	Only if pre- booked	No
HU	Similar to taxi but licence may not be issued to a vehicle licensed as taxi	Only as ancillary service for hotel, travel agencies, event organization	Operational permit; qualified professional manager; financial security for each vehicle in an amount of HUF 50,000 per passenger seat in the vehicle; qualified hire car drivers, and licensed vehicles	No	Only activities included in the contract are allowed	Hire car is ancillary to other activities and a contract for the main activity must be present	If included in the contract service	No taximeter
IT	Municipal authorisation	Municipal public	Same provisions than taxis plus registered office,	No, but certain municipalities	Yes	Booking must be performed at the place of business,	Only pre- booked	Agreed with the client prior the commencement of

HIRE CAR WITH DRIVER

	Licences (double licence taxi/PHV)	Quantitative restrictions	Qualitative requirements	Geographical restrictions	Return to garage rule	Contract with the client	Airport	Fares
		procedure	garage or rank in the municipality which issued the licence.	imposes an entry tax		obligation to perform a specific service		the journey.
LV	Not regulated by law, but in absence of licence the operator may be considered as "performing unlicensed activity"	No	Similar to taxi	No	NA	The service is performed based on a contract for service between the provider and the passenger	If included in the contract	Agreed between the parties
LT	No. the service is based upon a specific contract	No	Not regulated	No	No	The provision of service is exclusively based on a "contract for rental of vehicles with services relating to driving and technical maintenance"	Everything that is included in the contract	Agreed between the parties
LU	Only an authorisation of establishment	No	Same as taxi, 3 years driving experience, commercial authorisation	No	Yes	There must be a contract between the operator and the passenger, specific duration of the transport (at least one hour), price and signature	Only if included in the contract	Agreed between the parties
MT	Public Service	No	Driving B licence;	Yes	Yes	The vehicle may only	Only if	Agreed between the

HIRE CAR WITH DRIVER

	Licences (double licence taxi/PHV)	Quantitative restrictions	Qualitative requirements	Geographical restrictions	Return to garage rule	Contract with the client	Airport	Fares
	Garage Licence		Having attended a customer care course; good repute			be pre-booked	included in the contract	parties.
NL	Yes, same that taxis	No	Same that taxis. During the CRB exam the applicant must specify for which driver's card is applying (taxis or hire car)	No	No	Service is based written agreement, in which during a fixed period, as specified in the agreement, repeated taxi transport is provided at a fare specified in the agreement	Only if included in the contract	Agreed between the parties
PL	In principle yes, but no licence is required for incidental transport which is made upon a specific contract	No	No criminal offence, not be barred from performing business activities, certificate of professional competence, financial standing (EUR 9,000 for the 1 st vehicle, EUR 5,000 for the others), capacity to demonstrate that the vehicle used are at disposal	No	Yes	Agreement made in writing at the business premises	Only if included in the contract	Agreed between the parties and included in the contract. Payment made by wire transfer, or payment in cash at business premises
PT	Same that taxis. Only car rentals services do	Yes	Same that taxis	Yes	Only when the service is performed by	Yes, if the service is under car rental legislation, a contract must be signed at car	Only pre- booked	Only pre-arranged. In case of car rental service, payment must be made by

HIRE CAR WITH DRIVER

	Licences (double licence taxi/PHV)	Quantitative restrictions	Qualitative requirements	Geographical restrictions	Return to garage rule	Contract with the client	Airport	Fares
	not require licence				rental cars	rental's business premises		wire transfer or cash payment at the car rental business place
RO	Authorization	No	No criminal records; proof of professional capacity; self- declaration of experience as hire transport, medical and psychological fitness	No	Yes	Hourly or daily contract	Only if included in the contract	Only pre-arranged and pre-paid
SE	Only taxis are allowed	N.A.	Same as taxis	N.A.	N.A.	N.A.	Same as taxis	Pre-agreed but info about the price must be included in the taximeter manually
SI	No	N.A.		N.A.	N.A.	Yes, a contract is necessary between the carrier and the passenger	Only if included in the contract	Only if included in the contract
SK	Only taxis no PHVs	NA	NA	NA	NA	NA	NA	NA
UK	Yes, PHV only driver licence, PHV vehicle licence, PHV operator only licence. Double taxis- PHVs licences	No	Yes, similar to taxis	Yes, in England and Wales if <i>triple lock</i> is applicable (operators must work only with PHV vehicles and	Yes	Pre-booked service. In certain areas of Belfast ply for hire is allowed	Only if pre- booked	No taximeter

HIRE CAR WITH DRIVER

	Licences (double licence taxi/PHV)	Quantitative restrictions	Qualitative requirements	Geographical restrictions	Return to garage rule	Contract with the client	Airport	Fares
	are possible in England and Wales			drivers licensed in the same area of the operator)				

RIDESHARING

	Definition	Registration/Licence of the platform	P2P ridesharing	Commercial ridesharing	Incentives
AT					
BE	No	No (proposed by the Smet plan)	Only for covering the costs of the journey that the driver would have made in any case	Yes but under conditions of PHV. Organised taxi ridesharing Collecto	Tax breaks for colleagues carpooling to commute to work
BG	No	No	Not regulated	No	No
CY	No	No	Not regulated	No	No
CZ	No	Not regulated	Not regulated	Not regulated	No
DE	Transport of a person in a private vehicle as long as they are doing so for free, as long as the payment only covers the running costs of operating the vehicle'	No, platforms are allowed to charge an agency/mediation fee as long as they do not exceed the operational costs of the ride	Passenger transports are not governed by the Passenger Act if they are free of charge or if the payment does not exceed the operational costs for the ride	It could be covered by the mixed concession/licenses but the authorities never released them	No
DK	No	Not regulated	Not regulated	Not regulated	No
EE	Currently only own-account road transport' New legislation in course of implementation	After reform: Pre-arranged service via electronic system	After reform: Pre-arranged service offered by individual Via electronic platform Real Decreto 763/1979	After reform: pre-arranged service offered by undertakings via electronic platform	No
EI	No	No	Only for covering the costs of the journey that the driver would have made in any case	Not regulated	No
EL	No	Not regulated	Not regulated	Not regulated	No

RIDESHARING

	Definition	Registration/Licence of the platform	P2P ridesharing	Commercial ridesharing	Incentives
ES	Private individual transport is not subject to authorisations only if it is for the need owner and his/her relatives and no remuneration is involved except the costs for the owner	Not regulated	Not regulated	Not regulated (but suspended under court injunction)	No
FI	Professional ridesharing is currently prohibited	No	After the reform, small-scale passenger and cargo transport operators will no longer require permits. Taxi drivers that take in less than 10,000 euros per year would be exempt from the permit requirement	The new legislation will cover independent contractors including those that work for the online ride-sharing service	No
FR	Only joint use of a motor vehicle with a driver and one or more passengers as part of a journey that the driver performs on its own account, for no consideration except the cost-sharing	Intermediaries matching demand and supply of non-profit ridesharing must be registered	Only non- professional and no remuneration of the driver	No	No
HR	No	No	Not regulated	Not regulated	No
HU	No	Yes, it must be licenced as dispatch centre since January 2016	Only non- professional and no remuneration of the driver	Only with licensed taxi drivers	A Hungarian carpooling platform has received public support.
IT	No	No	Only non- professional and no remuneration of the driver	Not regulated and allowed only with licensed hire cars with driver	No
LV	Not regulated, but it may be considered unlicensed	No	Depending from case to case but could be	No (A stakeholder has submitted	No

RIDESHARING

	Definition	Registration/Licence of the platform	P2P ridesharing	Commercial ridesharing	Incentives
	transport		considered unlicensed transport	a proposal to the LV government for a regulation allowing commercial ridesharing)	
LT	No, but a legislative proposal has been registered	No	Only non- professional and no remuneration of the driver	Only with hire car with driver or taxis. Each commercial activity must be registered	No
LU	No	Not regulated	Not regulated	Not regulated	No
MT	No	Not regulated	Not regulated	Not regulated	No
NL	Only if the payment does not exceed the costs	Not regulated	Only non- professional and no remuneration of the driver	Not regulated. Judgements are expected soon	Carpooling/ridesharing parking spaces
PL	No	Not regulated	Only non- professional and no remuneration of the driver	Not regulated however nonprofessional ridesharing for compensation is accepted	No
PT	No	Not regulated	Only non- professional and no remuneration of the driver	Not regulated but prohibited by the court	No
RO	Not				
SE	Only allowed for sharing the costs of the journey. On-going national inquiry on ride-sharing	No	Not regulated	Not regulated but accepted	No
SI	No	Not regulated	Not regulated	Not regulated	No
SK	No	Not regulated	Not regulated	Not regulated	No
UK	Only if the payment does not exceed the costs of the ride. For professional transport (taxis and PHV) immediate	Not regulated	Only non- professional and no remuneration of the driver	Only in the form of immediate hiring (taxis) or pre-booked (taxis and PHVs) rides at separate fares. Local authorisation is needed	No

RIDESHARING

	Definition	Registration/Licence of the platform	P2P ridesharing	Commercial ridesharing	Incentives
	or pre-booked rides at separate fares				

1. AUSTRIA

General Legal Framework

Austria is a federal country divided into nine autonomous states. Legislation regarding the taxi and hire car with driver industry is not centrally regulated but at the federal and state levels. Federal legislation on the taxi sector is not provided in one consolidated statute. Rather, it is spread over various legal sources. For example, nine different state regulations regarding the fare system or the car's technical equipment exist. Further, the taxi and hire car with driver industries do not provide for separate legislative Acts but are mostly subject to the same statutory provisions. The main federal legislation is the Occasional Transport Service Act 1996 (*Gelegenheitsverkehrs-Gesetz 1996* – "GelverkG").

Licenses

The procedures and requirements for issuing licenses are stipulated in the Trade Regulation Act 1994 (GewO) and the more specific rules in the Occasional Transport Service Act 1996 (GelverkG). The commercial transportation of persons with passenger cars requires a concession¹ issued by the district administrative authority (*Bezirksverwaltungsbehörde*) competent in the location where the transportation is to take place. There are no quantitative restrictions for concessions, but there are qualitative criteria that must be met, in particular financial stability, professional qualifications, Austrian residence, and the availability of a parking spot/garage when the taxi is not on the road.

Technical requirements

The nine different state ordinances for non-linear commercial carriage of passengers stipulate the technical requirements for taxi cars. The obligations include a calibrated² taximeter plainly visible for passengers and a taxi sign on the roof that shines in yellow or white depending on the applicable state ordinance.

Organisational and professional requirements

There is no legislation on organizational requirements on how a taxi is to be hired. Taxis can be dispatched from taxi centres through customer requests via phone or mobile applications or hailed freely on the street. It is not mandatory for taxi companies to join a dispatch centre but only licensed companies with their vehicles may join a dispatch centre. Only trustworthy and reliable persons can work as a taxi driver³. The driver must obtain a taxi driver's licence. To obtain such a licence, every driver (either employed or self-employed) is required to pass an examination in his state. A business owner may only employ drivers with a taxi driver's licence. The licence must be available and visible at all times.⁴ Further, the taxi driver's licence is only valid if it is connected to a valid driver's licence. From 1 January 2016, a new regulation obliges the taxi driver to have a cash register to record cash payments and has to be integrated either in the taximeter or in a separate device to hand out receipts. The cash register must be able to trace cash revenues (to prevent tax fraud).

Fares

GelverkG allows the taxi fare system to be subject to the respective state governor's regional ordinances. Besides fixed tariffs in certain regions and cities, there are also free pricing models without regulation. If an airport is between states, the Federal Ministry of Transportation can stipulate the fares in a special regulation, such as in Vienna.

Passenger rights

There is no separate legal source for passenger rights. Passenger rights are stipulated in federal regulations and state ordinances. There is no general harmonization between the various states, thus, some ordinances are more detailed than others. However, as a general rule, there is an obligation to pick up passengers. However, there is no obligation for taxis to be fully accessible.

Labour rules

Labour regulations are stipulated in the Employees Act and in the collective agreements negotiated between unions, trade associations and the Federal Chamber of Commerce. The collective agreement for drivers of taxis and hire car with drivers provides for a minimum wage of EUR 1.170, and EUR 1.200, respectively, from 1

¹ § 2 (1) GelverkG.

² § 8 (1) Measure and Calibration Act (*Maß- und Eichgesetz*).

³ § 2 BO 1994.

⁴ § 4 BO 1994.

January 2017.

Airport

The concession authority is the airport management body for the airports in Vienna.

Enforcement

The district administrative authority (*Bezirksverwaltungsbehörde*) can revoke the concession at any time if qualifications are not met.⁵ If, for example, the business owner loses his reliability due to a prison sentence or loses the financial capability to hold up the number of registered cars, the concession can be revoked. Violations of the BO 1994's provisions in respect of the driver's qualifications and the operation of the taxi are subject to administrative penalties of up to EUR 7.267 set forth in § 15 GelverkG.

Hire cars with driver

The regulations applicable to hire cars with driver are stipulated in the same legislation for taxi drivers specifying the required qualifications relating to the company, driver and cars⁶. Drivers must also pass a professional qualification test⁷ as set forth for taxi drivers. However, they do not require an additional specific licence. The operator must give a financial guarantee for each vehicle. The journey must be booked at the place of business and the car must return to the garage after the ride.

Ridesharing

There is no specific ridesharing and car sharing legislation. Hence, general provisions regarding driving private vehicles apply. There are no regulatory rules for not-for-profit ridesharing, but the total proceeds from the riders to the driver must not exceed the costs of running the car (generally, EUR 0.05 /km per additional passenger has been established by jurisdiction and case law as an acceptable threshold).

Country market:

Taxis and hire car with drivers are two different transport sectors. However, the applicable regulation is the same and a concession (licence) is required for both. The main difference is that hire cars with driver cannot pick up a passenger on the streets and they may only accept orders made at their place of business. Moreover, they are not subject to fixed fares.

The geographical dimension of the market is local and the catchment area for taxis corresponds to the area of the concession. Airports are a separate market since a separate concession is required. With regard to market access, there are no quantitative restrictions for taxis and hire car with driver services. Only qualitative requirements must be complied with in order to exercise the activity of taxi operator.

Market players

With regard to the taxi sector, market players are divided between taxi operators and dispatch centres. According to the reply of the national taxi association, taxi operators are mainly individual companies. There are 10 984 registered taxi vehicles in Austria. In the largest cities, there are various dispatch centres. The three largest dispatch centres are: Taxi 60160 and Taxi 40 1000 (which belong to the same company), and WIHUP Taxi Service GmbH. Taxi 31 300 mainly operates in Wien, and Taxi 40 1000 affiliates 1,800 operators. With regard to hire car with driver, there were 9171 vehicles in 2014. The market players are divided between operators and intermediaries/brokerage companies. Operators own the vehicles and employ the drivers. Among them, the largest company is Austrian Chauffeur Limousine, which provides services directly to customers, also for airports rides, and business services for hotels including round trips to Budapest and Prague. The main intermediaries are Uber BV and Blacklane. The US company Carpoolworld, French Blablacar, and E-carpool.eu (mainly focused on eastern Europe cities) provide long distance ridesharing.

Barriers, limitations and incentives

For the taxi sector, there are no quantitative restrictions to enter the market. Only qualitative restrictions are imposed. Fares are fixed in some municipalities including Vienna. For the hire car with driver sector, there are no quantitative restrictions and the access' requirements are similar to those for taxis. Fares are not regulated. There are various taxi services that benefit from public support, such as the City taxi. Public funds are also

⁵ § 6 (3) in connection with § 16 GelverkG.

⁶ § 3 (1) 2 GelverkG; §1 (1) 2.b BZP-VO; § 1 (1) BO 1994.

⁷ § 3 (2) 2 in connection with § 5 ff GelverkG.

allocated for converting the fleet of vehicles into electric cars. In Vienna, a pilot project has been launched to integrate the service into the public urban transport system with a public platform. The public platform is anticipated to be operative from 2017, covering all the transport modes and allowing the use of a public transport smart card to pay for taxis' rides.

Capacity, growth and impact

The taxis and hire car with driver has shown consistent growth in the past several years. From 2006, both services have increased on average by 1,44%. According to the national taxi guild, average earnings have increased in 2010-2014 by 2.8%.

Conclusions

The Austrian market does not impose quantitative restrictions for the access to market but only stringent qualitative regulations. Fixed fares imposed by some municipalities may be the source of concern since they remove the possibility to offer fares that are more competitive and consequently reduce costs for users. Contracted taxis and demand-responsive transport seem to be a relevant source of revenues for the taxi sectors in various regions. The arrival of innovative service providers has not been particularly contested.

I. Introduction

Austria is a federal country divided into nine autonomous states. Legislation regarding the taxi and hire car with driver industry is not centrally regulated but can be found on federal and state level. Hence, nine different regulations regarding e.g. the fare system or the car's technical equipment exist. Further, in Austria the taxi industry and the hire car with driver industry do not provide for separate legislative Acts but are mostly subject to the same statutory provisions.

II. Legal Framework applicable to taxis

The taxi industry serves the transportation of persons with passenger cars, which are available for everyone in public places or can be hired via telecommunication facilities. It also includes the transportation of objects that can be carried by a person without help of technical devices.

II.1 National regulation

Federal legislation regarding the taxi sector is not provided in one consolidated statute. It spreads over various legal sources dealing with trade regulation, regulations on concessions for business owners, admission regulations for drivers, or labour law.

The applicable federal laws include:

Occasional Transport Service Act 1996 (*Gelegenheitsverkehrs-Gesetz 1996 – "GelverkG"*).

Regulation of the Federal Ministry for Transport, Innovation and Technology for non-linear commercial carriage of passengers 1994 (*Verordnung des Bundesministers für Verkehr, Innovation und Technologie mit der gewerbepolizeiliche Regelungen für die nichtlinienmäßige Beförderung von Personen mit Fahrzeugen des Straßenverkehrs getroffen werden, Betriebsordnung für den nichtlinienmäßigen Personenverkehr – "BO 1994"*): specifying the required qualifications for taxi drivers such as education, health and reliability.

Regulation of the Federal Ministry for Transport, Innovation and Technology for the admittance to profession for road services and occasional transport services (*Verordnung des Bundesministers für Verkehr, Innovation und Technologie über den Zugang zum mit*

Kraftfahrzeugen betriebenen Personenbeförderungsgewerbe, Berufszugangsverordnung Kraftfahrlinien- und Gelegenheitsverkehr, "BZ-VO").

Trade Regulation Act 1994 (*Gewerbeordnung 1994, "GewO").*

Federal Automobile Act (*Kraftfahrgesetz 1967, "KFG").*

Federal Driver's Licence Act (*Führerscheingesetz, "FSG").*

Collective Agreement for Drivers in the Passenger Transportation Sector (*Kollektivvertrag für Arbeiter im Personenbeförderungsbetrieb).*

Collective Agreement for Employees in the Passenger Transportation Sector (*Kollektivvertrag für Angestellte im Personenbeförderungsbetrieb).*

II.1.2 Local Regulations

There are nine different state ordinances for non-linear commercial carriage of passengers that specify the federal Regulation of the Federal Ministry for Transport, Innovation and Technology for non-linear commercial carriage of passengers, the *BO 1994*. The state laws vary in their content and degree of details but are mainly harmonized. The provisions relate to the operation, equipment, and marking of the passenger car and the rules on the practice for the taxi and "hire car with drivers" industry.

Further, the fare system is different in the nine states with either fixed tariff or free pricing models. The respective state governor as competent authority may issue binding tariffs for the entire state and for single administrative districts or for single municipalities. Within the area regulated by tariffs, taximeters are mandatory whereas outside such areas, the price may be fixed freely.

The nine state ordinances for non-linear commercial carriage of passengers with automobiles are:

- Burgenland operating regulation for the non-linear passenger transport, (*Burgenländische Betriebsordnung für den nichtlinienmäßigen Personenverkehr*).
- Corinthia operating regulation for the non-linear passenger transport, (*Kärntner Betriebsordnung für den nichtlinienmäßigen Personenverkehr*).
- Styria taxi, vehicle hire with driver and guest vehicle operating regulation, (*Steiermärkische Taxi-, Mietwagen- und Gästewagen-Betriebsordnung*).
- Salzburg taxi, vehicle hire with driver and guest vehicle operating regulation, (*Salzburger Taxi-, Mietwagen- und Gästewagen-Betriebsordnung*).
- Upper Austria taxi, vehicle hire with driver and guest vehicle operating regulation, (*Oberösterreichische Taxi- und Mietwagen-Betriebsordnung*).
- Tyrol passenger transport operating regulation, (*Tiroler Personenbeförderungsbetriebsordnung*).
- Vienna taxi, vehicle hire with driver and guest vehicle operating regulation, (*Wiener Taxi-, Mietwagen- und Gästewagen-Betriebsordnung*).
- Vorarlberg taxi, vehicle hire with driver and guest vehicle operating regulation, (*Vorarlberger Taxi-, Mietwagen- und Gästewagen-Betriebsordnung*).

II.2 Procedures for issuing licenses and applicable criteria

The procedures and requirements for issuing licenses are stipulated in the Trade Regulation Act 1994 (*GewO*) and the more specific rules in the Occasional Transport Service Act 1996 (*GelverkG*). In Austria the commercial transportation of persons with passenger, cars are subject to concession⁸ issued by the district administrative authority (*Bezirksverwaltungsbehörde*) competent for the location within which the transportation shall take place. The application has to include documentation required under § 339 (3) *GewO* and proof of the compliance with the provisions of § 5 *GelverkG*. The granted concession will be published in the public Trade Register.

The area of concession corresponds to the catchment area, where the taxi may pick up passengers. For the airports in Vienna, the concession authority is the airport management body. Therefore, Vienna taxis are not allowed to pick up passengers and they must return empty.

The business owner can be either a natural person with a minimum age of 18 years or a corporate entity with a managing director under trade law.

The business owner must comply with the requirements⁹ for the regulated trade and provide the following qualifications¹⁰ in order to be granted a concession:

- Reliability of the business owner,
- Financial capability to conduct business with sufficient means for the amount of registered cars (minimum EUR 7.500,- per car¹¹),
- Professional qualification certification issued by the assessment commission appointed by the state governor proving the pass of respective exams¹² or qualification based on other education¹³, and
- Factual and permanent residence in Austria, respectively the EEA.

Reliability can be evidenced with a criminal records certificate and a statement that no exclusion regarding the operation of the trade exists. Reliability is refused if: (i) the applicant has been convicted with a prison sentence exceeding 3 months or with a monetary penalty exceeding 180 daily rates and such conviction has not been extinct, (ii) the applicant's approval for the business of passenger transportation was already revoked once, or (iii) the applicant violated certain regulations related to payment, working conditions, or vehicle fitness conditions.

For the assessment of the financial capability, the authority has to consider the (i) company's last financial statement, if any, (ii) available funds, including bank deposits, possible bank overdrafts and loans, (iii) property and assets available as security for the company, (iv) cost including the entire acquisition cost and down payment for the cars, property, assets and equipment, and (v) working capital¹⁴.

Further, the business owner has to provide parking places aside from public places to park his cars¹⁵.

All the requirements and qualifications must be present for the duration of the concession¹⁶.

⁸ § 2 (1) *GelverkG*.

⁹ § 339 (3) 1 until 3 *GewO*.

¹⁰ § 5 *GelverkG*.

¹¹ § 3 (2) *BZP-VO*.

¹² The qualification requirements are set out in the *BZP-VO*.

¹³ § 5 (5a) 2. *GelverkG*.

¹⁴ § 3 (1) *BZP-VO*.

¹⁵ § 5 (1) *GelverkG*.

The concession is granted for a specific number of cars. An expansion for more cars is subject to a new approval. A reduced usage of cars does not require approval; however, until the scope of the concession is adjusted to the actual number of cars, the financial capability as set forth in the concession must be met.

The costs for the qualification certificate add up to 12%¹⁷ of the salary of a federal official of the Class V, salary level 2, which are adapted regularly. Currently the average costs are around EUR 300.

II.3 Technical requirements applicable to licensed vehicles (taximeters, vehicles' technical specifications, accessibility, insurance, maintenance)

The nine different state ordinances for non-linear commercial carriage of passengers stipulate the technical requirements for taxi cars. The obligations include a calibrated¹⁸ taximeter plainly visible for passengers and a taxi sign on the roof of each car that shines in yellow or white depending on the applicable state ordinance.

The following table provides an overview of the technical requirements prescribed in the different state ordinances. If a technical aspect is not prescribed by the respective state ordinance this is marked as N/A.

	Burgenland	Carinthia	Lower Austria	Salzburg	Styria
Door-count	Minimum 4	Min. 4	Min. 4	Min. 4	Min. 4
Seats	n/a	n/a	n/a	Min. 5	Min. 5 E-Cars Min 4
Sliding door	2	2	2	2	2
Exterior Length (mm)	4115	4200	4200	4200	4200
Exterior width (mm)	n/a	n/a	1560	1560	n/a
Exterior Height (mm)	n/a	n/a	1300	1300	n/a
Footstep height (mm)	n/a	n/a	n/a	n/a	n/a
Car boot	n/a	75kg	75kg	75kg/ 400l	n/a
Alarm system	No	No	No	Yes	Yes
Taxi-roof sign	Roof	Roof	Roof	Roof	Roof
Spare wheel	No	No	No	No	No
Seat contact system	No	No	No	No	Yes
Air conditioning	Yes, for new registrations since 2013	Yes, for new registrations since 2003	n/a	n/a	Yes, for new registrations since 2006

¹⁶ § 5 GelverkG.

¹⁷ § 118 Salary Act 1956 (*Gehaltsgesetz 1956*).

¹⁸ § 8 (1) Measure and Calibration Act (*Maß- und Eichgesetz*).

	Burgenland	Carinthia	Lower Austria	Salzburg	Styria
Roof sign light	Yes, white or yellow	Yes, white or yellow	Yes, white or yellow	Yes, yellow	Yes, white or yellow
(Independent) vehicle heater	No	No	No	No	No
Exhaust emission standard	New registrations since 2013 EURO 5	New registrations 2012 EURO 5, since 2015 EURO 6	n/a	n/a	New registrations since 2013 EURO 5

	Upper Austria	Tyrol	Vienna	Vorarlberg
Door-count	Minimum 4	Min. 4	Min. 4	Min. 4
Seats	n/a	Min. 5	n/a	n/a
Sliding door	2	2	2	2
Exterior Length (mm)	4200	n/a	4200	4200
Exterior width (mm)	1560	n/a	1560	n/a
Exterior Height (mm)	1300	n/a	1300	n/a
Footstep height (mm)	Max. 400	n/a	Max. 470	n/a
Car boot	400L	n/a	n/a	75kg/400l
Alarm system	No	No	Yes	No
Taxi-roof sign	Roof	Roof	Roof	Roof
Spare wheel	No	No	No	No
Seat contact system	No	No	No	No
Air conditioning	n/a	n/a	Yes, since 2013	Yes
Roof sign light	Yes, white or yellow	Yes, white or yellow	Yes, yellow	Yes, white or yellow
(Independent) vehicle heater	No	No	No	Yes
Exhaust emission standard	n/a	n/a	New registrations since 2012: EURO 5, since 2015 EURO 6	n/a

II.3.1 Insurance and Maintenance

Every vehicle must provide for a mandatory vehicle insurance covering personal damages, property damages and financial losses. The minimum amount is EUR 7.000.000 per incident and additionally EUR 70.000 for financial losses.¹⁹

Aside from compulsory liability insurance for damage to third parties caused by the insured vehicle, there is no special insurance necessary for taxi drivers. Taxi drivers may voluntarily conclude further insurances with a broader scope of coverage.

II.3.3 Inspection

The cars need to be serviced regularly in accordance with the general legislation for vehicle.²⁰

In addition, the taximeter and lights of the taxi sign have to be functional at all times and must be repaired if damaged or malfunctioning.

Further inspection duties are stipulated in the Collective Agreement for Drivers in the Passenger Transportation Sector²¹: the driver has to ensure that the car is in operative condition and, in particular, he has to check the taximeter (if applicable), to carry all required inspection tags and required documents in the car (e.g. European accident report). He has to notify his employer of any defects immediately if he is not able to fix himself.

At the end of a ride, the driver has to inspect the car for objects forgotten by passengers²². After longer breaks, the driver has to control the effectiveness of the breaks before the next ride and has to ensure that during every ride the doors are closed.

II.3.4. Accessibility

There is no obligation to ensure accessibility of taxi vehicles. Whereas drivers must be able to assist passengers in entering and exiting the car, the car itself is not legally required to be accessible for people with disabilities.

II.4 Qualitative Requirements (*fitness of the driver, knowledge and skills required, drivers' training*)

Only a trustworthy and reliable person can work as a taxi driver.²³ He must provide for a taxi driver licence. To obtain such a licence every aspiring taxi driver (either employed at a company or self-employed) is required to pass the examination for taxi drivers in his state. A business owner may only employ drivers with a taxi driver licence. The licence must be available and visible during their shifts at all times.²⁴ Further, the taxi driver licence is only valid in connection with a valid driver's licence.²⁵

The district administrative authority (*Bezirksverwaltungsbehörde*) competent for the region where the service will be performed is the competent authority for issuing the licenses.

¹⁹ § 9 (3) and (5) Vehicle Liability Insurance Act (*Kraftfahrzeug-Haftpflichtversicherungsgesetz 1994*).

²⁰ §§ 57f KFG 1967.

²¹ See point IV. of the Collective Agreement for Drivers in the Passenger Transportation Sector.

²² § 19 (3) BO 1994.

²³ § 2 BO 1994.

²⁴ § 4 BO 1994.

²⁵ § 10 BO 1994.

Conditions for issuance of the licence²⁶ are:

- Drivers need to have a general driver's licence in accordance with the Austrian Driver's Licence Act (FSG) for cars in the respective classes, but at least a "Class B" driver's licence²⁷ and no probation period left. They also need to prove that they regularly drove automobiles one year ahead of the application; Physical fitness to be able to fulfil the duties that occur with the occupation (assistance with loading and unloading luggage, helping elderly or physically handicapped passengers entering and exiting the vehicle, if necessary);
- Attested reliability and trustworthiness in the last five years before the issuance;
- Minimum age of 20 years; and
- Attestation of knowledge in:
 - the relevant state ordinance for non-linear commercial carriage of passengers with cars where the intended business will take place;
 - the relevant provisions in the Trade Regulation Act;
 - road safety measures, in particular provisions relating to the taxi sector;
 - relevant labour and social law provisions, in particular provisions on working time;
 - accident prevention, work hygiene and environmental protection, in particular relating to the taxi sector;
 - local geography and street directories;
 - the respective state's fare system and other taxi related pricing provisions;
 - basic provisions of telecommunication, if relevant for the taxi driver;
 - Attested schooling in life-saving measures for at least six hours.

The average price for the examination (written and oral) for the taxi driver licence amounts to around EUR 170.

II.5 Organizational requirements (*dispatch affiliation centre, minimum service*)

There is no legislation on organizational requirements in Austria on how a taxi has to be hired. Taxis can be dispatched from taxi centres through customer requests via phone or mobile applications or hailed freely on the street.

In Austria, it is not mandatory for taxi companies to join a dispatch centre. Only licensed companies with their vehicles may join a dispatch centre. It is a business decision of the individual company. Dispatch centres can be found in Austria, especially in the big cities, where "fares zones" are prescribed by law. However, the dispatch centre may also offer their services in areas outside major cities in order to improve the accessibility of individual taxi and hire car with drivers to customers.

In the capital city Vienna, the three main dispatch centres are under www.taxi60160.at, www.taxi40100.at, www.taxi31300.at. All provide also for mobile and internet applications for booking taxis. Further, Vienna provides for special

²⁶ § 6 BO 1994.

²⁷ § 2 (1) Z 5 FSG [Class B: Vehicles with less than eight places for transportation apart from the driver's seat with a maximum authorized mass of 3500 kg].

parking spaces and traffic lanes reserved for taxis. Some of these spaces are equipped with a boot to call taxis. For orders made using such phones, a surcharge is applied.

Mobile applications regarding taxi services in Vienna are provided inter alia by the taxi dispatch centres 31300 and 40100 and the digital platform "myTaxi" for all taxis.

II.5.2. Register of Taxi availability

There is no public register of taxi availability that provides live geo data on how many taxis are on the streets. Only the Federal Chamber of Commerce (*Wirtschaftskammer Österreich*, WKO) issues information on (i) holders of a concession, (ii) holders of taxi driver licence, and (iii) members of the regional occupational groups.

Two pilot projects for joint mobility platforms for public transport, taxi, car sharing and bike sharing are currently being tested (Project SMILE, Project Beam Beta) and scheduled to become operative in 2017. In 2015, an integrated mobility payment card (mobile card) was established for public transport, taxi, car sharing, bike sharing, garages, and electric charging stations. With a single mobility card, it is possible to pay for different services including taxis.

II.6 Fares *(criteria for taxi fare setting, authority/body in charge of setting the tariffs, maximum tariffs and/or fixed tariffs, composition of the tariff and tariffs adjustment mechanism [minimum charge, additional charge for using the radio taxi or dispatch centre, increase of the tariff during certain hours, such as at night or on certain journeys, such as towards the airports, reductions for certain categories, such as elderly people]).*

§14 *GelverKG* allows the taxi fare system to be subject to regional ordinances of the respective state's governor. Beside fixed tariffs in certain regions and cities, there are also free pricing models without regulation. If an airport is between states the Federal Ministry of Transportation can stipulate the fares in a special regulation. This would be the case regarding Vienna's airport "Schwechat", which is located in the state of Lower Austria; however, such regulation has not been issued yet. Hence, Vienna's tariff system is effective regarding rides from Vienna to the airport and vice versa.

Below are examples of fares for Austria's two biggest cities and their airports.

a) Vienna

Vienna is the capital of Austria and the state Vienna. It has 1.797.337 inhabitants.²⁸ There are fixed fares in Vienna.

Vienna's fixed fares (including rides from Vienna to the airport) are as follows:

	Basic rate EUR (VAT incl.)	Waiting Fare EUR (VAT incl.)	Surcharge EUR (VAT incl.)

²⁸ As of 01.01.2015 <https://www.wien.gv.at/statistik/bevoelkerung/tabellen/bevoelkerung-staat-geschl-zr.html>.

Day 06:00 – 23:00	3,80 (for getting into the car including 859,3m driveway) 0,20 for 140,7m up to 4km 0,20 for 184,6m 4 – 9 km 0,20 for 190,6m from 9km	0,20 / 25,9 Seconds	1,40
Night 23:00 – 06:00 Sundays Holidays full day	4,30 for 1000m 0,20 for 123,2m up to 4km 0,20 for 156,8m 4 – 9 km 0,20 for 169,5m from 9km	0,20 / 25,9 Seconds	1,40

For instance in Vienna, a surcharge is applied for phone orders passed at the taxi booths in certain parking spaces reserved for taxis.

b) Graz

Graz is the capital of the state Styria and has 282.479 inhabitants.²⁹ The fixed fares for the area "Graz – Graz Airport [Feldkirchen] (Styria)" is as follows:

Time	Basic rate EUR	Price per km in EUR
Day 06:00 – 20:00h (apart from Sundays and Holidays)	3,9	Day rides up to 12km 1,3/km Day rides from 12km 1,70/km
Night 20:00 – 06:00h (apart from Sundays and Holidays)	3,9	Night rides up to 12km 1,50/km Day rides from 12km 1,70/km

II.7 Passenger rights

There is no separate legal source for passenger rights. Passenger rights are stipulated in federal regulations and state ordinances. There is no general harmonization between the various states, thus, some ordinances are more detailed than others. The table below is an overview over the most important rights laid down in federal or state law.

	Federal Law	Burgenland	Carinthia	Lower Austria	Salzburg
A clean automobile in working order	x		x		x
A neat, prudent and polite driver	x				

²⁹ As of 31.12.2015 http://www1.graz.at/Statistik/Bev%C3%B6lkerung/Bevoelkerung_2015_final.pdf.

	Federal Law	Burgenland	Carinthia	Lower Austria	Salzburg
Free choice of the available taxis					
Non-smoking taxis	x				
Open windows and/or the sunroof upon request of the guest			x		x
Obligation to carry passengers		x	x	x	x
Carriage of guide dogs		x			x
Transportation of animals	x				
Shortest and cheapest way to the destination		x	x	x	x
Assistance with loading and unloading luggage and entering and exiting the car	x				
Ability to give out change for a EUR 50 bill		x	x	x	x
A proper receipt for the passenger		x	x	x	x
Unimpeded view on the taximeter		x	x	x	x

	Federal Law	Styria	Upper Austria	Tyrol	Vorarlberg	Vienna
A clean automobile in working order	x		x	x		x
A neat, prudent and polite driver	x					
Free choice of the available taxis		x				
Non-Smoking taxis	x				x	
Open windows and/or the sunroof upon request of the guest		x		x		x
Obligation to carry passengers		x	x	x	x	x
Carriage of guide dogs						x
Transportation of animals	x					
Shortest and cheapest way to the destination		x	x	x	x	x
Assistance with loading and unloading luggage and entering and exiting the car	x					
Ability to give out change for a EUR 50 bill		x	x	x		x
A proper receipt for the passenger		x	x	x	x	x
Unimpeded view on the taximeter		x	x	x	x	x

II.8 Subsidies applicable to taxi sector (including public developed applications for taxi sector, geolocalisation, etc)

Subsidies for electric cars (not restricted to the taxi sector) and for low environmental impact vehicles are granted on the federal and state levels. They vary in amount and intensity. An overview of the various federal and state subsidies in connection with the promotion of e-mobility is available online³⁰.

For example, the Federal Minister for Agriculture and Forestry, Environment and Water (*Bundesminister für Land- und Forstwirtschaft, Umwelt und Wasserwirtschaft*, BMLFUW) offers the "climate active mobile program" (*klimaaktiv mobil Programm*), which comprises federal and states subsidies for the conversion of taxis and hire cars with drivers' vehicles to alternative drive systems and fuels. The subsidy amounts to up to 50% of the costs for the conversion. This subsidy was open for applications until October 2016. In addition, the installation of additional quick charging electric stations is promoted.

Further, the transportation by a taxi can be reimbursed by the social insurance carrier if the nearest suitable place of treatment is more than 20 kilometres away from the patient's place of residence, the patient is exempt from the prescription charge due to social reasons, and the medical necessity of the transportation is confirmed by the doctor.

II.9 Labour Rules

Labour regulations are stipulated in the Employees Act as well as in the collective agreements negotiated between the respective unions, trade associations and the Federal Chamber of Commerce. A collective agreement exists for (i) drivers of taxis and "hire cars with drivers" while there is a separate collective agreement³¹ for (ii) employees in the taxi and "hire car with drivers" industry³².

These agreements *inter alia* set forth the normal and extra working hours, the number of holidays, wages, and termination of the employment relationship. The collective agreement for taxis and hire cars' drivers provides for a minimum wage of EUR 1.170, which will be increased to EUR 1,200 starting from 1st November 2017.

Pursuant to the collective agreement for employees in the taxi and hire cars industry the monthly minimum wages range from EUR 1.453 up to EUR 2.497 (depending of the degree of education and amount of working years).

The normal working hours for taxi drivers are 12 hours per day and 55 hours per week. Further, taxi drivers are obliged to work on the weekends at least twice a month.

³⁰ In German under <http://e-connected.at/content/f%C3%BCr-betriebe>.

³¹ Collective Agreement for Drivers in the Passenger Transportation Sector.

³² Collective Agreement for Employees in the Passenger Transportation Sector.

II.10 Supervisory enforcement tools

The district administrative authority (*Bezirksverwaltungsbehörde*) can revoke the concession if at any time not all qualifications are met.³³ If, for example, the business owner loses his reliability due to a prison sentence or loses the financial capability to hold up the number of registered cars, the concession can be revoked.

Violations of the BO 1994's provisions in respect of the driver's qualifications and the operation of the taxi are subject to administrative penalties of up to EUR 7.267 set forth in § 15 *GelverkG*.

II.11 Taxes

Passenger rides are subject to the lower VAT rate of 10%, compared to the regular rate of 20% that apply to courier services.

a) Tax exemptions

The taxi sector is granted various tax benefits. Taxis are exempt from

- the Standardised Consumption Tax³⁴ which amounts to maximum 16%; and
- vehicle taxes.³⁵

Further, vehicles used as taxis may apply for the input tax deduction³⁶ whereas passenger cars are regularly excluded from the input tax deduction unless a commercial usage in the amount of 80% can be evidenced.

b) Mandatory cash register

From 1st May 2016 a new legislation entered into force obliging entrepreneurs to comply with increased recording duties and duties to hand out receipts. The regulation also applies to taxi drivers and requires the acquisition of an obligatory cash register either integrated in the taximeter or a separate device to hand out receipts for cash expenditure. The cash register shall allow traceability of cash revenues and to prevent tax fraud.

Therefore, all revenues must be recorded in the cash register individually, while taximeters must record all rides subject to a tariff, and either a paper or electronic receipt must exist.

The purchase costs of a "simple" cash register are between EUR 200, and 1.000. These costs are funded by the federal government up to EUR 200. and the entire costs can be deducted from the tax within the year of acquisition of the cash register.

III. Legal framework applicable to hire cars with driver

This mobility concept provides for the transportation of a closed group of persons with a hired driver based on specific orders. The hirecars may have maximum nine seats including the driver's seat. Such services are usually used for a distance

³³ § 6 (3) in connection with § 16 *GelverkG*.

³⁴ § 3 (3) Standardized Consumption Tax Act (Normverbrauchsabgabegesetz – NoVAG 1991).

³⁵ § 2 (1) Z 4 Vehicle Tax Act (Kraftfahrzeugsteuergesetz 1992).

³⁶ § 12 (2) 2 lit b VAT Act (Umsatzsteuergesetz 1994).

travelling however also regarding rides to and from the airport. There are no regulated fares in this sector. It is different from the "guest vehicle business" (*Gästewagengewerbe*), which allows to (i) transport house guest and personnel working in the hospitality business, sanatoriums, recreation homes and the like with the company's vehicles from the company to points with public transportation and vice versa as well as (ii) transport guests of hospitality companies within the meaning of § 111 Trade Regulation Code, who have not been accommodated, with the company's vehicles from the company to points with public transportation and vice versa or from/to their accommodation³⁷.

III.1. National and local regulation

The regulations applicable to hire cars with drivers are stipulated in the same legislation as for taxi drivers specifying the required qualifications relating to the company, driver and cars³⁸.

III.2 Procedures for issuing licences and applicable criteria

For hire cars with drivers, the same requirements regarding a concession apply as for the taxi sector³⁹ (s. II.3).

III.3 Technical requirements applicable to hire cars with driver

Drivers subject to the collective agreement must comply with the duties stipulated therein. Thus, the driver has to ensure that the car is in operative condition and he has to carry in the car all required inspection tags and documents required (e.g. European accident report). He has to notify to his employer all the defects he is not able to fix himself immediately.

III.4 Qualitative requirements

Drivers must also pass a professional qualification test⁴⁰ as set forth for taxi drivers. However, they do not require an additional specific licence, as provided for taxi drivers under § 4 ff BO 1994. Drivers must be reliable, healthy and not intoxicated while on duty⁴¹. Drivers performing transport of children must obtain a specific licence.⁴²

III.5 Organisational requirements

Booking must be made directly at the operators' place of business. Hire cars with drivers may not be parked on taxi park spaces or other public spaces and they have the obligation "to return to the garage" after the ride. They may not "rent" single seats in the car but it is only possible to hire the entire vehicle.

Only people that have been employed as drivers for 3 years are eligible to become transport operators. Hire cars operators must have the financial capacity and they need to present a guarantee of EUR 18,400 for each vehicle they intend to use for business.

Dispatching centre/intermediaries for hire cars with drivers must be registered as travel agencies.

³⁷ § 3 (1) 4 GelverkG.

³⁸ § 3 (1) 2 GelverkG; §1 (1) 2.b BZP-VO; § 1 (1) BO 1994.

³⁹ § 3 (1) 2 GelverkG.

⁴⁰ § 3 (2) 2 in connection with § 5 ff GelverkG.

⁴¹ §§ 2, 3 BO 1994.

⁴² § 15 ff BO 1994.

III.6 Passenger rights

With regard to passenger rights they are regulated by the same taxi legislation as to passengers of taxis (s. II.9).

III.7 Labour rules

The main labour rules applicable are the same provided for taxi drivers (s. II.11). However, in contrast to taxi drivers the normal working hours for a driver of hire cars are 12 hours per day and 45 hours per week (instead than 55 hours per week for taxi drivers)⁴³. Further, there are no obligations to work on week-ends.

III.8 Local incentives, subsidies provided by the Administration in order to carry out certain services (such as mini-van service for people with reduced mobility, elderly, schools)

Local public transport offers passengers with disabilities transfer to their destinations such as the *Wiener Lokalbahn*.⁴⁴

In addition, organisations and associations such as the *Lazariter*, offer special transfers that can be refunded by certain health insurances.⁴⁵

As stated in s.II.10, subsidies for electric cars are granted on the regional levels and also apply to hire cars with driver. An overview of the various federal and state subsidies in connection with the promotion of e-mobility is available online.⁴⁶

Further, there are also demand responsive transport services such as:

a) Dial-a-Ride Transport (DART)

The dial-a-ride transit is a hybrid mobility concept consisting of a combination of scheduled and occasional transport service. It is a form of public transportation operating with small/medium sized vehicles on flexible routes with pick-up/ drop-off locations according to passenger's demands. It supplements the regular scheduled transport. The DART operates within a fixed network. The DART needs to be booked in advance in order to at the requested station to pick the passengers up along the route network. The route network includes stops that can be skipped if the passenger does not need to get out.

The ticket can be bought before departure at the driver. Certain DART providers are included in the regional transport system. Generally, DART has its own fare system, usually charged at the higher tariff than the public transport.

b) City Taxis

Differently than normal taxi services, *City taxis* have their own fixed tariff tickets that are subsidized by the municipality - providing for more favourable rates - and are valid per each taxi ride. Thus, the more people share the taxi, the cheaper the ride thereby creating an incentive to ride in groups.

⁴³ V.1.b) of the Collective Agreement for Drivers in the Passenger Transportation Sector.

⁴⁴ <http://www.verkehrsdienste.at/>.

⁴⁵ <http://www.lazariter.org/>.

⁴⁶ In German under <http://e-connected.at/content/f%C3%BCr-betriebe>.

City taxis are available in cities with around 10.000 to 15.000 inhabitants to provide in town traffic and carry passengers in the municipal area from door to door.

c) Youth Taxis

The *youth taxis* target adolescents who go out at night and need transportation when no public transport is available. They are organized either as DART or as conventional taxi services.

The payment system varies from special "taxi vouchers" offered at a significantly reduced price to "kilometre-checks" which are offered by the municipalities or cities in which the young users reside. The operational area for such *youth taxis* is regularly close to pubs or nightclubs in order to prevent drunk driving among younger people.

d) 60plus Taxis

In the Burgerland region, community grants beneficiaries "60plus vouchers" worth EUR 5 each that may be used with any Burgerland taxi company. These vouchers are printed by the association Mobiles Burgenland and carry the name of the person in order to avoid any abuse. A stamp from the municipality validates the vouchers. Taxi owners clear the vouchers monthly.

e) Connecting (train) taxi

Taxis wait at the final stop of regular scheduled transport services and passengers can ride alone or in groups to their final destination. The public transport services can support such models by making the taxi reservation possible during the bus or train ride.

f) Scheduled taxi service

Taxi services may fill particular gaps in a public transportation schedule. Such scheduled taxi services substitute regular public transport service by following the regular public transportation route and stopping only at the designated station of the public transport where passengers can embark and disembark. It does not provide door-to-door service or exclusive carriage service. However, the regular tariff standards apply to such scheduled taxi services. Such taxis must be labelled as scheduled taxis, provide for the required tariff information and be equipped accordingly for the sale of ticket.

III.9 Supervisory enforcement tools

The same supervisory enforcement tools and sanctions are applicable as for taxis. S. II.12 above.

IV. Legal Framework applicable to ridesharing and car sharing

IV.1 Current regulations and legislative proposals

There is no specific regulation for ridesharing and car sharing, hence general provisions regarding private vehicles apply. There are no regulatory hurdles to provide not-for-profit ridesharing, but the total payments to the driver must not exceed the costs of running the car (generally, EUR 0.05 /km per additional passenger has been established by jurisdiction and case law as acceptable threshold here).

The "rental business without driver" is a non-regulated trade pursuant to the GewO. Hence, no qualifications as to the trade owner are stipulated. However, it is required

to register the trade at the district administrative authority. As soon the as the business licence is issued the operator may conduct his business.

IV.2 National rules applicable to on line platform and rules applicable to service providers

See above.

IV.3 Main operators and their business models

a) Commercial car sharing

Commercial car sharing in Austria is organised in mainly two business models:

i. A free-floating car sharing model.

The main providers for flexible on-demand service are:

- Drive Now with 400 cars in Vienna;⁴⁷
- Car2Go with 500 cars in Vienna in Vienna.⁴⁸

ii. Round trip car sharing model.

The main providers with fixed car space are:

- Zipcar operating in 17 cities and at 19 railway stations;⁴⁹
- Emil operating in Salzburg;⁵⁰
- Blitzzcar a car bring & pick-up-service operating in Vienna, Graz, Linz and Salzburg.⁵¹

The following table provides an overview of the business models, car fleets, availability and dispatch, fare systems and possible extra fees for registration and collision damage waivers.

i) Flexible on-demand service model					
Provider	Business model	Car models, availability and dispatch	Minimum Rate Parking Rate Day Rate	Collision Damage Waiver	Extra Fees
Drive Now 400 cars in Vienna www.drive-now.com	Price per minute-model Fuel costs, car parking tickets, insurance and car tax are included.	Cars MINI, MINI Cabrio BMW 1 Series, BMW i3, BMW X1, BMW 2 Active Tourer Dispatch Reservation via	EUR 0,34/min for the basic car series. Parking rate: EUR 0,19/min	EUR 750, - excl. VAT	I.1.1.1 Standard registration fee EUR 29,- Vienna International Airport (for each start/end of rental)

⁴⁷ www.drive-now.com.

⁴⁸ www.car2go.at.

⁴⁹ www.zipcar.at.

⁵⁰ www.fahre-emil.at.

⁵¹ www.blitzzcar.at.

i) Flexible on-demand service model					
Provider	Business model	Car models, availability and dispatch	Minimum Rate Parking Rate Day Rate	Collision Damage Waiver	Extra Fees
		mobile application or entering the parked cars on the street with membership card or mobile application. Availability Car rental is possible 24 hours on condition of availability in the operational area.	Hour rate: EUR 0,30/min Day Rate EUR 98,- incl. 200km		EUR 10,-
Car2Go Around 500 cars in Vienna www.car2go.at	Price per minute-model Fuel costs, car parking tickets, insurance and car tax are included.	Cars Smart Fortwo Dispatch Reservation via mobile application or entering the parked cars on the street with membership card (limited access) or mobile application. Availability Car rental is possible 24 hours on condition of availability in the operational area.	EUR 0,31/min Parking rate: EUR 0,19/min Hour rate EUR 14,90/Hour Day Rate EUR 69,90,-	EUR 500,-	Validation fee EUR 19,00,- Vienna International Airport (for each start/end of rental) EUR 9,90,-

ii) Fixed rent and return model					
Operator	Business Model	Cars, availability and dispatch	Minimum Rate Parking Rate Day Rate	Collision Damage Waiver	Extra Fees
Zipcar Austria wide in 17 cities and 19 railway stations www.zipcar.at	I.1.1.2 Price per hour-model with additional billing for every driven kilometre. I.1.1.3 I.1.1.4 The car must be parked at the same	I.1.1.8 Cars Various amount of different cars, vans and transporters. I.1.1.9 I.1.1.10 Promotional cars with	EUR 7,-/ hour – with 80km included. Further kilometres are charged with EUR 0,20 / 0,25 per km depending on the chosen car. In Vienna Zipcar offers special promotional cars	EUR 1000,-	Annual membership fee EUR 60,-

ii) Fixed rent and return model					
Operator	Business Model	Cars, availability and dispatch	Minimum Rate Parking Rate Day Rate	Collision Damage Waiver	Extra Fees
	<p>space where it was rented. One-way rides are currently not available.</p> <p>I.1.1.5 Fuel costs, insurance and car taxes are included.</p> <p>I.1.1.6</p> <p>I.1.1.7 If the car is parked during the rent, the parking tickets are not covered and must be paid by the user.</p>	<p>advertisement are available at a reduced rate.</p> <p>Dispatch: Reservation via the website, mobile application, or via telephone at the call centre with a surcharge of EUR 1,50.</p> <p>Availability: Car rental is possible 24 hours on the condition of availability in the operational area.</p>	<p>which can be rented at EUR 3,- per hour without included km. The price per km is EUR 0, 20.</p> <p>The Day Rate starts from EUR 72,-</p>		
<p>Emil Salzburg www.fahre-emil.at</p>	<p>I.1.1.11 Price per hour-model without additional billing for every driven kilometre.</p> <p>The car must be parked at the same space where it was rented. One way rides are currently not available.</p> <p>I.1.1.12 Fuel costs, insurance and car taxes are included.</p> <p>I.1.1.13 Not included are parking tickets if the car is parked during the rent.</p>	<p>Cars Electronic car fleet</p> <p>BMWi3 Mitsubishi i-MiEV Nissan e-NV2000 Renault ZOE VW e-up</p> <p>Dispatch Reservation via the website, mobile application or telephone at the call centre with a surcharge of EUR 2,50.</p> <p>I.1.1.14 Availability The car must be parked at the same space where it</p>	<p>Basic membership:</p> <ul style="list-style-type: none"> - EUR 6/hour - No rides on the weekend possible - Day rate EUR 55,- <p>Plus Membership:</p> <ul style="list-style-type: none"> - EUR 3,90/hour plus EUR 118,- per year - Weekend rate (Fr 19:00-Su24:00) EUR 59,- - Day rate EUR 39,- <p>Students/Pensioners</p> <ul style="list-style-type: none"> - EUR 3,90/hour - Weekend rate (Fr 19:00-Su24:00) EUR 59,- - Day rate 	<p>EUR 990,- excl. VAT</p>	<p>Registration fee EUR 19,90,- (with EUR 10,- ride voucher)</p> <p>Annual Plus membership fee EUR 118,-</p>

ii) Fixed rent and return model					
Operator	Business Model	Cars, availability and dispatch	Minimum Rate Parking Rate Day Rate	Collision Damage Waiver	Extra Fees
		was rented. One-way rides are currently not possible.	EUR 39,-		
Blitzzcar www.blitzzcar.at	I.1.1.15 Price per day-model Upon request, the car will be brought to the requested renting location and picked up by a Blitzzcar employee. Operating areas are in Vienna, Linz, Graz and Salzburg. Cars are provided with 80% charge, the user may use the Tesla Supercharger for free in whole Europe. Insurance and car taxes are included. Not included are parking tickets if the car is parked during the rent.	Cars Electronic cars Tesla Model S85 Tesla Model S70D Tesla Model S85D Tesla Model SP85D Dispatch Reservation via the website. Availability No information on how many cars are available.	Day rate Starting from EUR 249,- for the Tesla Model S85 All kilometres are included.	EUR 60,-	No registration fee

b) Peer to peer car sharing

The main providers for private car sharing in Austria are:

- Caruso is a cooperative society with a focus on private electric cars in Vorarlberg;⁵²
- Car sharing247 provides an online platform for private car owners.⁵³

Private car sharing providers					
Provider	Business Model	Cars, availability and dispatch	Minimum Rate Parking Rate Day Rate	Collision Damage Waiver	Extra Fees
Caruso eGen	I.1.1.16 Price per hour-model	Cars	EUR 2,- /hour	EUR 500,-	Monthly membership fee

⁵² <http://www.carusocarsharing.com/>.

⁵³ <https://carsharing247.com/#/home>.

Private car sharing providers					
Provider	Business Model	Cars, availability and dispatch	Minimum Rate Parking Rate Day Rate	Collision Damage Waiver	Extra Fees
Mainly operating in the federal state of Vorarlberg	<p>with additional billing for every driven kilometre.</p> <p>Caruso is cooperative society where the interested party (either natural person, corporate entity or even municipality) can buy shares in the cooperative society and provide cars to the fleet.</p> <p>The user may register on the platform and use the vehicles without the requirement to acquire shares in the cooperative society.</p>	<p>Electric Cars Renault ZOE</p> <p>Dispatch Online or via mobile application</p>	EUR 0,30,-/km		<p>EUR 10,-</p> <p>Stake in the cooperative society EUR 100,-</p> <p>Deposit EUR 300,-</p>
Car sharingCar-sharing 24/7 Operating in Austria	<p>The renter (private car owner) determines the price for his car rental.</p> <p>Strictly non-commercial platform for private usage. No commercial rides are allowed.</p> <p>Private car owners and interested individuals use the platform to rent the respective car for an individual amount of time.</p> <p>There are different models, based on a rental per hours, days or on a long-term basis; so called "teams".</p>	<p>Cars</p> <p>Individual private cars, no regular fleet.</p> <p>Dispatch</p> <p>The website shows available cars and the renter's terms and connects the parties.</p> <p>No guarantee of availability.</p> <p>Individual arrangement and contract between the private parties.</p>	<p>Recommended rates:</p> <p>EUR 16,- /6 hours with 100km included</p> <p>Day rate (individual rates)</p> <p>Starting from EUR 20,-</p>	<p>For a fee of EUR 6,50 per day the deductible amounts to EUR 1000,- per incident.</p> <p>For a fee of EUR 8,50 per day the deductible amounts to EUR 500,- per incident.</p> <p>For a fee of EUR 10,50 per day the deductible amounts to EUR 250,- per incident.</p>	<p>Registration is free of charge.</p> <p>The platform recommends a rental fee of 2% of the annual overhead costs</p>

IV.4 Requirements imposed upon non-licensed activities (*safety and technical requirements, insurance requirements, obligations relating to licenses and on-line platforms*).

With regard to car sharing, there is a distinction between operator and driver. The operator of the car fleet has to comply with the legislation on maintaining a car in terms of registration, insurance and vehicle maintenance. The business is not subject to a specific regulation or concession, only the registration of a business trade licence is obligatory.

The driver has to comply with the operator's respective terms and conditions with regard to minimum age or the length of possession of the driver's licence. Although the operator prepays the insurance, the driver has to sign a collision damage waiver with a deductible that varies from operator to operator.

For example, the platform car sharing 24/7 offers additional insurance coverage from the "Niederösterreichische Versicherung".

IV.5 Local incentives, subsidies and other form of promotion for ridesharing and car sharing (including parking spots, use of preferential lanes, etc.).

Car sharing platforms offer special parking spots for their customers. For example, *Zipcar* or *Emil* have their own parking places where the cars can be rented and must be returned to in order to end the rent.

On the other hand, operators like *Drive Now* or *Car2Go* include the possibility to park anywhere in the city of Vienna if the parking meter is set correctly and the car is parked inside the operating area (as stated in the respective terms and conditions). They have an agreement with the city to park within the perimeter without charging the customers. Yet, there are no preferential lanes for car sharing services in contrast to taxi lanes.

Further, the promotion of e-car sharing is part of the Climate- and Energy Fund's larger project "e-mobility"⁵⁴ initiated in 2008. This federal subsidy program is currently rolled out in seven regions. It promotes the purchase of charging stations and e-cars, the supply of renewable energy and the development of new business and mobility models. These 7 regions are: Vorarlberg (VLOTTE), Salzburg (ElectroDrive Salzburg), Vienna (e-mobility on demand), Vienna (E-Mobility Post), Graz, Lower Austria ("e-pendler niederösterreich"), Corinthia (E-LOG Klagenfurt) and the subsidies' volume ranges from EUR 1,3 million (for Lower Austria) to 5,2 million (for Vorarlberg).

V. Relevant national case law

1. Competition Law

- MyTaxi (Higher Regional Court Vienna, 57 Cg 23/15⁵⁵)

MyTaxi offered a 50 % discount on the taxi fare. The customer received a voucher in the respective amount of 50% and MyTaxi paid the driver the remaining 50% in accordance with the local tariff.

The Appellate Court decided that the 50% discount did not constitute an act of unfair competition. Since the driver receives his fare according to the Viennese Taxi Tariff Ordinance 1997, the protective purpose of the pricing provisions is not subverted.⁵⁶ Hence, the business practice does not amount to a breach of law that would provide for an unfair advantage.

⁵⁴ <http://e-connected.at/content/modellregionen-0>.

⁵⁵ OLG Wien, 57 Cg 23/15f.

⁵⁶ <https://www.wien.gv.at/recht/landesrecht-wien/rechtvorschriften/pdf/w1400200.pdf>.

MyTaxi's grant to the fare price that it pays to the passenger in the form of a voucher is not a subversion of the protective purpose of the fixed tariff in Vienna, but a legitimate advertising measure.

As stated in the appeal, fixed fares as protection against unfair competition can only refer to the relevant taxi service market and not related markets such as an agency for taxi services.

The Appellate Court's decision is not final yet and no published version is available.⁵⁷

- Non abuse of dominant position by using exclusivity and non-compete clauses in agreements of two operators of taxi dispatch centres, Supreme Court 26.06.2013, 16Ok 7/12

The respondents, two operators of taxi dispatch centres in Vienna, concluded contracts with a perpetual term and exclusivity and non-competing provisions with taxi companies, which could be terminated upon a one month's notice period. The exclusivity clause prescribed that the contract partners could not cooperate with other competing taxi exchange agencies using the cars subject to the agreement. In case of a violation of the exclusivity or non-competing clause the contract could be terminated with immediate effect. At that time, over 4,500 taxis were operated in Vienna and 9,000 vehicles were registered with a taxi concession. The respondents had contracts with around 2,500 of the 4,500 operating taxis. The other 2,000 taxis were operating freely and acquire customers e.g. through contracts with hotels and premises or conclude business with regular customers.

The Austrian Federal Competition Authority filed a lawsuit on the grounds of the abuse of a dominant market position in the taxi sector within the meaning of § 4 (2) number 1 or 2 in conjunction with § 5 Federal Anti-Trust Act (*Kartellgesetz, KartG*) respectively Art 102 TEC. It claimed that due to these agreements, other service providers – such as, for example an app-provider that allowed customers to locate free taxis with GPS-localisation to connect customers and taxi drivers through the application - were obstructed or impeded to gain taxi companies to contract with. Further, the current system of the taxi dispatch centres does not achieve a full capacity whereas the new application could have increased the rides of the individual taxi car. It could have reduced waiting time and empty runs.

The Supreme Court ruled that these contracts with exclusivity and non-compete clauses for dispatch services did not constitute an abuse of dominant market position, because the taxi companies concluded these agreements per car, not per fleet. Hence, there is enough competition for other exchange service providers in the taxi market since taxi companies are not required to conclude the exchange service contract for every car they operate. Moreover, the uncomplicated and short notice period of one month does not prevent or impede taxi companies to change the service provider, and a large number since of taxis still operate freely. Hence, the agreements between the taxi dispatch centres did not violate anti-trust law.

2. Trade Law – Constitutional Law

- The provisions of a fare ordinance regarding certain municipalities do not violate property rights, the freedom to carry out a business, nor the prohibition of forced labour, (Constitutional Court 05.06.2014, V44/2013⁵⁸)

⁵⁷ Press release http://www.ots.at/presseaussendung/OTS_20151218_OTS0086/olq-wien-entscheidung-50-rabattaktion-von-mytaxi-in-oesterreich-ist-legal.

⁵⁸ https://www.ris.bka.gv.at/Dokumente/Vfgh/JFR_20140605_13V00044_01/JFR_20140605_13V00044_01.pdf.

The fare ordinances can be determined by the respective state's governor on the recommendation of the regional occupational groups according to §14 *GelverG*.

The petitioner claimed that the mandatory low-taxed fare for taxi fares prescribed by such ordinance is not objective and is tantamount to a violation of the property rights, freedom to carry out a business, and the prohibition of forced labour. Due to the obligation of passenger carriage provided by the local regulation (§ 27 Salzburg taxi, hire car with driver and guest vehicle operating regulation⁵⁹) he may not refuse an unprofitable ride.

The Constitutional Court rejected this motion and highlighted that the provisions of the fare ordinance do not violate such rights and that the determined fare is in accordance with the constitutional law and the European Convention on Human Rights. The lack of the voluntary element in connection with the obligation to provide services could only be considered as forced labour "*if such duty is unjust or burdensome or constitutes an avoidable hardship*", which the Court considered that it was not the case at hand. The transportation duty is an obligation in the legitimate public interest and is insofar not unjust or suppressive, considering also the driver is paid for the rides.

According to the Court, higher fares stipulated for other areas are reasonable as the difference in the fares is due to the differences in the population of the various areas and to the level of use of taxi services.

- Mandatory cash register regulations do not violate constitution law (Constitutional Court 09.03.2016, G606/2015⁶⁰)

Starting from 1st May 2015 a new regulation prescribes mandatory cash registers for entrepreneurs. This regulation also applies to taxi drivers and requires them to purchase a secondary device in addition to the taximeter that does not correspond with the requirements of a cash register. A self-employed taxi driver challenged the new regulation before the Constitutional Court claiming that, *inter alia*, it violates his freedom to conduct business and the right to equality before the law.

The Constitutional Court did not follow the arguments submitted by various petitioners in respect of the mandatory cash register provisions and rejected the motions. According to the Court, the regulations prevent tax fraud and are in the public interest. Since the mandatory cash register rule does not violate constitutional law, there is no requirement for any legal amendments on the part of the legislator.

In its decision, the Constitutional Court elaborates that, the regulation's purpose is not exclusively to increase tax revenue but rather at the prevention of tax revenue losses resulting from reductions in sales due to cash transactions. The provisions shall help to combat illicit sales and underpayment of tax in order to create a fair framework for a competition-friendly business environment.

In the Court's reasoning, it is crucial that the legislator realized the principle of equality. Accordingly, the mandatory cash register provisions are appropriate for reducing the possibility of manipulation and thus avoiding tax evasion. The obligation to use a cash register is in the public interest and it does not constitute a barrier, especially for small business, to the freedom of business.⁶¹

3. Criminal Law

⁵⁹[https://www.ris.bka.gv.at/NormDokument.wxe?Abfrage=LrSbq&Gesetzesnummer=1000848&Artikel=&Paragraf=27&Anlage=&Uebergangsrecht=.](https://www.ris.bka.gv.at/NormDokument.wxe?Abfrage=LrSbq&Gesetzesnummer=1000848&Artikel=&Paragraf=27&Anlage=&Uebergangsrecht=)

⁶⁰https://www.ris.bka.gv.at/Dokumente/Vfgh/JFT_20160309_15G00606_00/JFT_20160309_15G00606_00.html

⁶¹https://english.bmf.gv.at/carousel/Mandatory_cash_register_rule_is_not_in_breach_of_Constituti.html.

- Smuggling Case against taxi drivers according to § 114 (1), (3) numbers 1 and 2 Aliens' Police Act (*Fremdenpolizeigesetz*, "FPG")⁶²

Pursuant to a recent decision of the Supreme Court, taxi drivers are only guilty of violation of the FPG transport people illegally crossing the borders or if they charge passengers an excessive charge and thereby pursue the purpose of an unjust enrichment.

VI. Country Market

Taxi and hire car with driver are two different sectors. Applicable regulation is the same and for both the service, a concession (licence) is required. However, hire cars with driver cannot pick up passenger on the streets and they may only accept bookings made directly at the place of business. Moreover, they are not subject to fixed fares.

The geographical dimension of the market is local and the catchment area, for taxis and hire cars with drivers, corresponds to the area of the concession. Airports are a separate market since a separate concession is required.

With regard to the market access, there are no quantitative restrictions to the taxis and hire car with driver services. Only qualitative requirements must be complied with in order to exercise the activity of taxi operator. The business owner must be reliable, have financial standings, professional qualification proved by certificates issued after having passed an exam, and having a permanent residence in Austria. Since the licences are subject to the fulfilment of qualitative criteria, they are not tradable.

The same conditions apply for the hire car with driver. In case of hire cars with drivers, in order to prove the financial standing a higher guarantee is required (EUR 18,400 per vehicle in place than EUR 7,500 per taxi vehicle). Similarly, the hire car concessions are issued by the region and they are geographically limited.

VII. Main Player

Taxis

According to the respondents to the stakeholder consultation, the taxi operators are mainly individual companies.

There are various dispatch centres. The three largest dispatch centres are:

- **Taxi 60160** and **Taxi 40 1000** which belong to the same company, WIHUP Taxi Service GmbH. They provide services in Vienna, Linz and Graz. Taxi 40 1000 is the largest Austrian dispatch centre with an affiliated fleet of 1,800 taxi operators. The holding company provides various services for affiliated company and their customers. Since 2008, a training centre for drivers has been created to prepare for the professional exam and for the professional training. The companies have a desk at the Vienna airport and in the new terminal Skylink in order to provide rides from the airport to the city centre. They propose fixed fare from any city point in Vienna to the airport, and vice-versa, as well as discounts for groups of 5-6 people travelling together. The

⁶² OGH 28.09.2015, 11 Os 125/15i.

companies have entered into the partnership with the Vienna public transport operator to allow customers who booked through their dispatch centre to pay with the Vienna Mobile card, the public transport integrated card. The companies offer the possibility to buy pre-paid vouchers to be used to pay taxi rides.

- **Taxi 31 300** mainly operates in Wien. It offers various services to its affiliated companies, including devices for electronic payments, including debit cards, a taxi school for drivers' preparatory training and professional training for affiliated drivers. For customers, they propose various services, including limousine service, subscription for regular customer, delivery service of packages or small goods within the city, quick order, pre-order service and airport transport at fixed fares (EUR 36) from all the Vienna area and for maximum four people. In addition, the use of pre-paid vouchers is possible.

- *Hire cars with driver*

Hire car with driver players are divided between intermediaries, which match the demands between affiliated drivers and passengers, and operators, companies that own a car fleet and employ drivers.

- The largest intermediary is **Uber BV**: the company started its activities in 2014 in Vienna with is UberX, UberBlack and UberVan. It operates in all four Vienna fares zone. Uber's services' legal qualification has been questioned by the *Wirtschaftskammer* (Austrian Federal Economic Chamber). A request was subsequently made to the Ministry of Science, Research and Economy in the first half of 2015, which, in turn, involved the Ministry of Transport, Innovation and Technology. Uber's services legal qualification has also been assessed by the Magistrat der Stadt Wien (administrative authority of the municipality of Vienna). In parallel, several court decisions supported the opinion that Uber BV is offering a digital service from Netherlands under the freedom to provide services and stating that Uber BV's service is conducted in line with the applicable rules in the Netherlands. The authority responsible for measuring instruments, the Bundesamt für Eichund Vermessungswesen (BEV), has asked Uber to either install taximeters or present some form of certification for the technology used to determine the fare.

- **Blacklane**, a U.S based company, is active in Vienna. The company partners with licensed and insured companies and drivers and intermediates between the affiliated operators and the passengers. It provides on demand hourly service, airport transfer and single journey. It provides van services for large groups.

Among the hire car with driver operators there is the **Austrian Chauffeur Limousine**: the companies own a fleet of luxury cars and offers services to Austrian luxury hotels, both in Vienna and Kitzbuhel. The cars may be booked through the hotels or directly on the website. It also provides rides to and from Vienna airports, city tours and journeys to Prague and Budapest and returns.

- *Ridesharing*

Long distance ridesharing is provided by Carpoolworld, Blablacar, E-carpool.eu (this one mainly focused on Eastern Europe cities).

VIII. Barriers, limitations, incentives

With regard to the taxi sector, from the point of view of supply, there are no quantitative restrictions to enter the market. The concessions are issued on the basis of qualitative requirements, including requirements of financial capacity, certification of professional qualification obtained after passing an exam, proof of residence in Austria. Concessions are issued per fares areas. As there are four areas in Vienna, in order to be able to pick up passengers in the whole of Vienna, four concessions are required.

A concession is granted to a taxi company for a limited number of cars. Increasing the number of vehicles requires a new concession, while decreasing the number does not require any modifications to the concession.

Similarly, hire car with driver concessions are issued based on the same qualitative criteria as taxis, but they are subject to stricter organisational requirements. In sum, no quantitative barriers are found in Austria for taxis and hire cars with driver.

Various initiatives promote the development of taxi services in order to integrate the taxi sector within the city mobility landscape, especially in the largest cities. This is done, in particular through the introduction of specific services on demand, such as city taxis, which are subsidized by the municipality and provide lower fares than normal taxis, with the possibility to use the public transport mobility card to pay for the taxi ride. New public applications for integrated mobility systems, including taxis, are currently being developed. Also, the taxi guild is part of a project, supported by European funds, for the training of taxi drivers and life-long learning (taxistars.eu/en/page/index).

Subsidies are granted to support environmentally friendly taxi fleet. A large number of vehicles are already hybrid (about 20%), and the largest European electric taxi project was started in Vienna during the first half of 2016. It is expected that, pursuant to this project, electric taxis will increase from 1% at the beginning of the project to 5% by 2019. Other pilot projects are prepared in Graz/Styria. Various subsidies are provided for special taxi services such as youth taxis and 60 plus taxis and for contracted taxis such as DART.

Qualitative requirements appear to be stringent but not in such a way as to consider that access to the market is foreclosed. In this respect, the most stringent qualitative requirement seems to be the financial capability which is set at EUR 7,500 per taxi vehicle. For hire cars with driver, the financial capability amounts to 18,400 EUR.

It may be burdensome for taxi operators to obtain various concessions related to the different pricing areas.

Hire cars with drivers are subject to more stringent qualitative requirements. Applicants can apply for a concession at a local level only and concessions may only be valid for a

limited geographical area. Hence, in order to serve a larger area, applicants must obtain various different concessions.

Large international intermediaries which operate via the internet but which do not have a physical legal seat or place of business in Austria may find it difficult to operate due to the fact that the booking must be made to the place of business. With regard to Uber, several court decisions supported the opinion that Uber BV is offering a digital service under the Dutch rules.⁶³ The return to garage rule is combined with the obligation to place bookings at the place of business. According to one respondent to the stakeholder consultation, these are the most significant obstacles to the building of an efficient and seamless hire car with driver intermediary business.

In addition, intermediaries for hire car with driver services must register as tourist agencies ("*Reisebürogenehmigung*").

IX Capacity, growth, impact

According to the most recent available data, the key figures for the taxi sector are the following.

Figures for taxis 2014⁶⁴

Total Trade Permits	16 447
Total Taxi Permits	7 469
Total Taxi Cars	10 984
Total of Members of the Taxi Sector	13 073
Registered cars in Austria	20 155

	2010	2011	2012	2013	2014	Change to previous year
Taxi Permits	7409	7454	7452	7362	7469	+1,45%

With regard to hire car with driver, the official figures showed that there were 9171 cars in 2014.

The table below shows the numerical variations, over the years, of the various sectors.⁶⁵

	2006	2007	2008	2009	2010	2011	2012	2013	2014	Change over the

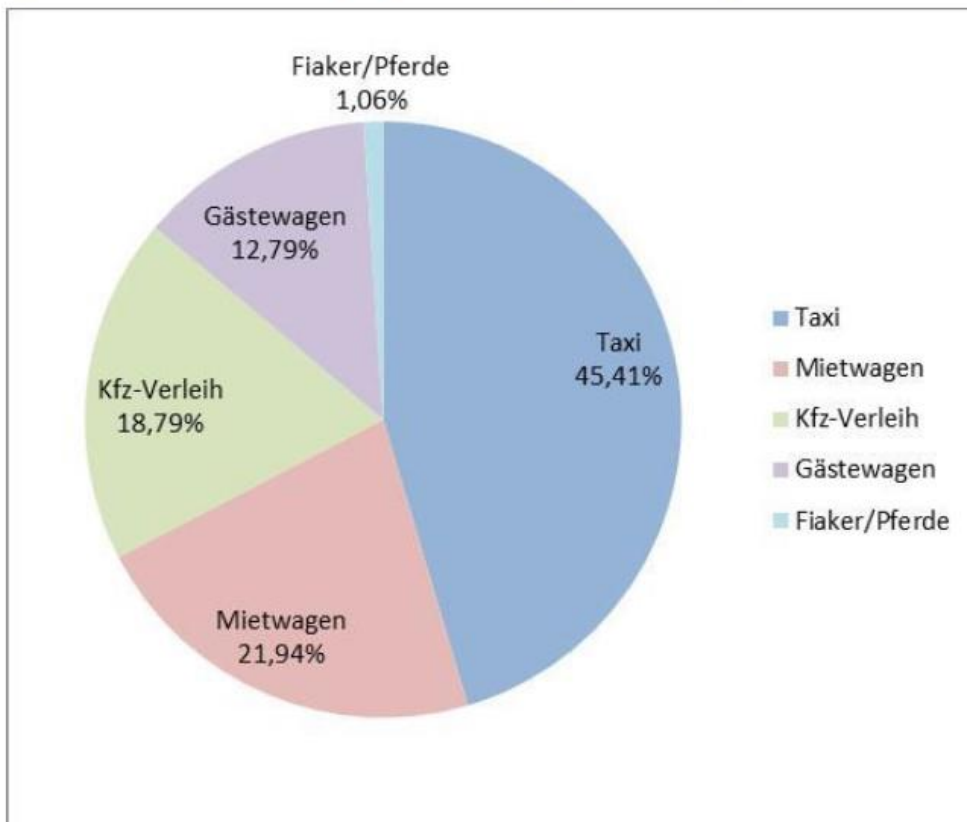
⁶³ GZ:VGW021/020/10964/201511; GZ:VGW201/020/10965/20154; GZ:VGW021/020/10966/20154.

⁶⁴ Federal Chamber of Commerce Austria, Statistics for 2014 at the following link: https://www.wko.at/Content.Node/branchen/oe/TransportVerkehr/BefoerderungPKW/Zahlen--Daten---Fakten/StatistikV6-2014_NEU_4.pdf.

⁶⁵ Federal Chamber of Commerce Austria, Statistics for 2014 at the following link: https://www.wko.at/Content.Node/branchen/oe/TransportVerkehr/BefoerderungPKW/Zahlen--Daten---Fakten/StatistikV6-2014_NEU_4.pdf.

										previous year
Taxi	6954	7247	7218	7404	7409	7454	7452	7362	7469	1,45%
Hire vehicle	3651	3781	3658	3719	3645	3631	3654	3591	3609	0,50%
Car rental	2194	2421	2475	2628	2690	2798	2910	2962	3091	4,36%
Guest vehicles	1881	1961	1922	2048	2070	2088	2097	2104	2104	0,00%
Hackney carriages	234	296	258	249	221	219	213	194	174	10,31%
Total	14914	15706	15531	16048	16035	16190	16326	16213	16447	1,44%

g) Gewerbeberechtigungen 2014 (in Prozent)



Source: WKO, Statistics, V6_2014

According to the national Taxi Guild, in its reply to the stakeholder consultation, not only there has been a positive trend in taxi and hire car with drivers, but also earnings have increased by an average of 2.8% in the period 2010-2014.

The minimum annual income for the sector was introduced in 2009. On 1 January 2016, the minimum gross annual salary of a full-time employed driver was set at EUR 16,380 (without wage labour costs). For self-employed drivers, fixed fares ensure minimum revenue which equals the minimum wage of employed drivers.

X. Results

The taxi and hire car with driver services are well integrated within the local transport system. Taxis, in particular, complement urban local transport and provide additional services for less served areas or for people who cannot use the urban public transport. The broad ranges of supplied services, which are present in all the regions, provide a wider working area both for taxis and hire cars with drivers. Both sectors have shown positive trends in the last years. There is an on-going modernization process with various electric vehicles projects, especially in Vienna, where half of the Austrian taxi concessions and licensed vehicles operate.

Fixed fares and minimum wages grant a defined income to the taxi sector and ensure social protection. Hire cars with driver are not bound by fixed fares. They may offer lower fares than taxis, thus introducing an element of competition in the pre-booked service. In this context, also taxi apps are starting to provide discounts while at the same time respecting the fixed fares, as in the case of Mytaxi.

XI. Conclusions

The Austrian framework does not present significant obstacles in relation to access to the market. The requirement of financial capability for taxis and hire car seems to be the most stringent requirement. Fixed fares for taxi services are a form of protection for the taxi drivers' income; however, they may constitute a competitive obstacle since they prevent price flexibility and make it difficult for operators and intermediaries to reduce prices in comparison to the hire cars with drivers, who are not obliged to respect the minimum fares. The need to obtain different concessions in Vienna in order to be able to serve the whole city may be excessively burdensome.

The hire car with driver sector does not seem to have particular constraints and is subject to high qualitative requirements, especially in terms of financial standing. The fact that the concessions are valid for a limited geographic area only may require operators to apply for various concessions in order to serve a larger area, such as Vienna, thus adding an additional burden.

The largest ridesharing operators are present on the Austrian market. They focus on long-distance pre-arranged ridesharing especially towards Eastern European cities.

Bibliography

1. Federal Chamber of Commerce Austria, Statistics for 2014
https://www.wko.at/Content.Node/branchen/oe/TransportVerkehr/BefoerderungPKW/Zahlen--Daten---Fakten/StatistikV6-2014_NEU_4.pdf.

2. Mobilitätskonzepte Best Practice Stand 2016.
3. <https://www.wien.gv.at/recht/landesrecht-wien/rechtsvorschriften/pdf/w1400200.pdf>.
4. <https://www.thelocal.at/20140903/uber-threat-to-vienna-taxi-profits>.
5. [https://www.thelocal.at/20140617/car](https://www.thelocal.at/20140617/car-sharing-options-growing-fast-in-vienna) sharing-options-growing-fast-in-vienna.

2. BELGIUM

General Legal Framework

Belgium is a federal state. While some rules are set at federal level,⁶⁶ most applicable rules are set by the Regions, namely, the Brussels Region⁶⁷, the Walloon Region and the Flemish Region.⁶⁸ In the Brussels Region, the provisions applicable to taxi operators ("*exploitants*") and drivers ("*chauffeurs*") differ. An operator (who can be a physical or legal person) must obtain a licence to lawfully operate a taxi service. The Regional Government has set a cap (1200 vehicles)⁶⁹ to the number of taxis allowed in the Region⁷⁰. A maximum of 100 taxis accessible to people with reduced mobility ("*PRM*") is allowed.⁷¹ The regional government is competent for issuing licences. In Flanders, Municipalities are competent to issue taxi licences on the basis of modalities set by the Flemish Government, as foreseen under regional legislation.⁷² For hire cars with driver (Service de Location avec Chauffeur – SLC), the Municipalities of the territory where the operational seat of the candidate is located grant the authorisations necessary to provide the service. The authorisation is valid throughout the Region. In the Walloon Region, Municipalities are competent to grant taxi licences. The Region approves such licences and can veto their issuance by the competent Municipal College. Similarly, to Brussels, provisions applicable to taxi operators and taxi drivers also differ in Wallonia. SLC authorisations are evaluated and approved by the Regional Government. A company or a self-employed individual, owning a vehicle (or several vehicles) fulfilling certain criteria laid down under regional legislation, can be holders of the authorisation. Only one authorisation for each operator is granted.

Taxi licenses

▪ Brussels Capital Region

Currently, there are 1.270 taxi vehicles with a valid operator licences active in the Brussels Region.⁷³ Taxi licences can be transferred for free or upon consideration after the approval of the competent authority. The transfer price may reach EUR 40,000 (previously, this price was as high as 100,000 EUR). It is not possible to rent taxi licences. Taxi licences and SLC authorisations can be cumulated: however, SLC vehicles must comply with technical requirements that taxis are not subject to (hence, a vehicle used to provide a taxi service cannot be used to provide a SLC service, as was the case under the previous regulation). The operator licences are valid for 7 years and can be renewed subject to meeting the criteria laid down in regional legislation.

▪ Walloon Region

There is a closed quota of 1 taxi for 2500 inhabitants. In the case of a request from the Municipality, the Region can derogate from this limit under the circumstances foreseen in the applicable regulation⁷⁴. In

⁶⁶ Provisions laid down at federal level concern safety conditions, regular checks and safety equipment: see *Arrêté Royal du 15 mars 1968* and *Arrêté Royal du 1er décembre 1975*.

⁶⁷ The main pieces of legislation are the *Ordonnance du 27 Avril 1995 relative aux services de taxis et aux services de location de voitures avec chauffeur* and the 2007 *Arrêté du Gouvernement de la Région de Bruxelles-Capitale relatif au service de taxis et aux services de location de voitures avec chauffeur* (« **2007 Decree** »). On 26 February 2015, the Minister for Mobility, Mr. Pascal Smet proposed a reform of the current legislative framework, aimed at, inter alia, rendering the service more client-oriented: see *Note de Principe, Plan de Transport Remuneré de Personnes 2015-2019*, available at: http://fr.pascalsmet.be/media/attachments/15/03/Note-de-principe---Plan-de-transport-r_mun_r_-de-personnes-2015---2019.pdf. The plan sheds light on the Minister's intentions and it is not a regulatory document. A reform is currently ongoing. As of September 2016, no draft bill has yet been submitted to the Regional Parliament.

⁶⁸ In Wallonia, the main pieces of legislation are the *Décret relatif aux services de taxis et aux services de location de voitures avec chauffeur* of 18 October 2007 and the *Arrêté du Gouvernement wallon portant exécution du décret du 18 octobre 2007 relatif aux services de taxis et aux services de location de voitures avec chauffeur* (3 June 2009). In Flanders, the main pieces of legislation are the Order concerning the taxi and SLC services of 18 July 2003, as subsequently modified, and the Decree of 20 April 2001 concerning the organisation of the road transport of persons and the setting up of the Flanders Mobility Council (MB 21 August 2001), as subsequently modified. Reforms of the current legislation are ongoing in Wallonia and Flanders. No information can be made available at this stage.

⁶⁹ *Arrêté du Gouvernement de la Région de Bruxelles-Capitale fixant le nombre de véhicules pour lesquels des autorisations d'exploiter un service de taxis peuvent être délivrées sur le territoire de la Région de Bruxelles-Capitale* of 4 September 2003.

⁷⁰ *Id.* See: <http://be.brussels/mobility-and-transport/getting-around-brussels/taxis-and-collecto>.

⁷¹ For the conditions to be fulfilled see: *Arrêté du Gouvernement de la Région de Bruxelles-Capitale fixant le nombre de véhicules pour lesquels des autorisations d'exploiter un service de taxis peuvent être délivrées sur le territoire de la Région de Bruxelles-Capitale*, *supra*.

⁷² Regional Decree of 20 April 2001, as subsequently modified.

⁷³ http://www.gtl-taxi.be/8_0_0_FR_Info_Flash_32413_1.

⁷⁴ *Arrêté du Gouvernement wallon portant exécution du décret du 18 octobre 2007 relatif aux services de taxis et aux services de location de voitures avec chauffeur* (3 June 2009), setting out the rules on licences.

addition, a certain number of vehicles are PRM accessible. Taxi licences can be transferred only in particular cases set by the applicable legislation.⁷⁵ Taxi licences can be cumulated with SLC authorisations. In May 2016, there were 831 licenced taxi vehicles in Wallonia (excluding collective taxis).⁷⁶ The operator licences are valid for 5 years and can be renewed subject to meeting the criteria laid down in regional legislation.

- *Flemish Region*

In the Flemish Region, a regional "decreet" (decree) stipulates how the 308 Municipalities can allocate taxi (*taxidiensten*) licences to operators and those wishing to carry out hire cars with driver services ("*diensten voor het verhuur van voertuigen, commonly abbreviated "VVB"*").⁷⁷ Differently from the other two Regions, in Flanders the taxi licences are personal and non-tradable with a validity of 5 years. They may only be transferred together with a company share transfer from one shareholder to another, but this is not used frequently. In May 2016, there were 1987 licenced taxi vehicles in Flanders.⁷⁸

Technical requirements

All three regions have introduced detailed rules concerning the vehicle, the conditions, the age, the taximeters, the displays, information about the driver and the taxi fares.

Organisational and professional requirements

The three Regions require operators to comply with the following requirements: morality, solvency and professional qualification.⁷⁹ In Brussels, applicants must sit for and successfully pass behavioural tests before a body designated by the Administration, which is competent to organise personality tests for drivers of public transport vehicles⁸⁰. In Walloon Region, the candidate wishing to obtain an operator licence must submit documentation which demonstrates that he or she fulfils the necessary requirements of morality, professional fitness and financial capacity, as laid down in the applicable regulation⁸¹. More specifically, operators must undergo a half day of training. Candidate taxi drivers must fulfil morality and professional qualification criteria, where applicable: in this respect, some towns (Liege, Namur) have introduced an exam that must be passed in order to exercise the profession. Other Municipalities only require documents (such as *certificat de bonne vie et mœurs*, etc.) but no examination, in order to grant the certificate of capacity. The Flemish Region does not have pre-set criteria but decides on a case-by-case basis.

Fares

Regional legislation lays down maximum fares for taxi services and, within the limits of such maximum thresholds, fares are set by the competent authorities for each of the Regions.⁸² There are flat rate (*forfait*) for some categories of services (e.g. *Collecto* taxi ridesharing in Brussels). Special fares for vulnerable categories of people are foreseen. An association of transport services for people with reduced mobility can benefit from regionally granted subsidies.

⁷⁵ *Décret du 18 octobre 2007 relatif aux services de taxis et aux services de location de voitures avec chauffeur*, Article 13.

⁷⁶ [http://www.gtl-taxi.be/6_49_0_0_FR_Quelques_chiffres_\(situation_mai_2016\)](http://www.gtl-taxi.be/6_49_0_0_FR_Quelques_chiffres_(situation_mai_2016)).

⁷⁷ Decree of 20 April 2001 concerning the organisation of the road transport of persons and the setting up of the Flanders Mobility Council (MB 21 August 2001), as subsequently modified.

⁷⁸ http://www.gtl-taxi.be/8_0_0_0_FR_Info_Flash_32413_1.

⁷⁹ For Brussels, see *Arrêté du Gouvernement de la Région de Bruxelles-Capitale relatif au service de taxis et aux services de location de voitures avec chauffeur* of 29 Mars 2007. When the service is provided by a legal person such obligations fall upon the administrators or the managers. For Wallonia, see *Décret relatif aux services de taxis et aux services de location de voitures avec chauffeur* of 20 November 2007. For Flanders, see Decree of 20 April 2001 concerning the organisation of the road transport of persons and the setting up of the Flanders Mobility Council (MB 21 August 2001), as subsequently modified, as subsequently modified.

⁸⁰ *Arrêté du Gouvernement de la Région de Bruxelles-Capitale du 16 juillet 2015 modifiant le 2007 Arrêté du Gouvernement de la Région de Bruxelles-Capitale relatif au service de taxis et aux services de location de voitures avec chauffeur*.

⁸¹ *Arrêté du Gouvernement wallon of 11 July 2013*.

⁸² In Flanders, taxi fares are set by municipalities on the basis of Decree of 20 April 2001 concerning the organisation of the road transport of persons and the setting up of the Flanders Mobility Council (MB 21 August 2001), as well as Order of 18 July 2003 (MB 19 September 2003), as subsequently modified.

In the Brussels Capital Region, taxi fares are set under the *Arrêté du Gouvernement de la Région de Bruxelles-Capitale relatif à la fixation des tarifs applicables aux services de taxis* of 26 August 2010. The minimal tariffs for SLC services are set in the *Arrêté du Gouvernement de la Région de Bruxelles-Capitale fixant les tarifs minima applicables aux services de location de voitures avec chauffeur* of 20 March 2008.

In Walloon Region, taxi fares are set in the *Arrêté du Gouvernement wallon fixant les prix maxima pour le transport par taxis* of 13 March 2014. Within the limits of the maximum amounts set at regional level, the precise fares are set by the Municipality councils (*conseils municipals*).

Passenger rights

All three Regions set passenger rights which include the obligation to accept passengers (for taxis), except for certain limited exceptions foreseen in the applicable legislation. The shortest route to the destination must be chosen and the driver cannot ask for a higher price than the one shown in the taximeter.

Labour rules

Drivers can be a taxi company employees or self-employed. When a driver is an employee, a minimum wage must be provided and requirements concerning the working hours must be fulfilled. When a driver is self-employed (and thus owns the taxi which delivers the service), he or she must be registered at the *Banque Carrefour* and must pay social security, tax on revenues and VAT.

Airports

For the Zaventem airport, a separate licence must be obtained by the Zaventem municipality. This licence is valid throughout the Zaventem municipality. Taxis from Brussels or other regions can only drop passengers off but not pick them up at the ranking except if they have a prior reservation. At the Charleroi airport, Charleroi-licensed taxis can provide their services to pick passengers up. The airport company is envisaging modifying the current rules and making access to taxis subject to a concession, with the aim of ensuring quality.

Enforcement

In the Brussels Capital Region, the regional officials are granted the competence to enforce the applicable laws, which can act as agent or official of the judiciary police. They assess by oral process the infractions which are then transmitted to the *Parquet du Procureur du Roi*. In Flanders, an authorization can be suspended or withdrawn if the operator does not abide by the applicable rules. Decisions to withdraw or suspend an authorization and decisions to refuse a renewal can be challenged before the Provincial Council.⁸³ The Walloon Region has an inspection service (*cellule taxi*) overseeing the respect of the applicable legislation. When an oral process is written on a given infringement, an administrative sanction is imposed on the infringing operator.

Hire cars with driver

In order to obtain an authorisation to provide an SLC service in the Brussels Region, the vehicle must fulfil certain fitness criteria and have a certain price value. In order to provide the service, a prior written contract as well as a minimum duration (three hours) and a minimum price (90 Euros) for the ride is required. No quantitative restrictions are foreseen. Unlike taxi licences, SLC authorisations cannot be transferred. In Wallonia, there are no quotas and an authorization is also required to operate the service. Vehicles must abide by certain criteria. In Flanders, exercising an SLC service is made subject to obtaining an authorization but no quotas are foreseen. Prior to such authorisation being granted, the vehicles must abide by fitness criteria laid down in the applicable legislation.

Organisational requirements and fares

In the Walloon Region, the ride must be of at least 3 hours or with the aim of providing the service for a ceremony, or there must be a pick up at a hotel, provided a written contract with a hotel exists, or a contract of at least seven days.

Car sharing and ridesharing

In the Brussels Capital Region, there is a collective taxi service called Collecto which operates at night during the weekend to fill the gap of the public transport. The passengers share the taxi ride for a fixed amount. The difference between the price in the taximeter and the fixed tariff paid by the customer is reimbursed by the Region to the taxi operator. In Brussels, there are also taxi apps which offer taxi pooling, such as Splyt and Taxi2Share. Collective taxis are also active in Flanders and Wallonia. Car sharing and peer-to-peer car rental is developing in Belgium – with several free floating and round-trip car sharing operators both in Brussels and in the Flemish Region. Peer to peer car sharing is developing.⁸⁴ Wallonia is considering introducing legislation which may update the new legal framework to take into account the new technological developments. Pre-

⁸³ Article 50 of the decree of 20 April 2001 concerning passenger transport and setting the Flemish Mobility Council.

⁸⁴ There are several peer-to-peer car rental business models, such as Caramigo, Drivy, Autodelen and Dégage which operate in the various regions as well as Tapazz, active in Antwerpen.

arranged long-distance ridesharing is provided by large international players (Blablacar).

Country market

In all the three Regions taxis and hire cars with driver are not in direct competition, not even in the pre-booked segment due to the restrictions imposed on hired cars (minimum price and contract duration). The geographical market dimension for hailing is local and limited to the area of the licence, while pre-booked services are provided on a broader range (and the market can be supra-communal). The Brussels Airport is a separate market from the Brussels market: a separate licence from the municipality of Zaventem is required. In Charleroi, the Court of Appeal of Mons recently rendered a judgment concluding that the areas where taxis stand are property of the airport and not municipality territory.⁸⁵ The current airport company, BSCA, is envisaging the contracting out of the service to two or three taxi companies (licensed in Charleroi) through a concession, with a reserved parking area where other Charleroi taxis cannot stand. This would be done with the aim of improving quality of taxi services.

Market players

Taxis

- Brussels Capital Region: there is a large number of self-employed (also with a small number of employees) which are mainly affiliated to a dispatch centre. The largest operators, such as Unitax and Autolux, have an integrated business model (owning a fleet and operating also as a radio taxi) offering both taxi and SLC services. Autolux has a significant presence in Zaventem airport. In 2014, there were 788 taxi companies in Brussels
- Flemish Region: The situation differs between rural areas, where there are no big players, and the bigger cities, such as Antwerp, Ghent or Liège. For example, in Antwerp, two big players are Antwerp Taxi and DTM. V-Taxi is a significant player in Ghent. In 2014, there were 1349 taxi companies in Flanders.
- Walloon Region: The situation is similar to Flanders in that there is a difference between urban areas and rural areas. In Liège there were around 170 taxi vehicles in 2014, with the two main taxi companies being Melkior and Unitax.⁸⁶

In 2016, one stakeholder to the consultation reported the presence of circa 35 companies, 110 vehicles and 280 drivers. Charleroi is the second biggest hub, where demand in the last years saw an increase, due to the presence of the Charleroi airport and low-cost airlines. In Charleroi, there are several taxi companies (e.g. Sympatax), held by two physical persons, with a significant presence at the Charleroi airport. In Namur, there are no main taxi operators, but the market is split between several operators. In Wallonia, there were 170 operators (both companies and self-employed) in 2016.

Hire cars with driver

- Brussels Capital Region: Aside from taxi services, Autolux and Unitax offer SLC Services in the Brussels Region.
- Flemish Region: Unitax an important player.
- Walloon Region: in Charleroi, Sympatax is an important player, while Taxis Melchior – which also operates SLC services – is widely spread in Liège.⁸⁷

Car sharing and ridesharing

In Brussels, Cambio and ZenCarare present in the traditional car sharing segment, while DriveNow, Zipcar and, soon, CartoGo are active in the free-floating car sharing segment. Ubeeqo has also recently launched its traditional car sharing service, Matcha. Cambio also operates in other major Belgian cities across Flanders and Wallonia. A peer-to-peer platform for car sharing is Caramigo, which also operates in the Brussels Region, Wallonia and Flanders. Drivy, another peer-to-peer car rental platform, operates in Brussels. Autodelen and Dégage operate in the various regions such as Brussels and Flanders, while Tapazz is active in Antwerp. Taxi ridesharing business models are also present, such as Splyt and Taxi2share, which operates in Brussels. Collective taxis are present in all the three Regions.

Intermediaries

Following the banning of its UberPop service, Uber operates Uber X and Uber Black in Brussels. Ubeeqo is active with its service CarASA.

In 2016, the following main taxi dispatch centres were operating in Belgium:

- DTM Taxis and Antwerp-Tax in Antwerp;

⁸⁵ Mons Court of Appeal, judgment of 18 March 2016, 2016/1334.

⁸⁶ Report issued by the Permanent Representation of Denmark to the European Union, "Market research: taxi solutions in Belgium", 2014.

⁸⁷ For a comprehensive list, see: <http://mobilité.wallonie.be/home/je-suis/un-citoyen/en-taxi/services-et-solutions/services-autorises-par-le-spw.html>.

- Taxis Autolux, Taxis Verts, Unitax, Taxis Ucclois 2000, Taxis Bleues, Taxi Capital in Brussels;
- VTax in Ghent, Rupel Taxi in Boom and VTC Taxis in Kortrijk.

Among these, Taxis Bleus also offers the app Taxi2share, whereas Taxi Verts operates through the app Splyt.

In addition, DTM Taxis and Antwerp-Tax in Antwerp, Taxis Autolux, Taxis Verts and Unitax in Brussels and VTax in Ghent, Rupel Taxi in Boom and VTC Taxis in Kortrijk provide together the taxi.eu service in Belgium.

Barriers, limitations and incentives

All the three regions are characterised by quantitative restrictions to the number of taxi licences. In the Brussels Capital Region licences may be transferred under the authority control and the price is around EUR 40,000.

In Flanders, no new licenses have been issued in the last 5 years, and as transfers are not officially allowed, they are traded on the black market in the larger cities (Antwerp, Ghent). With regard to hire car with driver, the operators must obtain an authorisation to provide the service but, unlike for taxis, there is no maximum number. In the Brussels Capital Region, the main obstacle is the costs of vehicles, since the legislation provides for specific technical requirements (length, age, and price) of the vehicle. In addition, restrictions are imposed on the activity in terms of contract duration/price which prevents direct competition with taxis in the pre-booked market. Flemish Region and Walloon Region have less restrictive requirements concerning the provisions of the hire car with driver service and do not impose specific technical requirements for the vehicles.

Looking at incentives, in Brussels, a collective taxi service (Collecto) has been established since 2008 by the Region with specific focus on public transport users. Moreover, in Flanders, the carpooling initiative Taxistop receives funds for promotion and software maintenance in accordance with applicable regional legislation.

With regard to car sharing, the Brussels Region provides for special parking places reserved for shared vehicles and also provides the possibility to have a non-nominative parking card (which allows to park in paying areas) at the special fare of EUR 25 per year. The Brussels Regional Government is also planning incentives for electric cars and to increase the number of charging stations by the beginning of 2018.⁸⁸

Capacity, growth and impact

At national level, there were 7.888 authorised vehicles in 2015 (51% taxis, 43% SLC, 6%). As to the dynamics of the different market components in each Region (based on available data for 2014 and 2015), the number of vehicles has essentially remained unchanged for taxis, while the number of enterprises has decreased. On the contrary, SLC enterprises reported a significant growth (+6%) with a slight drop in the number of vehicles. The dynamics of taxis are well represented in Brussels, while in Flanders the number of taxi enterprises dropped by 15%. Looking at the comparison between 2014 and 2013, in Flanders the number of taxi operators increased significantly (+25%) to be partially compensated by the drop in the following year. As to SLC, the slight drop (-1%) at national level is strongly focused on Brussels, where the number of authorized vehicles is in constant fall (-7% between 2014 and 2013, -11% between 2015 and 2014) while the number of enterprises is oscillating between -14% and +13%, therefore essentially steady. Data provided at national level on economic parameters show a substantial growth in employment (+11,7% between 2005 and 2013).

Conclusions

The current legislative framework, in all the three regions, intends to keep separate the taxis and hire cars with drivers also in the pre-booked segment. The restrictions to the hire cars with drivers' service imposed in Brussels and Wallonia (minimum EUR 90 and minimum three hours) renders it difficult to compete in the pre-booked segment. However, at least in Brussels, innovative services are developing despite the restrictions and enforcement actions. Commercial ridesharing with taxis is organised and supported by the local authorities, but there are also apps to share taxi rides, especially for the airport. Long distance pre-arranged ridesharing operators are present in the market. The Brussels and Walloon Regions are considering reforms.

I. Introduction

In Belgium, a federal state, most of the applicable legislation in the taxi and hire car with driver's sector varies depending on whether the service is operated in the Brussels Capital Region, the Walloon Region or the Flemish region.

⁸⁸ Confirmed by the authorities of the Brussels Capital Region, October 2016.

Regardless of the differences in the applicable legislative framework among regions, some similarities can be extrapolated. Generally, a similarity in the applicable regulations to the taxi sector concerns the need for the operators of taxi services to obtain a licence prior to lawfully providing the service, and a cap to the number of licences granted for public order reasons. This limited number, according to competent public administrations, is aimed at ensuring quality.⁸⁹

In order to provide hire car with driver services the operators must obtain an authorisation but, unlike for taxis, no cap to the number of authorisations is foreseen.

II. National regulations

Relevant national legislation concerning the taxi sector enacted at federal level encompasses provisions on safety conditions, periodical checks on vehicles, as well as safety equipment.

The 1968 Royal Decree on technical conditions⁹⁰ provides that vehicles carrying out passenger transport need to be periodically checked. The same legislation requires the vehicles to be equipped with a universal first aid kit. The maximum number of passengers that the vehicles may transport (nine passengers) should be indicated on the vehicles' certificates.

The 1975 Royal Decree,⁹¹ which is part of the Highway Code, provides that taxis can use the lane F18 reserved for urban public transport. In addition, it exempts taxi drivers from using the safety belt.⁹² It also sets out the obligation to inform the passengers of a taxi vehicle about the duty to wear the safety belt. Federal rules also cover the mechanisms concerning the installation of taximeters and their periodical verification,⁹³ as well as the maximum fares applicable to taxi services.⁹⁴ Finally, the social and fiscal legislation⁹⁵ is set at the federal level.

II.2 Regional regulations

II.2.1 Brussels Capital Region

⁸⁹ Reply to the stakeholder consultation provided by Bruxelles Mobilité, Direction des Taxis.

⁹⁰ *Arrêté royal du 15 mars 1968 portant règlement général sur les conditions techniques auxquelles doivent répondre les véhicules automobiles, leurs remorques, leurs éléments ainsi que les accessoires de sécurité.*

⁹¹ *Arrêté royal portant règlement général sur la police de la circulation routière et de l'usage de la voie publique* of 1 December 1975, as subsequently modified.

⁹² <http://www.code-de-la-route.be/>.

⁹³ *Arrêté royal relatif à l'installation et à la délégation des opérations de vérification périodique des taximètres* of 28 September 2010, as modified by the *Arrêté* of 12 May 2011.

⁹⁴ 11 JANVIER 2002 - *Arrêté ministériel fixant les prix maxima pour le transport par taxis.*

⁹⁵ Article 5 of the *Code des taxes assimilées aux impôts sur les revenus* (Fiscal Code on fiscalité assimilated to personal income fiscalité) on the yearly circulation tax, *Loi modifiant les articles 1752 et 1762 du Code des taxes assimilées au timbre relativement au transport routier et aux assurances maritimes et fluviales* of 22 April 2003, on the reimbursement of taxes on insurance, *Loi concernant les plus-values à l'occasion de l'aliénation de véhicules d'entreprise* of 14 January 2003, on the plus-value from the sale of vehicles used to carry out an enterprise activity, and *Loi-programme* of 27 December 2004, on exonerations from the gasoil. See: http://www.gtl-taxi.be/3_27_626_3912_FR_Gasoil_professionnel. There is also an annual tax that must be paid by the operators for the services, set at Regional level.

- *Ordonnance relative aux services de taxis et aux services de location de voitures avec chauffeur* of 27 April 1995 (« 1995 Ordonnance »), the main piece of regional legislation on taxis and SLC services ;
- Decree of 29 March 2007 as amended by the *Arrêté du Gouvernement de la Région de Bruxelles-Capitale modifiant l'arrêté du Gouvernement de la Région de Bruxelles-Capitale du 29 mars 2007 relatif aux services de taxis et aux services de location de voitures avec chauffeur, relatif à une adaptation de la formation professionnelle de chauffeur de taxi* of 16 July 2015 (hereinafter, « 2007 Decree »), the implementing decree to the 1995 Ordonnance, setting out detail provisions;⁹⁶
- *Arrêté du Gouvernement de la Région de Bruxelles-Capitale fixant la composition et le fonctionnement de la Commission visée à l'Article 10bis, 4 de l'Ordonnance relative aux services de taxis et aux services de location de voitures avec chauffeur* of 27 April 1995 of 24 April 2014, legislation concerning how the Commission provided for under the 1995 Ordonnance is composed and functions;
- *Arrêté du Gouvernement de la Région de Bruxelles-Capitale relatif à la fixation de conditions particulières d'exploitation des taxis collectifs* of 29th of May 2008, concerning the conditions to exploit a collective taxi service ;
- *Arrêté du Gouvernement de la Région de Bruxelles-Capitale fixant le nombre maximum de véhicules pour lesquels des autorisations d'exploiter un service de taxis peuvent être délivrées sur le territoire de la Région de Bruxelles-Capitale* of 4 September 2003, on the caps to the number of taxi licences issued.

II.2.2 Flemish Region

Decreet van 20 APRIL 2001 betreffende de organisatie van het personenvervoer over de wegen tot oprichting van de Mobiliteitsraad van Vlaanderen (BS 21 August 2001).

II.2.3 Walloon Region

Arrêté du Gouvernement wallon portant exécution du décret du 18 octobre 2007 relatif aux services de taxis et aux services de location de voitures avec chauffeur du 3 Juin 2009, as subsequently amended by the Arrêté of 11 July 2013.

II.3 Procedures to issue licences and applicable criteria

II.3.1 Brussels Capital Region

Procedures applicable to taxi operators

The conditions to obtain a licence to operate a taxi service are laid down by Article 5 of the 1995 *Ordonnance*.

The 1995 *Ordonnance* provides that the Regional Government is competent to decide on the maximum number of licences issued.

⁹⁶ Available at: www.ejustice.just.fgov.be.

Licences are issued by the Regional Government according to public utility criteria, subject to certain conditions being abided by. In addition, only a limited number of vehicles can circulate in the territory of the Brussels Region. According to the competent Administration, "the criterion of public utility and the licences procedure is aimed at ensuring a given level of quality for taxi services".⁹⁷

The cap is provided for in the 2003 Governmental Decree:⁹⁸

- 1200 ordinary taxis (Article 2);
- 100 taxis reserved for PRM (also called "mixed taxis", as provided for under Article 3).⁹⁹

When this number is not reached, the Government publishes in the Belgian Official journal ("*Moniteur Belge*") an announcement on the licences available and the applicable procedures. Licences are issued by the Government, after a call for interest to the candidates is launched, on the basis of the quality of the service offered and the price of the offer.¹⁰⁰ The candidates' dossiers are subsequently submitted to an Assessment Board composed by government representatives: these latter are tasked with submitting recommendations to the Government who then selects dossiers on the basis of the abovementioned criteria.

Pursuant to Article *6bis* of the 1995 Ordonnance, the Government can fix the conditions of morality, professional qualification and solvency required under Article 6. Article 2(1) of the 2007 Decree further specifies the criteria that must be abided by in order to obtain an operator licence: namely, morality, solvency and professional qualifications. Only candidates fulfilling the necessary criteria are evaluated.

To satisfy the morality criteria, in accordance with Article 2, para. 2, of the 2007 Decree, the individual must:

- (i) Prove he or she has a «*bonne conduite, vie et mœurs*», by a certificate which can be obtained from the competent administration;
- (ii) Not have incurred *in the last five years, in Belgium or abroad*, into a judgment condemning him or her for the infractions in book II, title III, chapters 1st to V, and title IX, chapter 1st and II of the Criminal Code.

When the operator is a legal person, the morality and professional qualification conditions must be fulfilled by the managers or executive directors tasked with the daily management of the company.

To satisfy the solvency conditions, pursuant to Article 2, para. 3, of the 2007 Decree the individual must be the owner of the vehicle he intends to use or have a car loan or leasing, and not be late of more than six months with paying taxes or social security/salaries. Additionally, he must be able to face reparation and maintenance vehicle costs.

⁹⁷ Reply to the stakeholder consultation from *Bruxelles Mobilité, Direction des Taxis*.

⁹⁸ *Arrêté du Gouvernement de la Région de Bruxelles-Capitale fixant le nombre maximum de véhicules pour lesquels des autorisations d'exploiter un service de taxis peuvent être délivrées sur le territoire de la Région de Bruxelles-Capitale* of 4 September 2003.

⁹⁹ Reply to the stakeholder consultation from *Bruxelles Mobilité, Direction des Taxis*.

¹⁰⁰ Namely, the authorisations are assigned to the subjects who have presented the best qualitative offer at a competitive price. Article 6 of the 1995 Ordonnance and reply to stakeholder consultation provided by *Bruxelles Mobilité, Direction des Taxis*.

The licence lasts 7 years and can be renewed for a similar term, as well as for a shorter period (if particular circumstances justify this derogation).¹⁰¹ Renewals are issued under certain conditions, such as satisfactory morality criteria, enough vehicles during the seven-year period in which the licence has been used and being on time with social security payments.¹⁰²

The taxi licence can also be cumulated with an authorization to provide SLC services, and can relate to one or several vehicles.

Since February 2014, taxi licences can be transferred to third parties for free, or against remuneration, on the basis of several conditions provided for under the following provisions:

- Article 10-*bis* of the 1995 Ordonnance;
- Articles 62, 63 and 77 of the *arrêté du Gouvernement de la Région de Bruxelles-Capitale du 29 mars 2007 relatif aux services de taxis et aux services de location de voitures avec chauffeur*; and
- *Arrêté du Gouvernement de la Région de Bruxelles-Capitale fixant la composition et le fonctionnement de la Commission visée à l'Article 10bis, 4 de l'Ordonnance relative aux services de taxis et aux services de location de voitures avec chauffeur* of 27 April 1995 of 24 April 2014.

The conditions that the transferee must observe are as follows:

- Having used the vehicles to be subject of the sale transaction for at least ten years without interruption;
- Having fulfilled all the obligations - including annually validating the licence - for ten or more years.

The conditions that must be fulfilled by whomever wishes to obtain the licence are those foreseen under articles 6*bis* and 8 of the 1995 *Ordonnance*, i.e morality, solvency and professional qualifications, as well as all the conditions to lawfully operate a taxi service in accordance with the 2007 Decree. The regional Government decides on whether those conditions are met, on the basis of a recommendation given by the Committee. The Committee assesses whether the conditions are satisfied and whether the amount of the transfer is reasonable when compared to the economic value of the licence.

Despite since the entry into force of these provisions the authorities did not finalise any dossier, the value of the transfer comprises an amount ranging from EUR 0 to 40,000, as indicated by the authorization holders wishing to transfer their licences.¹⁰³

By contrast, Article 9 of the 1995 Ordonnance specifies that the vehicles in relation to which authorisations have been granted cannot be rented to third parties.¹⁰⁴

¹⁰¹ Article 7 of the 1995 Ordonnance.

¹⁰² Reply to the stakeholder consultation from *Bruxelles Mobilité, Direction des Taxis*.

¹⁰³ Reply to the stakeholder consultation from *Bruxelles Mobilité, Direction des Taxis*.

¹⁰⁴ This Article provides that: « *La location par l'exploitant, sous quelque forme que ce soit, du ou des véhicules à toute personne qui en assure ou en fait assurer la conduite, est interdite.*».

The costs of the licence are the following:

- granting of an administrative decision on remunerated transport of passengers: EUR 5;
- granting of a *duplicata* of the same decision: EUR 20;
- granting of an identification plate: EUR 37,50;
- granting of a plate for a reserve vehicle: EUR 37,50;
- granting of a plate for a replacement vehicle: EUR 37,50;
- granting of a new plate in case the one issued has been lost, destroyed or stolen: EUR 100;
- granting of a new plate for reserve or replacement in case the one first one has been lost, destroyed or stolen: EUR 100;
- fee for deposit of an authorization request: EUR 75,50;
- fee for a demand to transfer the authorization: EUR 250;
- fee for a demand of transfer of the activity from a physical person to a moral person EUR250;
- fee for deposit of a modification imposed by way of regulation: EUR 12,50;
- payment of administrative decisions: EUR 10;
- delivery of a *duplicata* of the authorization card: EUR 30;
- delivery of a new taxi cab roof light if the one issued is lost, destroyed or stolen: market price.

II.3.2 Walloon Region

The exercise of the taxi service in the territory of the Walloon Region is subject to the issuance of a licence by the competent Municipal College.¹⁰⁵ Article 6 of the 2007 Decree¹⁰⁶ provides that the license is delivered on the basis of an inquiry on the morality, professional qualifications and the solvency of the applicant.

The 2009 Executive Decree¹⁰⁷ sets out the procedures to issue taxi services operators' licenses. An operator can either be a physical or a legal person. Pursuant to Article 6 of the 2007 Decree, whenever a license to exploit a taxi service is delivered to a legal person, the conditions concerning physical persons must be fulfilled by whoever carries out the day-to-day management of the company.

The licence procedure is provided for under Chapter II, Section I of the Executive Decree. More specifically, Articles 3 to 5 of the Executive Decree lay down the requirements that must be abided by to obtain a taxi licence:

(i) Morality: to satisfy this criterion, the applicant must not have incurred, in the past five years in Belgium or abroad, in a criminal penalty falling within the provisions of Book II, Title III, Chapters I to V and Title IX, Chapter I and II of the Criminal Code. To this

¹⁰⁵ Article 3 *Décret relatif aux services de taxis et aux services de location de voitures avec chauffeur* of 18 October 2007: «Nul ne peut, sans autorisation préalable du collège, exploiter un service de taxis au moyen d'un ou de plusieurs véhicules au départ de la voie publique ou de tout autre endroit non ouvert à la circulation publique qui se situe sur le territoire de la Région wallonne.».

¹⁰⁶ *Décret relatif aux services de taxis et aux services de location de voitures avec chauffeur* of 18 October 2007.

¹⁰⁷ *Arrêté du Gouvernement wallon portant exécution du décret du 18 octobre 2007 relatif aux services de taxis et aux services de location de voitures avec chauffeur* of 3 June 2009, as subsequently amended by the *Arrêté* of 11 July 2013.

end, the operator must present the court records in accordance with Article 596, para. 1, of the Code of Criminal Procedure, which must not be older than three months.

According to Article 4 of the Executive Decree, to satisfy the financial standing condition, the applicant must:

- (i) own or operate vehicles that meet the payment deadlines under the sale contracts, leasing or hire purchase contracts; and
- (ii) not be late with the payments:
 - a. For more than 6 months in payments of fees or taxes related to the taxi service;
 - b. In social contributions payments or salaries;
 - c. The operator must also be in possession of insurance for the private transport covering possible damages to persons and properties.
- (iii) Professional qualification: to satisfy this condition, the applicant must hold a certificate, issued by the Government, certifying that he or she successfully participated in a training course concerning the legal and regulatory framework of taxi services. This course is held once a month.

Article 37 of the Executive Decree lists the compulsory basic information that an applicant must provide when submitting a request to obtain an authorisation.¹⁰⁸ As set out under Article 38 of the Executive Decree, the application must be presented together with the following documents:

- (i) ID of the applicant or the bylaws of the legal entity and the IDs of the people in charge of the day to day management of the legal entity;
- (ii) The court records in accordance with article 596, comma 1, of the Code of criminal procedure, in order to prove his or her morality, not older than three months;
- (iii) To prove his solvency, as laid down under Article 4 of the Executive Decree, the applicant must submit:
 - A copy of the invoice of the vehicle or if any the proof of the fulfilment of the vehicle's terms of payment; otherwise, if the applicant does not yet have a vehicle, a declaration of honour certifying the future property of a vehicle or the fulfilment of its terms of payment;
 - A certificate issued by the social insurance fund for the self-employed; otherwise, if the applicant is exercising the activity for the first time, a declaration of honour that he will comply with the social fund's payments.
- (iv) A certificate, as laid down under Article 5 which attests the applicant's professional qualification (half a day formation course);
- (v) The following documents related to the vehicle:
 - Copy of the matriculation certificate;
 - Copy of the most recent certificate concerning the periodical vehicle maintenance;
 - Copy of a valid insurance for a professional transport service.

The applicant must send the application for the licence to the Municipality where he/she intends to exploit the taxi service and which is in charge of evaluating the application.¹⁰⁹ The Municipality – in a Collegial Meeting – decides within three months from receipt of the complete application. Subsequently, such decision is transmitted to the regional Government, which is tasked with verifying the fitness of the application. The Municipality transmits the certificate to the applicant after receiving the Regional Government's answer certifying such fitness. The Government must answer within two

¹⁰⁸ If all these documents are not presented, the demand is declared inadmissible.

¹⁰⁹ Reply to the stakeholder consultation from Walloon Region, *Direction du Transport de Personnes*, as well as Article 39 of the Executive Decree.

months from the receipt of a complete application.¹¹⁰ While the Municipality concretely issues the licence, the Regional Government approves it,¹¹¹ in accordance with the abovementioned criteria.

The licence lasts five years,¹¹² and can be renewed for a similar term, or shorter, if the circumstances so warrant. The taxi service provider requesting the renewal of the licence must submit a request to the competent Municipality joining the documents required under Article 44 of the Executive Decree.

The same procedure referred to under the abovementioned Articles 39, 40 and 41 is applied when a renewal is granted, too.

II.3.3. Flemish Region

The relevant provisions are laid down in:

- (i) The Regional Decree of 20 April 2001 concerning road passenger transport and setting up the Flemish Mobility Council, as subsequently modified. The decree lays down at Chapter V the applicable procedures to taxi licences.
- (ii) Executive Decree of 18 July 2003 concerning taxi and SLC services.

Article 25 of the 2001 Decree states that: *"No one may, without a licence, provide taxi services in public roads or in all other areas which are not open to public transport in the territory of the Flemish Region."*

Article 26(1) of the 2001 Decree states that the operating conditions of a taxi service are set by the Municipal Council within the (numerical) caps, set by the Flemish Government. It also states that, based on the conditions laid down by the Municipal Council, the licence or renewal of the licence to operate a taxi service is delivered by the Board of Mayor and *Aldermen* of the Municipality where the service is carried out ("the competent college").

The licence to operate a taxi service can be cumulated with the authorization to operate an SLC service: namely, as specified under Article 26(3) of the Decree, it is possible for the operator of an SLC service to employ the vehicles also in order to carry out taxi services, subject to obtaining the taxi licence under Article 25 of the said law, as well as upon payment a supplementary tax as set out in this Article.

The competent college fixes a fare, in accordance with Article 26(3) of the Decree.

Article 26(5) of the 2001 Decree provides that the competent college can issue no more than one licence to the same operator. Additionally, such licence shall mention the number of vehicles in relation to which it was issued and whether it is possible to use sites on public roads. Pursuant to Article 33 of the same decree, the licence holder can

¹¹⁰ Articles 40-41 of the Executive Decree.

¹¹¹ Reply to the stakeholder consultation from Walloon Region, *Direction du Transport de Personnes*.

¹¹² Article 6 of the *Décret relatif aux services de taxis et aux services de location de voitures avec chauffeur* of 18 October 2007.

request the competent Board to increase or decrease the number of vehicles his or her taxi licence relates to.

Article 27 of the Decree provides that the Flemish Government fixes the modalities under which the competent college can issue licences. More specifically, Article 28(1) of such Decree lays down that the licences are delivered after an inquiry made by the competent college concerning morality, as well as professionalism and solvency. Concerning solvency, Article 29(1) of the 2001 Decree provides that a licence is granted to a natural or legal person who owns the vehicle, or who holds the vehicle pursuant to a purchase contract, to a financing agreement, or to a lease contract. The operator cannot lease the vehicles to a third person.

Unlike in the other two Regions, the licence is personal and cannot be transferred. Exceptions are foreseen, and they must be authorised by the competent college, in case of death or incapacity of the operator to work, or in the event the operator, who has been granted the licence as a physical person, sets up a legal entity and is both majority shareholder and manager of such entity.¹¹³ In addition, a moral person can share the licence among its employees upon being authorised to do so by the competent college, under the following conditions:

- the licence is entirely transferred and that the moral person stops providing the service;
- when the application is submitted, these employees, among which the authorization is shared, have been actively and continuously providing their services for at least three years, and who have been registered as an employee in the register of the personnel of the moral person wishing to share its authorization;
- that the moral person provides evidence he or she has fulfilled all the social security and fiscal obligations.¹¹⁴

The duration of the licence is five years. The licence can be renewed for the same period or for shorter period, when particular circumstances so require.¹¹⁵

Renewals can be refused and licences can be suspended in case the operator does not comply with the relevant legislation or no longer meets the abovementioned moral, technical and solvability requirements.¹¹⁶

Decisions of the competent college to withdraw, not to renovate and to suspend¹¹⁷ licences must be motivated. Applications for a renewal take priority over new applications, provided that these applications fulfil the necessary conditions for the licence to be lawfully granted.

The Decree of 18 July 2003 concerning taxi services and private hire car services further specifies the modalities under which the abovementioned licences are issued. Article 2(2) specifies that a licence is issued within three months from the application, which is done to the Municipality competent college, pursuant to Article 2(1). As laid down under

¹¹³ Article 30(2) of the 2001 Decree.

¹¹⁴ Article 30(3) of the 2001 Decree.

¹¹⁵ Article 31(1) of the 2001 Decree.

¹¹⁶ Article 31(2) of the 2001 Decree.

¹¹⁷ Article 32 of the 2001 Decree.

Article 2(3), the application must include the fare the operator intends to apply and, where applicable, also the reduced fares he or she intends to apply. The proposed fare cannot exceed the maximum fares set by the competent ministry.¹¹⁸

The operator may apply to obtain an adaptation of tariffs and of commercial discounts, during the period in which the authorization is used. Tariff reductions need to be authorized by the competent authorities.¹¹⁹ The 2003 Decree also provides further details on the licence's content. Notably, the licence shall state: the fares that the operator must concretely apply and the night fare to be charged the number of taxi vehicles covered by the licence and the hours of the day during which the taxi vehicles can be in service; the number of reserve vehicles; the licence for the use of parking spaces on public roads and as well as the licence to provide a radio service; the identification number assigned to each vehicle, a number consisting of four digits which are unique identification sequences and therefore can only be assigned once.¹²⁰

Article 3(1) of the Decree sets out a threshold on the number of licences, providing that the number of taxi vehicles in a given Municipality is one each 1,000 inhabitants.¹²¹

The competent local authorities (municipalities) can increase or decrease the number of taxis allowed per inhabitants by 20% depending on specific factors such as an obvious mismatch between supply and demand, and the inability to arrange for taxi stands for additional vehicles in relation to which the licence is granted.¹²²

Increases or decreases of more than 20% in this closed number have to be authorized by the Flemish Ministry for transport.¹²³

III.3.4 Local regulation

Antwerp

In Antwerp, the applicable legislation comprises the following decrees/regulations:

- The Decree of 20 April 2001 concerning road passenger transport and setting up the Flemish Mobility Council;
- The Decree of 18 July 2003 concerning taxi and SLC services;
- The Municipal Regulation applicable to taxi and SLC services;¹²⁴
- Municipal tax regulation for the taxi and SLC service.

Some of the abovementioned pieces of legislation are set at regional level.¹²⁵ The "*Reglement Voor De Taxidiensten En De Diensten Voor Het Verhuren Van Voertuigen Met*

¹¹⁸ Article 2(3) of the Decree.

¹¹⁹ Article 2(3) of the Decree.

¹²⁰ Article 2(4) of the Decree.

¹²¹ Article 2(4) of the Decree.

¹²² Article 4(1) of the Decree.

¹²³ Article 4(2) of the Decree.

¹²⁴ *Reglement Voor De Taxidiensten En De Diensten Voor Het Verhuren Van Voertuigen Met Bestuurder*, approved by the Antwerpen City Council on June 29, 2015.

¹²⁵ Namely, Decree of 20 April 2011 concerning road passenger transport and setting up the Flemish Mobility Council and regional Decree of 18 July 2003 concerning taxi and SLC services.

Bestuurder” provides, at the municipal level, the local legal framework for both taxi and *service de location avec chauffeur* services (hereinafter, “Municipal Regulation”).

Article 22 of the Municipal Regulation distinguishes the following categories of taxi vehicles:

- Ordinary taxi vehicle: passenger car with minimum three doors and an number of seats from 4 to 8 not including the driver’s seat;
- Mini taxi vehicle: car with a maximum of two doors for passengers and a maximum of 2 seats including the driver’s seat;
- Motorcycle taxi;
- Taxi for people with reduced mobility.

Article 7 of the Municipal Regulation lays down the procedure for the operator’s licences. Such procedure does not differ from the procedure laid down under the main regional legislation (s. II.3.3). Article 7 of the Municipal Regulation provides that applications must be submitted to the Board of Major and Aldermen, competent to issue taxi licences. The City Council sets the number of the licences and manages the applications in a chronological order.¹²⁶

The taxi driver must hold a certificate where the following must be spelled out: the number of the licence, the personal details, date and place of birth of the driver.¹²⁷

The validity of the taxi licence is of 2 years and such licence is renewable. The drivers employed by a taxi company must be in possession of an accreditation card issued by the City Council.¹²⁸

Article 13 of the Municipal Regulation provides that the taxi identification card and the taxi plate must comply with the requirements listed in the same Article.

Namur

The main pieces of legislation applicable to taxi and SLC services and in the town of Namur are:

- (i) the general *Décret du 18 octobre 2007 relatif aux services de taxis et aux services de location de voitures avec chauffeur*, a regional piece of legislation (hereinafter « 2007 Decree »);¹²⁹
- (ii) the *Arrêté du Gouvernement wallon portant exécution du décret du 18 octobre 2007 relatif aux services de taxis et aux services de location de voitures avec chauffeur* of June 3rd 2009, amended by *the Arrêté du Gouvernement wallon of 11 July 2013* ;¹³⁰

¹²⁶ Article 12 of the Municipal Regulation.

¹²⁷ Article 28 of the Municipal Regulation.

¹²⁸ Article 29 of the Municipal Regulation.

¹²⁹This legislation is applicable at the regional level. See, for further details: <http://wallex.wallonie.be/index.php?doc=9404&rev=15894-14167>.

¹³⁰ See, for further details: <https://wallex.wallonie.be/index.php?doc=29188>.

- (iii) the *Réglement sur l'exploitation des services de taxis stationnant ou non sur la voie publique* (« Municipal Regulation »).¹³¹

The procedure applicable to the issuance of licences is provided for in the regional Decree of 18 October 2007 as amended by the Decree of 11 July 2013 (s.II.3.2).

Article 3 of the Municipal Regulation provides that the applications to obtain a licence must be addressed to the Municipality, alongside with a list of documents.¹³² Prior to commencing the service, the documents listed in Article 10 of the Municipal Regulation must be submitted to the police service, tasked with overseeing taxi services.¹³³ The licences are valid for five years.

As established under Article 16 of the Municipal Regulation, the driver must hold a certificate of capacity to exercise the taxi transport service. This certificate is issued by the Municipal Council. The documents required to obtain such certificate are listed in Article 16, para. 3, of the Regulation: these are the same documents as those provided for by the Regional Decree. In order to renew such certificate, drivers must present, on a yearly basis, court records which must not be older than one month.

II.4 Technical requirements applicable to licensed vehicles *(taximeters, vehicles' technical specifications, accessibility, insurance, maintenance)*

II.4.1 Brussels Capital Region

Technical requirements applicable to taxi vehicles are laid down by Section 3, subsection first (Articles 32 to 43 *bis*) of the 2007 Decree. Vehicles used for the taxi service must have at least 3 lateral doors, be in good state and be continuously well maintained and compliant with the quality, cleanliness and comfort conditions. More specifically, the following requirements must be ensured:¹³⁴

¹³¹ See, for a French version of the Municipal Regulation, first adopted in 2011 and subsequently modified, most recently in 2014: <http://www.ville.namur.be/listeShow.asp?idLayout=58&idT=24&idform=17&idrep=2188>.

¹³² They comprise the following: (a) a complete identity of the applicant; (b) the commercial form (if a company) under which the service is carried out, its business seat and the annual financial accounts, except for new service providers; (c) proof that the company headquarters are located within Namur; (d) the number of vehicles to be used, their general characteristics, including the licence plate (if the applicant is the vehicle owner); (e) conditions of use for the service, namely work conditions, as well as equipment, including radio taxi equipment; (f) courts' records; (g) an O.N.S.S. attestation concerning social security, and (h) a declaration of honour for the taxi operator who does not have any employees at his or her service.

¹³³ Namely, bill proving car purchase or car loan, technical control card, insurance card, vehicle registration certificate, professional card (for non-EU citizens), proof of being registered in the commercial register.

¹³⁴ Article 32(1) of the 2007 Decree.

- The vehicle doors, as well as the bonnet and the luggage cover, must be easily opened or closed;
- The windows must be easily opened or closed;
- The taximeter must be placed in the upper front inside the vehicle so that it can be easily visible to the client;
- The trunk cannot be occupied with any object that could hinder the traveller from placing his luggage inside; the trunk must be maintained in a perfect status;
- The vehicle cannot have accidents or traces of rust, the paint cannot be chipped, or present any other alteration;
- Seats cannot be worn out; the upholstery cannot be torn or have traces of dirt;
- While in motion, the vehicle cannot make any anomalous noises or vibrations;
- Trash cannot be left inside the vehicle;
- The vehicle must be regularly aired to avoid unpleasant smells;
- All taxi vehicles must be painted in black and fulfil the criteria laid down under Annex II of the Decree.

In addition, taxi vehicles cannot show, both inside and outside, any signs, objects, messages or information different from the information allowed under the 2007 Decree. Vehicles used to provide the taxi service cannot be older than 7 years old, taking into account the matriculation date.

All the vehicles used for the first time for taxi transport services must be equipped with an engine that fulfils the requirements established by EU law as well as the competent federal authority.

The owner must constantly ensure that the vehicle, both in its interior and its exterior parts, is in good state. As provided for under Article 32(2) of the 2007 Decree, the Regional Administration oversees the respect of these requirements.

Article 33(1) of the 2007 Decree lays down the need for the vehicle to display on the exterior the "TAXI" sign, as well as an identification number, in a clearly visible fashion. More specifically, taxi vehicles must be given an identification number prior to their entry into service. The "TAXI" sign must be placed on the roof of the vehicle, while the identification number must also be made clearly visible in the interior of the car.¹³⁵ The plate must respect special dimension requirements laid down in that provision.

To easily identify the driver, a colour picture of the driver, the number of his certificate of capacity and, if applicable, the references to the operator the driver works, for must be placed on the headrest visible to the passengers.

Every taxi vehicle must have on board at least the following documents:

¹³⁵ Article 33(1) of the 2007 Decree.

- A document issued by the Administration mentioning the date of licence issuance and duration, the name and the address of the owner, the brand and the matriculation of the vehicle;
- A map of the Brussels region;
- The documents established in article 5 n. 2-4-5.¹³⁶

Article 37(1) provides that the vehicles must be equipped with a digital taximeter, which must indicate and print exactly, and in clear, easily readable characters, the information required under the applicable legislation. Sunlight must not impair the screen visibility. The taximeter must respect the requirements established in the royal Decree of 13 June 2006 concerning measuring instruments. Pursuant to Article 37(2), the taximeter has data storage capacity of at least 7 days, and the data must be preserved centrally in an independent device, during at least five years, in the operational headquarters or in a securitised service held by third parties. They must be shown to the administration in an electronic device each time the administration wishes to do so.

Pursuant to Article 38, the taximeter must be switched on when the taxi is in service and switched off otherwise.

Under Article 39, the taximeter must be accompanied by a transmitting device placed on the top of the roof, which must be switched on when the vehicle is in service. Such device is provided by the Administration to the driver that is responsible for its efficient functioning.

Article 40 sets out the operational modalities for the taximeter. Pursuant to Article 41, the taximeter must meet the following requirements:

- Be provided with a calendar clock;
- Ensure that the four fares, either separately or not, function properly;
- Ensure automatic switching to another fare after the vehicle has run a certain amount of km;
- Ensure that additional charges can be added to the amount claimed at the end of the ride;
- Automatically print the ticket at the end of the ride, which must contain all information laid out under Article 41(5);
- Ensure - with or without the support of another device - the payment via credit card;
- Ensure the print of the information provided for under Article 22 of the of the Ministerial Decree of 21 March 1961;
- Allow the transmission of the data referred to under para. 7 of Article 41;
- Allow to link and use a passenger detector;
- Allow the update of the fare.

Since January 2016, Art. 43bis of the 2007 Decree provides that the taxis are equipped with a credit card reader.

II.4.2 Walloon Region

¹³⁶ Article 34 of the 2007 Decree.

Technical requirements are laid down under Section III of the Executive Decree. According to Article 24, the vehicle must be in a good condition respecting the criteria of quality, comfort, convenience and cleanliness. The vehicle can be up to seven years old.

All the vehicles in service must be equipped with a plate of at least 15 cm wide and 8 cm high. The word "TAXI", the name of the municipality where the vehicle is registered for service and the identification number provided by the municipality must be displayed.¹³⁷ The licence plate must include the letters "TX".¹³⁸

According to Article 27 of the Decree, every taxi vehicle must have on board:

- A copy of the authorization and of the licence;
- The daily roadmap as specified under Article 18 of the Decree. Such provision lists the elements that the roadmap must indicate;
- the identity of the operator, the driver's name, the number identifying the matriculation of the vehicle, the taxi identification number and the issuance date;
- the kilometric index resulting from the dashboard and the taximeter at the beginning of the service;
- the time of the current service's beginning and the expected time for its end;
- the progressive number of races during each service;
- the kilometric index updated with each passenger's journey;
- the places and the time when the passengers get in and out;
- the amounts received;
- the service's interruptions;
- the kilometric index resulting from the dashboard and the taximeter;
- a copy of the taxi regulation, including municipalities regulations;
- an insurance receipt confirming the vehicle's insurance for passenger private transport service.

Article 28 establishes that all vehicles must be equipped with a taximeter providing two fares and specify which of them applies in an easily legible way. According to Article 30, the taximeter must be combined to a transmitting device placed on the top of the roof showing whether the taxi is free. When the taximeter is on, it must show the tariff applied. Each vehicle must indicate the fare applied in the municipality (Article 31). No obligation to have on board the most recent digital version of the taximeter has been imposed by the administration.¹³⁹

All taxi vehicles must have the following documents on board:

- a copy of the licence to exercise the special transport service;
- the original or a copy of the order form for each passenger;
- the daily roadmap which model is provided by the Annex 6/1 of the Decree;
- an insurance receipt confirming the vehicle's insurance for the private transport service of passengers.

II.4.3 Flemish Region

¹³⁷ Article 25 of the Decree.

¹³⁸ Article 26 of the Decree.

¹³⁹ Interview with the Walloon Authorities, September 2016.

The relevant provisions are included in the Decree of 20 April 2001 concerning passenger transport and setting up the Flemish Mobility Council. This Decree provides a definition of taxi services as transport services of persons using vehicles with drivers that meet, among others, the following requirements: (i) The vehicle is, as regards its construction and equipment, adapted to transport a maximum of nine people, including the driver, and is designed for this purpose; (ii) the vehicle is put at the availability for the public, namely on a taxi stand in the public areas according to a regulation of road policy, or another other area which is not accessible to public transport and which is available for the operator, and it is put in service when the client asks for a ride and the destination is fixed by the client.¹⁴⁰

Article 12 of the 2003 Decree provides that the vehicle must have at least two doors, with two or three seats, including the driver. If the seats are four or more, the vehicle should have at least three doors allowing entry and exit.

Pursuant to Article 13 of the 2003 Decree, the vehicles have to be in good condition and have to meet quality, comfort and cleanliness standards. Vehicles have to be equipped with a special license plate. Some exceptions are foreseen. Pursuant to Article 14 an operator cannot advertise in the vehicle unless authorised to do so by means of a municipal regulation. According to Article 15, each vehicle in use has to have two taxi cards on board. The information contained in such cards has to be legible. One card should be placed on the inside of the rear window, at its lower right edge. Another plastic card should be placed on the back of the front passenger seat. When the vehicle has two doors, the card is placed on the dashboard.

Pursuant to Article 16, in the event of loss, theft or destruction of the taxi card, a new card marked "duplicate" is issued by the Municipality, upon presentation of a police issued document certifying such loss or theft.

Articles 17 and 18 provide certain rules on the additional conditions that reserve and replacement vehicles must fulfil in order for the service to be provided.

More specifically, Article 17 provides that when the service starts, the following criteria must be abided by:

- (i) The taxi respectively has on board one reserve card or one replacement card, and one taxi card, as specified under Article 15(2), one close to the other, inside the interior window on the back of the car, on the lower part, and on the right;
- (ii) The reserve or the replacement vehicles must be insured.

Article 18 also provides that in the event of loss, theft or destruction of the reserve or replacement card, a new card marked "duplicate" is issued by the Municipality, upon presentation of a police issued document certifying such theft.

Provisions on the taximeter are laid out under section II, sub-section I, of the 2003 Decree.¹⁴¹ Every vehicle must be provided with a digital taximeter, a printer and a

¹⁴⁰ Article 2(4) of the Decree.

¹⁴¹ Articles 19 to 26.

peripheral electronic data device, if applicable,¹⁴² and the taximeter must comprise, at a minimum, an electronic data device. The data is protected, so that their integrity, origin and irrefutable character are ensured. The operator retains this data for five years. The Ministry can also impose the obligation to have peripheral equipment in the vehicle.¹⁴³

Pursuant to Articles from 21 to 25, the taximeter and, eventually, the peripheral device, are to be placed in a visible spot in the vehicle so the screen can be read by the customer; the taximeter and the peripheral device must be on during the service; and the taximeter must display the fare. Articles 24 to 25 specify further which components of the fares must be shown by the taximeter.

II.5 Qualitative requirements (*fitness of the driver, knowledge and skills required, drivers' training*)

II.5.1 Brussels Capital Region

Article 10 of the Decree of 29 March 2007, as amended by the 2015 Decree, sets out the qualitative requirements for the drivers. Art. 6bis of the 1995 Ordonnance provides that the Government can fix the conditions of morality and professional qualification required by the drivers. Implementing the said Ordonnance, Section I of the 2007 Decree, as subsequently amended by the 2015 Decree¹⁴⁴ updating the professional training for the drivers, lays down the conditions to obtain a certificate of capacity to become a taxi driver.

Article 10, para. 1, of the 2007 Decree provides that the taxi service provider can exercise his/her profession subject to compliance with conditions of morality and professional qualification required by the applicable legislation. To satisfy the conditions of morality, in accordance with Article 2, para. 2, of the 2007 Decree, the individual must:

- (i) Prove he or she has a «*bonne conduite, vie et mœurs* »;
- (ii) Not have incurred in criminal proceedings.

Article 12 of the 2007 Decree lists various documents that the candidate must submit to obtain a taxi driver licence (called, in the said legislation, "certificate of capacity").

Such documents are:

¹⁴² Article 19.

¹⁴³ Article 20.

¹⁴⁴ *Arrêté du Gouvernement de la Région de Bruxelles-Capitale modifiant l'arrêté du Gouvernement de la Région de Bruxelles-Capitale du 29 mars 2007 relatif aux services de taxis et aux services de location de voitures avec chauffeur, relatif à une adaptation de la formation professionnelle de chauffeur de taxi* of 16 July 2015.

- ID card or any document proving identity;
- Driving licence;
- Medical documents;
- The abovementioned criminal court records;
- The residence permit for foreign workers, in the event he or she is a foreigner,
- A certificate that demonstrates him or her having successfully passed the behavioural test;
- A certificate proving that a taxi examination has been successfully passed; and
- A certificate proving that the candidate has followed the ecological driving course.

Article 13 of the 2007 Decree lays down the obligation for the taxi licence applicant to attend and pass a behavioural test with an organization designated by the Administration which is competent to organise personality tests for the drivers of public transport services.¹⁴⁵ Prior to sitting for such a test, the applicant must present the court records as foreseen under Article 12 of the 2007 Decree. The candidates sitting in this behavioural test who hold an *Actiris* certificate specifying that he or she has a concrete job offer by a taxi operator have priority when compared to other applicants in order to pass the behavioural test.¹⁴⁶

Upon successful completion of this test, the taxi applicant is provided with a temporary certificate of capacity which allows him to exercise the activity. During this period, the applicant – if employed by the operator – must receive instructions on the Region’s topography, on the use of the taximeter and on the *feuilles de route*. If the applicant who has obtained a temporary certificate will exercise a self-employed activity, such training will be provided by a professional driver with at least 5 years of experience in the context of a formation convention laid down under the conditions and a model convention approved by the Ministry.

The temporary certificate has a validity of a year. After a working period of at least 4 months under the temporary certificate, the applicant can attend the ecological driving course foreseen under Article 12 of the 2007 Decree.

Under the temporary certificate, the applicant must, within a 12-month period from the issuance of such certificate, carry out the taxi service for a period of at least 6 months (regardless of whether this is provided as an employee or a self-employed at the service of two operators). This period is aimed at covering practical training on topography, taximeter reading and a roadmap (“*tenue de feuille de rue*”). The working period with the last operator must be of at least 3 months.

Upon obtaining such temporary certificate, the applicant must attend compulsory training courses. Article 17, para. 1, of the 2007 Decree lays down the mechanisms through which these compulsory courses are organized by the competent Administration. The candidate must attend these courses in order to obtain a certificate allowing him or

¹⁴⁵ As modified by *Arrêté du Gouvernement de la Région de Bruxelles-Capitale modifiant l’arrêté du Gouvernement de la Région de Bruxelles-Capitale du 29 mars 2007 relatif aux services de taxis et aux services de location de voitures avec chauffeur, relatif à une adaptation de la formation professionnelle de chauffeur de taxi* of 16 July 2015.

¹⁴⁶ *Arrêté du Gouvernement de la Région de Bruxelles-Capitale modifiant l’arrêté du Gouvernement de la Région de Bruxelles-Capitale du 29 mars 2007 relatif aux services de taxis et aux services de location de voitures avec chauffeur, relatif à une adaptation de la formation professionnelle de chauffeur de taxi* of 16 July 2015, Article 2(1).

her to sit in the theoretical examination, a prerequisite to obtaining the certificate of capacity.

These courses concern the following topics:

- Taxi services regulatory framework;
- Social regulation applicable to the profession;
- Map reading: location of a destination venue chosen by a potential client;
- Regulation on access to the taxi stands;
- Information on people with reduced mobility and their transport by taxi, as well as prescriptions on safety rules that the taxi drivers must follow;
- Communication and appropriate behaviour with clients.

Upon attendance of these courses, the candidate must also pass a general exam, composed of both a theoretical written and oral part, as provided for under Article 17 of the 2007 Decree. This exam is comprised of a written part, concerning topics such as the region's topography as well as the applicable regulation, and an oral part, concerning map reading. Only the applicants who are in possession of the documents listed under Article 12 and who have successfully attended the compulsory theoretical courses can sit in the examination.

There is an exception to the need to pass the theoretical examination. Upon successful attendance of taxi driver training courses, organized by public bodies authorized by the competent Ministry and different from the compulsory courses mentioned above, the candidate is dispensed of the theoretical exam in the general test. He or she is provided with a certificate showing his aptitude at participating to the practical exam, which is held with the same modalities as those specified above.

The candidates meeting all the requirements set under the abovementioned Articles 13 and 17 can collect the certificate of capacity. This is issued by the competent administration after having ensured that the abovementioned conditions apply, and in particular, that the candidate is in possession of the following documents:

- A certificate showing that the candidate has successfully passed the theory training course exams or a certificate of attendance of courses concerning taxi driver training;
- A certificate that the candidate has successfully passed the ecological training;
- The evidence of the *feuilles du route* filled in by the candidate during the last three working months and his *salary fiches* concerning the abovementioned practical training period;
- Certificate of good driving and behaviour assessed by third parties (who are neither colleagues nor clients).¹⁴⁷

In order to collect the certificate of capacity, Article 19 of the said Decree provides that:

(a) the candidate who wishes to be employed by a taxi company must present, on top of the abovementioned certificates, as well as the documents specified under Article 12 of

¹⁴⁷ Article 17(6) of the 2007 Decree, as modified by Article 5 of the *Arrêté du Gouvernement de la Région de Bruxelles-Capitale modifiant l'arrêté du Gouvernement de la Région de Bruxelles-Capitale du 29 mars 2007 relatif aux services de taxis et aux services de location de voitures avec chauffeur, relatif à une adaptation de la formation professionnelle de chauffeur de taxi* of 16 July 2015.

the 2007 Decree, the employment contract for a given taxi operator and the DIMONA declaration;¹⁴⁸ while

(b) the self-employed must present a certificate showing that they are affiliated with a social security organism (*caisse de sécurité sociale*).

Article 23 of the abovementioned 2007 Decree establishes that the certificate of capacity lasts two years and can be renewed upon presentation of the court records and the required medical certificate (eye sight exam) to the competent administration.

Below is an overview of the costs to obtain a certificate of capacity:

- Enrolment to exam: EUR 19;
- Participation of the candidate to the courses: EUR 38;
- Enrolment to behavioural tests: EUR 20;
- Delivery of certificate of capacity: EUR 5;
- Delivery of a *duplicata* of the certificate of capacity: EUR 30;
- Delivery of a *duplicata* of an ID driver card: EUR 30.¹⁴⁹

II.5.2 Walloon Region

Section II of the 2007 Decree, as subsequently amended, sets out the qualitative requirements that the taxi driver must comply with.

As established in Article 8, the drivers must comply with the conditions of morality and professional qualification.

In order to lawfully provide the service, Article 8 of the Executive Decree provides that the drivers must satisfy the conditions of morality and professional qualification laid down under Article 9 to 16. Pursuant to Article 9, to certify his morality the driver must present his court records (as per the model provided by article 596 of the Criminal Procedure Code) which must not be older than three months (Article 11), which must show that he must not have incurred in Belgium or abroad any of the following offences:

- a criminal penalty qualified in the Book II, Title III, Chapters I to V and Title IX, Chapter I and II of the Criminal Code;
- an infraction of third or fourth degree for road traffic offences;
- speeding offence;
- drunk driving or driving under the influence of drugs.

The above does not apply to rehabilitated individuals. To satisfy the condition of professional qualification, the candidate must submit a certificate of capacity issued in accordance with the procedure laid out under Article 11 of the said Decree.¹⁵⁰ To prove

¹⁴⁸ The *declaration immédiate de l'emploi* (DIMONA) allows an employer to electronically declare to the National Office of Social Security (ONSS) the hiring and the end date of employment of an employee. See more at: http://www.belgium.be/fr/emploi/contrats_de_travail/documents_sociaux/dimona#sthash.vV4IbmyR.dpuf.

¹⁴⁹ Reply to the stakeholder consultation provided by *Bruxelles Mobilité, Direction des Taxis*.

¹⁵⁰ Namely, identity card or for a foreign candidate, an identity document, duly translated in one of the national languages by one sworn translator, a medical certificate or an aptitude certificate in accordance with the federal law of 23 March 1998, the driver licence, for the foreign applicants, the documents proving that they can carry out

the professional qualification criteria, the driver must present to the city council the documents listed in Article 11. In particular, such documents are:

- The ID card or any other document proving the identity of the driver;
- The medical certificate proving the fitness of the driver;
- The Belgian driving licence or a European equivalent licence;
- (for non-Belgian citizens) The documents attesting their right to work in Belgium;
- The documents provided for under Article 9 concerning the morality requirements.

The driver must be at least 21 years old and have the driving licence for at least 3 years.

The Municipality where the service is carried out is competent to grant such certificate of capacity. In this respect, some Municipalities (for example, Namur and Liège) organise an exam that the candidate must pass to obtain a certificate of capacity, while others render obtaining it subject to fulfilling the regulatory requirements laid out above.¹⁵¹

II.5.3 Flemish Region

Article 28 (1) of the Decree of 20 April 2001 concerning road passenger transport and setting up the Flemish Mobility Council provides that licences are issued after an inquiry is carried out by the competent Municipal college.¹⁵² Such inquiry is aimed at assessing whether the applicant meets the legal requirements concerning professional competence and solvency. If the licence is granted to a legal person, the person responsible for the corporation's affairs must meet the abovementioned professional competence and solvency requirements.

II.6 Organisational requirements (*dispatch affiliation centre, minimum service*)

II.6.1 Brussels Capital Region

There is no obligation for taxi drivers to be affiliated to the dispatch centre. Dispatch centres are a competence of the Federal Government insofar as they fall in the ambit of telecommunications.¹⁵³

In accordance with Article 15 of the 1995 *Ordonnance*, the licenced operators are allowed to occupy any public road stand reserved to taxis with the vehicles in relation to which the licence has been given, provided this is not occupied, or all other non-public road areas which he is an owner of. However, upon a duly justified demand, the Government can authorise the operator to occupy certain standing areas inside buildings or some parking lots reserved to the service of remunerated transport of passengers.

a working authority in Belgium, criminal court records, and, if applicable, the certificate that exams organised by the Municipalities.

¹⁵¹ Interview with the competent Walloon authorities.

¹⁵² *Decreet van 20 APRIL 2001 betreffende de organisatie van het personenvervoer over de wegen tot oprichting van de Mobiliteitsraad van Vlaanderen* (BS 21 August 2001). The Municipalities are competent to issue the licences.

¹⁵³ *Loi sur les réformes institutionnelles 1988-1989 (loi spéciale du 8 août 1988 modifiant la loi spéciale de réformes institutionnelles du 8 août 1980)*. See, answer to stakeholder consultation provided by *Bruxelles Mobilité, Direction des Taxis*.

In any event, the vehicles in a taxi stand cannot exceed the number of vehicles that can be allowed to park there.

Pursuant to Article 28(1) of the 1995 *Ordonnance*, the taxi service is characterised by compellability: drivers must pick up a customer if he or she so wishes, except for if the vehicle is less than 100 meters away from a taxi stand area where vehicles are available. Article 28(2) derogates to compellability when the distances are long or towards a little populated destination, unless the identity of the person has been verified, if need be, with the need of the police. In addition, drivers can ask for a charge for the long distance rides and they can refuse to pick up drunken individuals or individuals under the influence of drugs.

The ride must start in the Brussels Capital Region. The Belgian Constitutional Court, in its judgment 40/2012, has expressed itself on the organisational modalities through which the taxi service can be operated by taxis which are licenced in Brussels (or other Belgian Regions).¹⁵⁴ In that judgment, the Court found that Article 3 of the 1995 *Ordonnance*, according to which operators licenced by other regions cannot provide their services when the ride starts and ends in Brussels, when they find themselves in the Brussels Region, is not unconstitutional. However, taxi operators licenced in Regions other than Brussels can continue the ride in the Brussels Region territory or enter it when pre-booked. For example, it may not be possible for a Zaventem licenced taxi to pick up and drop a passenger in Brussels on the way back from the airport. However, a Zaventem-licenced taxi, pre-booked by a passenger wishing to reach Brussels, can drop this passenger in Brussels and can enter the Brussels region territory, even if it does not have a Brussels Capital Region taxi licence (which is in fact what Autolux does often from Zaventem airport).

Therefore, according to such a judgment, unlike for SLCs, for taxis – except in the case when these latter are pre-booked – public interest warrants territorial restrictions laid down under Regional legislation without the Region violating Belgian law.

II.6.2 Walloon Region

There is no obligation for the taxi service operator to be affiliated to the dispatch center. For the organisational criteria that must be fulfilled by operators, they are the same mentioned above.

II.6.3 Flemish region

No obligation to be affiliated to a dispatch centre exists. Article 38 of the Decree specifies that the licence to operate a taxi service includes the possibility for the vehicle being allowed to park in any area that is not located on public roads, but is available to the operator, or in any free area in public roads in the parking stand reserved to taxis in the municipality granting the licence, provided that the licence explicitly mentions the use of such areas.¹⁵⁵

¹⁵⁴ <http://www.const-court.be/public/f/2012/2012-040f.pdf>.

¹⁵⁵ Article 38(1) of the 2001 Decree.

It also allows several companies to share locations at their disposal that are not located on public roads provided they have obtained the approval of the relevant authorities. Such approval is not required when it comes to sites that are located on the territory of a single municipality.¹⁵⁶

Article 39 of the Decree foresees a consultation process for all decisions concerning sites on public roads of the relevant stakeholders. Such consultation involves taxi operators holding a licence by the concerned competent municipality and shall be carried out based on provisions set by the Flemish Government.

II.7 **Fares** (*criteria for taxi fare setting, authority/body in charge of setting the tariffs, maximum tariffs and/or fixed tariffs, composition of the tariff and tariffs adjustment mechanism [minimum charge, additional charge for using the radio taxi or dispatch centre, increase of the tariff during certain hours, such as at night or on certain journeys, such as towards the airports, reductions for certain categories, such as elderly people]*)

II.7.1 Brussels Capital Region

The *Arrêté du Gouvernement de la Région de Bruxelles-Capitale relatif à la fixation des tarifs applicables aux services de taxis* of 26 August 2010, as subsequently modified (hereinafter, « 2010 Decree ») sets out the applicable taxi services fares.¹⁵⁷

Article 1 sets out the following fares:

- Fare I: EUR 1,80/Km;
- Fare II: EUR 2,70/Km;
- Take on board: EUR 2,40;
- Hour waiting: EUR 30/h;
- Extra charge for the night travel (from 22 to 6 am): EUR 2.

Fare I applies when the ride occurs in the Brussels Region, while fare II applies when the taxi leaves the Brussels region towards a destination outside the Brussels region.

II.7.2 Walloon Region

Fares for the taxi transport service are set under *Arrêté du Gouvernement wallon fixant les prix maxima pour le transport par taxis* of 13 March 2014 (hereinafter « 2014 Decree »).

Article 1 defines “perimeter” as the “limited area within which the return of the taxi to its taxi stand is not included”. Pursuant to Article 2, the perimeter (and its amended size) is set by the Regional Government.

¹⁵⁶ Article 38(2) of the 2001 Decree.

¹⁵⁷ http://www.qtl-taxi.be/3_28_549_4225_FR_Tarifs_des_taxis_bruellois.

The applicable maximum fares (including the value added tax) vary depending on whether the ride is provided inside or outside the perimeter area.

Article 3 provides that outside the perimeter area such fares are as follows:

- Taking the client on board: EUR 2,60;
- Price per Km: EUR 1,35;
- Hour waiting: EUR 32 per hour;
- Extra charge for the night travel (from 22 to 6): EUR 2,5.

Fare I applies when the client does not leave the vehicle and is brought back to his departure point, while Fare II applies outside the perimeter area, when the driver is obliged to return inside the perimeter without any passenger. Fare II cannot be higher than the double of fare I.

For the perimeter area, the following fares apply:

- Taking the client on board: EUR 2,40;
- Price per Km: EUR 1,65;
- Hour waiting: EUR 32 per hour;
- Extra charge for the night travel (from 22 to 6): EUR 2,5.

Pursuant to Article 4, the maximum fares can be derogated when the competent Ministry grants authorisation, after the Commission of the taxi services is heard, in order to take account of local circumstances.

Namur

Article 2 of the Municipal Regulation sets the numerical limits for the operators' licences, in light of the public utility of the service. Such limits are:

- 39 vehicles for the regular taxi transport service;
- 12 vehicles providing the taxi transport service for people of reduced mobility.

Article 13 of the Municipal regulation sets the maximum fares and allows the possibility to apply a maximum discount of 10%. Maximum fares are:

- Vehicles with more than 4 seats including the driver's seats: EUR 0,90 per km;
- Vehicles with up to 4 seats including the driver's seats: EUR 0,85 per km;
- Waiting times: EUR 20,80 per hour;
- Pick up: EUR 2,20.

For the night service from 10 pm to 6 am an additional charge of EUR 1,80 can be applied by the taxi driver.

II.7.3 Flemish Region

The Decree of 20 April 2001 concerning passenger transport and setting up the Flemish Mobility Council lays down provisions concerning applicable fares. According to Article

26, para. 4, of the 2001 Decree, the Municipality Councils are competent to decide the applicable taxi fares. When the relevant conditions applicable to taxi licences do not establish the applicable fare, the competent College sets the fare upon the proposal of the operator. Article 35 foresees that the fares must be visibly shown in each vehicle.

The abovementioned provisions are complemented by Article 24 of the 2003 Decree. Within the limits of the general policies set by the federal government, the Flemish Regional Ministry fixes the maximum prices for taxi transport services.

Antwerp

Article 16 of the Municipal Regulation provides that taxi fares are set by the City Council. Such fares are as follows:

- Initial fare: EUR 2,95;
- Price per Km: EUR 2,00;
- Waiting time: EUR 35,00 per hour.

An additional charge of EUR 2,50 is applied when the ride is carried out at night.

II.8 Passenger rights

II.8.1 Brussels Capital Region

Passenger rights are provided for under the Decree of 29 March 2007 as subsequently amended.

Under Article 28(1), taxi drivers must pick the passenger up when the transportation service is requested (public service).

The hailed driver must refuse the ride when his or her vehicle is less than 100 meters from a taxi parking lot, where one or more vehicles are available. The driver can refuse to provide the transport service if:

- A long distance journey is asked for or the destination is a little populated area;
- If the passengers are visibly drunk or under the influence of drugs;

The driver can require a down payment when a long distance destination point is involved.

If the passenger raises an objection on the fare, the driver is obliged to bring the client to the nearest police station.

The proposed Smet Plan has introduced some further safeguards in this regard. More specifically, this plan provides that there would be a system of mystery calling in collaboration with the Secretary of State competent for the equality of opportunities so

as to raise the quality of dispatch centres and to sanction the infractions which may be carried out.

In addition, the passenger has the right to pay with a credit card, since January 2016: if the taxi driver refuses the passenger wishing to pay via a credit card, the passenger can file a complaint with the competent administration.

II.8.2 Walloon Region

Passenger rights are provided for under the 2009 Decree, amended by the *Arrêté du Gouvernement wallon* of 11 July 2013. In particular, a series of obligations are foreseen under Article 19 of such decree. Article 19 provides that the taxi drivers must pick up the passenger when the transportation service is requested. The hailed driver must refuse the ride when his or her vehicle is standing less than 100 meters away from a taxi stand where one or more vehicles are available. Under Article 20, the driver must take the fastest route unless the passenger asks him or her expressly to take another destination.

As provided for under Article 22, there are certain exceptions to the obligation to provide the taxi service, stemming from the service being of a public nature. More specifically, the driver can refuse to provide the transport service if:

1. A long distance trip is sought or the destination involved is a low populated area;
2. If the passenger is visibly drunk or under the influence of drugs;
3. If the passengers disturb the public order, compromise public safety, undermine good moral standards, or if the passengers do not respect the driver or the vehicle.

As established under the same provision, at para 4, the driver can require a down payment when a long distance journey is sought.

II.8.3 Flemish region

Pursuant to Article 36 of the 2003 Decree, the customer who wants to take a taxi has a right to be picked up by a taxi driver as soon as the vehicle is free, even if the taxi is on the territory of another town that is not covered by the licence unless the vehicle is not available due to the fact that another journey has been pre-booked.

However, the driver can refuse the trip if the vehicle is at less than a hundred meters from a taxi stand, where one or more vehicles are available, unless the trip had been earlier booked.

Under Article 38, the driver can:

- refuse to take someone who wants to be driven to a remote or isolated area, unless their identity can be established, possibly through police intervention;
- require a down payment for long trip journeys;
- refuse customers that disrupt public order, undermine security, jeopardize moral order or do not respect the taxi.

Article 41 specifies the customers' right to be informed should the taximeter and peripheral equipment stop to functioning during the trip. In this case, the trip fare is set by mutual agreement between the driver and the customer and the taxi driver has to drive the customer to the sought destination.

The same provision also specifies the customer rights when an accident or a vehicle default occurs. The customer has the right to leave the taxi after paying the amount indicated in the taximeter for the km already travelled. The driver must ensure that the customer continues the trip with another taxi vehicle. The costs of the trip interruption may under no circumstances be charged to the customer.

II.9 Subsidies applicable to taxi sector *(including public developed applications for taxi sector, geolocalisation, etc.)*

In the Brussels Capital Region, there is a subsidy in the form of reduced amount of yearly tax for those operators that install the latest version of the digital taximeter in their vehicle.

In addition, there is a public service obligation ("PSO") for the provision of taxi services to persons of reduced mobility. In the Flemish Region, the decree of 21 December 2012¹⁵⁸ foresees compensation mechanisms for public service obligation related to the transport of persons with disabilities.

More specifically, Article 5 foresees that the Flemish Government establishes a list of carriers used for the transport of disabled persons or persons with reduced mobility and that for such carriers that transport of persons with disabilities are a public service obligation. The Flemish Government compensates the above public service obligation and sets the maximum amount of such compensation based on the following parameters:

- the compensation is not higher than the amount required to fully or partially cover the expenses of running the public service obligation taking into account the profits;
- the maximum compensation is fixed on the basis of expenditure incurred would have an average well-run company, with sufficient means of transport.

When determining the amount of compensation as referred to in paragraph two, the Flemish Government will avoid that the compensation contains an economic advantage, which may favour companies *vis-à-vis* competitors.

Further rules detail how the service should be carried and how to calculate the above compensation.

¹⁵⁸Decreet tot compensatie van de openbaredienstverplichting tot het vervoer van personen met een handicap of een ernstig beperkte mobiliteit (1).

The above provisions are implemented by a decree of 11 October 2013 of the Flemish Government ¹⁵⁹ which, under Article 3, foresees that the public service obligation is established for a period of five years for one or more transport zones.

It also specifies that a candidate carrier can be included in the list of carriers subject to the candidate meeting specific requirements and offering the services in compliance with the tariffs specified under the same decree at Article 25.

Namely, such tariffs are the following:

Wheelchair user	Other than Wheelchair user
a) minimum EUR 0 and a maximum of EUR 2 for getting in the taxi;	a) minimum EUR0 and a maximum of EUR 2 for getting in the taxi;
b) minimum EUR 0 and a maximum of EUR 1 per kilometre up to 25 km;	b) a minimum of 65 cents and a maximum of EUR 1.50 per kilometre up to 25 km;
c) a minimum of 0 and a maximum of EUR 1.75 per kilometre travelled between 26 km and 50 km;	c) a minimum of 90 cents and a maximum of EUR 1.75 per kilometre between 26 and 50 km.

The rate per kilometre can be determined freely for trips of over 51 kilometres.

As to the compensation, article 16 states that it is calculated as follows:

- I. Up to 25 km, the compensation amounts to:
 - EUR 1.50 per km if only one wheelchair user is transported;
 - EUR 3 per km if many wheelchair users are transported, regardless of the number of users who are not in wheelchairs;
 - 50 cents per km if only a user that is not wheelchair is transported;
 - EUR 1 per km if multiple users who are not in wheelchairs are transported;
 - EUR 2 per km if a wheelchair user and one or more users without wheelchairs are transported.

- II. From 26 km to 50 km, the compensation amounts to:
 - 75 cents per km if only one wheelchair user is transported;
 - EUR 1.50 per km if several users in wheelchairs are transported, whatever the number of users who are not in wheelchairs;
 - 25 cents per km if only a user that is not wheelchair is transported;
 - 50 cents per km if multiple users who are not in wheelchairs are transported;
 - EUR 1 per km if a wheelchair user and one or more users without wheelchairs are transported;
 - For journeys whose total distance amounts to a maximum of 6 km, the total compensation calculated in the manner described in the first paragraph is increased by one euro.

Article 28 lays down rules aimed at avoiding overcompensation requiring that, before March 31st of each year, the carrier proves that the compensation received during the

¹⁵⁹ Besluit van de Vlaamse Regering tot compensatie van de openbaredienstverplichting tot het vervoer van personen met een handicap of een ernstig beperkte mobiliteit.

previous year did not lead to overcompensation and to this end provides a complete overview of costs and revenues of the previous year.

The revenues include both revenues from the provision of the service and other revenues and subsidies or compensation. The final balance sheet and annual accounts approved for the previous financial year are attached to the form sent to the competent authority.

Also not-for profit services providers can have vehicles satisfying the criteria to benefit these subsidies.¹⁶⁰

II.10 Employment provisions

The labour rules are laid down by a 2001 Decree implementing the collective agreement for taxi employees¹⁶¹.

Article 3 of Chapter 3 of the 2001 Decree establishes that the time during which the driver is at the company's service, including rest periods, cannot be less than 5 hours a day and exceed 11 hours a day. Once a week this working time limit can be up to 12 hours a day.

In addition, to the free days allowed as compensation for the work provided on Sundays or during holiday periods, workers are entitled to 2 fixed days off per trimester along with a Sunday or another day off in accordance with the needs of the company (Article 5). The workers are entitled to a daily rest time of at least 11 hours (Article 6).

In application of the Royal Decree of 14 July 1971, 76% of the working time is considered as effective, while the remaining 24% is considered as time during which the employee is available for the company (Article 7).

The effective working time during a week must be less than 38 hours during a period of 13 weeks (Article 8).

As to the minimum wage, Article 3 of the Annex of the 2001 Decree establishes that the drivers are paid based on a percentage of the gross income multiplied by a coefficient of 0.8607.

This percentage is:

- 36% when the maximum rate is applied;
- 35% when the maximum rate does not apply.

The coefficient of 0.8607 is obtained as follows:

¹⁶⁰ Reply to the stakeholder consultation provided by the Flemish Regional Government, 9 March 2016.

¹⁶¹ *Arrêté royal rendant obligatoire la convention collective de travail du 12 juin 2001, conclue au sein de la Commission paritaire du transport, relative à la durée de travail du personnel roulant occupé dans les entreprises de taxis.*

Gross revenue	100
Deduction 6 % TVA (100:1.06)	94.34
Deduction of 9,61 % in execution of the Memorandum of understanding of 18/10/2007	86.07

The above listed coefficient will be reduced by 3% for corporate workers who have entered into an agreement as provided in article 9 of the collective bargaining of 12 June 2001 concerning the working time.

The overtime must be considered as extra-salary; these sums are determined based on the minimum monthly income and the weekly working time. The overtimes are adapted in accordance to the following formula:

Monthly minimum income average guaranteed x 3
13 x weekly working time x 2

The working time provided voluntarily by the employee is not considered overtime (Article 4).

When the employer is unable to make available to the employee a vehicle in a good status, the time that the employee spends waiting is covered by the employer.

This amount is set based on the monthly minimum income and adjusted according to the following formula:

Monthly minimum income average guaranteed x 3
Range on 13 weeks

The guarantee of average minimum income is provided by the the 2014 Decree¹⁶² which renders the application of the collective bargaining of 20 November 2014 mandatory for taxi companies' employees.

The collective bargaining establishes that the guaranteed income provided by the collective bargaining regarding the employers of at least 20 years and 1 year of seniority in the same company is applied for the taxi sector independently from the age and the seniority in the same company.

Article 6 set the formula to be applied:

(Guaranteed income established in article 4 x 3): 494 x working hours of the employee during the pay period. Article 3 lists the person to whom such formula is not applied.

Having regards drivers with a seniority of less than 3 months, the income determined by article 4 is guaranteed over a period of three months (Article 7).

¹⁶² Arrêté royal rendant obligatoire la convention collective de travail du 20 novembre 2014, conclue au sein de la Commission paritaire du transport et de la logistique, relative à la garantie d'un revenu minimum moyen aux chauffeurs occupés dans les entreprises de taxis.

For employees of taxi operators, which are not taxi drivers, and for garage employees, a different collective bargain is introduced providing minimum wages.¹⁶³

The collective bargaining of 22 September 2008 provides the compensation for the job protection (R.G.P.T.).¹⁶⁴ The amount of the compensation corresponds to the 4% of the revenues excluding VAT with a minimum amount of EUR 5 per day for a maximum period of 16 days (Article 5). For part-time drivers the minimum amount of EUR 5 is not guaranteed (Article 6).

In the case of unemployment, both for taxis drivers and hire cars' drivers, the collective bargaining of 20 November 2014,¹⁶⁵ provides that these employees are entitled to the unemployment benefit established in EUR 3 per day of unemployment with a total amount of EUR 90 during a year.

The employees have the right after at least 60 days of inability to work due to illness, work accident with the exception of job diseases, to an additional allowance to the health insurance. The amount of such additional insurance is provided for in Article 6.

The following articles provide information regarding: the supplementary welfare allowance, allowance in the case of permanent withdrawal of the medical fitness certificate, allowance in case of death, contributions to the cost of training for the drivers.

II.11 Supervisory enforcement tools

II.11.1 Brussels Capital Region

The Decree of 8 May 2008 of the Brussels Region provides obligations on the taxi drivers.¹⁶⁶ Article 2(1) of the said Decree lists a series of administrative obligations that the taxi drivers must respect. More specifically, these obligations are:

¹⁶³ *Arrêté royal rendant obligatoire la convention collective de travail du 19 avril 2012, conclue au sein de la Commission paritaire du transport et de la logistique, relative à la fixation des salaires du personnel de garage dans les entreprises de taxis et les services de location de voitures avec chauffeur.*

¹⁶⁴ *Arrêté royal rendant obligatoire la convention collective de travail du 22 septembre 2008, conclue au sein de la Commission paritaire du transport et de la logistique, relative à l'octroi d'une indemnité R.G.P.T. aux chauffeurs occupés dans le secteur des taxis.*

¹⁶⁵ *The Arrêté royal rendant obligatoire la convention collective de travail du 20 novembre 2014, conclue au sein de la Commission paritaire du transport et de la logistique, relative aux avantages octroyés par le "Fonds social des entreprises de taxis et des services de location de voitures avec chauffeur ».*

¹⁶⁶ *Arrêté du Gouvernement de la Région de Bruxelles-Capitale fixant le montant ainsi que le délai et les modalités de paiement des amendes administratives en application de l'ordonnance du 27 avril 1995 relative aux services de taxis et aux services de location de voitures avec chauffeur.* For its text, see: http://www.gtl-taxi.be/3_28_549_3057_FR_Amendes_administratives.

- To provide to the Administration the documents in accordance to Srt. 8 of the Decree of 29 March 2007 as amended by the *Arrêté du Gouvernement de la Région de Bruxelles-Capitale modifiant l'arrêté du Gouvernement de la Région de Bruxelles-Capitale du 29 mars 2007 relatif aux services de taxis et aux services de location de voitures avec chauffeur, relatif à une adaptation de la formation professionnelle de chauffeur de taxi*;
- To fulfil the technical requirements established in article 32 n. 1-2-5-7-11-14 of the abovementioned 2007 Decree;
- To have the documents listed under article 34 of the same Decree inside the vehicle,
- Prohibition on the driver to mention further numbers different from the matriculation number and the identification plate provided by the Administration in accordance to article 35 of the same Decree;
- Obligation to have the transmitting device in accordance with article 39 n. 2-3-5-6 of the same Decree;
- Obligation to inform the Administration in case he doesn't have the availability of a vehicle that meets the prescription established in article 44 n. 3 of the above mentioned Decree;
- Obligation to inform the Administration in case of the use of a replacement vehicle;
- Obligation to provide the good conduct certificate or the criminal records in accordance with the article 53 of the Decree;
- Obligation to inform the Administration in case of cessation of the activity.

When the driver does not comply with the requirements established in Article 2, pursuant to Article 3(2), the official in charge of enforcing them can send the driver a notice informing him or her of the infraction for the first time, and impose a fine when there are subsequent infractions:

- a second infraction at the same obligation, for an amount of EUR 100;
- a third infraction at the same obligation, for an amount of EUR 200;
- a fourth infraction at the same obligation, for an amount of EUR 500.

When a fifth infraction of the same obligation is committed, Article 28bis of the Decree of 27 April 1997 and article 70 of the Decree of 29 March 2007 apply. Such provisions establish that a special council is created with the purpose of suggesting to the competent ministry the suspension or the withdrawal of the taxi licence.

Article 3 further lists the offences for the taxi drivers, which allow the official in charge of enforcing them to put him on notice or impose an administrative sanction in accordance with the above, namely:

- Failing to comply with the obligation to update the data of the taxi certificate in accordance with Article 20 n.2 of the 2007 Decree;
- Failing to comply with the obligation of appropriate appearance;
- Failing to comply with the obligation to have the driver' identifying plate;
- Failing to comply with the obligation to have documents on board;
- Failing to comply with the obligation to not display any number except the registration number and the identification plate;
- Failing to comply with the rules on transmitting device;
- Failing to comply with the special parking rules.

Article 29 of the 2007 Decree lists a series of obligations for the taxi driver:

- Under all circumstances, he must be polite and respectful with clients, colleagues and public authorities;
- He must help aged people, persons with reduced mobility or children travelling alone to get into and out of the vehicle;
- He must check, before the departure of the vehicles, that all the vehicle's doors are closed;
- He must be available and comply with the passenger requests during all of the transportation as required by the client, unless the requests are exaggerated;
- He must control that the passengers comply with their obligations. The driver must help passengers with the loading and unloading of luggage;
- He must control that the client did not forget any objects inside the vehicle and if the passenger forgets something, return the items. If it is not possible to return them to the passenger he must deliver them to the lost and found office;
- He must issue the receipt for the ride to the client;
- He must comply with the instructions of agents or officials referred to in Article 37;
- When requested he must issue a report to the authorities indicating the total revenues;
- He must accept taxi vouchers and return the difference in cash, in case the fare of the ride is lower than the value of the voucher.

As referred to under Article 30, the driver must take the fastest route to destination.

Article 31 of the *Decree of 29 March 2007* as amended¹⁶⁷ lists a series of prohibitions for the driver, namely:

- To transport someone who is not a client;
- To smoke inside the vehicle;
- To ask for a higher price from the one indicated in the taximeter;
- To allow a third person to drive the vehicle;
- To leave objects inside the vehicle which could damage the interior of the vehicle;
- To turn on the radio or another music device, with the exception of the radio taxi, without the agreement of the passenger;
- To solicit clients;
- To park the vehicle in an inappropriate way inside the parking lot;
- To start the vehicles' engine without any need.

With respect to the collective taxi transport service, the *Arrêté du Gouvernement wallon portant exécution du décret du 18 octobre 2007 relatif aux services de taxis et aux services de location de voitures avec chauffeur* sets forth some provisions on enforcement. More specifically, Article 14 of the said *Arrêté* establishes that the same rules as those provided for under Articles 12 and 70 of the 2007 Decree apply.

¹⁶⁷ *Arrêté du Gouvernement de la Région de Bruxelles-Capitale modifiant l'arrêté du Gouvernement de la Région de Bruxelles-Capitale du 29 mars 2007 relatif aux services de taxis et aux services de location de voitures avec chauffeur, relatif à une adaptation de la formation professionnelle de chauffeur de taxi* of 24 April 2014.

II.11.2 Walloon Region

Article 135 of the 2007 Decree provides that the licence can be temporarily suspended or withdrawn when the driver does not comply with the obligations provided in Article 8(2) and 22(2) of the above-mentioned Decree as amended by the Decree of 27 October 2011. Such obligations are:

- To comply with the rules established in the Decree or in other administrative decrees giving execution to the general decree or with the conditions to exercise the activity;
- To comply with the conditions of morality, professional qualification, solvency;
- To comply with the legislation applicable to the specific transport service sector;
- To respect the municipal rules regarding the taxi transport activity.

Article 138 provides the administrative infractions applicable to the taxi drivers. Such offences are divided into 4 categories. The following offences considered as infractions of the "A" type:

- To exercise the taxi transport service without the required licence;
- To provide or organise a transport service of general interest without the required authorization and/or approval;
- To violate the conditions of exercise of the special transport service;
- To stop the activity without justification;
- Violations of Article 19 § 1 no. 1-3-4-7 and article 31 § 1 no. 2 of the *Décret relatif aux services de taxis et aux services de location de voitures avec chauffeur*.

Pursuant to Article 138(2), the following offences are considered as an infraction of type "B":

- Violations of the conditions of service concerning the drivers;
- Violations to the regulation to stand in public areas;
- All the violations from Article 19(1), 5 of the decree to article 31(1), 3 of the decree.

Infractions of type "C" are:

- Failing to comply with the obligations concerning the vehicle's conditions;
- Violations of Article 19(1), no. 2-6-8-9-10 and Article 31(1) no. 4-5-6 of the *Décret relatif aux services de taxis et aux services de location de voitures avec chauffeur*.

The offences committed by the passengers failing to respect the passenger's conditions are referred to as offences of type "D".

Article 139 sets out the amount of the fines for each type of infraction. In case of recidivism, the amount is doubled. The authority competent to investigate the infringement is the police.

According to Article 23 of the 2009 Decree, the driver is prohibited from:

- Smoking inside the vehicle;
- Asking for a higher price than the one indicated in the taximeter;
- Allowing a third person to drive the vehicle;
- Providing the transport service with another person which is not the client, unless this person is a stagiaire;
- Leaving objects that could damage the interior of the vehicle inside the vehicle;
- Turn on the radio or another music device, with the exception of the radio taxi, without the consent of the passenger;
- Circulating the vehicle for the only purpose to solicit clients;
- Parking the vehicle in an inappropriate way inside the parking lot.

As established under Article 33, if the passenger refuses to pay the fare or raise complaints, the driver is obliged to bring the client to the nearest police station.

II.11.3 Flemish Region

Article 40 of Decree of 20 April 2001 concerning passenger transport and setting up the Flemish Mobility Council imposes on taxi operators the obligation to provide statistics on the business to the municipality or to the Flemish Government when the latter so requests. Such statistics are confidential and intended only for statistics on the carriage of passengers.

Article 10 of the Decree of 18 July 2003¹⁶⁸ concerning taxi services and private hire car services lays down provisions on suspension and withdrawal of licences. The competent Municipality may suspend or withdraw the license by adopting a reasoned decision in case of infringement of specific rules. Among the infringements, which give rise to the suspension or withdrawal, there is the violation of the fare or the discounted taxi rate which are specified in the authorization. The decision must be motivated and the other party must be heard.

Finally, Article 40 of the 2003 forbids taxi drivers from:

- Asking to the client a fare or price different from the fare or the price specified in the authorization, the posted fares, and the price indicated by the taximeter with the exception of cases in which a commercial reduction approved by the competent authority is applied;
- In the case of a taxi operated as regular transport at the request of the *Vlaamse Vervoermaatschappij (VVM)*, ask to customer a price higher than that set by the VVM;
- in the case of a collective taxi, ask the customer a different price than the one calculated on the basis of the location of boarding and disembarking of each client, unless a flat rate is applied;
- providing the service being accompanied by other people than the customers, unless he/she is a taxi driver candidate;
- allowing another person to drive the vehicle, unless the driver is a taxi driver candidate;

¹⁶⁸ *Besluit betreffende de taxidiensten en de dienstenvoor het verhuren van voertuigen met bestuurder* Besluit of 18 July 2003.

- illegally soliciting customers;
- smoking in the vehicle;
- inserting into the taximeter a non-authorized fare;
- refusing a drive (except for the refusal is allowed under the applicable legislation);
- applying a commercial discount which is not approved by the municipality;
- applying a commercial discount when the list of discounts approved by the competent authority is not found inside the vehicle.

II.12 Taxes

II.12.1 Brussels Capital Region

Pursuant to the 1995 Ordonnance, in Brussels, the yearly applicable tax for a taxi licence amounts to EUR 575. In the Walloon Region the yearly tax amounts to EUR 600.¹⁶⁹ In the Flemish region, the tax amounts to EUR 250, which is increased to EUR 400 if the taxi uses a public stand. If the taxi is used also as an SLC vehicle, the tax amounts to EUR 500.

An additional annual tax of 75 euros per vehicle can be imposed to taxi operators which only provide radio taxi service without having stands on public roads.

II.13 Legislative Proposals

The on-going legislative proposal for the Brussels Capital Region is described in s. II. Also, the other two regions are exploring the possibility to introduce some reforms.

III. Legal framework applicable to hire cars with driver

III.1. National/local municipal regulation

III.2 Procedures for issuing licenses and applicable criteria

III.2.1 Brussels Capital Region

The main rules are laid down by the same 2007 Decree regulating taxis (s.II.3.1).

Title III of the 2007 Decree regulates the procedures for the issuing of authorisations.¹⁷⁰ In order to obtain the authorisation an operator must submit an application which must mention:¹⁷¹

¹⁶⁹ *Arrêté du Gouvernement wallon relatif à la perception de taxes et à l'octroi d'une prime en matière d'exploitation de services de taxis, location de voitures avec chauffeur et taxis collectifs.*

¹⁷⁰ Article 78 and following of the 2007 Decree.

¹⁷¹ Article 91 of the 2007 Decree.

- Name, surname, profession and domicile if the applicant is a natural person;
- Name of the company, type of the company, the headquarter, telephone number, email address if the applicant is a legal person;
- The name and the characteristics of the vehicle to be used for the transport service;
- The stand area as required under article 27 of the 27 April 1995 Ordonnance (*Ordonnance relative aux services de taxis et aux services de location de voitures avec chauffeur*).

The application must be accompanied by documents as provided in Article 92 of the Decree law and must be addressed to the Administration.¹⁷²

The vehicle must also meet the requirements defined in Chapter III, Section I of the 1995 Ordonnance.

The authorization to exercise the private transport activity is issued by the Administration to all the applicants who meet the requirements. The authorization is issued after an investigation on the morality, the professional qualification, the solvency of the operator and the quality of the vehicle.

To meet the morality criteria, the operator must:

- Be of good conduct and character references;
- Not have incurred in the past five years in Belgium or abroad in a criminal penalty.¹⁷³

To meet the solvency criteria, the operator must:

- own or operate vehicles that meet the payment deadlines under the sale contracts, leasing or hire purchase contract;
- Not being late with the payments:
 - For more than 6 months in payments of fees or taxes related to the taxi service;
 - In social contributions payments or salaries;
- To be able to support with the maintenance, repair or replacement of the vehicles of the taxi service activity (Article 78 of the Decree of Brussels Region of 29 March 2007).¹⁷⁴

The authorization is valid for 5 years and is renewable for the same period,¹⁷⁵ except if particular circumstances impose a shorter duration or renewal.¹⁷⁶ There is no cap to the number of authorisations.¹⁷⁷

¹⁷² Article 93 of the 2007 Decree.

¹⁷³ Article 78, para.2, of the 2007 Decree.

¹⁷⁴ Article 78, para. 3, of the 2007 Decree.

¹⁷⁵ Article 20, para. 1, of the 1995 Ordonnance: "*La durée de l'autorisation d'exploiter un service de location de voitures avec chauffeur est de cinq ans. L'autorisation est renouvelable pour des termes de même durée.*"

¹⁷⁶ *Id*: « *L'autorisation peut être accordée ou renouvelée pour une durée inférieure à cinq ans, si des circonstances particulières inscrites dans l'acte d'autorisation ou de renouvellement justifient cette dérogation* ».

¹⁷⁷ Reply to the stakeholder consultation provided by *Bruxelles Mobilité, Direction des Taxis*.

III.2.2 Walloon Region

Chapter II Section 1 of the *Arrêté du Gouvernement wallon portant exécution du décret du 18 octobre 2007 relatif aux services de taxis et aux services de location de voitures avec chauffeur* amended by the *Arrêté du Gouvernement wallon* of 11 July 2013 provides the rules regarding the issuance of the licence for the hire car drivers. All the applications for the private hire car licence must mention the following elements:

- The identity of the applicant as provided in Article 37 of the decree (s. II.3.2);
- The vehicles for which the requests for the licences are submitted;
- The specifications of the vehicle to be used for the service;
- The registered office.

The application must be accompanied with the documents listed in article 38 (s. II.3.2). The authority in charge to evaluate the application is the Regional Government. When the driver submits the request for the renewal of the licence, the documents required by Article 44 must be submitted to the Government. The same procedure for the request of the initial licence is applied. The request must be submitted six months before the expiring date of the licence.

III.2.3 Flemish region

Article 2 of the Decree of 20 April 2001 concerning passenger transport and setting up the Flemish Mobility Council lays down rules on the provision of vehicle rental with a driver. Paragraph 5 defines such services as all paid transport services using vehicles with drivers, which are not regular transport or taxi services, and which are suitable to transport more than nine persons, including the driver.

Pursuant to Article 41, a specific authorization is necessary, in order to provide such services in the territory of the Flemish Region. The authorization is issued by the municipality which has jurisdiction over the territory where the applicant's place of business is situated and is valid on the territory of the Flemish Region. The competent college may issue only one license per operator and shall state the number of vehicles for which it was issued.

The authorization can be granted to natural or legal persons. The Flemish Government sets the conditions under which a license issued by another Region is valid on the territory of the Flemish Region.

The authorization is valid for 5 years and is not transferable. It can be renewed for the same period and for a shorter period in exceptional cases. There is no cap to the number of authorisations.

Pursuant to Article 51 when hire cars are not in use they must be parked in sites which belong or are expressly available to operators.

Article 48 § 1 of the Decree of 18 July 2003 concerning taxi services and private hire car services complements the provisions on authorizations, stating that an authorization shall include at least one vehicle.

It also foresees that the candidate operator must specify the fares that intends to apply in its request for authorization, and that during the period of operation of the authorization, the operator may request an adjustment of fares.

The authorization is issued within three months. The refusals must be motivated and must be served to the applicant.

The authorization shall specify the number of authorized vehicles. In the authorization, an identification number is assigned to each vehicle covered by the authorization. This number consists of four digits. Any identification number can be assigned once. Each authority has a list of assigned identification numbers.

Each vehicle covered by the authorization has a card. The distinguishing signs are black with white letters.

III.3 Technical requirements applicable to hire cars with driver

III.3.1 Brussels Capital Region

The technical requirements for private hire cars are listed in Article 85 of the Decree of Brussels Region of 29 March 2007.¹⁷⁸ All the vehicles must also comply with the general requirements provided in the Royal Decree of 15 March 1968.

The vehicles and the mixed vehicles (voitures mixtes) are divided into 3 main categories:

1. luxury vehicles;
2. high-luxury vehicles;
3. ceremony vehicles.

There is also the minibus category.¹⁷⁹

For the luxury vehicles, the requirements are:

- to have three distinct and isolated compartments: an engine compartment, passenger compartment and a luggage compartment;
- to have a wheelbase of at least 2.8 meters;
- to have a selling price of at least EUR 26.500;¹⁸⁰
- to not be aged of more than 7 years.¹⁸¹

¹⁷⁸ *Arrêté du Gouvernement de la Région de Bruxelles-Capitale modifiant l'arrêté du Gouvernement de la Région de Bruxelles-Capitale du 29 mars 2007 relatif aux services de taxis et aux services de location de voitures avec chauffeur, relatif à une adaptation de la formation professionnelle de chauffeur de taxi.*

¹⁷⁹ Reply to the stakeholder consultation provided by *Bruxelles Mobilité, Direction des Taxis*.

¹⁸⁰ Indexed as of 1 January 2016, EUR 31.598,83.

¹⁸¹ Article 85 of the 2007 Decree.

For the high-luxury vehicles the requirements are:

- to have three distinct and isolated compartments: an engine compartment, passenger compartment and a luggage compartment;
- to have a wheelbase of at least 2.9 meters;
- to have a selling price of at least EUR 40.500;¹⁸²
- to not be aged of more than 10 years.

For the ceremony vehicles, the requirements are:

- to have three distinct and isolated compartments: an engine compartment, passenger compartment and a luggage compartment;
- to comply with the requirements specified for the high-luxury vehicles.

Under Article 87 of the 2007 Decree, except for the ceremony vehicles, all the hire cars must comply with the following technical requirements:

- The vehicles must be equipped with air conditioning;
- The vehicles must be equipped with a luminous device that permits the passengers to read inside the vehicle.

Article 88 of the 2007 Decree lists a series of obligations with which the vehicle must comply. Such obligations are the same provided by article 32 (see s.II.4.1).

All the vehicles must comply with the rules regarding the identification of the special private hire car provided for in article 89 of the 2007 Decree. They must have a plastic identification sticker indicating the identification letters and numbers preceded by the letter "L", of a diameter of at least 6 cm, which is delivered by the Administration and which must show both in the front and at the back of the vehicle.¹⁸³

III.3.2 Walloon Region

Technical requirements for the Walloon Region are established in Section 3 of the Arrêté du Gouvernement Wallon portant exécution du décret du 18 octobre 2007 relatif aux services de taxis et aux services de location de voitures avec chauffeur amended by the Arrêté du Gouvernement wallon of 11 July 2013.

As established by Article 73 of the above-mentioned Decree, the vehicle providing the hire car with driver service must comply with the following requirements:

- the vehicle must be in a good condition respecting the conditions of quality, comfort, convenience and cleanliness;
- The doors of the vehicle must be easily opened or closed;
- The windows of the vehicles must be easily opened or closed;
- The trunk of the vehicle can't be crowded of any objects that could obstacle the storage of the traveller' luggage and it must be clean in order not to soil the luggage;

¹⁸² Indexed as of 1 January 2016, EUR 47.841,23.

¹⁸³ They must also have an immatriculation plate showing the letters TXH", "TXL", "TXR" ou "TXV" in accordance with article 4, § 4 of the *Arrêté ministériel du 23 juillet 2001 relatif à l'immatriculation de véhicules*. See Article 89 of the 2007 Decree.

- The vehicle can't have traces of accidents or rust, the paint can't be chipped or present any other alteration;
- The seats must not be screwed, torn or dirty;
- The vehicle must not produce any anomalous noises or vibrations when moving;
- Papers or garbage cannot be left inside the vehicle;
- The vehicle must be regularly aired to avoid unpleasant smells;
- The vehicle must not be older than 7 years unless the operator requires a specific waive to the Walloon Government.

III.3.3 Flemish Region

Article 55 of the Decree of 18 July 2003 does not foresee any specific technical requirement for vehicles but states that the municipal council may determine the comfort requirement that vehicles should fulfil and the required accessories that should be in the vehicle.

It also states that the rules set by the municipal council should ensure that the carriage of disabled is possible. Pursuant to Article 56, when the vehicles are in service they should carry on board two distinctive plasticized signs which should legible from the outside. These signs must be placed inside the windshield and the rear window.

Special rules are foreseen for motorcycles.

In the case of loss, theft or destruction of the signs and of cards, duplicates are issued by the municipality upon submission of police statements.

III.4 Qualitative requirements

As established in article 19 of the Ordonnance of 27 April 1995 of the Brussels Region, the qualitative requirements to provide the hire car with driver service are:

1. moral guarantee;
2. professional qualification;
3. financial standing.¹⁸⁴

The same qualitative requirements are imposed by the Walloon Region.¹⁸⁵ With respect to such conditions, similar requirements as those established for the taxis are applied.

The rules concerning the eligibility requirements for the authorizations in the Flemish region are similar to the ones foreseen for taxi licences (s. III.2.3). Authorizations are issued further an investigation carried out by the competent college aimed at assessing whether the applicant meets the requirements of morality, professional capacity and solvency. When the authorization is issued to a legal person, the manager of the

¹⁸⁴ Article 78 of the 2007 Decree.

¹⁸⁵ Article 61 of the *Arrêté du Gouvernement wallon portant exécution du décret du 18 octobre 2007 relatif aux services de taxis et aux services de location de voitures avec chauffeur* amended by the Arrêté du Gouvernement Wallon of 11 July 2013.

corporation must meet the above requirements (Article 44 § 31 Decree of 20 April 2001 concerning passenger transport and setting up the Flemish Mobility Council¹⁸⁶).

III.5 Organisational requirements

III.5.1 Brussels Capital Region

Operators can employ any person having the competence to exercise a service of passenger transport, unlike for taxis.

Article 79 of the Decree of Brussels Capital Region of 29 March 2007 as amended in 2015 establishes that the operator can provide the service only based on written contract stipulated with a natural or legal person. The contract must be concluded at the operators' registered office.¹⁸⁷ At the end of the service, the drivers must return to the operator's registered office using the shortest route.¹⁸⁸ The driver cannot park or circulate on the public streets without such contract.

The concluded contracts must be kept in the registered office of the operators in chronological order and also in a digital form.

The operators are obliged to provide to the Administration, within 10 working days, all the changes regarding the modification of:

- a. The registered office;
- b. The management.

III.5.2 Walloon Region

Article 63 of the *Arrêté du Gouvernement wallon portant exécution du décret du 18 Octobre 2007 relatif aux services de taxis et aux services de location de voitures avec chauffeur* amended in July 2013 establishes that the hire car with driver service may only be performed on the basis of a contract. The original of the contract must be held in the registered office while a copy of the contract must be inside the vehicle. All the contracts must be kept in chronological order.

Within 10 working days, operators must inform the public administration of any changes regarding:

- The registered office;
- The management.

According to Article 71, the driver must have a daily roadmap on board which model is provided by the Annex 6/1 of the Decree. Such documents contain the information regarding:

¹⁸⁶Decreet van 20 APRIL 2001 betreffende de organisatie van het personenvervoer over de wegen tot oprichting van de Mobiliteitsraad van Vlaanderen (BS 21 augustus 2001).

¹⁸⁷ Article 82 of the 2007 Decree.

¹⁸⁸ Article 83 of the 2007 Decree.

- The identity of the driver, the vehicles' registration number of the vehicle, identification number and the starting date of use;
- The kilometric index resulting from the dashboard and the taximeter at the beginning of the service;
- The time of the beginning of the service and the expected time for the end of the service;
- The vehicle can be equipped with a device establishing electronically the roadmap.

III.5.3 Flemish Region

Article 42 of the Decree of 20 April 2001 concerning passenger transport and creating the Flemish Mobility Council foresees that the operating conditions of a hire car with driver are set by the municipal council based on specific principles:

- The vehicle involved in the operation of a service should be a luxury vehicle and offer the passengers the comfort and additional services required by the customer;
- The vehicle should periodically pass a mandatory roadworthiness test;
- Any journey is recorded in a register kept at the company's headquarters. The records should specify the date and time of the order, the exact purpose of the hire and the price. This register must be kept at the headquarters of the company for five years;
- The vehicle can be made available to a legal or natural person only if a written agreement has been previously signed and a copy is kept at the company headquarters while another copy is kept on board of the vehicle. The agreement should mention that the vehicle is made available for at least three hours.¹⁸⁹

Vehicles must have a distinctive sign, place in front and in the back of the vehicle, complying with the model set by the Flemish Government. To obtain this distinctive sign, the applicant must show the authorization and an extract from the commercial register which shows he is registered as a private hire car service operator. The hire cars must not have signs that may be similar to taxis and which may create confusion.

III.6 Passenger rights

In the Brussels Capital Region, hire car with driver is considered a commercial service, unlike taxis which are a public service. In accordance with the provisions of the 2007 Decree, namely Article 79, the passengers have the right to have a written contract containing certain information. In case of business clients, the payment may be made upon the reception of an invoice which must indicate the number of the contract to which it relates.

In addition, the passenger has the right to enjoy conditions pertaining to the vehicle's quality, as seen under Article 88 of the 2007 Decree.

¹⁸⁹ According to one respondent to the stakeholder consultation, the service does not need to be continuative and can be split.

In Flanders, the Municipality councils fix the criteria concerning the clients' comfort. Concerning persons with reduced mobility, the municipal regulations must foresee the feasibility of these persons' transport.¹⁹⁰

Furthermore, a written contract must also be drafted.¹⁹¹

In the Walloon Region, Article 19 of the *Décret relatif aux services de taxis et aux services de location de voitures avec chauffeur* of 18 October 2007, in its 2011 consolidated version, provides that the vehicle must offer to the passengers the comfort and quality that the passengers have the right to expect. These criteria can be further specified by the regional Government.¹⁹²

Under the same provision, a written contract must be entered into and contain the operator's signature (two copies must be preserved, one in the operators' office and one in the vehicle through which the ride is carried out).

III.7 Labour rules

The labour conditions of hire cars with drivers are regulated by a collective bargaining which was adopted in 2012.¹⁹³ The collective bargaining sets the limit of 38 working hours per week, this working time limit must respect the trimester average O.N.S.S. (Article 5). For the working time exceeding the 10 hours per day or the 50 hours per week, the driver is entitled to receive an extra-salary.

Article 8 provides the minimum salary per hour for this category of worker. The amount of this minimum salary for non-experienced workers is EUR 11,5 per hour. The article also provides a table showing the minimum salary regulated with the experience of the worker.

Seniority	Salary per hour
Less than 3 years	EUR 11,5213
From 3 years	EUR 11,6366
From 5 years	EUR 11,7517
From 8 years	EUR 11,8669
From 10 years	EUR 11,9820
From 15 years	EUR 12,0975

¹⁹⁰ Article 55 of the *Arrêté relatif aux services de taxis et aux services de location de voitures avec chauffeur* of 18 July 2003, consolidated version of June 2010.

¹⁹¹ Article 61 of the *Arrêté relatif aux services de taxis et aux services de location de voitures avec chauffeur* of 18 July 2003, consolidated version of June 2010.

¹⁹² The written contact must also be provided to the passenger.

¹⁹³ *Arrêté royal rendant obligatoire la convention collective de travail du 19 avril 2012, conclue au sein de la Commission paritaire du transport et de la logistique, relative aux conditions de travail des chauffeurs des services de location de voitures avec chauffeur* of 19 April 2012.

From 20 years	EUR 12,2127
---------------	-------------

The private hire car drivers are entitled to the R.G.P.T. benefit established at EUR 1,1521 per hour (Article 10).

Another collective bargain of 2014 regulates the unemployment benefits which are established in EUR 3 per day up to a total of EUR 90 per year.¹⁹⁴

The employees have the right after at least 60 days of inability to work due to illness, work accident except for job diseases, to an additional allowance to the health insurance. The collective bargain also regulates the supplementary welfare allowance, allowance in case of permanent withdrawal of the medical fitness certificate, allowance in case of death, and contributions to the cost of training for the drivers.

The Arrêté royal makes mandatory the application of the collective bargaining of 22 May 2014¹⁹⁵.

As established by a 2014 Royal Decree, the employer must refund the employee for the costs of physical and medical examination and other exams entered by the driver in order to obtain the driving licence.

Article 6 provides the limits for the refund of these costs for the employee.¹⁹⁶

III.8 Local incentives, subsidies provided by the administration in order to carry out certain services (such as mini-van service for people with reduced mobility, elderly, schools)

The applicable rules are the same provided for the taxi service.

III.9 Supervisory enforcement tools

III.9.1 Brussels Capital Region

With respect to the supervisory enforcement tools, the illegal provision of taxi and hire car with driver services is punished as provided for under Chapter V of the 1995 Ordonnance.

¹⁹⁴ Arrêté royal rendant obligatoire la convention collective de travail du 20 novembre 2014, conclue au sein de la Commission paritaire du transport et de la logistique, relative aux avantages octroyés par le "Fonds social des entreprises de taxis et des services de location de voitures avec chauffeur.

¹⁹⁵ Arrêté royal rendant obligatoire la convention collective de travail du 22 mai 2014, conclue au sein de la Commission paritaire du transport et de la logistique, relative au remboursement des frais d'ophtalmologiste, des frais médicaux et des frais pour obtenir le permis de conduire aux chauffeurs.

¹⁹⁶ The Arrêté royal rendant obligatoire la convention collective de travail du 22 mai 2014, conclue au sein de la Commission paritaire du transport et de la logistique, relative au remboursement des frais d'ophtalmologiste, des frais médicaux et des frais pour obtenir le permis de conduire aux chauffeurs.

More specifically, Article 35 provides that whoever exercises the taxi or the private hire car transport activity without the required licence or commits any other infringement to 1995 Ordonnance is punished with a prison penalty between 8 hours and 3 months and/or an administrative fine.¹⁹⁷ Penalties are doubled in case of recidivism.

The procedural mechanisms in case of infractions that may lead to the suspension or the withdrawal of the authorization (sanction for the taxi services operators) and/or the certificate of capacity of taxi drivers (sanction for the taxi driver) are spelled out under Chapter IV of the Decree of 29 March 2007,¹⁹⁸ as of the latest amended by the Decree of Brussels Region of 16 July 2015. Those concerning the hire car with driver services are provided under Title III of the same piece of legislation.

In both cases, the competent Administration proposed to the Ministry or the Regional Government the type of sanction. The Ministry has competence for the temporary suspensions until 6 months, while the Government has competence for the suspensions above 6 months or for the definitive revocation.¹⁹⁹

Procedure to suspend or withdrawal a licence for the taxi operators

Articles 70 to 72 of the 2007 Decree provide that a suspension or withdrawal of the licence can be carried out when the applicable dispositions are not respected (namely, those provisions of the 1995 Ordonnance, of the Decrees executing it, of the criteria under which the licence has been given during a period of two years, the interruption of a service during a two-year period or the absence of a reply to the calls regularly addressed from the Administration are not respected).²⁰⁰

The administration must hear the operator prior to taking any temporary or definitive suspension.²⁰¹

Procedure to suspend or withdraw the taxi driver's certificate

The Articles from 73 to 76 of the 2007 Decree, as well as Article 28bis of the 1995 Ordonnance, provide the procedure under which a certificate of capacity can be provisionally or in a definitive manner revoked to the taxi driver, who is heard prior to a decision being made.

If a client has filed a complaint, the audition is sent first to the client should he wish to withdraw it, then to the taxi driver who is heard for the second time.

A disciplinary Council examines the complaint and when it is well-founded, the Council decides the suspension or revocation of the certificate of capacity is provided.²⁰²

¹⁹⁷The text is available at:

http://www.ejustice.just.fgov.be/cgi_loi/change_lq.pl?language=fr&la=F&cn=1995042733&table_name=loi.

¹⁹⁸See, for its entire text:

http://www.gtl-taxi.be/3_28_549_4604_FR_Arrêté_d and http://www.gtl-taxi.be/3_28_549_4235_FR_Arrêté_d.

¹⁹⁹ Reply to the stakeholder consultation by *Bruxelles Mobilité, Direction des Taxis*.

²⁰⁰ Article 70 of the 2007 Decree.

²⁰¹ Article 104 of the 2007 Decree.

Procedure to suspend or withdrawal of an authorization for the hire cars with drivers

Title III lays down the procedures to suspend or revoke the authorization in the case of hire cars with drivers. In particular, Article 103 of the 2007 Decree provides that the authorization may be suspended when the applicable dispositions are not respected (namely, the provisions of the 1995 *Ordonnance*, of the Decrees executing it, of the criteria under which the authorization has been given during a period of two years, the interruption of a service during a two-year period or the absence of a reply to the calls regularly addressed from the Administration are not respected).²⁰³

The competent administration must hear the operator prior to taking any temporary or definitive suspension.²⁰⁴

Obligations for the taxi and hire car drivers

The Decree of 8 May 2008 of the Brussels Region provides obligations for the taxi and hire car drivers.

Article 2 provides obligations for private hire car drivers in some points. Such obligations are:

- To inform the Administration of the events referred in Article 81 of the Decree of 29 March 2007 as amended by the 2015 Decree of Brussels Capital Region;
- To respect the vehicle requirements defined in Article 88 of the same Decree;
- To respect the requirement concerning the identification sticker as in Article 89;
- To respect the requirement regarding the documents to have on board as in article 90;
- To respect the parking obligations as in Article 101;
- To inform the Administration in case of cessation of the activity as in Article 106.

Whether the driver does not comply with the requirements established in Article 2 the enforcement official can send to the driver a warning with the information on the infringement or impose a fine:

- in case of second infringement of the same obligation the amount is EUR 100;
- in case of a third infringement of the same obligation the amount is EUR 200;
- in case of fourth infringement of the same obligation for an amount of EUR 500.

In case of reiteration of the infractions, a commission is created for the purpose to suggest the suspension or the withdrawal of the licence to the competent Ministry.

Concerning some statistics on taxi infringements, it is worth mentioning that the Government, which has delegated the quality of agent or official of the judiciary police to *fonctionnaires* and agents sworn by the Region, has 9 full-time officials in charge of

²⁰² Reply to the stakeholder consultation by *Bruxelles Mobilité, Direction des Taxis*.

²⁰³ See, for the text of the Decree: http://www.gtl-taxi.be/3_28_549_4235_FR_Arrêté_d.

²⁰⁴ Article 104 of the Decree.

drafting the *proces-verbaux* (PV) of the infringements registered,²⁰⁵ which in the years 2010-2015 were as follows:

- 2010: 535 PV;
- 2011: 797 PV;
- 2012: 1142 PV;
- 2013: 1029 PV;
- 2014: 993 PV;
- 2015: 582 PV.²⁰⁶

III.9.2 Walloon Region

The *Arrêté du Gouvernement wallon portant exécution du décret du 18 octobre 2007 relatif aux services de taxis et aux services de location de voitures avec chauffeur* amended by the *Arrêté du Gouvernement wallon* of 11 July 2013 establishes that the taxi licence, the private hire car licence and the collective transport licence can be temporarily suspended or withdrawn whether the driver doesn't comply with the obligations provided by the relevant legislation (Article 135). (See s. II.11.2).

In the Walloon Region, an inspections service has been created for taxis and hire car with driver services. Until 2016, 322 inspections were carried out. The most common infringements related to the failure or lack of licence/authorisation for the service, unauthorised parking, improper dressing of the driver, and lack of vehicle fitness conditions. Administrative fines were between EUR 50 and 500.²⁰⁷

III.9.3 Flemish region

The licence or authorization can be suspended or withdrawn in case the operator does not comply with the applicable rules, or in the case where the operator no longer meets the prescribed qualitative requirements, which justify the refusal of the renewal of the authorization. Decisions to withdraw or suspend an authorization and decisions to refuse a renewal have to be motivated and can be challenged before the Provincial Council.

Article 42 of Decree of 20 April 2001 concerning passenger transport and setting up the Flemish Mobility Council impose on the Council an obligation to provide statistics the municipality or to the Flemish Government when the latter so requests.

Such statistics are confidential and intended only for statistics on the carriage of passengers.

Article 63 further specifies such provision on statistics requiring municipalities to provide the Flemish Government with the following data concerning annually, inter alia:

²⁰⁵ These are then transmitted to the Parquet of the *Procureur du Roi*.

²⁰⁶ Reply to the stakeholder consultation provided by *Bruxelles Mobilité, Direction des Taxis*.

²⁰⁷ Reply to the stakeholder consultation provided by the Walloon authorities.

- the number of licences/authorizations;
- the number of withdrawals of licenses and the number of vehicles concerned;
- the number of license suspensions;
- the number of license refusals;
- the number of operators that have ceased their activity.

The above mentioned Decree foresees that the competent authority of the Flemish Region makes available a database accessible online to the competent officials that includes at least the following information about hire car with driver services: the number of authorizations issued and their term of validity; the number of authorizations suspended and the duration of the suspension; the number of withdrawn authorizations and the date of adoption of the withdrawal decision; appeals against suspensions and withdrawals.

For any person operating private hire car services without authorization or committing an infringement to the rules contained in the Decree and in its implementing provisions concerning the exercise of the service of private hire cars, Article 63§ 1 of the Decree provides for imprisonment from eight days to three months with a fine of EUR 500 to 10,000, or one of these penalties only.

Article 53 of the Decree of 18 July 2003 introduces additional sanctions complements the above provisions specifying that the competent authority may suspend or withdraw the license to operate a hire car with driver service where the holder of the authorization:

- supplies inaccurate information in his application for the authorization or for its renewal;
- fails to communicate within five days to the municipality which issued the authorization a change of home address, of the place of business or of the registered office;
- no longer meets the requirements for the issuance of the authorization;
- fails to comply with the conditions of the authorization;
- amends the agreement with the client without his consent;
- fails to comply with the tax and social obligations;
- fails to submit the documents related to the service when they are requested by the competent authority (the municipality).

The operator must be heard before the suspension or withdrawal of authorization. The decision is notified to the operator, together with information concerning the appeal procedures. The withdrawal, suspension or the appeal are immediately transmitted by the municipality to the appropriate department of the Flemish Region.

Importantly, pursuant to Article 54 of the above-mentioned Decree, the appeal triggers the suspension on the authority's decision. Appeal decisions are rendered within three months from the submission of the appeal. If the appeal decision is not rendered within thirty days of the date of the reminder the appeal is deemed upheld.

III.10 Taxes and incentives

In Brussels, the tax for a private hire car authorization amounts to EUR 682.²⁰⁸

In Wallonia and in the Flemish region the tax is EUR 250 per year for each licensed vehicle.²⁰⁹ However, in the Flemish Region the tax is EUR 500 for those taxi vehicles which are authorised to be used as hire car with drivers in order to provide private hire car services (Article 49 § 2 e 3 of Decree of 20 April 2001 concerning passenger transport and setting up the Flemish Mobility Council). In Wallonia, tax incentives are provided for the vehicles which are environmental friendly or favouring the integration of reduced mobility's people. The decree also establishes the possibility to apply for a bonus of the amount of EUR 3.500 for the purchase of any hybrid vehicle used for the particular transport service.

IV. Legal framework applicable to ridesharing and car sharing

IV.1 Current regulations and legislative proposals

Currently there is no legislation applicable to ridesharing. The only existing rules are the regional rules concerning the collective taxis.

In the Brussel Capital Region, the *Arrêté du Gouvernement de la Région de Bruxelles-Capitale relatif à la fixation des conditions particulières d'exploitation des taxis collectifs* of 29 May 2008 lays down the conditions that operator wishing to provide the collective taxi service must fulfil to obtain a licence.²¹⁰ One licence for each operator can be granted.

In Walloon Region, the technical requirements regarding the collective taxi service are provided in Title IV Section III of the *Arrêté du Gouvernement wallon portant exécution du décret du 18 octobre 2007 relatif aux services de taxis et aux services de location de voitures avec chauffeur*, amended by the *Arrêté du Gouvernement wallon* of 11 July 2013.

As established under Article 102, the vehicles providing such service must be in a good condition respecting the requirements of quality, comfort, convenience and cleanliness.

The vehicle must be up to 7 years aged unless the driver requires a specific waiver to the Walloon Regional Government.

All the collective taxi vehicles must be identified by a "TC" symbol. An identification plate with the letters "TX" must be held.

All the three regions are discussing reform project but currently no provisions have been introduced yet. During the consultation with Regional competent authorities, it emerged

²⁰⁸ *Ordonnance relative aux services de taxis et aux services de location de voitures avec chauffeur* of 27 April 1995.

²⁰⁹ *Arrêté du Gouvernement wallon relatif à la perception de taxes et à l'octroi d'une prime en matière d'exploitation de services de taxis, location de voitures avec chauffeur et taxis collectifs* of 3 June 2009.

²¹⁰ Article 4 of *Arrêté du Gouvernement de la Région de Bruxelles-Capitale relatif à la fixation des conditions particulières d'exploitation des taxis collectifs* of 29th of May 2008.

that some fiscal reform is ongoing at federal level, which would aim at providing the possibility to cap at 10% the taxation of non-professional services up to EUR 5,000.

IV.2 National rules applicable to on-line platforms

No rules provided.

IV.2 Main operators and their business models

Section VII below.

IV.4 Requirements imposed upon non-licensed activities (*safety and technical requirements, insurance requirements, obligations relating to licences and on-line platforms*).

There are no specific requirements applicable to non-licensing authorities.

IV.5 Local incentives, subsidies and other forms of promotion for ridesharing and car sharing (*including, parking spots, use of preferential lanes, etc.*)

Currently, in Brussels, some public parking spots are reserved to shared cars.

V. Relevant national case law

➤ Taxi Radio Bruxellois/Uber BV

On 31 of March 2014, the commercial court of Brussels prohibited UberPOP from operating in the streets of Belgium's capital.

The court based its decision on the fact that UberPOP drivers provided their services without taxi licences in Brussels, as the 1995 Ordonnance requires. The court ordered Uber Belgium to cease and desist from this practice subject to a penalty of EUR 10,000 per infringement. In addition, Uber was ordered to pay the costs of publishing the Commercial Court ruling in three French-language newspapers distributed in Brussels.

The controversy arose as a result of an action lodged by the professional taxi service Taxis Verts, on the grounds that Uber committed an act of unfair competition by transmitting requests for taxi rides to drivers not in possession of the licence. In that initial judgment, Uber was given 21 days to adapt its services to Belgian legislation. In case of non-compliance, a penalty of EUR 10,000 was imposed for each offence, with a maximum of 1 million of euros.

On 23 September 2015, the President of the Dutch-speaking Brussels Commercial Court gave a decision ordering to Uber to cease its activities in Brussels.²¹¹

This judgment was given in the context of an opposition proceeding in a cease and desist order, requested by Taxi Radio Bruxellois NV ("TRB"), which operates under the business name of "Taxis Verts". Uber was found guilty of having committed an unfair commercial practice. TRB subsequently served a third-party notice on the Dutch Uber entities Uber BV, Uber International BV and Rasier Operations BV (collectively "Uber Netherlands"). Following a request of Uber Netherlands to have the case dealt with in Dutch, the case was transferred to the Dutch section. TRB argued that Uber Belgium and Uber Netherlands were distorting competition by transmitting requests for taxi rides to drivers who were not in the possession of the licence required under the Ordinance and therefore violating the Ordinance.

According to TRB, this distortion of competition is harmful not only to taxi drivers who do comply with the Ordinance but also to providers of dispatching services, like TRB, which act as an intermediary between the taxi drivers and the customers. Uber Belgium, for its part, sought the annulment of the Initial Judgment.

The President held that the initial judgment should have been reformed as it was not Uber Belgium but other companies of the Uber group which actually provide the contested services. Accordingly, the President held that TRB's claim against Uber Belgium was unfounded.

Concerning the situation of Uber Netherlands, the issue was more complicated. More precisely, the President noted that it was not in dispute that providers of dispatching services (like Uber Netherlands and TRB) were themselves not subject to the Ordinance's licence requirement.

However, according to the President, the examination should have been whether the licence requirement foreseen in the Ordonnance applies to the drivers whom Uber Netherlands puts in contact with customers. Pursuant to Article 2, 1° of the Ordinance, the existence of a "taxi service" triggers the applicability of the licence requirement. This is subject to three cumulative conditions: (i) the service should consist of the paid transport of people by a carrier with a vehicle (which should satisfy specific conditions); (ii) the vehicle should have been made available to the public either at a specific parking space on the public road or at any place which is not open to public traffic; and (iii) the destination should have been determined by the client.

In assessing whether these conditions were met by the Uber drivers, the President was not persuaded by the arguments of Uber Netherlands that there cannot be a "taxi service" because (i) its ride-sharing services called UberPOP are: (a) provided by "private individuals" and (b) do not qualify as public utility services; and (ii) it is the UberPOP driver who determines the destination and not the user of UberPOP. With regard to the remuneration of the service, according to the President, UberPOP remuneration exceeded the costs incurred for the journey and therefore the three conditions of Article 2, 1° of the Ordinance were met.

²¹¹ Brussels Commercial Court, Dutch section, *Uber Belgium BVBA, Uber BV, Uber International BV and Rasier Operations BV v. Taxi Radio Bruxellois NV*, in the presence of *Brussels Hoofdstedelijk Gewest, Belgische Federatie van Taxis en Nationale Groepering van Ondernemingen met Taxi- en Locatievoertuigen met Chauffeur VZW*, 23 September 2015.

As a result, the President concluded that Uber Netherlands had committed an unfair market practice within the meaning of Article VI.104 of the Code of Economic law (*Wetboek van Economisch Recht van 28 februari 2013/Code de droit économique du 28 février 2013*). Under this Article, any act contrary to fair market practices by which a company harms or may harm the professional interests of one or more other companies is prohibited.

The President ordered Uber Netherlands to cease and desist from these practices, subject to a penalty of EUR 10,000 per infringement and per party (starting from the twenty-first calendar day following the date of service of the judgment).

Instead, in the second scenario (remuneration covers costs only), the President questioned whether the Ordinance's licence requirement was compatible with principle of proportionality, as laid down in Article 5 of the Treaty on the European Union and Article 52, §1 of the Charter of Fundamental Rights of the European Union (the "Charter"), read in conjunction with (i) Articles 15, 16 and 17.1 of the Charter; and (ii) Articles 49 and 56 of the Treaty on the Functioning of the European Union ("TFEU").²¹²

➤ Submission before CJEU for preliminary ruling

Considering that an interpretation of EU law was deemed necessary to solve the controversy, the President decided to refer a question for a preliminary ruling to the Court of Justice of the European Union ("EUCJ").

The President asked the EUCJ to clarify whether the Ordinance is compatible with the abovementioned provisions, posing the following question to the EUCJ:

"Is the principle of proportionality – enshrined under Articles 5 and 52(1) of the EU Charter, and read together with Articles 15, 16 and 17 of the EU Charter, plus Articles 28 and 56 of the TFEU – to be interpreted as precluding a measure such as that set out in the Brussels Conurbation Ordinance of 27 April 1995, concerning taxi services and the hiring of vehicles with drivers, whereby the concept of taxi services would apply equally to unremunerated occasional private carriers who engage in ride-sharing (shared transport) as a result of accepting journey requests that are offered to them via Uber BV et al's software application programme, namely from companies which are established in another Member State?"²¹³

The President has not yet ruled on the counterclaim which Uber Netherlands had brought against TRB for the alleged infringement of competition rules. As regards the relevant product market definition, the President considered that Uber Netherlands and TRB are active on the same market. However, since Uber Netherlands had not provided any specific market data (number of drivers, number of vehicles, number of rides, prices,

²¹² Articles 15, 16 and 17.1 of the Charter guarantee the freedom to engage in work, freedom to conduct a business and the right to property respectively. Articles 49 and 56 TFEU protect the right of establishment and the freedom to provide services.

²¹³ Case C-526/15 Uber Belgium. For further information, see: <http://eulawradar.com/case-c-52615-uber-belgium-facilitating-a-mobility-service-not-a-taxi-service/>.

etc.), the President decided to continue the debate in order to allow the parties to exchange additional briefs on the counterclaim of Uber Netherlands.²¹⁴

On 14 October 2015, Uber suspended its UberPOP service in Brussels following the President's ruling. Uber currently only provides services through licensed drivers (namely, the Uber X service, and more recently, Uber Black). However, it announced in the press that it intends to appeal the judgment.

➤ Autolux/Uber

A parallel court case between Uber and Autolux, the Brussels Commercial Tribunal, Flemish Section, on 9 June 2016 confirmed that Uber must be considered a taxi service, but it also considered that this model could not be used since it is in conflict with the Flemish and Zaventem regulation of taxi sector. We understand this to refer to UberPOP services since the dispute arose between Autolux and UberPOP. The court considered that the current Flemish regional and local legislation could be in contradiction to the EU freedom of establishment and to provide services. and has requested the parties make submissions to demonstrate that the restrictions imposed by the Flemish Taxi Decree are justified under EU law.

VI. Country Market

Currently, in both hailing and pre-booked segments, the taxis have the monopoly. In fact, since SLCs have to be reserved for a minimum of three hours, the service is not fully substitutable to the pre-booked segment. However, concerning the statistical data, the different services are included in the same market.

Concerning the hailing segment, the geographical market dimension can be considered as being limited to the area where the taxi vehicle is authorized to park/stand. This coincides with the scope of the licence, which is granted by the municipality, for Wallonia (upon approval of the Regional Government), by the municipality for Flanders, or by the Regional Government for the Brussels Region.

For the pre-booked segment, the market may be considered larger than regional. Indeed, even if the licences are issued at local (municipal or regional level) the licensed vehicle may circulate and pick up passengers in another municipality (or region) if it holds a prior reservation. In the same way, SLC services can be provided also across regions.²¹⁵

In the context of the judgment *Uber/TRB*,²¹⁶ with regard to the relevant product market definition, the President of the Brussels Commercial Tribunal considered that Uber and the radio taxis are active on the same market, since Uber services and those rendered by the *dispatch centre* TRB (the plaintiff) were closely and largely interchangeable. However, the court noted specific market data (number of drivers, number of vehicles,

²¹⁴ Van Bael & Bellis on Belgian Business Law, Newsletter October 2015.

²¹⁵ Reply to the stakeholder consultation.

²¹⁶ Brussels Commercial Court, Dutch section, *Uber Belgium BVBA*, quoted, para. 74.

number of rides, prices, etc.) were not provided in order to determine the exact size of the market.²¹⁷

VII. Relevant market players

Brussels Capital Region

Taxis

There are several players in the market:

- Dispatch centres;
- Self-employed drivers;
- taxi companies employing drivers.

The main dispatch centres are Taxi Verts and Taxi Bleues. Autolux has its own integrated system and it is a taxi company with a fleet of cars employing drivers. Unitax is a taxi company (which also provides hire cars with drivers' services) and is an important player operating in the Brussels Region.²¹⁸

Taxi Verts has recently upgraded its services providing apps to book a taxi having affiliates to the eCab platform²¹⁹. The platform belongs to the French Group G7.²²⁰ The platform provides the opportunity to reserve a taxi in Brussels and pay via securitised mode (using the web application). Both Taxi verts and Taxi Bleues are providing the applications to share taxi rides (Splyt https://splytapp.com/fr_BE/ and Taxi2Share <http://www.taxi2share.eu/booking/>) especially to the airports.

According to statistics dated 2014, in the Belgian market, approximately 20 % of the users order their taxi through their mobile phone. Several taxi companies have developed their own applications, such as Pick Me Up.²²¹

Hire cars with driver

Concerning hire car with driver services there are several market players in the Brussels Region. A list of these market players is available in *Bruxelles Mobility* website.

Currently, Uber X is also active in the market, followed by Uber Black, which was launched in May 2016. Both Uber X and Uber Black services are provided by professional licenced drivers.

Uber X tariffs are as follows:

²¹⁷ Brussels Commercial Court, Dutch section, *Uber Belgium BVBA*, quoted.

²¹⁸ www.unitax.be.

²¹⁹ <http://www.taxisverts.be/en/taxi-brussels-app-iphone-smartphone-android/>

²²⁰ <https://www.e-cab.com/en/ecab-alliance/>.

²²¹ Reply to stakeholder consultation.

- base tariff: EUR 1;
- additional minute charge: EUR 0.25;
- Km tariff: EUR 1.25;
- Minimal tariff: EUR 5;
- Cancellation fee: EUR 5.²²²

Ridesharing

Commercial ridesharing is currently only provided by taxi dispatch centres, and in the form of pre-arranged ridesharing. One of the initiatives is Collecto, a shared taxi service organized by the Brussels Region with the purpose to cover the lack of urban transport between 23 and 6 am and it is performed by taxis which pick up passengers at certain fixed points in the city. Passengers are dropped off at their destination and they pay a fixed fare independently from the destination (EUR 6 and EUR 5 for the holder of the Brussels' city integrated mobility card) boarded with different passengers going in the same direction for a reduced price.

Car sharing

Car sharing, which does not require an authorization to be operated, is operated by companies such as Zen Cars or Cambio.²²³ Currently, the Cambio group has over 63,500 customers and provides more than 1,700 vehicles at 600 stations in Belgium and Germany. The Cambio works in Belgium in 27 cities, for example: Arlon, Antwerp, Bruges, Brussels, Chiny, Ghent, Hasselt, Kortrijk, Leuven, Lier, Liège, Mechelen, Mons, Namur, Oostende, Ottignies, Turnhout and Zwijndrecht. The provider Cambio, counts 11,000 people using it, both on a private basis and for professional reasons.²²⁴

In 2011, the new car sharing provider called Zen Car started operating in Brussels²²⁵. Zen Car offers 20 electric cars and 40 pick-up/drop-off points.²²⁶

CarAmigo is offering peer-to-peer car sharing. The platform intermediates between car owners who wish to reduce their own car costs, and users, who wish to rent a car for a lower price than a car rental company. In Brussels, Caramigo counts around 40 cars.²²⁷

Flemish Region

²²² See for details: <https://www.uber.com/cities/brussels/?int=b>.

²²³ Reply to the stakeholder consultation.

²²⁴ This is publicly available data, according to a study on car sharing carried out for the European Commission called "Momo Car-Sharing: More options for energy efficient mobility through Car-Sharing" available at: https://ec.europa.eu/energy/intelligent/projects/sites/iee-projects/files/projects/documents/momo_car-sharing_car_sharing_guidelines_for_public_authorities_en_en.pdf.

²²⁵ www.zencar.eu.

²²⁶ Publicly available at: https://ec.europa.eu/energy/intelligent/projects/sites/iee-projects/files/projects/documents/momo_car-sharing_car_sharing_guidelines_for_public_authorities_en_en.pdf.

²²⁷ <https://www.caramigo.be/fr>.

Each of the main cities has some main players. However, for the most part of Flanders, which is composed of small communes, only smaller companies exist, which have one or two vehicles (taxi or SLC).²²⁸

Taxis

In Antwerp, the main taxi company is "Antwerp-Tax". They launched an app called "taxi4me" which allows the customer to order and track a taxi. This app was developed by FMS Datenfunk GmbH.²²⁹ Another large player in Antwerp is DTM,²³⁰ a taxi company that has 180 employees and a fleet of almost 80 vehicles. They have their own app called "DTM Taxi" and that was developed by Austrosoft & OPN Technologies LLP.²³¹ eCab apps has also recently launched in Antwerp.

In Ghent, the biggest and oldest taxi company is V-Taxi,²³² with 250 professional drivers and 130 vehicles.²³³

Hire cars with drivers

In most Flanders, except for the main cities, there are no large players.²³⁴ Antwerpen Limo Service has 10 vehicles and has operated since 2010.²³⁵

Ridesharing and Car sharing

Another strong not-for-profit operator in the Region is Taxistop, which provides a ridesharing service in the Flemish Region.²³⁶ In addition, Taxistop also provides on-demand transport service for elderly people, which is done by volunteers.²³⁷ In this respect, special fares are foreseen.²³⁸

On the basis of a regional specific law,²³⁹ Taxistop receives public funds to promote ridesharing and to maintain software.

As seen supra, Cambio also operates in the region. Caramigo also operates in Flanders.²⁴⁰

²²⁸ Reply to the stakeholder consultation.

²²⁹ Report issued by the Permanent Representation of Denmark, quoted.

²³⁰ Reply to the stakeholder consultation.

²³¹ Report issued by the Permanent Representation of Denmark to the European Union, "Market research: taxi solutions in Belgium".

²³² Reply to the stakeholder consultation.

²³³ Report issued by the Permanent Representation of Denmark, quoted.

²³⁴ Reply to the stakeholder consultation.

²³⁵ <http://www.antwerplimo.be/>.

²³⁶ Reply to the stakeholder consultation.

²³⁷ The law is federal and does not only concern transport:

http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&cn=2005070359&table_name=wet.

In Flanders the provision of these volunteering services (not commercial) constitutes 15% of the market..

²³⁸ Reply to the stakeholder consultation.

²³⁹ <http://www.mobielvlaanderen.be/subsidiedecreet>. Reply to the stakeholder consultation.

²⁴⁰ <https://www.caramigo.be/>.

Walloon Region

According to 2014 data, in Wallonia, the taxi market is really small and segmented across the cities of Charleroi and Liège.

Taxi

In Liège, there are two main taxi companies, Melkior and Unitax. Additionally, Liège Tax is a cooperative of independent taxi drivers. There are approximately 170 taxis in Liège.

In Charleroi, the main taxi companies are Taxi Carolos and Idealtax.²⁴¹

Hire cars with drivers

Various small operators provide hire cars with drivers' service on pre-booked basis especially for the Charleroi airport to Brussels, and also taxi ridesharing options, such as Taxi 2Charleroi and Charleroi Express.

Hire car with driver apps Talixo²⁴², to book a hire car at the airport, is available also in Charleroi.

VIII. Barriers, limitations, incentives

The main barriers are the quantitative restrictions and transfer price for the taxi sector, while for hire car with driver sector the barriers are mainly indirect qualitative barriers. In Brussels, the cap is set at one taxi per 1,200 inhabitants, in the Flemish Region, the cap is 1/1,000, while in the Walloon Region is 1/2,500.

In Brussels, the licences can be transferred upon approval of the competent authorities. Concerning the transfer of authorisations, the Belgian competent authorities for the Brussels Region have clarified that the number of authorisations transferred has been as follows:

- 2010: 14 transfers;
- 2011: 32 transfers;
- 2012: 11 transfers;
- 2013: 11 transfers;
- 2014 and 2015: 0 transfers. As from the entry into force of the new 2014 regulation, no transfer dossier has been finalized. The authorities have received 6 applications for a transfer since 2014.

The price of a license is around EUR 40,000. In the Walloon Region, the taxi licences can be transferred. For taxis, there have been 40 transferred dossiers since the entry into force of the relevant regulation in 2009.

²⁴¹ <http://www.brusselsunifiedtaxi.be/ftp/Market%20Research%20-%20Taxi%20Industry%20in%20Belgium.pdf>.

²⁴² <https://talixo.de/en/>.

In the Flemish Region licences are not transferable. While legally it is not possible to transfer the license, the shares of a company can be transferred and can be reflective also of the value of the license. Furthermore, a black market exists in the main cities, since from decades there are no new licenses issued.²⁴³

With regard to the hire cars with driver, there is no cap on the number of SLC licenses that may be issued by the competent authority, and which cannot be transferred. The issue of licence is mainly subject to qualitative barriers, especially the costs of the vehicle (a proof of purchasing or leasing must be included in the application for the licence). In Brussels, the provision of the services is subject to the obligation of a previous contract with the client of minimum three hours and EUR 90. This rule has the specific purpose to keep separate the SLC from the taxis. According to a respondent to the consultation, this regulatory framework constitutes an artificial gap between demand and supply. However, innovative service providers, such as UberX, are entering the market, despite the difficulties. However, the development of such services still remains difficult. In order to supply the Brussels' Region demand, hire car operators licensed in the Flemish Region are trying to expand within the capital, since they are authorised to pick up passengers in other regions when there is a prior reservation contract. Various operators obtain their licences in the Flemish Region, where the qualitative requirements are less rigid than in Brussels, in order to provide the services within the capital.

In Brussels and in the Flemish Region, the municipalities are supporting commercial ridesharing services, also as part of the integrated mobility. In Brussels, there is the Cambio service, a commercial ridesharing performed by taxis between 23 h and 6 h in all 19 Brussels Communes. A ride with Collecto costs 6 Euros and 5 Euros for the users of the *abonnement* STIB or those having a MOBIB card. The Region reimburses the difference between this forfait tariff and the tariff shown in the taximeter. In the Flemish Region, Taxistop receives funds to promote carpooling and, according to one stakeholder to the consultation, to maintain software. In addition, compensation is provided to providers of services for persons with reduced mobility, on the basis of another piece of regional legislation.

In Walloon Region, there is a fixed cap to the number of licences which can be transferred. For taxis, there have been 40 transferred dossiers since the entry into force of the relevant regulation in 2009. Hire car with driver service seems particularly developed around the Charleroi airport, where pre-booked cars, which may also be shared among various passengers, are providing an attractive service alternative to the bus shuttle for the airport to Brussels city.

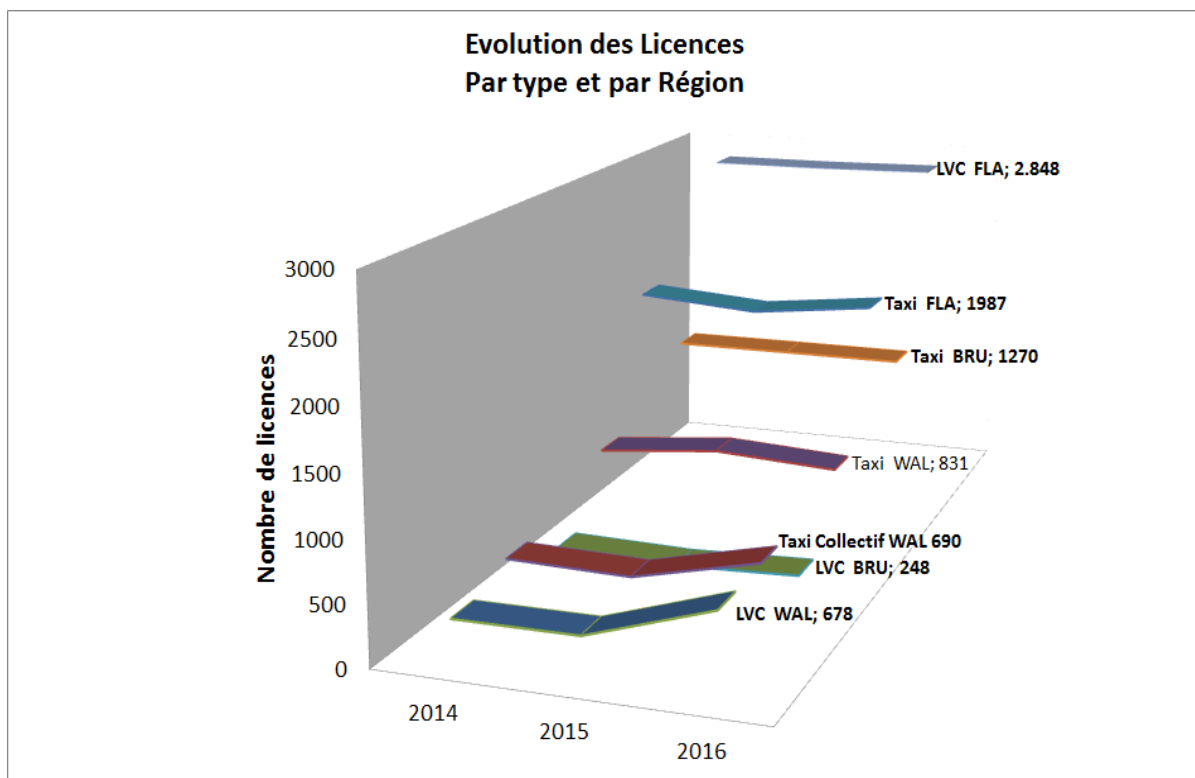
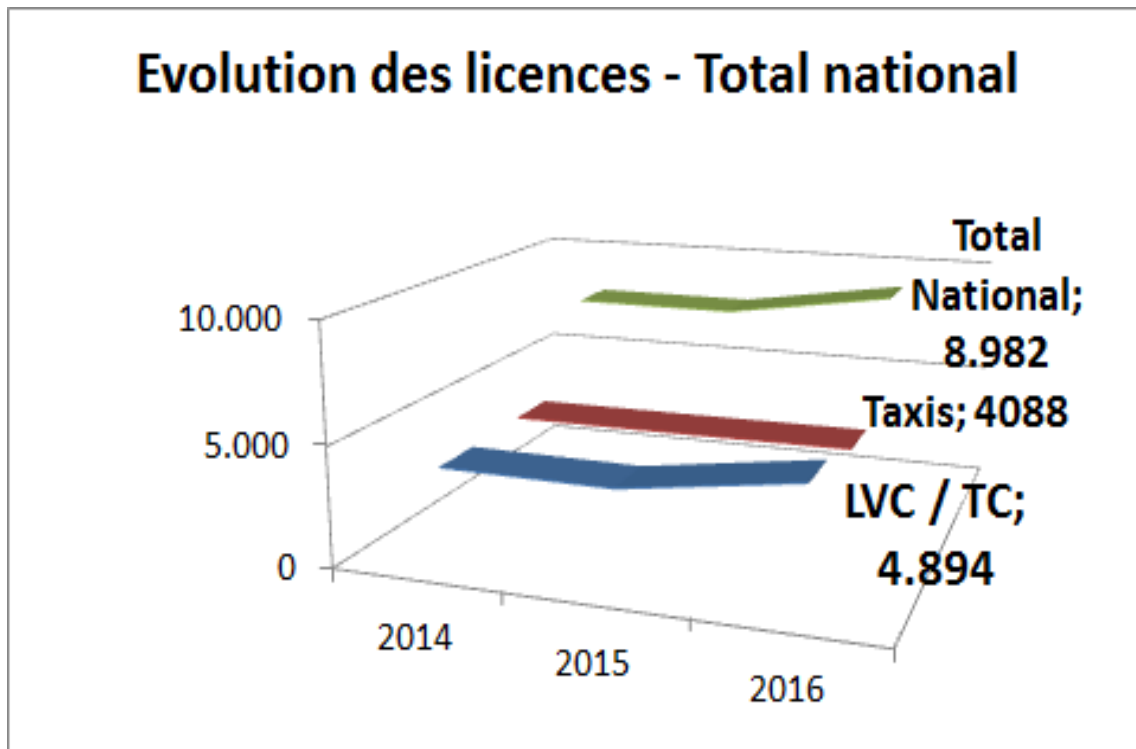
IX. Capacity, growth, impact

At the end of 2013, the aggregate number of drivers for both the taxis and hire cars with drivers (SLC) included 2013 workers of which half were employed in Flanders (which includes the Zaventem airport). The data shows that during the years, there was progressive employment growth with an increase of 11,7% in 2013 compared to 2005. The numbers have slightly decreased in 2009 and 2012 but the sector continued to grow in the following years. The employment level is concentrated in the axe Antwerp-Brussels. Most of the drivers work in Brussels Region (54,7%), in Antwerp (18,4%) or in the Flemish Brabant (11,6%). The other drivers work in the Flemish Region (19,9%) and in Walloon Region (21,9%).²⁴⁴

²⁴³ Reply to the stakeholder consultation.

²⁴⁴ Facultés de travail dans le secteur des entreprises de taxis et des services de location de voitures avec chauffeur, Tempera Antwerpen, June 2015.

According to the data provided by GTL, the national association for taxis and hire cars with driver, elaborated based on statistics of the competent authorities, the situation in June 2016, compared to 2014, with respect to the evolution in the number of authorisations issued, was as follows:²⁴⁵



²⁴⁵ http://www.gtl-taxi.be/8_0_0_0_FR_Info_Flash_32413_1.

Number of issued licences between 2010 and 2015

The Brussels competent authorities, in their reply to the stakeholder consultation, have provided the statistics concerning the taxi licences on a yearly basis between 2010 and 2015.²⁴⁶

In January 2016, the overall number of operating vehicles (both taxi and SLC) was 1488.

Except for 2014, where 15 new licences were granted, as well as 4 authorisations to increase the number of vehicles, over the period 2010-2015 no new licences were issued.

Year	Total no of vehicles	Numbers of authorisations issued	Total no of authorisations
2010	1 232 (1.134 taxis and 98 mixed)	0	763
2011	1 224 (1.127 taxis and 97 mixed/taxis for PRM)	0	778
2012	1 225 (1.128 taxis and 97 mixed/taxis for PRM)	0	781
2013	1 224 (1.127 taxis and 97 mixed/taxis for PRM)	0	778
2014	1 273 (1.126 taxis, 97 mixed/taxis for PRM and 50 electric taxis)	15 new authorisations were granted, as well as 4 authorisations which increased the number of vehicles,	791
2015	1 273 (1.127 taxis, 97 mixed/taxis for PRM and 49 electric taxis)	0	787

According to publicly available information, in May 2016, the situation was as follows:²⁴⁷

Type	Mai 2014	Mai 2015	Mai 2016
Exploitants de Taxis autorisés	788	787	786
Nombre de véhicules taxis autorisés (*)	1.272	1.272	1.270 (*)
Exploitants de LVC autorisés	63	71	117
Nombre de véhicules LVC autorisés	237	212	248
Nombre de centraux téléphoniques	6	6	6

²⁴⁶ Reply to the stakeholder consultation.

²⁴⁷ http://www.gtl-taxi.be/8_0_0_0_FR_Info_Flash_32413_1. The data, which show a significant increase in the number of SLC authorisations, are being currently verified with the competent authorities.

(*) Dont

- 97 véhicules équipés pour le transport de personnes à mobilité réduite (PMR).

- 49 taxis électriques

Source: Direction des Taxis de la Région de Bruxelles-Capitale, mai 2016.

In May 2016, compared to previous years, the number of taxi operators and of the taxi vehicle has slightly decreased while the number of the SLC operators and of authorized vehicles has increased.

Flemish Region

Publicly available information shows that in 2014, there were 1951 taxi licenses exploited by 1349 taxi companies in the Flemish Region.²⁴⁸ The Flemish authorities have informed us that over the last years no new licenses have been issued.

According to publicly available information, in the Flemish Region there were 4835 authorised vehicles in May 2016 compared to 4706 of May 2015.²⁴⁹

Type	Mai 2014	Mai 2015	Mai 2016
Exploitants de Taxis autorisés	1.349	1.151	969
Nombre de véhicules taxis autorisés	1.951	1.875	1.987
Exploitants de LVC autorisés	1.092	1.159	1.126
Nombre de véhicules LVC autorisés	2.829	2.831	2.848

Source: Autorité flamande, Département de la Mobilité et Travaux Public, mai 2016.

In 2014 in Wallonia, according to publicly available information, there were 793 taxi licenses exploited by 236 taxi firms.²⁵⁰

In Charleroi, due to the presence of the Brussels airport, the taxi industry was growing until 2014 but it is unclear how the demand has evolved between 2014 and 2016. In May 2016, there were 2199 authorised vehicles in Wallonia, against the 1698 in May 2015:²⁵¹

Type	Mai 2014	Mai 2015	Mai 2016
Exploitants de Taxis autorisés	26	236	228
Nombre de véhicules taxis autorisés	793	889	831
Exploitants de Taxis collectifs autorisés	202	216	326
Nombre de véhicules Taxis collectifs autorisés	481	457	690
Exploitants de services de location avec chauffeur	149	157	334

²⁴⁸ <http://www.brusselsunifiedtaxi.be/ftp/Market%20Research%20-%20Taxi%20Industry%20in%20Belgium.pdf>.

²⁴⁹ http://www.qtl-taxi.be/8_0_0_0_FR_Info_Flash_32413_1. See this website for a breakdown of authorisations for the various Municipalities.

²⁵⁰ <http://www.brusselsunifiedtaxi.be/ftp/Market%20Research%20-%20Taxi%20Industry%20in%20Belgium.pdf>.

²⁵¹ http://www.qtl-taxi.be/8_0_0_0_FR_Info_Flash_32413_1. A breakdown of the number of licences is contained in this link.

Nombre de véhicules LVC autorisés 350 352 **678**

Source: Service Public de Wallonie, DGO2, mai 2016.

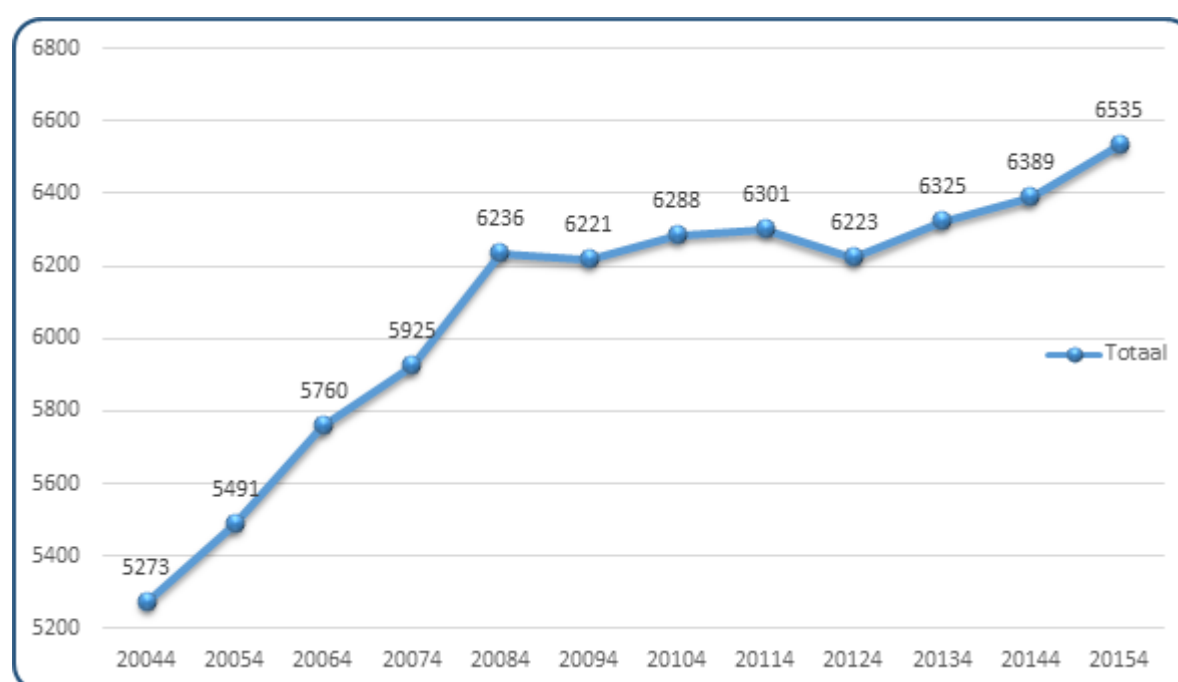
(*) y compris les véhicules de réserve.

National employees of the taxis and SLC sector in Belgium

With regard to the number of employees in the taxi sector, the stakeholders have provided data concerning the employed and self-employed drivers at national level. The most recent data are:

- 2013: 6.325 (72,5 % comme chauffeur de taxi et 27,5 % comme chauffeur de SLC);
- 2015: 6.535 (71,4 % comme chauffeur de taxi et 28,6 % comme chauffeur de SLC).

This means that in 2015, the number of drivers (employed and self-employed) for all categories (taxis +SLC) was 10,000 of which 65,35% were employed drivers and 34,65% self-employed. In 2013, there were 9334 drivers (taxis and SLC) of which 6325 employed and 3009 self-employed.



Source: Fonds Social des taxis et LVC. Chiffres au 6^e avril 2016, situation décembre 2015

X. Results

As previously explained, the Belgian market is divided in hailing operated by taxis and pre-booked services, where taxis have a substantial competitive advantage since according to the law SLC (Location de Limousine avec Chauffeur, hire cars with driver) services must be booked for a minimum of three hours and minimum EUR 90, representing de facto a separate segment.

The market geographical dimension for hailing is basically urban, while pre-booked services are provided on a broader range. Concerning **market players**, the situation is slightly different in each region, although respecting the general frame where taxi services are central.

In **Brussels Capital Region**, where taxi centrals offering dispatching services (Taxi Verts, Taxi Bleues), independent drivers and taxi companies (Unitax) with employees coexist, Autolux represent a specific relevant case since it operates as both an operator with its own fleet of vehicles and a dispatch centre. As said, the SLC market is a very limited part of the pre-booked service in Belgium; this market is represented by several players among which Uber X and Uber Black.

Concerning **the Flemish Region**, the situation is very different between rural areas where small companies with one or two vehicles exist and cities, where bigger companies (e.g. Antwerp Taxi and DTM in Antwerpen, V-Taxi in Ghent) concentrate the market. Autolux, mentioned before, is monopolist concerning Zaventem airport services.

A similar situation, with a smaller market size, exists in **Walloon Region**: Liege is the only city in which taxi services are consistent (around 170 cars), while Charleroi is the second interesting local market thanks to the growth of the airport.

Looking at available **numbers on firms and fleets composition** within the different regions and segments, the **Brussels Capital Region** (1.484 authorised vehicles) shows that taxi is the dominant mode, with SLC vehicles being around 20% of taxis: moreover, the average number of vehicles per enterprise is 1,6 for taxis and 3 for SLC.

In the **Flemish Region**, the biggest market in terms of fleet (4.706 authorised vehicles) the situation is slightly different, with the overall number of enterprises and vehicles for SLC exceeding the correspondent in the taxi branch (4% more enterprises, 42% more vehicles), suggesting a significantly higher market for SLC at regional level. Moreover, vehicles per company are 1,6 for taxis and 2,4 for SLC (lower than the one in Brussels). Together with the lack of big players in SLC stated before (except in bigger cities), this segment is in Flanders more developed, still with a low degree of concentration. These figures should be treated with caution since the higher number of SLC in Flanders may be explained by the fact that the companies are authorised and registered in Flanders but they provide services in Brussels.

Concerning **Walloon Region** (1.698 authorised vehicles), taxis represent less than 50% of the vehicles, but with a high average number of vehicles per company (3,8). Collective taxis (30% of total vehicles) play a very important role, and as for SLC the average number of vehicles per company is around 2, significantly lower than the taxi segment.

With regard to **barriers, limitations and incentives**, the main reported cost in the **Brussels Capital Region** is represented by the transfer price of a taxi license, which is around EUR 0. However, the number of transfers at national level is quite low compared to the overall national fleet (a peak of 33 transfers in 2011, on around 4.000 taxis at national level); in particular, after the new regulation was enforced in 2014, no license transfers were finalized in 2014 and 2015. In the **Flemish Region**, no new licenses have

been issued in the last years, and as transfer is not officially allowed they are traded on the black market.

Looking at **incentives**, two main facts are worth to be highlighted. In the **Brussel Capital Region** a collective taxi service (Collecto) has been established since 2008 by the Region with specific focus on public transport users. Moreover, in the **Flemish Region**, the carpooling initiative Taxistop receives funds for promotion and software maintenance.

Looking at **capacity, growth and impact** figures, authorized vehicles at national level are 7.888 in 2015, 51% taxis, 43% SLC, 6% collective (data reported only for Wallonia). Concerning the dynamics of the different market components in each Region (based on available data for 2014 and 2015), while the **number of vehicles is essentially steady for taxis**, the **number of enterprises decreases**; on the contrary, **SLC enterprises report significant growth (+6%)** with a **slight drop of the number of vehicles**.

The dynamics of taxis are well represented in Brussels, while in Flanders the number of taxi enterprises drops by 15%. Looking at the comparison between 2014 and 2013, available only for Brussels and the Flemish Region, taxi enterprises have experienced a dramatic increase (+25%) in Flanders, which is compensated partially by the following fall.

Concerning SLC, the slight drop (-1%) at national level is strongly focused on Brussels, where the number of authorized vehicles is in constant fall (-7% between 2014 and 2013, -11% between 2015 and 2014) while the number of enterprises is oscillating between -14% and +13%, therefore essentially steady.

Data provided at national level on economic parameters show a substantial growth in employment (+11,7% between 2005 and 2013).

Looking closer at the **publicly available data provided by Eurostat**, described in the main Report under Chapter III, between 2012 and 2013 the number of employees in full time equivalent units decreases by 8% (simple number of employees -4%), while self-employment increases by 1%.

On the same trend, turnover of the overall sector registered a -18% between 2012 and 2013, and wages and salaries went down by 12%.

XI. Conclusions

The Belgian situation is very specific due to the differences among regions, and the market appears not very integrated, with relatively little space for competition among different services. The current legislative framework is directed at keeping the different segments separate. Until recently, the taxis had a monopoly both in the hailing and pre-booked markets.

The taxi market is characterised, in all the three regions, by quantitative restrictions while the market access to the hire car with driver segment is mainly hampered by indirect quantitative barriers and by stringent rules on the provisions of the services. Despite the rigid regulation, innovative services are trying to enter the market and provide services in competition with taxis in the pre-booked segment. In Wallonia, the hire car with driver service is particularly developed around the Charleroi airport, where pre-booked cars, also shared among passengers, mainly drop off passengers in Brussels. All the three regions seem to have started discussions in order to reform the sector, but only in Brussels the discussions seem to advance. A first set of proposals was introduced in Brussels in 2015 with the Plan Smet. Commercial ridesharing with taxis is organised by the Brussels municipality to supply the lack of public transport during weekend nights and by the Flemish Region, which supports the Taxistop initiative to provide door-to-door transport for the elderly. Not for profit ridesharing is developed and provided by international players and by local players.

Bibliography

1. <http://deredactie.be/cm/vrtnieuws.english/News/1.2451442>.
2. <http://www.lesoir.be/521016/article/actualite/regions/bruxelles/2014-04-15/uber-doit-cesser-ses-activites-covoiturage>.
3. <http://www.lcii.eu/wp-content/uploads/2015/10/Pr%C3%A9s.-Comm.-Brux.-23.9.15-Uber-Traduction-fran%C3%A7aise-LCII-D.-MUHEME-N.-NEYRINCK.pdf>.
4. [http://www.wolterskluwer.be/files/communities/legalworld/rechtspraak/2015/Tribunal%20de%20commerce%20Bruxelles%2031%20mars%202014%20\(Taxi%20Radio%20Bruxellois%20contre%20Uber%20Belgium\).pdf](http://www.wolterskluwer.be/files/communities/legalworld/rechtspraak/2015/Tribunal%20de%20commerce%20Bruxelles%2031%20mars%202014%20(Taxi%20Radio%20Bruxellois%20contre%20Uber%20Belgium).pdf).
5. <http://www.brusselstimes.com/belgium/3052/uber-driver-trapped-by-40-taxi-drivers-in-ucclle> - VBB on Belgian Business Law | Volume 2015, NO 10.
6. <http://www.mobilite-entreprise.be/mesures-transversales/fiscalit%C3%A9>.

3. BULGARIA

General Legal Framework

Taxi services in Bulgaria have been subject to primary legislation since 1999, when the provisions of the Carriage by Road Act ('CRA') were first adopted.²⁵² The Act regulates the terms and conditions for the public, domestic and international transport of passengers and freight with vehicles, carried out by Bulgarian or foreign carriers, as well as transport for one's own account.

Licenses

In accordance with Article 24 of the CRA, taxi services may only be offered by registered carriers, i.e. enterprises holding a certificate of registration or by drivers, performing the activity on behalf of a carrier, holding a certificate for registration. A carrier may be eligible for a registration certificate for taxi transport of passengers if the carrier meets the requirements of reliability (no criminal convictions and no licences revoked) and professional competence proved by a primary school graduate diploma. The directors of the regional directorates of the Executive Agency "Automotive Administration" (EAAA) issue the registration certificate. In addition to the certificate from EAAA, pursuant to the Taxi Carriage Ordinance, if a taxi vehicle is used by carriers for taxi services, it should have a permit granted by the local municipality. The Municipality Council of the respective municipality determines the term of validity for taxi permits in that territory. The municipality authorities may limit the number of taxi vehicles operating in the territory, as well as their distribution between the registered carriers in the same municipality.

Technical requirements

The vehicles used as taxis must not be older than 15 years from first registration; have 4 doors; be equipped with a taximeter; have holograms and stickers and badges; be marked with an illuminated "Taxi" sign on the roof of the vehicle; have a taxi meter with fiscal memory installed; have visible signs on specific vehicle windows providing the taxi carrier's name and its prices/fares; be permanently painted in yellow or green (if the vehicle is a hybrid or full-electric one); have the carrier label and phone number clearly visible on the front doors of the vehicle; have a red light sign installed in the roof taxi sign; and a hologram with the permit number on the front right fender and on the back of the vehicle.

Organisational and professional requirements

The minimum age for a taxi driver to be eligible to perform taxi services is 21. In addition, the driver must not have been convicted of a crime or offence that would have suspended the driver's licence and the driver must pass a psychological test. A driver who has obtained the certificate for psychological fitness may apply for a "vehicle taxi driver certificate". To obtain the vehicle taxi driver certificate, the driver must take an exam organized by the respective regional directorate of the EAAA. Upon obtaining the certificate of psychological fitness, the car taxi driver certificate, and if the drivers are compliant with the requirements of Article 24, (3) of the CRA, they may: (i) be hired by a registered taxi carrier; (ii) may establish their own registered taxi carrier firm (upon obtaining necessary permits and certificates for the vehicle and the company); or (iii) may perform taxi services for their own account on behalf of a registered carrier. A new legislation, adopted in October 2015 and repealed in April 2016, obligated taxi drivers to work for the carrier only under employment contracts, but not on their own account (i.e. self-employed), in order to impose stricter control over the business. Significant pushback from the trade unions and strikes in the various cities brought the government to repeal the act. There are no obligations to be affiliated to a dispatch centre and the use of mobile applications is considered in line with the law.

Fares

The law determines the types of taxi fares in Bulgaria. Each taxi vehicle must have stickers indicating the following fares: (i) fare per km during day in settlements; (ii) fare per km during night in settlements; (iii) fare per km outside settlements; (iv) initial fare which may not exceed the fare per km with more than 50%; (v) fare per minute for idle; (vi) fare for requesting the taxi for a certain address. Municipal councils are obliged to decide the minimum and maximum day and night fares per kilometre, which will be valid for the territory of the respective municipality. Currently, there is no methodology on how minimum and maximum fares are determined.

Passenger rights

Most of the passenger rights are stipulated in secondary legislation – Taxi Carriage Ordinance, which provides

²⁵² Previously, the legal framework regarding taxi services was fragmented and subject to regulation only by the secondary legislation, i.e. Ordinance No. 6 of 7 August 1987 for the performance of transport services by citizens (repealed in 1999), Ordinance No. 2 of 23 April 1997 on the taxi carriage of passengers and Ordinance No. 6 of 7 August 1987 for the performance of transport services by citizens (repealed in 1999).

for that the passenger is entitled to hail, rank or book a taxi, be informed about the fares, receive a receipt upon request. The passenger has the right to choose its driver and taxi irrespective of their order at the taxi rank. The taxi driver may refuse to pick-up a passenger only in special circumstances.

Labour rules

The latest amendments of the CRA, effective as of 1 April 2016, require that taxi carriage of passengers to be performed by legal entities, holding a registration certificate using employed drivers, or by drivers performing the activity on behalf of a registered taxi carrier but on their own account ('sole practitioners'). Current legislation provides the drivers the freedom of choice in the manner under which they would render the taxi services – under an employment contract or a franchise contract with the taxi carrier. The rights and obligations of taxi drivers, employed by registered taxi carriers are subject to (i) the employment contracts they conclude with the taxi carrier; (ii) the specific regulations under the CRA; and (iii) the general Bulgarian labour regulations for any cases, not regulated by the CRA.

Airport

An authorisation from the airport management authority is necessary to operate from the airport.

Enforcement

The EAAA is competent for the enforcement of the CRA and for monitoring the validity of the licence. Taxi carriers may become subject to other investigations led by other respective institutions for breaches of Bulgarian law. The municipalities monitor compliance with the obligations stipulated in the taxi fare regulations. The municipal authorities determine, impose and enforce fines for violations of those fare regulations.

Hire cars with driver

While there is clear legal regulation of taxi services as a means of public transport in Bulgaria, other alternatives such as private hire cars, rental car, and ridesharing services are not regulated by the law. The CRA does not include any definition of service other than taxi and the activity of intermediaries matching offer and demand is therefore not allowed. UberX service, which is provided with licenced drivers, was considered as unfair competition by the Bulgarian Competition Protection Commission ('CPC') in a decision on October 2015. The court ruling is still pending.

Ridesharing

The current Bulgarian legislation does not provide a systematic legislative framework for ridesharing or for the innovative mobility service providers. There are no restrictions on whom and how many passengers may travel along with the driver. However, if the driver receives compensation, regardless of amount and/or grounds, it is considered public carriage as defined in Paragraph 1, item 1 of the CRA. This definition applies regardless of the construction of the vehicle, number of seats, nature or intensity of the carriages. Therefore, transport of people for consideration and without a licence is illegal.

Country market

As clarified by the national competition authority, the point-to-point passenger transport is carried out by registered carriers or taxi drivers. No other services are allowed. The geographic dimension is local, since the taxis may only carry passengers in their area of authorisation.

Market players

Small/medium taxi companies dominate the market. The largest, such as OK Supertrans, have their own call centre and applications. These companies provide various services, including pre-arranged rides, corporate services and pre-arranged transportation at fixed fares across Bulgarian borders.

Barriers, limitations and incentives

Various barriers characterize the Bulgarian taxi market. Direct barriers to entry are the quantitative restrictions that the Municipality councils are allowed to establish. In addition, there are fixed minimum and maximum fares that may inhibit competition among the players. The CPC, the national competition authority, is very critical of this combination of barriers to entry and price regulations. Moreover, the World Bank, in its 2013 Report, found that unnecessary administrative burdens constitute indirect barriers to develop a taxi

activity.

Capacity, growth and impact

Minimum and maximum fares, quantitative restrictions, and new more stringent labour rules may have an impact, at least in the beginning, on the development of the sector. According to the Institute for Market Economics, this will probably lead to a reduction in the number of taxis, as it will eliminate those who can enter with a lower price, as well as those who could offer a luxury service at a higher price. According to the Institute, the reduction of competition means higher end prices, including the risk of cartel agreements. Another consequence is also the quality of service due to ensure a minimum price of carriage, which does not even require a certain quality. It is also possible to reach a situation in which taxi drivers refuse to transport because of unattractive or short trips.²⁵³

Conclusions

The taxi market is closed, and the sector is heavily regulated, with quantitative restrictions, and maximum and minimum fares. The lack of regulation (which reduces the market to only taxis) hinders competition between hire transport services. Hire for transport services with licensed drivers, such as Uber X, are not allowed. Ridesharing is not regulated and P2P is tolerated as long as it is not a commercial activity.

I. Introduction

The taxi services in Republic of Bulgaria have been subject to the primary legislation since 1999, when the provisions of the *Carriage by Road Act* ('**CRA**') were first adopted.²⁵⁴ The very first version of the CRA has been amended more than 35 times since its adoption, and through the years it has changed significantly to become stricter in terms of, *inter alia*, fighting the shadow economy in the transport sector; prevention of market malfunctions; improved control and supervision of the taxi services activities; and prevention, detection, investigation and sanctioning of the taxi carriers and drivers' unlawful practices.

The transport sector's changes of the legislation through the years were also a result of the taxi services providers becoming more united in terms of defending their rights and interests before the government and authorities. Taxi unions are, in fact, very organised and each time they do not agree with a proposed legislative change, they voice their opposition publicly and often use other extreme measures to express disagreement, for example, by blockading the downtown centre of the capitol Sofia or other big town during rush hours.

A recent example in autumn 2015 was the open letter sent by the taxi union drivers to the Bulgarian Parliament, vowing to start demonstrations unless the company Uber is banned from operating in the country. With the increasing interest in those services since their appearance on the market in year 2014, the taxi business operators perceived the newcomer Uber as a threat to their businesses. Therefore, the Bulgarian Competition Protection Commission ('**CPC**') opened a case for unfair competition practices in its own initiative that ended in October 2015 with decision of CPC imposing a fine cumulatively amounting to BGN 200,000.00 (approx. EUR 102,258.00) to two of the Uber subsidiaries and sanction to seize the provision of their services which led to their exit from the market (for more details please see s.V below).

Another example was also the reaction of the taxi services providers on the newly proposed Bill for amendment and supplementation of the CRA by the Bulgarian Parliament aiming at obligating taxi drivers to work for the carrier only under employment contracts, but not on their own account (i.e. self-employed). The critics

²⁵³ CPC Decision of 18 March 2015.

²⁵⁴ Previously, the legal framework regarding taxi services was fragmented and subject to regulation only by the secondary legislation, i.e. Ordinance No. 6 of 7 August 1987 for the performance of transport services by citizens (repealed in 1999), Ordinance No. 2 of 23 April 1997 on the taxi carriage of passengers and Ordinance No. 6 of 7 August 1987 for the performance of transport services by citizens (repealed in 1999).

called those legislative amendments "very restrictive", although it was argued the new rules would allow for stricter control on the taxi business. The proposed legal amendments above were adopted by the Parliament and published in State Gazette in November 2015. However, on 1 April 2016, those new provisions were repealed because of pressure by the taxi unions and the old regime was reinstated.

The regulation of taxi services has been intensively discussed again recently, mainly due to the entrance of many start-up enterprises and online platforms offering car sharing/ridesharing services. The taxi business referred to the fast development of those online platforms and taxi unions publicly made clear their position on the illegality of those platforms, accusing them for no compliance with the strict regulatory requirements pertaining to the taxi service providers. The transport minister also expressed the government support to the taxi business demands. Currently, the public debate is ongoing and there might be expected some legislative amendments to be proposed in this respect.

II. Legal framework applicable to taxis

II.1. National/Local/municipal regulations

The primary legislation applicable to carriage and transportation in Bulgaria is the *Carriage by Road Act*. Under the CRA, the carriage (in Bulgarian language "превоз") performed by taxi services providers is a public carriage of passengers within the meaning of the law and can be performed solely by operators holding a licence or a registration as taxi services providers.

Taxis are also subject to secondary legislation, mainly specified by the *Ordinance No. 34 of 06.12.1999 on the taxi transport of passenger*, published in State Gazette issue No.109/1999, ('**Taxi Carriage Ordinance**') and the *Ordinance № 35 of 11.03.1999 on functional and technical requirements for electronic taximeters with fiscal memory* published in State Gazette issue No. 97/09.11.1999, as amended from time to time, last amended State Gazette issue No. 95/21.11.2000 ('**Taxi Meters Ordinance**').

Regulations also exist on a municipality level, primarily with respect to determination of fares and fees for provision of permits and other services by the local municipal authorities (e.g. *Ordinance for determination and administration of local taxes and prices for services*, adopted by the Sofia Municipality decision № 894 under Protocol No. 93 dated 23.11.2006, effective from 1.01.2007, as amended from time to time).

Other relevant national and municipal regulations applicable to taxi services are outlined in the bibliography list below.

II.2 Procedures for issuing licences and applicable criteria

In accordance with Article 24 of the CRA, taxi services may only be offered by registered carriers, i.e. enterprises holding a *certificate for registration* or by drivers, performing the activity on their account on behalf of a carrier, holding a certificate for registration.

According to the Taxi Transport Ordinance, registration certificate is issued only to taxi carriers, operating light motor vehicles, meeting the following cumulative criteria: (i)

they are with up to seven (7) passenger seats, including the driver`s seat, and (ii) are equipped with an electronic taxi meter with a fiscal memory.²⁵⁵

Eligibility requirements

A carrier may be eligible for a registration certificate for taxi transport of passengers, if the carrier meets the requirements:

- **reliability**- meaning that the transport manager of the carrier has (i) not been convicted of a crime of a general nature and is not banned (with a final verdict) from exercising transport activity; (ii) not had his licence revoked or had his registration defaced in the past two years;
- **professional competence**- meaning that the transport manager of the carrier has the necessary knowledge (pursuant to Annex 1 of Taxi Carriage Ordinance) and holds as a minimum a primary school graduate diploma.

Procedure for Registration as a Carrier (in the public register)

The competent authorities for issuance of a registration certificate for performance of taxi carriage are the directors of the regional directorates of the Executive Agency "Automotive Administration" ('EAAA').

The carrier applicants should submit an application form (as provided under Annex 4 from Taxi Carriage Ordinance) to the respective regional directorate of the EAAA in the city where the applicant company, to be performing the taxi services is established. The application should be accompanied with the following documents: (i) a copy of the company's registration in the Commercial Registry or the company's unified identification code (UIC); (ii) a certificate of good standing at the date of the application; a copy of the BULSTAT registration certificate, in case an UIC is not specified; (iii) a contract for the appointment of a transport manager; (iv) certificate of lack of criminal records of the transport manager; (v) a copy of the certificate for professional competence of the transport manager; (vi) a list of the vehicles by which the carrier shall carry out the taxi services; (vii) a document, certifying the consent of the owner of the vehicle(s) to be listed in the certificate of registration (when the vehicle(s) is not owned by the carrier); (viii) certified (by the carrier) copies of the registration certificates of the vehicles; and (ix) certified (by the carrier) copies of the control slip, attached to the sign for periodic inspection of the roadworthiness of taxi vehicles and the additional inspection card for taxi vehicles.

The Executive Director of the EAAA or the respective regional director authorised by the Executive Director of EAAA issues a certificate of registration as a carrier to the applicant company, if the applicant meets the above listed requirements and has submitted all the necessary documents. The Executive Director may refuse to issue a certificate for registration to an applicant that does not meet the criteria for *reliability* or *professional competence*, and in the case it has not provided all relevant documents to its application

²⁵⁵ The other very common type of transport in Sofia and some other big Bulgarian cities – is the so called "route taxis", regulated by the CRA is excluded from the scope of this study, as (i) the service is provided by shuttle busses, carrying between 10 and 26 people plus the driver on board; and (ii) the buses travelling on pre-approved routes/lines and the passengers cannot change those routes. This service is determined by law as an alternative transport to city public transport, which do not fall within the scope of taxi carriage in the meaning of §1, (26) of the Supplementary provisions of the CRA.

form. The refusal for issuance of certificate can be appealed before the Sofia Administrative Court.

The registration may be terminated by the EAAA if: (i) it was conducted based on unreal or untrue documentation; (ii) the carrier ceases to meet the requirements for *reliability* and *professional competence*; (iii) during the performance of the taxi activities, the carrier violates the law; (iv) the carrier used unreal or untrue documents during the performance of the taxi services. The registration may also be terminated upon carrier's request or in case the carrier ceases to exist as a legal entity e.g. liquidation.

The EAAA keeps a public register for all issued and valid certificates for registrations to carriers.

Taxi Permit

Pursuant to the Taxi Carriage Ordinance if a taxi vehicle is used for the performance of taxi services, it should be granted with a permit by the local municipality. For the issuance of such permit, the carrier submits an application to the mayor, accompanied with: (i) the registration certificate of the carrier; (ii) a hard copy list of all vehicles, for which the carrier applies; (iii) a certified (by the carrier) copies of the control slip, attached to the sign for periodic inspection of the roadworthiness of taxi vehicles and the additional inspection card for taxi vehicles; (iv) copies of the *car taxi drivers certificates* of the taxi drivers; and (v) a certificate that the company - taxpayer has no liabilities for taxes and social contributions.

If documentation is full and complete, the taxi permit and a taxi hologram are issued by an order of the mayor. The taxi permits are non-transferrable i.e. *intuitu personae*.

The Municipality Council of the respective municipality determines the term of validity of taxi permits in the territory of the municipality in question. The term should be equal for all registered carriers there, but it should not be less than twelve (12) months (for Sofia city municipality, the term of the taxi permit is three (3) years). The carrier may apply for a new permit no later than thirty (30) calendar days before the expiration of the existing one.

The municipality maintains a public register for all issued valid taxi permits for the territory of the municipality.

The mayor may terminate the validity of a taxi permit by issuance of an order, in case: (i) the registered carrier applied for such termination; (ii) upon termination of the registration of the carrier in the EAAA`s register; (iii) upon deregistration of the taxi vehicle from the taxi permits` register or (iv) in case the carrier has been announced in the mass media as a tax debtor with unsettled obligations of more than BGN 5,000 (approx. EUR 2,556).

The mayor`s orders for issuance or termination of a taxi permit may be appealed before the administrative court, having jurisdiction in the respective municipality.

The municipality authorities may limit the number of taxi vehicles, operating on the territory of the respective municipality, as well as their distribution between the registered carriers in the same municipality.²⁵⁶

Term for issuance of the certificate and the permit

The Executive Director of EAAA or the respective authorised person issues a certificate of registration as a carrier to the applicant company within fourteen (14) days of submitting the application for registration. The competent authority issues the taxi permit for the specific vehicle in fourteen (14) days from the day of applicant`s submission. In all cases, however, the carrier may obtain the permit, only after the latter submits to the authority evidence for payment of the tax on taxi carriages for the term of validity of the taxi permit (see also II.13 below).

Fees

The EAAA collects the following fees: (i) for examination of a taxi driver, a fee of BGN 15 (approx. EUR 7.5) is collected; (ii) a BGN 4 (approx. EUR 2) fee is collected for issuance of the permit for a taxi vehicle driver; (iii) a BGN 4 (approx. EUR 2) fee is collected for the verification and validation of a protocol for dismantling the fiscal memory of an electronic taximeter.

For the obtaining of a certificate for registration for the performance of taxi services, a fee of BGN 100 (approx. EUR 50) should be paid. For inclusion of vehicles in the registration certificate for the performance of taxi services, a BGN 10 (approx. EUR 5) fee should be paid for each additional vehicle.

A BGN 100 (approx. EUR 50) should be paid for the extension of the certificate, as well as in cases, when changes for the performance of taxi services need to be reflected in the registration certificate.

The respective municipality collects fees for taxi permit and hologram issuance, which may differ between different municipalities. For Sofia municipality, for example, the issuance of a taxi permit and a hologram is subject to payment of a fee of BGN 150 (approx. EUR 75).

II.3 Technical requirements applicable to licensed vehicles *(taximeters, vehicles' technical specifications, accessibility, insurance, maintenance)*

All vehicles travelling on roads in Bulgaria have to be insured with mandatory third-party liability insurance. The insurance covers the civil liability of the insured persons or legal entities for material and non-material damages caused by them to third parties, connected to the ownership and/or use of the vehicles.²⁵⁷ The minimum amount for non-material or material damages resulting from injuries or death amounts to BGN

²⁵⁶ According to the latest statistics of Sofia Municipality, taxi vehicles eligible to operate in the territory of the capital city area are approximately nine thousand (9,000).

²⁵⁷ Article 477, (1) of the Bulgarian Insurance Code.

10,000,000.00 (appr. EUR 5,112,919.00) per accident, regardless the number of persons injured. The minimum amount of the insurance for damages to property is BGN 2,000,000 (approx. EUR 1,022,584) per accident, regardless of the number of damaged persons.²⁵⁸

Taxi vehicles within the territory of Bulgaria must also have a valid mandatory insurance "Accident" of the passengers in the vehicles for public carriage.²⁵⁹ The insurance is concluded by the carrier and covers the health, life and corporal integrity of passengers in vehicles performing public carriage. The minimum insurance amount is BGN 50,000.00 (approx. EUR 25,565.00) for every accident for every passenger.²⁶⁰

Registered carriers may use as taxis vehicles, which are no older than fifteen (15) years (calculated as from the date of their first registration).

Apart from all the regular requirements for vehicles in Bulgaria (liability insurance, paid tax, etc.), taxi vehicles should: (i) have passed the periodic inspection for roadworthiness, pursuant to the Road Traffic Act; (ii) not be equipped for educational purposes; (iii) have at least four doors; (iv) be left-wheel drive vehicles; (v) be marked with an illuminated "Taxi" sign on the roof of the vehicle; (vi) have a taxi meter with fiscal memory installed; (vii) have visible signs on specific vehicle windows, informing of the taxi carrier's name and its prices/fares; (viii) have a visible hologram, if the relevant municipality council has introduced that requirement; (ix) have seat belts installed; (x) have a check-mate-board-like stickers on the side of the vehicle; (xi) be permanently painted in yellow or green (if the vehicle is a hybrid or full-electric one); (xii) have the carrier label and phone number clearly visible on the front doors of the vehicle; (xiii) have a red light sign installed in the roof taxi sign; and (ix) a hologram with the permit number on the front right fender and on the back of the vehicle.

Taximeters need to be compliant with the requirements of the Taxi Meters Ordinance. Electronic taximeters would meet the functional requirements set out in Annex 1 of the Taxi Meters Ordinance, as well as the technical requirements set out in Annex 2 of the Taxi Meters Ordinance, in order to ensure the implementation of the functional requirements and the possibility for marking and sealing the taximeters.

In addition, the fiscal memory taximeters need to be connected to a light indicator on the front window of the taxi. The light indicator needs to have one green and two red lights – depending on which light is on, the taxi is: (i) free – green light, (ii) occupied – one red light, or (iii) occupied on night fare – two red lights.

II.4 Qualitative requirements (*fitness of the driver, knowledge and skills required, drivers' training*)

The minimum age for a taxi driver to be eligible to perform taxi services is 21. A taxi driver should be able meet certain other requirements to be eligible to drive a taxi. Pursuant to the CRA²⁶¹ the taxi driver should: (i) hold a valid driver's licence; (ii) not have been convicted of a crime of general nature or a transport crime and should have

²⁵⁸ Article 492 of the Insurance code.

²⁵⁹ Article 471 of the Insurance code.

²⁶⁰ Article 476 of the Insurance code.

²⁶¹ Article 24 (3) of the CRA.

not been deprived from the right to drive a vehicle either by an administrative body or a court; (iii) have not been imposed with administrative penalties for driving with alcohol concentration in the blood exceeding zero point five (0.5) per thousand to one point two (1.2) per thousand during the preceding year; (iv) be psychologically fit, pursuant to the Road Traffic Act; and (v) be a holder of a *car taxi driver certificate*, valid for the respective municipality where the driver is performing the taxi services.

Psychological fitness is subject to regulation by the Road Traffic Act and *Ordinance No. 36 from 15.05.2006 for the requirements for psychological fitness and terms and conditions for conducting psychological examinations of candidates for acquisition driving licenses, on drivers and chairmen of examination boards and the issuance of certificates of registration for conducting psychological research*. The requirements for psychological fitness relate to cognitive, psychomotor and personal sphere of the psyche and are measured under detailed qualitative and quantitative criteria.

Drivers should take a psychological exam organized by a psychological laboratory that tests the psychological fitness of drivers. If the psychological exam's results are positive, a "*certificate for psychological fitness*" should be issued to the driver and further signed and sealed by the laboratory and registered with the EAAA. The respective certificate is valid for three (3) years from the date of issuance or for one (1) year if the driver is above sixty-five (65) years old. The renewal of certificate is possible, if the driver takes the psychological exam again.

Driver who has obtained the certificate for psychological fitness may apply for a "*vehicle taxi driver certificate*". To obtain the vehicle taxi driver certificate, the driver should take an exam organized by the respective regional directorate of the EAAA, responsible for the municipality where the taxi services will be rendered. The exam is composed of two modules - a test on the awareness of the legislation applicable to taxi services and a test on the awareness for the territory of the respective municipality, including governmental and municipal addresses, tourist sites and the ability to determine the shortest route between two points located in the respective municipality (Appendix No.7 of Taxi Carriage Ordinance). Upon successfully passing the exam, the applicant is granted with a car taxi driver certificate, issued by the respective regional department of the EAAA. The certificate is valid for five (5) years.

Upon obtaining the *certificate for psychological fitness* and the *car taxi driver certificate* and if the drivers comply with the requirements of Article 24, (3) of the CRA they may: (i) be hired by a registered taxi carrier; (ii) may establish their own registered taxi carrier firm (upon obtaining necessary permits and certificates for the vehicle and the company); or (iii) may perform taxi services for their own account on behalf of a registered carrier.

II.5 Organizational requirements (*dispatch affiliation centre, minimum service*)

Taxi companies are allowed to have dispatch centres, but are not specifically required to have them by the applicable legislation. Most of the largest taxi carriers in Bulgaria are maintaining this service for their drivers. Some carriers require all cars to be connected with the dispatch centre in order to operate on their behalf. In rural areas where there are only several taxi vehicles at hand, the carriers do not use dispatch centres.

Clients can hire taxis on the street, from a taxi rank, from any parking spot or by a telephone call to a dispatch centre (without those call centres being subject to limitations). The respective municipality determines the location and number of taxi ranks.

Drivers are prohibited to perform services on the territory of a municipality for which they do not hold the respective permits.

The legislation does not provide for any restrictions or specific requirements for an entity providing so-called intermediary services between passengers and drivers. The Use of intermediary services like Internet and mobile applications to hire a taxi is deemed to comply with the current legislation. Taxi companies either develop their own mobile applications²⁶² or use the services of several companies on the market that developed mobile applications for taxi services particularly.²⁶³

II.6 Fares *(criteria for taxi fare setting, authority/body in charge of setting the tariffs, maximum tariffs and/or fixed tariffs, composition of the tariff and tariffs adjustment mechanism [minimum charge, additional charge for using the radio taxi or dispatch centre, increase of the tariff during certain hours, such as at night or on certain journeys, such as towards the airports, reductions for certain categories, such as elderly people])*

The law determines the types of tax fares in Bulgaria. Each taxi vehicle should have stickers with indication of the following fares: (i) fare per km during day in settlements; (ii) fare per km during night in settlements; (iii) fare per km outside settlements; (iv) initial fare which may not exceed the fare per km with more than 50%; (v) fare per minute for idle; (vi) fare for requesting the taxi for a certain address.

Day fares are applied between 6 a.m. and 22 p.m., while night fares are applied between 22 p.m. and 6 a.m. The driver should manually make the change between fares in settlements and outside settlements.

Municipal councils are obliged to take a decision determining the minimum and maximum day and night fares per kilometre, which will be valid for the territory of the respective municipality. Currently, there is no methodology on how minimum and maximum fares are determined.

These fares should be updated each year. There are no penalties envisaged, however, if the respective municipality council fails to adopt initially or the update the applicable minimum or maximum fares for the respective municipality.

A table with minimum and maximum fares for 2016 for the three largest cities is shown below:

City	Day fare per km (in BGN and EUR)	Night fare per km (in BGN and EUR)
------	----------------------------------	------------------------------------

²⁶² In Sofia some of the largest taxi carriers have developed their own mobile applications, e.g.: yellow333 (<http://www.yellow333.com/opencms/opencms/menu/bg/Online/>); Radio SV Taxi 1263 (<http://91263.bg/?p=126&l=2>); O.K. Supertrans (<https://www.oktaxi.net/index.php>).

²⁶³ Such applications are, for example: Taxistars (<http://taxistars.net/bg/>) and TaxiMe (<http://taxime.to>).

	minimum	maximum	minimum	maximum
Sofia	n/a ²⁶⁴	1.30 (EUR 0.66)	n/a	1.60 (EUR 0.82)
Plovdiv	0.65 (EUR 0.33)	1.10 (EUR 0.56)	0.75 (EUR 0.38)	1.30 (EUR 0.66)
Varna	0.75 (EUR 0.38)	2.00 (EUR 1.02)	0.85 (EUR 0.43)	3.00 (EUR 1.53)

II.7. Passenger rights

Most of the passenger rights are stipulated in the secondary legislation – Taxi Carriage Ordinance, which provides for that the passenger is entitled to:

- Order the taxi services from: (i) a taxi rank signposted with "Taxi"; (ii) parking and staying places not restricted by road signs and markings; (iii) by 'catch-the-eye' hand signal and (iv) by dial-a-taxi service;
- Be informed about: (i) the applicable tariffs (to be provided outside and inside the vehicle at the specified places); (ii) the name of the taxi company and the taxi driver; (iii) the current cost of the ride (the taximeter should be viewed unimpeded by the passenger);
- Receive a fiscal note for cost of the taxi services rendered and an invoice for those services, upon his request (in case the taxi driver does not provide the passenger with an invoice, he could be subject to a fine in the amount of BGN 700 (appr. EUR 357));
- In case the taximeter is out of order, the passenger may still receive a ride on a negotiated price, where the cost of the route would be calculated based on the applicable fares and route distance. Such ride is, however, possible as an exception, for the specific ride only and to the extent that the taximeter malfunction does not allow the cost of the route to be calculated and the taxi driver has duly described when the malfunction appeared and what where the odometer`s readings in its driving book. In case a taxi driver transports passenger without a proper taximeter, he could be subject to a fine of BGN 500 (appr. EUR 255).

The passenger has the right to choose its driver and taxi irrespective of their order at the taxi rank. The driver is obliged to accept the clients on first come first serve basis, unless his vehicle does not have a sufficient number of seats; the car does not respond to the client`s needs (e.g. not enough space for the client`s luggage); the client is a disabled person.

Although not being explicitly required by law, some taxi carriers have implemented "customer`s codes" guaranteeing their clients some additional rights, among others, to set the temperature and the music in the vehicle or to require the drivers to help them with the luggage or to assist them to the entrance of the departure/arrival building.

The taxi driver may refuse to render a service to a client only in special circumstances, such as: (i) the passenger is under the influence of an alcohol or narcotics; (ii) the driver consider that he is in danger; (iii) the passenger's clothing, luggage, pets (except guide-dogs) could contaminate or damage the vehicle; (iv) the passenger refuses to wear a safety belt. In any case, the taxi driver may not refuse to transport to disabled people accompanied by a guide dog.

²⁶⁴ Even though the Sofia municipal council should have adopted minimal fares, such are still not available.

The taxi driver may take for a ride a second passenger while the first is using the vehicle, only upon the consent of the first passenger. In such case, the first passenger is obliged to pay the costs for the ride up to the spot of arrival.

Once inside the taxi, the passenger may choose the exact route for his transportation. If the passenger has no preferences on the route, the taxi driver is obliged to take the shortest way. Scam practices are illegal and if the passenger doubts on such practice, he could file a claim before the taxi company, owner of the taxi. Should the taxi driver have found for performing such practices, he is subject to a fine of BGN 500 (appr. EUR 255) for the first violation and a fine of BGN 3000 (appr. EUR 1533) for any other repeated violation along with a deregistration of the vehicle from the vehicles list part of the taxi driving services' registration certificate.

Smoking is prohibited in taxi vehicles. The taxi drivers are not required to accept electronic payments.²⁶⁵ In case such payments are acceptable, this should be explicitly indicated in the vehicle. The taxi drivers are also not required to assist the passengers with loading and unloading luggage and entering and exiting the vehicle or to be able to return out change for a banknote of a high value.

Some taxi companies in Sofia provide preferential tariffs; suspended payment arrangements; transfers to/from specific points (e.g. airports) and other services for their corporate clients. To receive such services, the firm should conclude a taxi services contract with the taxi carrier.

In case of complaints for the quality of the taxi services provided, including in the event for damages incurred for the passenger, the latter may file a claim before the taxi company in thirty (30) days from the day of the incurrance of the damage. All the documents, related to the taxi services provided and the evidence for the damages incurred in that respect, should accompany the claim. The passengers may lodge complaints alleging breach of their rights not only before the taxi carriers but also before the EAAA and the Consumers' Protection Commission.

Irrespective to their rights to complain above, the passengers may also file a claim in courts for the damages, incurred by the services provided by taxi carriers within one year as from the date of occurrence of the damages and within 3 years in the event of death or injury of passengers.

II.8 Subsidies applicable to taxi sector *(including public developed applications for taxi sector, geo-localization, etc.)*

Subsidies for electro-vehicles (including when used for taxis) are granted in the form of tax exemptions from the local transport vehicle tax.

Taxi carriers can also be compensated for carriages performed to children and pupils that need obligatory preparation or education in a city/village, which suffers a kindergarten or

²⁶⁵ Only recently, in March 2016, one of the taxi carriers - Yellow Taxi started to supply their cabs with mobile point of sale (mPOS) systems together with MasterCard.

school, and where those children and pupils are entitled to free transportation to kindergarten or school in the nearest city/village in the territory of the respective municipality or the neighbouring municipality. Such carriages are performed by a taxi carrier, registered in accordance with the requirements of Taxi Carriage Ordinance, which has been granted by the respective mayor of the municipality, in case that there is no organized carriage under established transport schemes for the route in question and it is economically viable for the mayor to assign to a taxi carrier the performance of such carriages. The compensation for the free transportations is covered to the taxi carriers with funds, granted from the central-government budget through the municipalities' budgets.

In the case the taxi vehicle is used for other purposes as well, the costs for the carriages of children and pupils above are determined as a share of the total costs for transportation for the respective municipality, pro rata to the performed kilometer allowance.

II.9 Labour rules

The latest amendments of the CRA, effective as from 1 April 2016 require that taxi carriage of passengers to be performed by legal entities, holding a registration certificate using employed drivers, or by drivers, performing the activity on behalf of a registered taxi carriers but on their own account (*'sole practitioners'*). Current legislation provides the drivers the freedom of choice on the manner under which they would render the taxi services – under an employment contract or a franchise contract with the taxi carrier.

The rights and obligations of taxi drivers, employed by registered taxi carriers are subject to (i) the employment contracts they conclude with the taxi carrier; (ii) the specific regulations under the CRA; and (iii) the general Bulgarian labour regulations for any cases, not regulated by the CRA. These regulations set forth the normal and extra working hours, the number of holidays, wages, termination of employment relationship etc. The regulations set forth in the CRA in particular, set forth that: (i) 21 years may be the minimum age for the drivers to be allowed to perform taxi carriages; (ii) the total daily working hours of the taxi drivers may not exceed twelve (12) hours and the rest between two working day may not be less than eleven (11) hours; (iii) after four (4) hours of driving, the driver to be obliged to have a rest for at least thirty (30) minutes; (iv) the weekly rest of drivers engaged in taximeter transportation of passengers may be not less than thirty six (36) consecutive hours.

More than 11,000 taxi drivers in the country²⁶⁶ are performing taxi services on behalf of taxi carriers and on their account. Their rights and obligations for rendering taxi services are stipulated in a written contract concluded with the carrier in question.

Currently, there are no specific legal rules regulating these contracts' content and such written agreements are subject to general commercial and civil law rules. Usually, the taxi carriers conclude the written contracts in the form of a franchise agreement, which provides for the taxi carrier`s requirements for performance of taxi services by the drivers and the conditions for granting the right to those drivers to use the name, the company sign and the design indication of the phone numbers for connection to its

²⁶⁶Obtained from the publicly available information in the Executive Agency 'Automotive Administration' website: <http://www.rta.government.bg>.

dispatch centre of the taxi carrier.²⁶⁷ In such cases, the taxi carriers usually lease their own fully equipped vehicles to the drivers. The drivers are independent as to the organization of their work and do not receive a salary from the taxi carrier, but retain the receipts and earn their income from the rides they perform. They pay social security contributions and taxes by their own and pay rent to the company – lessor for the leased vehicle, along with the maintenance costs.

There are no specific mechanisms for control and supervision over those lease contracts, envisaged by law (e.g. a register of the lessees or others).

II.10 Supervisory enforcement tools

The CRA envisages the supervisory enforcement powers of the Ministry of Transport, IT and Communications. According to the law, those powers are executed by the Ministry through the EAAA.

The EAAA is entitled, among others, to: (i) stop for inspection vehicles performing public carriage of passengers and cargo (as well as on their own account); (ii) access the garages, the service shops, the coach stations, and all premises related to the activity of the carriers and to the activity of the persons engaged in carriage on their own account; (iii) inspect and, if needed detain, the documents related to the carriage of passengers and cargo from the drivers and the carriers; control the way of applying for, granting, using and accounting of the permits for the performance of carriage of passengers and cargo activities; (iv) exercise control over whether rules for public carriage of passengers and cargo, as well as for carriage on own account, are observed. This includes control over the roadworthiness of the vehicle carrying out the transport, camera systems or other technical equipment usage in order to establish road violations, etc. The recorded material may serve as evidence for conviction that violation has been committed.

A taxi carrier who has admitted performance of carriages by vehicles, operating on his behalf, which are not equipped with a taximeter, could be sanctioned in the amount of BGN 1,500 (approx. EUR 766).

A sanction in the amount of BGN 5,000 (approx. EUR 2,553) could be imposed to a carrier that admits or orders the carriage of passengers without having such authority.

The carrier, which allows for a taxi driver to perform taxi services on his behalf or as his employee without that driver holding a valid certificate for psychological fitness could be sanctioned in the amount of BGN 1,000 (approx. EUR 511). The same amount of the sanction may be imposed on a carrier that does not observe the mandatory provisions for the working hours and rests for the taxi drivers.

Taxi carriers may become subject to other investigations led by other respective institutions for breaches of Bulgarian law, which are not closely related to the

²⁶⁷ The information has been obtained from public source - Decision No 804 as from 07.10.2015, file No K3K - 201/2015 in the Competition Protection Commission, published on their website: <http://www.cpc.bg/default.aspx>.

transportation services and the public carriage, e.g. the police, the state prosecutor office, the tax authorities and/or the competition protection commission. Those authorities have the right, among others, to raid the taxi carrier`s offices and seize documentation and/or computers with respect to leading investigation procedures under the specific legal regulations applicable to such procedures.

The municipalities monitor compliance with the obligations stipulated in the taxi fares regulations. The municipal authorities determine, impose and enforce fines for violations of those fare regulations.

The violation of CRA provisions itself, does not constitute a criminal offence under Bulgarian law. However, taxi drivers who illegally provide taxi services in an extensive manner could face both: (i) administrative charges - a fine from BGN 1,500 (approx. EUR 766) to BGN 6,000 (approx. EUR 3,067) depending on the number of violations and; (ii) criminal charges leading to imprisonment up to one (1) year or a fine from BGN 100 (approx. EUR 50) to BGN 300 (approx. EUR 153). Criminal sanctions may be imposed only by the respective criminal courts, based on entered into force verdict.

According to information provided by the Ministry of Transport during the consultation, the most frequently established infringements committed by drivers and carriers are:

- non-compliance with driving times and resting periods;
- without a permit from the municipality to perform a carriage of passengers by taxi;
- a technical failure of the vehicle and the taximeter;
- failure to comply with working time of drivers.

Information for checks made of taxi cars by the controlling bodies of Executive Agency Road Transport Administration for the period from 2010 to 2015:

year	number of checked taxi cars	number of issued acts for administrative infringements
2010	55786	4632
2011	53918	3686
2012	74388	3838
2013	67621	3800
2014	47225	2528
2015	28539	1976
Total:	32777	20460

II.11 Taxes

Taxi services are subject to 20 % VAT. As from 1 April 2016, a completely new "tax on taxi carriages" has been introduced with respect to taxi carriages, which is imposed on taxi carriers holding a valid certificate from the respective municipality, for each taxi

vehicle in possession. Even if a taxi driver performs taxi services on behalf of the carrier, the Tax is due by the carrier, but not the taxi driver.

The amount of the Tax is determined annually by the municipal council of the respective municipality, where the carrier is registered not later than 31 October of the previous year for the subsequent one and amounts between BGN 300 (approx. EUR 153) and BGN 1000 (approx. EUR 511) per vehicle. Each taxi carrier submits a declaration for the amount of the due tax to the municipality before obtaining a taxi permit and the Tax should be paid before obtaining the permit.

III. Legal framework applicable to hire cars with driver

III.1 National/local municipal regulation

Any transportation of people performed against payment is considered public carriage according to the CRA. Thus, in the case where the services for hiring vehicles with drivers are payable, these services might be considered public carriage under the meaning of the law. Public carriage of passengers, however, is subject to specific permission and can be performed only by carriers, who hold either (i) a licence for carriage of passengers on the territory of the Republic of Bulgaria, (ii) a Community Licence or (iii) a registration certificate for taxi services. There are no specific procedures for obtaining a licence or a permit for any other type of transport services, except the specific ones provided above, including for services, related to hiring vehicles with drivers. In this respect, the law is subject to interpretation by the competent authorities regarding the regulation applicable to such services.

According to the EAAA, although the driver receives payment for the services, the hiring of car with driver is not a service, subject to regulation by CRA and no licences/certificates are required to perform it.

There is not much administrative or case law practice on the matter, however, and it is not certain whether the interpretation of other administrative authorities (e.g. supervision authorities like the Ministry of Transport, IT and Communications) or the court practice would be coherent to the EAAA`s interpretation regarding the applicable regulatory rules for private hire cars with drivers against payment.

III.2 Procedures for issuing licenses and applicable criteria

Hire car with driver is not regulated separately under the provisions of the Bulgarian law. There are also no specific procedures for issuing licenses or certificates for registration for performing such services provided.

III.3 Technical requirements applicable to hire cars with driver

There is no separate legal framework governing the technical requirements applicable to hire cars with driver, except the general regulation, applicable to all vehicles on roads in the territory of Bulgaria.

III.4 Qualitative requirements

There are no specific regulations providing for any qualitative requirements specific to drivers of hire cars. Thus, the general requirements applicable to all drivers in the territory of Bulgaria should be applied to private hire car drivers as well.

III.5 Organisational requirements

There is no separate legal framework governing the organisational requirements applicable to private hire cars, except the general regulation, applicable to all vehicles on roads in the territory of Bulgaria.

III.6 Passenger rights

There are no specific regulations for passenger rights applicable to hire cars with driver. Thus, the general rules, applicable to public carriages should apply, which include, among others, the passengers' right to be informed for the tariffs and the conditions for the hire car with driver rides.

There are not many companies providing hire car with driver services and, most often, hire car service provider offers such services as bundled services (vehicle hire and a professional driver hire). The hire service provider usually concludes a contract with a client under General Terms and Conditions, which provide for, among other, the obligations of the service provider and rights of the client hiring the car and the drivers to receive a service, provided by a professional driver with a long-standing experience or to have a foreign language speaking driver.

Fares for the hire cars with driver are usually fixed (e.g. EUR 25 per day for an 8-hour working hour day). Additional fare is payable, when the normal 8-hours working day is exceeded by the client (e.g. EUR 10 for any additional hour).

III.7 Labour rules

According to the applicable law, drivers may be both self-employed drivers or employees of the hire car operator.

In case the driver is an employee of the hire car operator, the specific labour rules for taxi drivers, specified in s.II.11 above are not applicable, but rather the general labour rules would apply.

III.8 Local incentives, subsidies provided by the administration in order to carry out certain services (such as mini-van service for people with reduced mobility, elderly, schools)

No incentives have been identified.

III.9 Supervisory enforcement tools

Law does not specifically regulate private hire cars with drivers. Therefore, no separate supervisory enforcement tools exist.

IV. Legal framework applicable to ridesharing and car sharing

IV.1 Current regulations and legislative proposals

The current Bulgarian legislation does not provide a systematic legislative framework for the ridesharing or for the innovative mobility service providers.

There are no restrictions on who and how many passengers may travel along with the driver. However, if the driver receives compensation, regardless of amount and/or grounds, it is considered public carriage as defined in Paragraph 1, item 1 of the CRA. This definition applies regardless of the construction of the vehicle, number of seats, nature or intensity of the carriages.

Public carriage of passengers is only permitted to carriers, who hold a licence for carriage of passengers on the territory of the Republic of Bulgaria, a Community Licence or a registration certificate for taxi services. Thus, ridesharing and car sharing may fall under the prohibition to perform public carriage without licence/permit if money is exchanged.

IV.2 National rules applicable to on-line platform and rules applicable to service providers

There are no specific regulations to on-line platforms or service providers since Bulgarian legislation does not provide any legal framework of ridesharing or car sharing.

IV.3 Main operators and their business models

Carpooling is becoming increasingly popular with young people and predominantly students. Considering that according to Bulgarian legislation, if costs are shared, the ride is considered public carriage and is deemed illegal. Therefore, there is a high probability for companies that publicly announce they provide such services to be found noncompliant with the law. In fact, after the ban imposed on Uber in Bulgaria, there are no other similar companies on the market.²⁶⁸

Mobile platforms

There are two large Facebook "communities" dedicated to carpooling when travelling to different destinations in the country or abroad:

²⁶⁸ Uber and another online taxi-service provider, Rasier Operations BV were imposed a fine in the total amount of BGN 200 000 (approx. EUR 102 258) by the Competition Protection Commission via its Decision No. 540/30.06.2015 for breaching competition rules. Each of the respective companies is to pay BGN 100 000 (nearly EUR 51 129). The CPC Decision was then further upheld by the Supreme Administrative Court. In the final appeal of the CPC decision, with Ruling No. 9696/23.09.2015, SAC ruled that Uber should, among others, stop operating in Bulgaria.

www.AhaCar.com - The mobile platform provides for the consumers the right to use information communication platform for communication, introducing and reading of notices for share ridings. Its usage is free of charge. In the Terms and Conditions for usage of the platform, available on their website, the services are restricted only to provision of non-commercial services by drivers and passengers of the vehicle as private persons. The services may not be used for generation of income or other commercial profit. The passenger`s contribution may be used only for covering the costs of the driver for performing the carriage. The driver is not entitled to provide additional services to gain profit. The price for a carriage is determined based on the costs for the carriage itself only, based on the distance, the average consumption of the vehicle and the current fuel price.

The platform maintains a register where each of its users should register voluntarily. Users under 18 years are not allowed to use the platform and they cannot use the site services alone, unless an adult person accompanies them.

This platform, www.sednakola.com, is a ride-sharing platform, operating since 2014, used for organisation of carriages with cars. It is used by people to propose a carriage from one point to another (most often between cities within the country) with their own vehicles. The terms and conditions for usage of the platform set forth that those constitute the contract between the platform and the users, under which the latter receive the right to use free of charge the platform`s services for own and non-commercial purposes under the following conditions: (i) there are two available options for the users to choose to register from a "driver" and a "passenger"; the driver may use the additional form for publication of a notice for ride-sharing, where the "passenger" user may choose among different proposals for ride-sharing, published by the drivers; (ii) the passengers may choose from different ride-sharing options: a) incidental carriage; b) weekly carriages; c) monthly carriages – suitable for passengers that travel each month in the same day and at the same time. Users under eighteen (18) years are not allowed to use the platform and they cannot use the site services alone, unless they are accompanied by an adult person.

www.ka4i.me - The platform has been elaborated as a student`s project and is non-profitable initiative. It operates in the similar manner as the above two platforms. The usage of the services provided by the platform is free of charge.

<http://ComboRides.com> - The platform operates in the similar manner as the other ones described. The platform allows for ride-sharing services outside the country as well. The usage of the services provided by the platform is free of charge.

www.spodeleno-patuvane.com - The platform operates in the similar manner as the other one described. The usage of the services provided by the platform is free of charge.

www.Vednaposoka.com - The platform operates in the similar manner as the other ones described. The platform allows for ride-sharing services outside the country as well. The usage of the services provided by the platform is free of charge.

IV.4 Requirements imposed upon non-licensed activities (*safety and technical requirements, insurance requirements, obligations relating to licences and on-line platforms*)

According to the current legal framework, non-licensed public transport against payment is not allowed. However, if transport is performed without payment, this is not considered as public carriage. In such cases, only the general requirements will apply; the driver must hold a valid driving licence for the respective vehicle category; the vehicle must have a valid insurance and passed the annual roadworthiness test.

IV.5 Local incentives, subsidies and other forms of promotion for ridesharing and car sharing (*including, parking spots, use of preferential lanes, etc.*)

There are no special legislative initiatives to support and develop carpooling.

V. Relevant national case law

On 18 March 2015, the Bulgarian Commission for Protection of Competition ("**CPC**") has imposed a BGN 50,000 (approx. EUR 25,564) fine on each of the Dutch entities Uber B.V. and Rasier Operations B.V., for a violation of Article 29 of the Competition Protection Act, the general prohibition of unfair competition, in relation to the service UberX that has been offered on the territory of the city of Sofia since 9 December 2014.

The fine was imposed based on the findings that the service UberX is similar in nature to the regulated activity *taxi transport of passenger* and that taxi services and UberX are interchangeable, as they reach the same result, namely, engaging in transportation from point A to point B against remuneration. The ground for finding a violation of the general prohibition of unfair competition is that UberX drivers and their vehicles are not subject to the same regulatory regime as are taxis and taxi drivers, which creates conditions for circumvention of the law, under which licences and permits are a prerequisite for the rendering of taxi services.

Furthermore, the CPC imposed additional sanctions on each of the two companies in the amount of BGN 50,000 (approx. EUR 25,564) for non-performance of the obligations to cooperate, because of the failure to provide the information and documentations requested by the CPC during the investigation. In its Decision, the CPC ruled that UberX services had to cease.

The CPC Decision was appealed by Uber B.V. and Rasier Operations B.V. in front of a three-member panel of the Bulgarian Supreme Administrative Court ("**SAC**"), which upheld the decision of the CPC. The final appeal in front of a five-member panel of SAC was also dismissed, thus, making the decision of the CPC enforceable and binding on the parties.

The CPC expressed its opinion on the introduction of minimum and maximum fares for taxi services on 18.03.2015,²⁶⁹ as a response to the amendment of the Carriage by Road

²⁶⁹ Decision No. 251/18.03.2015, CPC case No. 1221/2014, CPC.

Act from July 2014, which empowers the municipal councils to set minimum and maximum prices for taxi services per kilometre. The CPC does not support the introduction of such price regulation with regards to taxi services, as previously held,²⁷⁰ as it is of the view that the result will ultimately be suppression of the market competition model, thus, replacing competition with state regulation. Experience from other Member States of the European Union was also taken into account by the CPC.

The main argument put forward by the CPC is that imposing minimum taxi fares will seize by non-market means a certain share of the benefits that would otherwise be experienced by the end consumers due to the existence of an effective price competition on the taxi market. Furthermore, the CPC held that the amendment of the CRA, allowing municipal council to set the maximum number of taxis to operate on the territory of the municipality, will further increase the negative impact on end consumers, as this would hinder the entry of new market entrants, and will reduce the incentives of business to effectively compete with each other.

The CPC expressed the view that the amendments to the CRA need to be repealed, however, they are still in force as of the date of this study.²⁷¹

VI. Country Market

As clarified by the national competition authority, the point-to-point passenger transports carried out by registered carriers or taxi drivers engaged in activities on behalf of a registered carrier but at their own expense, with cars up to seven seats. These individuals provide a service which is paid by users of the service. Taxi operators and drivers compete to attract customers seeking to offer quality service at a better price. Taxi services have their own characteristics, intended use and price, which defines them as standalone products to suit specific needs and forming separate relevant market.

The geographical dimension of the market is local. The market seems characterized by small players, authorised by the municipal council of their place of business, which can pick up passengers on the streets of their authorisation areas. In certain cities, such as Sofia, the authorities may also define the distribution of the licenses between carriers.

VII. Market players

OK Supertrans is the largest dispatch centre and taxi company in Bulgaria and the only one authorised to serve the Sofia airport. In 1999 "OK Supertrans" was the first taxi company that put into operation automatic dispatch system based on GPS in order to provide the most expedient service to the clients, which strengthens the leading position of the company on this market. It also provides business service to corporate clients, with the possibility to use taxis and pay with invoice at the end of the month.

Yellow taxi is one of the largest taxi company in Sofia, with its own call centre. The company provides various services for drivers, including car leasing to taxi drivers, car

²⁷⁰ Decision No. 553/17.07.2007, CPC and Decision No. 731/25.06.2010, CPC:

<http://www.cpc.bg/General/News.aspx>.

²⁷¹ CRA, Article 24a, paras. 10 and 11.

maintenance, and car wash. It provides transport services in partnership with offices, hotels, hospitals, pre-arranged airports pick-ups, and international transportation at fixed rates. It advertises that it is the first company in Bulgaria to provide contactless payments on the taxis in agreement with Mastercard.

BG Taxi service is a taxi company in Bulgaria which provides taxi services; Sofia Airport transfer; tourist and business trips in Bulgaria; custom trips per customer's request in the country and abroad and specialized fishing tours. They offer pre-booked pick-ups at Sofia airports and pre-arranged transport to the Bulgarian borders.

HHB travel provides pre-arranged taxis transfers from Burgas, Varna and Sofia airports to various at fixed fares. It also provides pre-arranged journeys from Burgas and Sunny Beach to Bucharest airport.

Web applications to book a taxi are developing and the Bulgarian leading taxi app service is **TaxiMe** (www.taxime.to) which is also active in Romania. The application helps to provide an authorised taxi via geolocalisation and it seems more focused in allowing passengers to avoid taxi scams or illegal taxis than in providing reduced costs.

VIII. Barriers, limitations, incentives

Quantitative barriers to entry characterize the Bulgaria market. Municipal Councils have the power to determine the maximum number of taxis that can operate in the municipality; they also determine the terms and conditions for their distribution between carriers (Article 24a para. 4 of the Administrative Procedure Act). The market is therefore characterized by competitive constraints, with a combination of quantitative restrictions and price regulation.

The Bulgarian Competition Authority ("CPC") established, in its decision N^o 553/17.07.2007, that this mechanism essentially restricts access to the market, and is contrary to free competition; it nonetheless indicated that, by virtue of its impact, it was the most appropriate system that could be devised at that time in order to balance the interests of operators and consumers. This decision helped to clarify issues such as the specific number of taxis in every location that would realistically reflect the needs of its inhabitants, the level of the service and the interests of operators. However, the CPC, in its decision of 18 March 2015, considered that the existing problems for users had not yet been resolved: *"In this regard, the CPC is of the opinion that the power to determine the maximum number of taxis operating in the territory of a municipality should be suspended"*.

As clarified by the CPC in its 2015 opinion, determining the maximum number of participants in the market of taxi services is a barrier to new entrants. At the same time, the CPC indicated that the application of minimum and maximum prices reduces the incentives for businesses to compete effectively with each other and creates the conditions for the conclusion of anticompetitive agreements. According to the CPC, although the maximum price is meant to protect consumers, it may be used as a tool to coordinate price increases in the taxi sector, which may lead to prices which are very close to the maximum prices. Moreover, these maximum fares are combined with the minimum fares adopted in 2007. The CPC stated that price competition is one of the basic principles of competition and that the introduction of minimum prices restricts price

competition. While the stated purpose of minimum prices for taxi services is to guarantee quality or security standards they cannot in itself guarantee quality. Finally, the CPC advocates for the abolition of the power of the Municipal Councils to set the maximum number of taxis, as this is a barrier to enter the market and does not bring any positive results in terms of quality of the services.

These quantitative restrictions to access the market are combined with the prohibition of any other services than taxis. The decisions against UberX, which is provided with licensed vehicles and drivers, were motivated by the argument that the CPA does not contemplate this kind of service and that any form of passenger transport with vehicle must only be performed by taxis.

Additional barriers emerged in particular in the World Bank 2013 Doing Business Bulgaria Report. These concern the complex administrative requirements and the different requirements for the same administrative service across municipalities in Bulgaria. As indicated in that Report, *"Municipalities have adopted a policy of having up to a certain number of taxi cars per year and a maximum tariff per kilometre. In Blagoevgrad, up to 450 taxi cars can operate and Municipal Regulation 34 specifies the maximum tariff. In other municipalities, however, there are taxi cars that are illegal, as reported in the case of Kyustendil"*. Each administration requires a set of different documents and has different deadlines to process the documents. As indicated by the Report, *"Plovdiv municipality requires six documents in addition to those required in Sofia. All of these documents are issued by the municipality itself or represent reports, protocols, and the like that are written and signed by other municipal officials. There are also unnecessary documents required, such as the company registration identification, which is available online and for free from the Trade Register. Another finding is that most of the documents required in Sofia are originals or certified copies, while it is primarily ordinary copies that are required in Plovdiv."*²⁷²

Maximum/minimum fares do not seem to prevent taxi scams, especially when the taxi is hailed at the airports. Various complaints regarding taxi drivers in Sofia have been reported on website specialized in tourism (including on Tripadvisor²⁷³), where the pre-arranged pick-up services at fixed fares was recommended. In April 2016, the CPC fined a taxi company, CK Stilltrans, 50 000 leva (about EUR 25,600) for imitation of a competitor's logo, the company OK Supertrans, and ordered the copycat firm to end this misleading practice. Given that the company carried out its copycat activities over a long period of time, the regulator imposed a fine equal to eight per cent of CK Stilltrans' turnover for 2014.

IX. Capacity, growth, impact

According to the Institute for Market Economics, the recent introduction of minimum fares, combined with the maximum fares and quantitative restrictions to enter the market, will probably lead to a reduction in the number of taxis as entrants with lower prices, as well as those who could offer a luxury service at higher prices, will be foreclosed. According to the Institute, the reduction of competition, in turn, means, higher end prices, including the risk of conclusion of cartel agreements. Also, the quality of the service could be impacted due to need to ensure a minimum price of carriage,

²⁷² World Bank, BULGARIA: ADMINISTRATIVE BARRIERS TO BUSINESSES AT THE MUNICIPAL LEVEL TECHNICAL NOTE JUNE 2013, p. 75.

²⁷³ <https://www.tripadvisor.com/Travel-g294452-s304/Sofia:Bulgaria:Taxis.And.Rental.Cars.html>.

which does not foresee any quality requirement. It is also not uncommon that taxi drivers would refuse to transport a client because of unattractive routes or short trips.²⁷⁴

A table with the number of issued certificates of registration for taxi transportation of passengers, provided by the Ministry of Transport, for the period from 2010 to 2015 shows the following figures:

year	number of registrations	number which is included in the lists of registered cars
2010	3650	21262
2011	3200	22250
2012	3755	23000
2013	3810	23120
2014	3815	23200
2015	3843	23254
Total:	22073	136086

X. Results

We have not been able to collect enough data to elaborate precise results. More general results, based on Eurostat data are reported in Chapter III. However, we can observe that after the entry of Uber in the market, the reactions have led to more closure and rigidity. On the one hand, the Competition Protection Commission (CPC) has condemned Uber for the violation of fares' provisions. The dispute was due to the fact that in Sofia, licensed taxis apply the same base fare as Uber (BGN 0.70[Bulgarian lev]), but charge BGN 0.79/km during the day and BGN 0.9/km at night, compared to Uber's BGN 0.40/km fee. On the other hand, the CPC issued an opinion that maximum and minimum fares are anticompetitive and the system of minimum prices protects existing market participants and in particular the most ineffective ones. The CPC also indicated that the incentives to find more innovative and effective ways to offer taxi services that would lower prices for consumers are removed. In response to Uber's entry in the market, and in reaction to protests from the taxi industry, the Bulgarian Parliament adopted changes to automobile transportation legislation which now oblige all taxi drivers to have certificates proving that they work under contracts of employment and not a self-employed.

It is not yet clear what impact these new provisions, combined with the already existing restrictions to market access, will have on the development of the hire transport sector.

XI. Conclusions

The hire transport market in Bulgaria is closed. The only service that is allowed and regulated is the taxi service. Other services, even if provided with licensed drivers, such as Uber X, have been fined by the national competition authority (CPC) on the argument

²⁷⁴ CPC Decision of 18 March 2015.

that they were providing an illegal service, not foreseen by the regulation. The taxi market presents quantitative barriers to entry combined with maximum and minimum fares that reduce incentives for businesses to compete. Additional barriers are due to particularly complex administrative procedures for issuing a taxi licence and to the obligation for the driver, to work under an employment contract. The overregulation of the taxi sector does not allow the development of alternative hire transport services and the entry of new players. Peer to peer ridesharing is not regulated and seems to be tolerated as long as the driver does not receive any remuneration.

Bibliography

1. Ordinance No. 2 of 23 April 1997 on the taxi carriage of passengers, published in State Gazette issue No. 36/1997 (repealed).
2. Ordinance No. 6 of 7 August 1987 for the performance of transport services by citizens (repealed).
3. Carriage by Road Act, published in State Gazette No. 82/17.09.1999, as amended time to time, last amended State Gazette issue No. 32/22.04.2016.
4. Ordinance No. 34 of 06.12.1999 on the taxi transport of passenger, published in State Gazette issue No. 109/14.12.1999, as amended time to time.
5. Ordinance No. 35 of 11.03.1999 on functional and technical requirements for electronic taximeters with fiscal memory published in State Gazette issue No. 97/09.11.1999, as amended time to time, last amended State Gazette issue No. 95/21.11.2000.
6. The Ordinance No. 33 on the public of passengers and freight on the territory of the Republic of Bulgaria, issued in State Gazette issue No. 101/1999.
7. Road Traffic Act, published in State Gazette issue No. 20/05.03.1999, as amended from time to time.
8. Ordinance No. 36 from 15.05.2006 for the requirements for psychological fitness and terms and conditions for conducting psychological examinations of candidates for acquisition driving licenses, on drivers and chairmen of examination boards and the issuance of certificates of registration for conducting psychological research, published in State Gazette issue No. 46/06.06.2006, as amended time to time, last amended State Gazette issue No. 69/11.09.2012.
9. Order No. ПД-01-135/17.03.2014 of the Executive Director of EAAA in relation to Article 19 (1) of Taxi Carriage Ordinance.
10. Health Act, published in State Gazette issue No. 70/2004, as amended from time to time.
11. Local Taxes and Fees Act, published in State Gazette issue No. 117/1997, as amended from time to time.
12. Insurance Code, published in State Gazette issue No. 102/29.12.2015.
13. Ordinance for the conditions and the rules for provision of funds for compensation of reduced income from taxes for public carriages in the automotive transport, envisaged in the legal acts for certain categories of passengers, for subsidising of public carriages on unviable bus lines in intercity transport and the mountain and other areas transport and for the issuance of transport documents for such carriages, adopted by the Council of Ministers with a Decision № 163 as from 29.06.2015, published in State Gazette issue No 51/2015.
14. Executive Agency 'Automotive Administration' website: <http://www.rta.government.bg>.
15. Decision No. 804 as from 07.10.2015, file No. K3K - 201/2015 in the Competition Protection Commission.
16. Decision from 04.03.2014 on criminal case 100/2014 of the District Court – Sliven. Criminal liability for unlicensed carriage of passengers can be imposed under Article 324, par. 1 of the Criminal Code.
17. Competition Protection Commission Decision No. 540/30.06.2015 for breaching competition rules.

18. Decision No. 251/18.03.2015, CPC case No. 1221/2014, CPC.
19. Decision No. 553/17.07.2007, CPC and Decision No. 731/25.06.2010, CPC.
20. Tariff No. 5 for taxes, collected by the Ministry of Transport, Information Technologies and communications, published in State Gazette issue No. 101/2005 as amended from time to time.
21. Ordinance for determination and administration of local taxes and prices for services, provided by Sofia Municipality, adopted by a decision N^o 894 under Protocol No. 93 from 23.11.2006, effective from 1.01.2007, as amended from time to time.

4. CYPRUS

General Legal Framework

In Cyprus, taxis are regulated by the Road Traffic Law No.9/82 as amended, which provides the specifications of motor vehicles used as taxis and on the allocation of taxi licenses granted by the Licensing Authority.

Licenses

The Licensing Authority issues the following taxi licenses:

- i. Intracity taxis;
- ii. Rural taxis; and
- iii. Intercity taxis.

Intercity taxis are licensed to fulfil journeys booked in advance and are allowed to "ply for hire" within the town and district area specified in their licence. They are available 24 hours a day in all towns. With regards to the provisions of the 9/82 Law, a rural taxi is defined as the taxi which is based and parked outside the borders of an urban traffic area and which can carry no more than 6 passengers. The Driver's Licence Authority which falls under the authority of the Road Transport Department is competent to issue the licences. There is a cap on the number of licences and the criteria for determining the number of licenses to be issued are the number of inhabitants, geographical area (if is a tourist area) and the operators' revenues.

Technical requirements

For the vehicles used as taxis, there are Regulations – the Vehicle Type Approval (categories M, N and O), components, systems and separate technical units Regulations 2005 (the "Regulations") – for the additional procedure to be followed for the issuance of Type Approval for both new and used cars. Under these regulations, the taxis fall under the M1 category. For the registration of new M1 vehicles, a valid certificate of conformity as prescribed under the Regulations must be submitted with the application. The certificate of conformity constitutes evidence the vehicle complies with the EU rules concerning the vehicle's technical requirements.

Organisational and professional requirements

There are no particular provisions on organizational requirements. The requirements to obtain a taxi licence are set by the Licensing Authority, and can vary each year. The applicant must hold a Professional Driver's licence obtained after a training period and having passed an exam.

Fares

The Road Transport Department, under the Law No 9/82, is responsible for setting the fares having taken into consideration several socio-political elements (e.g. inflation, deflation, environmental standards). The criteria for fare settings are distance, urban/suburban area, day/night service, and luggage. There are fixed minimum fares.

Passenger rights

There are no specific provisions on passenger rights.

Labour rules

There are no specific labour rules, the taxi driver may be registered as self-employed, or be employed under a contract. The taxi licenses can be leased and the only condition is for the driver to be a holder of a Professional Driver's licence.

Airport

No specific rules are provided for airport, except that rural taxis have no access to ports and airports.

Enforcement

For the years 2010-2015 approximately 5000 enforcement activities have been carried out each year by the police. The main infringements concerned the use of taximeter, the holding of the drivers' licences, insurance

and taxi licence.

Hire cars with driver

Taxi legislation does not apply to hire car with driver, which is only covering luxury vehicles. According to Article 4(1) of the N. 25(I)/2015 Law, a business may exercise the activity after having obtained the necessary approvals. Vehicles must be of a certain size and carry more than 8 passengers.

Ridesharing

There are no specific rules for ridesharing and car sharing and, according to the replies to the stakeholder consultation, the sector is not developed in Cyprus.

Country market:

The market is geographically very small, and taxis and hire cars are mainly targeting the tourism sector, especially for the intra-city sector. Due to the size of the market, the authority, through the licence system, is seeking to protect the viability of the profession and ensure the general upholding of standards. The market for the hire cars with drivers is minimal in comparison to the market for the hire of intracity/intercity taxis. The geographical dimension is artificially segmented due to the fact that different licence (city, intracity and rural) have different catchment areas.

Market players

The majority of the intercity taxi drivers are self-employed while a few larger intracity taxi company operators employing drivers. In the pre-booked segment, self-employed intercity taxi drivers rely on their own clientele which consists mainly of private individuals and, to a lesser extent, of private companies requesting intracity taxi transportation while the intracity taxi operators rely mainly on private and business companies.

Barriers, limitations and incentives

The Licensing Authority currently controls the number of licenses of intercity taxis and intercity taxis and controls their geographical area of operation. In Cyprus, competition exists mainly between intercity taxi drivers in the pre-booked segment. Therefore, intercity taxis give particular emphasis to the provision of qualitative services to their clientele with a view to maintain a steady clientele.

Capacity, growth and impact

A report of the Statistical Department of the Ministry of Finance published in 2012 indicates that taxis have the smaller number of passenger per kilometres in comparison to other public mode of transports, and have lower turnover. Moreover, during the past three years, Cyprus has faced severe economic challenges which, along with local Municipality policies to boost revenues from the tourism industry, appear to have influenced the number of licenses granted by the Licensing Authority to intracity taxi drivers and intercity taxi drivers as well as shaped the geographical areas of their operations. Since 2010, no more licences have been issued.

Conclusions

The market dimension for hire transport is very small and the market is highly regulated and supervised. Certain services, such as intracity are in direct competition with public urban transport via buses. The size of the market is very small compared to other public transport services with lower revenues. However, intracity taxis compete in the pre-booked market, where the services are used especially businesses. The hire cars with drivers service is a niche service only directed to tourism.

I. Introduction

The taxi and hire car with driver sector is only regulated at national level. The sector represents a small part of the urban public transport and is highly regulated. The licenses are issued at national level and the number is capped. Hire cars with driver are

regulated separately by a recent legislation, introduced in 2015, which only covers luxury hire cars, in particular limousine destined to tourists and business visitors.

II. Legal framework applicable to taxis

II.1 National legislation

- The Traffic Transportation Law 1982 – Περί Ρυθμίσεως της Τροχαίας Μεταφοράς Νόμος του 1982.
- The Law on Professional Driver’s Licence 2011 – Περί της Επαγγελματικής Άδειας Οδηγού Νόμος του 2011 (the “80(I)/2011 Law”).
- Law on the Compulsory Insurance of Liability Against Third Party Arising out of the Use of Motor Vehicles.
- Law on Motor Vehicles (Technical Inspection and Centres of Technical Inspection) 2007.

In Cyprus, taxis are regulated by the Road Traffic Law No.9/82 as amended, which provides on the specifications of motor vehicles used as taxis and on the allocation of taxi licenses granted by the Licensing Authority. The Licensing Authority issues the following taxi licenses:

- Intracity taxis;
- Rural taxis; and
- Intercity taxis.

According to the provisions of the Regulation of the Law No 9/82, the intercity taxi is the taxi which is station-based and parked within the borders of an urban traffic area and which performs the transportation of no more than six passengers.

Intracity taxis are licensed to perform journeys booked in advance and are allowed to “ply for hire” within the town and district area specified in their licence. They are available 24 hours a day in all towns. The fares are calculated using the taximeters installed all intracity taxis.

With regards to the provisions of the 9/82 Law, a rural taxi is defined as the taxi which is station-based and parked outside the borders of an urban traffic area and performs the transportation of no more than 6 passengers.

The larger villages have their own rural taxis, which can only be hired within the villages. Rural taxis may not pick-up passengers from the airports or seaports, unless they have express, written instructions to meet and collect specific customers upon arrival. Taximeters are not installed in rural taxis.

According to the provisions of the Law No 9/82, an intercity taxi is a taxi which undertakes the transportation of passengers from one area, specified by the Ministry of Transport, Communications and Works after a previous consultation from the Board of Road Traffic Transportation, to another area following a route predefined by the Licensing Authority. Currently, intercity taxis provide transportation between all major towns (Lefkosia, Lemesos, Larnaka, Pafos). The intercity taxi can take up to eight passengers and the fares are fixed per passenger.

The Licensing Authority is vested with the power to specify in the road traffic licenses the location of parking areas within the Municipalities, including parking areas used under the "Piazza system". The "Piazza system", has been implemented also in airports and seaports. Intracity taxis are obliged to park their vehicles only at the parking locations specified in their road traffic licence. Therefore, taxis and hire cars with drivers are mainly concentrated around airport and seaport destinations.

The taxi market is mainly characterized by pre-booked service, while the demand for "ply for hire" of intercity taxis for passenger transportation is seriously curtailed by the use of private cars and by the because passenger transport by private vehicle covers large part of the private transport demands and the economic crisis has increased the costs of the urban areas.

II.2 Procedures for issuing licences and applicable criteria

The procedure of issuing taxi licenses includes the preparation, by the Licensing Authority, of a viability study to calculate the effective needs, the established the conditions of fitness for applicants. The criteria for determining the number of licenses to be issued are the number of inhabitants, economic characteristics of a geographical area (if it is touristic) and the generated revenue of the operators.

With this system, the authority is seeking to protect the viability of the profession and the general upholding of the qualitative standards.

The issuance of licences is processed by the Driver's Licence Authority that falls under the authority of the Road Transport Department. The Driver's Licence Authority is responsible for checking both the driver and vehicle licensing.

The provisions of the Law no 80(I)/2011, give a mandate to the Department of Road Transport to issues professional licence to aspirant drivers for all the three taxi categories.

The taxi licenses are freely tradable on the secondary market and the prices fluctuate according to supply and demand.

The taxi licenses can be leased and the only condition is for the driver to be a holder of a Professional Driver's licence.

II.3 Technical requirements applicable to licensed vehicles *(taximeters, vehicles' technical specifications, accessibility, insurance, maintenance)*

The Type Approval Law 2005 regulates the technical standards of the vehicles of any category. For the vehicles used as taxis, there are also specific Regulations – the Vehicle Type Approval (categories M, N and O), components, systems and separate technical units Regulations 2005 (the "Regulations") – which cover the additional procedure to be

followed for the issuance of the Type Approval for both new and used cars. Taxis fall under the M1 category covered by these Regulations.

For the registration of a new M1 vehicle, it is necessary a valid certificate of conformity as prescribed under the Regulations, which constitutes evidence that the vehicle respects the EU construction standard. When the application concerns used vehicles, which are not already registered, the procedure under the Type Approval of Individual Vehicles Regulations of 2003 must be followed.

Taximeters are mandatory only for intracity taxis, while, according to Article 9(2) of the Law No 9/82, whereas rural and intercity taxis are not obliged to use it.

In order to be granted the licence, the vehicle must have the taxi signs, as prescribed by the law. For the maintenance of the vehicles the Law on Motor Vehicles (Technical Inspection and Centres of Technical Inspection) 2007 prescribes that all vehicles have to undergo periodic inspections which are carried out by a Public Centre of Vehicle Technical Inspection or a Private Centre of Vehicle Technical Inspection.

II.4 **Qualitative requirements** (*fitness of the driver, knowledge and skills required, drivers' training*)

The professional driver's licence is issued only if the interested person:

- Has reached his 21st birthday, but has not exceeded his seventieth year of his age.
- He is in possession of a valid driver's licence of a motor vehicle that falls under the category of taxi.
- He has not been deprived by a court, of his right to get a professional licence as evidenced by a relevant confirmation granted by the Police Chief Officer.
- He has the physical ability to exercise the profession of a driver. The physical fitness is attested by a relevant medical certificate issued by a registered doctor or a medical certificate issued by a governmental medical board in case that the driver is 60 years old.
- He holds a Professional Taxi Driver Training Certificate, which is acquired after written examinations.

II.5 **Organizational requirements** (*dispatch affiliation centre, minimum service*)

There are no provisions under the Law No 9/82 or any other law.

II.6 **Fares** (*criteria for taxi fare setting, authority/body in charge of setting the tariffs, maximum tariffs and/or fixed tariffs, composition of the tariff and tariffs adjustment mechanism [minimum charge, additional charge for using the radio taxi or dispatch centre, increase of the tariff during certain hours, such as at night or on certain journeys, such as towards the airports, reductions for certain categories, such as elderly people]*)

The taximeter must comply as with the Directive 2004/22/EC of the European Parliament and of the Council of 31 March 2004 on measuring instruments.

The Road Transport Department, under the Law No 9/82 is responsible for setting the fares, after an examination of several socio-political considerations (e.g. inflation, deflation, environmental standards). The criteria for fare settings are "distance per km", "urban/suburban area", "day/night service", area, luggage carried. There are fixed minimum fares.

The following fares are currently in force:

a) Day fare (06:00 – 20:30):

Initial charge – EUR 3.42

Fare per kilometre – EUR 0.73

Waiting time per hour – EUR 13.66

b) Night fare (20:30 – 06:00):

Initial charge – EUR 4.36

Fare per kilometre – EUR 0.85

Waiting time per hour – EUR 15.71

The charges are increased during public holidays by EUR 1.96, if the passenger have luggage by EUR 1.20. If the taxi is carrying five people then there is a 20% increase and if it is carrying six people then the fares increase by 40%.

II.7 Passenger rights

There are no provisions on passenger rights protections.

II.8 Subsidies applicable to taxi sector *(including public developed applications for taxi sector, geolocalisation, etc.)*

There are no subsidies or incentives for the taxi sector.

II.9 Labour rules

There are no specific labour rules for taxi sector. Taxi driver may be self-employed or employees under a labour contract. In both cases, the driver must have the Professional Driver's licence.

II.10 Supervisory enforcement tools

Violation of the provisions of the Law No 9/82 constitutes an offence which may be punished with imprisonment up to 6 months or with a fine.

According to the information provided by the Cyprus authorities²⁷⁵, over the period 2010-2015, approximately 5000 enforcement activities have been carried out each year. The main infringements concerned the use of taximeter, the lack of drivers' licence, insurance and of the taxi licence.

III. Legal framework applicable to hire cars with driver

III.1 National/local municipal regulation

Currently, the law applicable to hire cars with driver covers only luxury vehicles. The Law on Performing the Profession of Licensing for the Use of Luxury Vehicles with Drivers 2015 (the "Law No. 25(I)/2015").

III.2 Procedures for issuing licenses and applicable criteria

According to Article 4(1) of the Law No 25(I)/2015, a business may exercise this profession after having been granted the required business approval.

Article 4(2) prescribes that, in order to obtain such approval, the interested party has to submit to the Director of the Road Transport Department a written statement and pay the required fee.

The approval is granted from the Director only when satisfied that the application of the interested party fulfils all the requirements as set out in Articles 5 and 6 of the Law No. 25(I)/2015. Both Article 5 and 6 apply to both legal and physical entities that apply for a licence under the Law No. 25(I)/2015.

The licenses for vehicle with driver cannot be leased. Licences can be traded together with the whole undertaking.

III.3 Technical requirements applicable to hire cars with driver

The technical requirements provided by Law No 25(I)/2015 for a hire car with driver are:

- Vehicle included in the category M1 with the following characteristics;
- Minimum length: 8 metres;
- It has a separation between the cabin of the passengers and the driver's seat which is controlled by the cabin of the passengers, except in exceptional cases; and
- It has more than eight seats except from the driver's seat.

III.4 Qualitative requirements

In order to be granted the approval, the applicant must fulfil the good repute requirement and he/she must have enough parking place for the vehicles. Article 5 also

²⁷⁵ Reply to the stakeholder consultation received on 4 May 2016.

mentions that the Director may carry out investigations to confirm that the business continues to fulfil the requirements.

The good repute requirement under Article 6 of the Law No. 25(I)/2015 is met if the applicant has not been sentenced, in the last two years, for criminal offences related to use of drugs or other substance or violation of the Customs and Excise Duties Law, which relates to the prohibition or the restriction of import or export of goods or to the repression of poaching.

The certificate of criminal records, which is issued by the Chief Police Officer, is necessary to prove the good repute.

The licenses can be issued to an individual driver and to a company regrouping individual drivers under its umbrella. In the latter case, the driver must hold a Professional Driver's Licence.

III.5 Organisational requirements

There are no specific provisions under the relevant law.

III.6 Passenger rights

There are no specific provisions on passenger rights protections.

III.7 Labour rules

There are no specific provisions for labour rules.

III.8 Local incentives, subsidies provided by the administration in order to carry out certain services (such as mini-van service for people with reduced mobility, elderly, schools)

There are no subsidies for the hire cars with driver.

III.9 Supervisory enforcement tools

Violations of the provisions of the Law No. 25(I)/2015 are criminal offences and they are punished with imprisonment up to one year or with a fine up to EUR 10,000.00 or with the seizure of the vehicle. The various sanctions may be combined.

If the violation is perpetrated by a legal entity, this one may be imposed a fine up EUR 50,000.00 or the seizure of the vehicles, or both.

In case of continuation of the offence, the fine is increased of EUR 500 for each day of the continuation of the offence (Article 15 Law No 25(I)/2015).

IV. Legal framework applicable to ridesharing and car sharing

Ridesharing and car sharing are not regulated.

V. Relevant national case law

There is no case law.

VI. Country Market

The country market is characterized by different taxi operators which have different characteristics and catchment area. Intercity and rural taxi operator cannot enter the city to pick up passengers and they are not obliged to use the taximeter, only operating on fixed or pre-arranged fares. The intracity taxis operators are allocated based on their area of licence or "piazza system", therefore the market is geographically segmented within the same city.

VII. Market players

The majority of the intracity taxi drivers are self-employed with a few intracity taxi company operators employing urban taxi drivers.

For intracity operators, the pre-booked segment, the few largest operators generate the largest part of their income from the business clients. The remaining of the market is focused on private clients and around the airport and port areas.

Nicosia, the capital of the Republic of Cyprus, has apparently the largest number of licensed intracity taxi drivers, in comparison to the other coastal towns, with approximately 428 licensed intracity taxi drivers.

Intercity taxi drivers operate mainly as private companies that employ licensed intercity taxi drivers and considerably fewer in number in comparison to the licensed intercity taxi drivers.

Hire car with driver segment represent a minimal size of the market. Due to the mandatory technical requirements of these luxury vehicles, as well as due to the hire costs, the market for the hire cars with drivers is a separate market from the market of intracity and intercity taxi drivers. Luxury vehicles are mainly hired for the transport of passengers on special social occasions such as (weddings and christenings) or by tourists.

Carpoolworld, the US ridesharing platform, is present in Cyprus, and GoCarshare is another ridesharing platform operating in Cyprus. However, due to the small size of the island, ridesharing is not particularly developed, as confirmed by a respondent to the stakeholder consultation.

VIII. Barriers, limitations, incentives

The Licensing Authority currently controls the number of licenses of intracity taxis and intercity taxis and their geographical area of operation.

In 2012, the Statistical Department of the Ministry of Finance published a report concerning "*Passenger Kilometres by Mode of Transport and Purpose of Trip*". The study covered the following categories of transport modes: (i) motorized private transport (passenger car, motorcycle, other motorized private modes); (ii) public transport (bus, taxi and other public modes of transport); and (iii) non-motorised transport, walking, cycling, and other non-motorised modes of transport. The purpose of the trips concerned work, education, shopping, personal reasons, leisure and other purposes.

The report concluded that taxis have the smaller number of passengers per kilometres in comparison to other public modes of transports, with a total of 392 passenger per kilometres by mode of transport: 142 passenger kilometres for educational purposes, 20 passenger kilometres for shopping, 178 passenger kilometres for personal reasons, 52 passenger kilometres for leisure, none for work and none for other purposes. The report indicates that bus transportation holds the biggest share of passenger per kilometres by public mode of transport.

The Statistical Department of the Ministry of Finance also published a report for the years 2007 – 2012 regarding the turnover by activity in relation to land transport. The study concerned urban and suburban passenger land transport, taxi operation, other passenger land transport, and freight transport by road and removal services. From the report, it emerges that taxi operation had a lower turnover in comparison to other land transport modes. More specifically, in 2012 the turnover activity was for (i): EUR 75,687 per urban and suburban passenger land transport; (ii) EUR 32,925 per taxi operation; (iii): EUR 32,079 per other passenger land transport; (iv) EUR 144,186 per freight transport by road; and (v) EUR 3,732 per removal services.

IX. Capacity, growth, impact

During the past three years, Cyprus has faced severe economic challenges which, along with the local Municipality's policies to boost revenues from the tourist industry, appear to have influenced the number of licenses granted by the Licensing Authority to intracity taxi drivers and intercity taxi drivers and to have shaped their geographical areas of operation.

The tourist industry in Cyprus, which is one of the main sources of income for the island, is a significant factor that the Licensing Authority considers when determining the number of road traffic licenses to be granted for intracity taxis and intercity taxis and their geographical areas.

Moreover, the implementation by the local Municipal Authorities of the "Piazza taxi" system in local municipal areas and mainly in the coastal towns of the island as well as in the capital Nicosia, has had an adverse impact on the entry in the taxi industry of new intracity taxi drivers.

The right to park at the piazza taxi location is entrusted to a few licensed intracity taxi drivers only. This clearly provides a competitive advantage to those taxi drivers, and may affect intercity taxi drivers who are licensed to park their taxis in locations that are commercially not so attractive and therefore seek to transfer their intracity taxi licence.

Moreover, the recent introduction by the Government of Cyprus of a new and modernized fleet of buses for public transportation of passengers within urban areas and district areas has had an adverse impact on the demand for public transportation by intracity taxis. This has added further restraints to the growth and viability of the intracity taxi industry in Cyprus.

The authorities have confirmed that no new taxi licenses or licenses for hire cars with drivers have been issued from 2010 onwards. The licenses have a duration of 5 years and are renewable upon application.

During 2012 there were 100 transfers; 175 transfers in 2013; 133 transfers in 2014; and 141 transfers in 2015.

X. Results

Only a limited amount of data is available for Cyprus; however, from 2010, the taxi market has been steady, with no new licences issued. The taxi sector is segmented among different services provided by way of a specific taxi licence. Moreover, the rigid geographical segmentation makes competition among operators very difficult. According to the 2012 Study, the taxi sector generates low turnover and, among residents, the bus is the preferred transport mode. The few intercity licences, allowing the pickup of passengers at the airports and in the most touristic areas, are the most valuable ones. International ridesharing platforms are present, matching drivers and passengers especially for rides between Nicosia and Limassol.

XI. Conclusions

In Cyprus, competition is limited to intracity taxi operators. Intracity taxi operators put particular emphasis on the provision of qualitative services to their clients with a view to maintaining a steady clients base. The intercity taxi and the rural taxi have a limited area of activity. The taxis services are a small segment of the public transport and are mainly destined to businesses and tourists. Hire car with driver is only reserved to limousine for special occasions or for tourists; ridesharing intermediaries are present, but they are not particularly developed due to the small dimensions of the island.

Bibliography

1. Statistical Service of the Ministry of Finance of the Republic of Cyprus.
2. website: www.mof.gov.cy/cystat.
3. website:
http://www.mcw.gov.cy/mcw/mcw.nsf/mcw14_en/mcw14_en?OpenDocument.
4. website:
http://www.mlsi.gov.cy/mlsi/dl/dl.nsf/dmllegislation_en/dmllegislation_en.
5. Law on Motor Vehicles (Technical Inspection and Centers of Technical Inspection) 2007 as amended.
6. Law on Performing the Profession of Licensing for the Use of Luxury Vehicles with Drivers 2015.
7. Law on the Compulsory Insurance of Liability Against Third Party Arising out of the Use of Motor Vehicles as amended.
8. Measuring Instruments Directive 2004/22/EC.
9. Regulations Road Traffic Law of 1964 as amended.
10. Road Traffic Law No. (9/1982).
11. The Traffic Transportation Law 1982 as amended.
12. The Law on Professional Driver's Licence 2011 as amended

5. CROATIA

General Legal Framework

The main national legislation, the Road Transport Act (RTA) provides a legal framework for taxi service and hire cars with drivers, while the detailed regulation is delegated to the local governments.

Licences

According to the RTA, in order to perform the taxi transport activity, an internal transport licence (hereinafter, the "licence") and a taxi permit are required. The County Administrative Offices issue the licences and the local governments issue the permits. Each municipality and local autonomy is entitled to set a maximum cap on the number of licences. The National Competition Authority has criticised some recently adopted decisions of the local autonomies to reduce the number of licences that each operator may hold, considering this approach as anticompetitive.

Technical requirements

A vehicle that is going to be used for taxi services must fulfil the technical requirements laid down in the Ordinance on special conditions for vehicles performing public road transport and transport for personal needs. The main technical requirements are: a taximeter, the "TAXI" label on the roof of the vehicle which must illuminate when the vehicle is free, a certified price list in a visible place.

Organisational and professional requirements

The local government is entitled to determine the organisation of taxi transport service, the parking stands for taxis and their use, the number of seats in the vehicle, and other prerequisites related to the appearance and to the equipment of the vehicles. Therefore, the criteria that should be met to obtain the taxi permit may vary given the area for which the taxi permit is issued. As for the professional requirements, the applicant must have a good reputation; not having been convicted for a relevant crime; he must have the professional qualifications; he must own at least one registered motor vehicle or to have a leased vehicle.

Fares

According to the RTA, the local government is entitled to determine the price of the taxi transport. Therefore, the price of taxi transport varies depending on territory. The taxi service providers are generally free to set their own fares within the limits set out by the local regulation. In Zagreb, there are maximum fares and restrictions on the discounted fares.

Passenger rights

There is no exhaustive list of passenger rights in taxi service legislation. Some passenger rights are provided by the consumer protection legislation.

Labour rules

Taxi drivers may be self-employed or employees. In case of self-employed operators, the taxi driver must be registered with the Chamber of Trades and Crafts and hold a taxi permit. For employees, general labour rules on employment contracts are applicable.

Airport

No specific rules are provided for the airports.

Enforcement

The Inspection of Road Transport, the State Inspectorate and the Municipal Utility Inspection are competent to supervise over the performance of the taxi activity.

Hire cars with driver

Except for the mentioned provision, the RTA allows for the so-called occasional transport of passengers performed by bus or by hire cars with drivers (7+1 and 8+1).²⁷⁶ When performing the occasional transport of passengers, the operator is obliged to have a transport contract concluded before performing the transport. The contract must cover one-time transport. The operator must hold a licence issued by the County Administrative Offices.

Ridesharing

There is no special legislation applicable to ridesharing and car sharing and, according to the replies to the stakeholder consultation, in the current legislative environment, it is difficult to develop innovative services. Long-distance ridesharing intermediaries are also available in Croatia.

Country market

The taxi market is local and the service may only be performed within the area of authorisation, where the taxis may be hailed on the street, at a taxi stand, or booked in advance. The hire car with driver service has started to develop only recently with the arrival of intermediaries and new innovative service providers. Before, hired cars services were provided only by taxi companies as part of their offers. The lack of regulation concerning the hire cars with drivers has rendered the development of the service difficult and the Customs Authority has assimilated the hire car with driver operators to taxi operators thus requiring the transport licence and the taxi permit.

Market players

The largest taxi player is the Association of Taxi Transport in the City of Zagreb (hereinafter: the "Association") which was founded in 1924 and is currently is handling around 1030 vehicles. It owns Radio Taxi Zagreb, a dispatch centre, but affiliation is not mandatory for the members of the Association. The market is characterized by a large number of self-employed drivers. In the City of Zagreb there are two large companies employing drivers: Taxi Cammeo and Eko Taxi. Taxi Cammeo is also providing taxi services in other cities such as Rijeka, Osijek, Varaždin, Vukovar, Šibenik, Čakovec, Koprivnica and Beli Manastir. Both companies are taxi operators holding several licenses for salaried employees. They also have their own dispatch centres. Uber has recently entered the market in Zagreb and it has extended its service with a new offer during the tourist season, making the UberX service available on the Croatian coast (Split, Dubrovnik) for summer period.

Barriers, limitations and incentives

The most relevant barrier for the taxi sector is the quantitative restriction on the number of licences. The national competition authority has strongly criticised the measures introduced by certain local authorities to further reduce the number of licence. The number of taxi licenses varies from one municipality/city to another given that national legislation allows them to issue as many or as few licenses as they wish. In addition, there are no uniform requirements/criteria for obtaining taxi licenses. Instead, they are defined at the municipal level, but generally include an exam on tourism, city topography, taxi conditions of fitness and use of taximeter.

Capacity, growth and impact

In the absence of data, it was not possible to draw a conclusion on capacity. However, the recent arrival of innovative service providers, in particular in the hire cars with drivers sector, seems to demonstrate that there is space and demand for new services alternative to taxis. Certain local regulations, such as in the city of Zagreb, also impose fares' controls, limiting competition based on discounts, rendering the hire cars with drivers' services more attractive since they are exempted by the fares regulations and they fares are cheaper.

Conclusions

Market access to taxi sector is extremely difficult due to different applicable regulation and competition is limited by measures introduced at local level in order to maintain the status quo. However, hire cars with drivers have started to operate recently in the main cities and, despite initial difficulties, are slowly developing and becoming attractive. Not for profit ridesharing is present in Croatia.

²⁷⁶ Article 55 of the Road Transport Act.

I. Introduction

In Croatia, the main legislative act in the area of personal transport is the Road Transport Act, implemented by a number of Ordinances of the Ministry of the Maritime Affairs, Traffic and Infrastructure and by local and municipal regulations. There are no specific provisions on ridesharing and car sharing services, neither at national nor at local level, but national legislation allows for hiring cars with drivers, leaving the local self-government to set the conditions for such transport.

The local self-government authority is entitled to issue taxi licenses and examine whether the applicants meet the required criteria, assessing the applicant's driving skills and knowledge.

II. Legal framework applicable to taxis

II.1 National/Local/municipal regulations

The relevant legislation regulating taxi services in Croatia is set in Acts and Ordinances issued by the Ministry of the Maritime Affairs, Traffic and Infrastructure. The national legislation provides a general legal framework for taxi service, while the detailed regulation of taxi service is delegated to the authorities of local government.

National legislation applicable to taxis consists of the following:

- Road Transport Act (Official Gazette No. 82/13, hereinafter: the "RTA");²⁷⁷
- Act on Working Hours, Compulsory Breaks for Mobile Workers and Recording Equipment in Road Transport (Official Gazette No. 75/13, 36/15);²⁷⁸
- Act on Inspection of Road Transport and Roads (Official Gazette No. 22/14);²⁷⁹
- Ordinance on metrological and technical requirements for taximeters installed in taxis (Official Gazette No. 58/01, 74/14);²⁸⁰
- Ordinance on special conditions for vehicles performing public road transport and transport for personal needs (Official Gazette No. 82/13).²⁸¹

II.2 Procedures for issuing licenses and applicable criteria

According to the RTA, to perform taxi transport activity, a person must obtain an internal transport licence (hereinafter the "licence") and a taxi permit. The competence to issue transport licence belongs to the County Administrative Offices competent for the transport activities²⁸², while the issuance of a taxi permit is delegated to the competent body of self-government.²⁸³ To get the licence, the applicant needs to meet the following criteria:²⁸⁴

- have good reputation;
- have professional qualifications;

²⁷⁷ available at: http://narodne-novine.nn.hr/clanci/sluzbeni/2013_06_82_1732.html.

²⁷⁸ available at: <http://narodne-novine.nn.hr/clanci/sluzbeni/339523.html>.

²⁷⁹ available at: <http://www.zakon.hr/z/469/zakon-o-inspekciji-cestovnog-prometa-i-cesta>.

²⁸⁰ available at: http://narodne-novine.nn.hr/clanci/sluzbeni/2011_05_58_1276.html.

²⁸¹ available at: http://narodne-novine.nn.hr/clanci/sluzbeni/2013_06_82_1732.html.

²⁸² Article 14 of the Road Transport Act.

²⁸³ Article 56 of the Road Transport Act.

²⁸⁴ Article 15 of the Road Transport Act.

- own at least one registered motor vehicle, or have the right to use the vehicle based on lease agreement.

According to the RTA, the good reputation is excluded²⁸⁵ if the applicant:

- has been convicted for a criminal offence concerning labour rules and social security, environmental law, public safety, traffic safety, property, economy, official duties and for the criminal offence of counterfeiting;
- is convicted for other crimes with a sentence of imprisonment for more than one year;
- is prohibited to perform the activity of road transport.

Moreover, within two years before the application, the applicant must have not been convicted for: a serious offence related to the activity of road transport of passengers or cargo or in the field of road safety, transport of dangerous goods, illegal work and employment, public roads, unfair competition, transports without proper licence or in a way contrary to the provisions of international treaties.²⁸⁶

Concerning the professional qualification, the operator has to be professionally qualified or employ a person who fulfils the necessary professional qualifications.

Professional qualifications are:

- Higher education in road transportation and traffic; or
- High education in road transportation and traffic.

If the operator does not meet the above-mentioned requirements, he/she has to pass the exam for professional competence, organized and conducted by the Croatian Chamber of Commerce and Croatian Chamber of Trades and Crafts.

The licence is issued for 10 years and cannot be transferred to another person.

Beside the licence, a person who wants to drive a taxi must either be employed in a taxi company that holds a taxi permit or independently apply for the permit. In order to apply for a taxi permit with the competent local self-government authority, the person or the operator needs to fulfil the following criteria:

- he/she must pass the exam for the taxi driver; and
- he/she has to have a valid transport licence.²⁸⁷

The competent authority of the local self-government stipulates the method of assessment of the required knowledge for the taxi driver exam.²⁸⁸

²⁸⁵ Article 16 of the Road Transport Act.

²⁸⁶ The good reputation is proven with the certificate of criminal record and record for offences, which cannot be older than three months from the date of issuance.

²⁸⁷ Article 56 of the Road Transport Act.

²⁸⁸ Article 59 of the the Road Transport Act.

The licence is issued for the area of municipality or county. The issuance is regulated by regulations issued by the competent local self-government authority. The competent local self-government authority is entitled to determine the organization of performance of taxi transport, the parking spaces for taxis and the terms of their use, the number of seats in the vehicle, and other prerequisites related to the appearance and equipment of vehicles. Therefore, the criteria which should be met to obtain the taxi permit could vary given the area for which the taxi permit is issued.

The Municipalities are entitled to set the maximum amount of taxi permits to be issued. The City of Zagreb has passed legislation according to which, from 2017, a public tender will be launched every 4 years.

The taxi service must be performed in the municipality where the taxi driver has the residence or the company providing taxi service has its registered seat.

The taxi permits are not tradable. In this respect, there is a secondary (black) market for trading of taxi permit.²⁸⁹ For example, according to the Decision on Taxi Transport (Official Gazette of the City of Zagreb No. 16/13, 24/13, 9/15, hereinafter: the "Decision for taxi service in Zagreb") rendered by the City Council of Zagreb²⁹⁰ one taxi operator may obtain 50 taxi permits. When applying for a certain number of permits the applicant has to provide, in advance, personal information concerning each driver. However, if a driver withdraws from taxi activity, the owner of the permit is usually leasing the permits, whereas the lease agreement and the fee for the lease are not registered by any competent authority and therefore, the taxes on leasing revenues are not paid.

From the legal point of view, such practices are difficult to detect and sanction especially because there is no written proof of the lease agreement between the permit owner and the lessee.

II.4 Technical requirements applicable to licensed vehicles *(taximeters, vehicles' technical specifications, accessibility, insurance, maintenance)*

All vehicles used as taxis must have a taximeter. Metrological and technical requirements for taximeter are set out in the Ordinance on metrological and technical requirements for taximeters installed in taxis (Official Gazette No. 58/01, 74/14). Installation of the taximeter is performed by an authorised service centre. After the installation is conducted, it is necessary to submit the request for the verification of the taximeter to the State Institute of Metrology.

A vehicle that is going to be used for taxi services must fulfil the criteria stipulated in the Ordinance on special conditions for vehicles performing public road transport and transport for personal needs (Official Gazette No. 82/13). Among the requirements, there are: the use of the taximeter; the lighted label "TAXI" on the roof of the vehicle,

²⁸⁹ Unofficial information obtained during the stakeholder consultation.

²⁹⁰ Article 4 of the Decision on Taxi Transport (Official Gazette of the City of Zagreb No. 16/13,24/13, 9/15).

See webpage:

<http://www1.zagreb.hr/slqglasnik/index.html#/akt?qodina=2013&broj=160&akt=559EB591CEAE762DC1257BAD003639AC>.

which must illuminate when the vehicle is free to ride; and the certified price list displayed on the visible place.

The competent local authority is entitled to envisage additional prerequisites, in addition to those included in the Ordinance, related to the appearance and equipment of vehicles. Thus, the vehicles' technical specifications vary given the area where the taxi service is performed. For example, the Decision for taxi service in Zagreb stipulates that the taxi vehicles must be white.

All road vehicles in Croatia are required to be insured against liability for damage caused to the third parties by the use of vehicles in accordance with the Mandatory Traffic Insurance Act (Official Gazette No. 151/05, 36/09, 75/09, 76/13, 152/14). Thus, the taxi company or the individual driver who owns the car is obliged to have this type of insurance policy. Furthermore, the same Act also envisages the mandatory insurance of passengers for vehicle used for public transport, including taxi vehicles.

II.5 **Qualitative requirements** (*fitness of the driver, knowledge and skills required, drivers' training*)

As explained under s. II.3, in order to obtain the taxi permit the applicant has to pass the exam for the taxi driver. The examination process is within the competence of a local self-government authority, which stipulates the method of examination.²⁹¹

For example, the method of examination for a taxi driver for the Zagreb territory is set out in Regulation on the special examination for taxi drivers. The candidates who have secondary education in transportation and traffic and possess a valid driving licence can enter the exam. The exam consists of an oral and a practical part. During the oral part of the exam is tested the knowledge of basic cultural, historical, economic, tourist, traffic, social, entertainment and other information about the City of Zagreb, as well as the knowledge of the duties and of the rights of taxi drivers. The practical part of the exam consists of checking the driving skills and the compliance with traffic rules, the driving techniques and the knowledge of traffic regulations in order to reach the given destination using the most economical route. The practical part of the exam is conducted in the candidate's vehicle, which must fulfil the technical conditions for taxis.

The cost of the examination amounts to HRK 700.

II.6 **Organizational requirements** (*dispatch affiliation centre, minimum service*)

Taxi services may only be carried out if the driver works for a taxi company that holds a taxi permit, or as a self-employed taxi driver that is registered in the directory of businesses (artisans) and holds the taxi permit.

Customers can book a taxi through phone or web applications, also by hailing the taxi while it is parked or travelling on the streets open to public traffic.

²⁹¹ Article 59 of the Road Transport Act.

In Croatia, there is no obligation to be affiliated to a dispatch centre. In the largest urban areas like capital city Zagreb, the majority less than 10% of the taxi drivers are not affiliated to a dispatch centre. Those affiliated realise a percentage of their turnover through the dispatch centre.

II.7 Fares (*criteria for taxi fare setting, authority/body in charge of setting the tariffs, maximum tariffs and/or fixed tariffs, composition of the tariff and tariffs adjustment mechanism [minimum charge, additional charge for using the radio taxi or dispatch centre, increase of the tariff during certain hours, such as at night or on certain journeys, such as towards the airports, reductions for certain categories, such as elderly people]*)

According to the RTA, the local self-government authority is entitled to determine the price of the taxi transport. Therefore, the price of taxi transport varies depending on the territory where the service is provided. Taxi operators are generally free to set their own fares within the limits set out by the local self-government regulation.

Thus, the Decision for taxi service in Zagreb prescribes that the taxi service operators are free to determine the price for the taxi transport within the maximum set by the city price list, which is verified by the local self-government authority.

The Decision for taxi service in Zagreb also sets out the maximum fares of taxi transport for:

- start riding, amounting to HRK 16,00;
- driving per kilometre, amounting to HRK 6,00;
- waiting time per hour, amounting to HRK 43,00;
- transport of luggage per piece, amounting to HRK 2,50.

Maximum fares may be increased up to 20% in case of night driving or driving during Sundays and national holidays.

When the transport destination is located outside of the city the parties agree on price freely.

The same criteria²⁹² for determining the taxi fares are envisaged in the Decision for taxi service in Rijeka and Split with one more exception in Split case, where the taxi fares further distinguish between the summer and winter period.

Uber has entered the Zagreb hire car with driver market with UberX in 2015 and in 2016 has extended the offer to Split and Dubrovnik for 2016 summer, in order to accommodate with the growing tourists' demand. The fares proposed by Uber are 20-30% cheaper than taxi and it offers fixed fares on certain highly demanded destinations.

PRICING:

²⁹² Available at: <http://www.sn.pgz.hr/default.asp?Link=odluke&id=19295>.

	Starting fare	per KM	Per min	Minimum fare
Kuna	9	5	0.5	15
USD	1.34	0.75	0.07	2.23
EUR	1.20	0.67	0.06	2

Popular rides have fixed fares:

Ride	Estimated fare in local currency	Fare in USD	Fare in EUR
Split – Dubrovnik (228 km)	1.500 kn	223	200
Split port – Split Airport	225 kn	34	30
Dubrovnik Pile gate – Dubrovnik Airport	180 kn	27	24
Dubrovnik Port Gruž – Dubrovnik Pile gate	55 kn	8	7.3

Source: uber website (last access 5 September 2016).

<https://newsroom.uber.com/croatia/we-arrived-at-the-croatian-coast-with-a-weekend-of-free-rides/>

II.8 Passenger rights

There is no exhaustive list of passenger rights in any of the respective regulations related to the taxi service. Apart from the legislation of taxi service in which the passenger rights could be found, especially in the local self-government regulation, the passenger rights are mainly covered by the legislation on consumer protection.

Passenger rights include:

- The right to be informed about the price (e.g. the driver is obliged to provide the passenger with the price list);
- The right to choose the taxi (e.g. the passenger is free to choose a taxi that is not first in line);
- The right to travel in compliance with the law (e.g. it is the taxi driver's responsibility that all legislative criteria are met if there are children travelling);
- The right to report a taxi driver to the police (e.g. if it cheats with the price);
- The taxi has the obligation to take the shortest way unless the customer wants another way to be taken. Any "scam meter" practice is illegal.

There are no special provisions on accessibility for wheelchair. However, people with disabilities fall under the anti-discrimination legislation. If a disabled person feels it has been discriminated it can report the taxi driver to the Discrimination Ombudsman.

If the person believes that the taxi operator has violated any of its rights set forth in the Consumer Protection Act, it is entitled to seek the legal protection in the manner specified in the Consumer Protection Act.

II.9 Subsidies applicable to taxi sector *(including public developed applications for taxi sector, geolocalisation, etc.)*

No such subsidies have been identified in Croatia.

II.10 Labour rules

Taxi driver activity may be performed in different ways:

- Self-employed (artisans): the taxi driver is registered in the directory of businesses and holds a taxi permit. Artisans must be registered with the Chamber of Trades and Crafts, which implies that they also have business responsibilities and they must operate in accordance with the Trades and Craft Act (Official Gazette No. 143/13), which envisages the exercise of rights set forth in the labour legislation. Further to the previous, the self-employed taxi driver is, according to the Labour Act (Official Gazette No. 93/14), subject to the exemption as to the maximum duration of weekly working time, night work and daily and weekly rest and he may decide autonomously on the time working.
- Employees of taxi companies: a single entity may hold several licenses and use them with salaried employees. The driver is linked to the holder of the authorisation by an employment contract. This agreement creates a relationship of subordination, which allows the employer to organize the work of his employee. The rules governing this contract are those of the common labour law. However, some of the employees of the one of the largest taxi operator in Croatia have entered into the collective agreement, which among other thing, regulates severance payment, compensation for night work, holidays and overtime work.

II.11 Supervisory enforcement tools

The Inspection of Road Transport, State Inspectorate and Municipal Utility Inspection are entitled to carry out the supervision over the taxi sector.

In exercising supervision, Municipal Utility Inspection is authorised to:

- remove the shortcomings related to the prescribed layout and equipment of vehicles;
- initiate an offence procedure;
- issue a mandatory offence warrant;
- impose a fine.

Utility inspection authority body keeps records of reported violations and of imposed fines on taxi drivers or driver employed with the taxi operator.

The inspector of Road Transport is conducting the supervision over the natural persons and legal entities with the aim of monitoring the implementation of the provisions of the law regulating, among others, the area of public road transport of passengers. The inspection proceeding is initiated *ex officio* or at the request of the parties.²⁹³

When conducting inspection of the taxi activity, in case of detected irregularities, the Inspector of Road Transport may, when envisaged under the law, temporarily seize licence, documents and objects which may serve as evidence in the offence or criminal proceedings, or temporarily prohibit the vehicle from circulating, and it may impose decision ordering the elimination of established irregularities.

In some cases, the licence may be temporarily or permanently revoked by the authority that has issued the licence. When the driver is sentenced for a serious offence more than two times, the licence shall be temporarily revoked for a period from one to twelve months. The issued licence shall be permanently revoked when the transport is conducted contrary to the imposed conditions for the exercise of the service.

III. Legal framework applicable to hire cars with driver

Article 60 of the RTA provides for the so-called "special form of transport" which should be regulated by the local authorities. The RTA allows for so-called occasional transport of passengers performed by bus and by private car (7+1 and 8+1).²⁹⁴ When performing the occasional transport of passengers, the operator is obliged to conclude a priori transport contract. The transport is intended to be one-time transport.

However, besides the aforementioned provision of RTA, there is no other legislation adopted at the municipal level in Croatia covering hire cars with drivers.

Upon the arrival of Uber in October 2015, there was an issue concerning its legal nature according to the existing legislation. Notwithstanding the current legislation, Uber in Croatia seems to operate on the basis of the Article 60 of the RTA regulating the special form of transport.²⁹⁵

However, this operating model is still in experimental stage and it remains to be seen whether it can exist as such or the legislative modification shall be undertaken in order to provide the legal framework for this type of passenger transport.

III.1 National/local municipal regulation

As indicated above, except for mentioned provisions of the RTA, precisely Article 55 and Article 60 of the RTA, no other national or municipal regulation has been identified in this regard.

²⁹³ Article 22 Act on Inspection of Road Transport and Roads.

²⁹⁴ Article 55 of the Road Transport Act.

²⁹⁵ Informal information obtained by the Ministry of the Maritime Affairs, Traffic and Infrastructure.

III.2 Procedures for issuing licenses and applicable criteria

According to the RTA, in order to perform the activity of transport of passengers, the person must always obtain a licence, as explained in s. II.2. This applies also to the hire car with driver service. The competence to issue transport licence is entrusted to the County Administrative Offices competent for the transport activities.²⁹⁶

III.3 Technical requirements applicable to hire cars with driver

According to the Ordinance on special conditions for vehicles performing public road transport and transport for personal needs (Official Gazette No. 82/13), the private vehicle (8+1) for the occasional transport of passengers should meet several conditions, such as have the name of the operator placed on the outside of the vehicle and have the label "occasional transport".

III.4 Qualitative requirements

The professional qualifications are the same for taxi drivers as reported above in s. II.3.

III.5 Organisational requirements

Apart from the provision of the RTA regulating the issuance of the licence that stipulates that the licence could be issued to a legal entity or to a natural person registered to perform the activity of passenger transport, there are no specific organisational requirements applicable to private hire cars.

III.6 Passenger rights

See s. II.9.

III.7 Labour rules

Since the drivers of hired cars may be self-employed or and employees of a legal entity, they are subject to the same rules as those described in the s. II.11.

III.8 Local incentives, subsidies provided by the administration in order to carry out certain services (such as mini-van service for people with reduced mobility, elderly, schools)

There are no specific incentives for hire cars with drivers.

III.9 Supervisory enforcement tools

See s. II.12

²⁹⁶ Article 14 of the Road Transport Act.

IV. Legal framework applicable to ridesharing and car sharing

There is no special legislation applicable to ridesharing and car sharing in Croatia.

IV.1 Current regulations and legislative proposals

None

IV.2 National rules applicable to on-line platform and service providers.

The Act on the Electronic Commerce (Official Gazette 173/03, 67/08, 36/09, 130/11, 30/14) is regulating electronic contracts and is applicable to the on-line platform used to pay the transport service.

IV.3 Main operators and their business models

BlaBlacar is currently operating in Croatia. The platform connects passengers who are heading to the same direction.²⁹⁷

IV.4 Requirements imposed upon non-licensed activities (safety and technical requirements, insurance requirements, obligations relating to licenses and on-line platforms)

None

IV.5 Local incentives, subsidies and other forms of promotion for ridesharing and car sharing (including, parking spots, use of preferential lanes, etc.)

None

V. Relevant national case law

With the arrival of Uber, several administrative proceedings have been initiated against the drivers providing services through Uber platform.²⁹⁸ The proceedings were initiated by the Custom Administration which, according to the Customs Service Act, is authorised to monitor the implementation of regulations aimed to prohibiting and preventing the performance of unregistered activities. In that regard, it is authorised to temporarily seize the objects by which the unregistered activity is performed. Following various complaints, the Custom Administration seized several vehicles of the Uber drivers stating that the respective drivers were performing taxi service activity illegally, since they were not in possession of the valid taxi permit. Therefore, the Custom Administration has adopted the approach to consider Uber drivers as taxi drivers.

²⁹⁷ <https://www.blablacar.hr/>.

²⁹⁸ Informal information obtained by the Customs Administration.

With regard to the local regulations concerning the taxi service, the Croatian Competition Agency (hereinafter "CCA") has issued several opinions concerning the specific provisions of the Decisions of the local-self-governments which conflicted with the competition protection law.

The CCA has issued an opinion²⁹⁹ about the Zagreb Decision on taxi transport enacted by the local self-government. The Decision was submitted to the CCA at its request with the objective to analyse the decision purely from the standpoint of competition protection law. The CCA concluded that the RTA, as a special law, is giving the power to the competent authority in the City of Zagreb to determine the price of taxi transport. Therefore, it is allowed to determine the highest price of taxi transport, for example, to start driving or driving per kilometre, which allows the competition between undertakings up to a maximum set price.

However, the CCA is of an opinion that additional administrative determination of prices, such as the newly introduced provision prohibiting the rides without charging price, reduces the possibility of competition between undertakings and the benefits for consumers because any promotional actions, such as starting price free of initial charge, are prohibited.

The CCA issued also an opinion³⁰⁰ following a complaint received from the co-owner of the joint trade K.N.B. Mobile from Split, stating that the Town of Split adopted a new Decision on the provision of taxi services based on which it restricted the number of taxi permits that may be issued to one taxi driver to one-vehicle-one-permit principle. The previous Decision allowed ten permits per one taxi driver and the complainant founded that the new Decision distorts competition.

The CCA requested the Town of Split to clarify the reasons for such decision. The Town of Split explained in its written submission that it acted upon the initiative of the association of taxi drivers of the Town of Split that wanted to engage more drivers in the taxi services. In addition, the association of taxi drivers wanted to protect their artisans claiming that companies can provide taxi services with larger taxi fleets and they reduce the market for self-employed drivers.

Notwithstanding the powers of the Town of Split as a local self-government to decide on the basis of separate laws about the criteria for the provision of taxi services in the territory falling under its jurisdiction, the CCA pointed out that the provisions should not protect a certain category of undertakings – taxi drivers- only on the basis of their legal status. Instead, the provisions should ensure equal access and participation in the market to all undertakings and encourage competition based on quality and price of the service.

At the same time, the CCA indicated that the reduction of the number of taxi permits that could be issued to one taxi operator from ten to one permit per vehicle definitely hinders the competition.

²⁹⁹ The opinion identified as Klasa 011-01/15-02/040, Ur.broj 580-12/26-15-004 dated 22 December 2015 is available at: <http://www.aztn.hr/ea/wp-content/uploads/2016/01/011-012015-02040.pdf>.

³⁰⁰ The opinion identified as Klasa 034-08/16-01/006, Ur.broj 580-12/26-16-002 dated 16 March 2016 available at: <http://www.aztn.hr/ea/wp-content/uploads/2016/02/UP-I-034-032015-02010.pdf>.

Based on the above findings, the CCA proposed to the Town of Split to reconsider respective provisions and increase the number of permits that may be issued to one undertaking for the provision of taxi services, to the benefit of the consumers in the form of lower prices, wider choice and better quality.

VI. Country Market

The taxi market is local and the service may only be performed within the area of authorisation, where the taxis may be hailed on the street, at a taxi stand, or booked in advance. The hire car with driver service has started to develop only recently with the arrival of intermediaries. Before, hired car services were provided only by taxi companies as part of their offers. The lack of regulation concerning the hire cars with driver has made difficult the development of the service and the Custom Authority has assimilated the hire car with driver operators to taxi operators thus requiring the transport licence and the taxi permit.

VII. Market players

The Association of taxi transport in the City of Zagreb (hereinafter: the "Association") was founded in 1924. A call centre was opened in 1977 and begins to work with the 160 vehicles involved in the radio network. After more than thirty years, a new fully computerized centre was opened in 2005 and today it is handling around 1030 vehicles. All self-employed (artisans) taxi drivers are members of the Association. Radio Taxi Zagreb is the dispatch centre of the Association. However, the affiliation to the dispatch centre is not mandatory for the members of the Association.

Alongside to the self-employed taxi drivers there are two big taxi companies operating in the area of the City of Zagreb; Taxi Cammeo and Eko Taxi. The Taxi Cammeo is also providing taxi service in other cities in Croatia such as Rijeka, Osijek, Varaždin, Vukovar, Šibenik, Čakovec, Koprivnica and Beli Manastir. Both companies are taxi operators holding several licenses and employ salaried drivers. They also have their own dispatch centres.

According to the information obtained from the official website of the City of Zagreb,³⁰¹ for the area of the City of Zagreb, Taxi Cammeo currently holds around 118 taxi permits while Eko Taxi holds 78 taxi permits.

Regarding to the service provided by the taxi operators, Eko Taxi is offering city and intercity transport of passengers and cargo, non-stop taxi transportation for clients with constant transport needs, transport of pets.³⁰² Taxi Cammeo is offering transportation for individuals as well as business services.³⁰³

³⁰¹ Information available at : <http://www.zagreb.hr/default.aspx?id=56685>, last was last updated on January 2016.

³⁰² Information available at: <http://www.ekotaxi.hr/en/#services>.

³⁰³ Information available at: <http://taxi-cammeo.hr/home/>.

Uber started to provide services in Croatia in 2015 and it is currently serving Zagreb with UberX service, and it also launched a seasonal service in various touristic areas in June 2016, but only for a four-month period, during the seasonal peak.

International long-distance ridesharing intermediaries are operating in Croatia.

VIII. Barriers, limitations, incentives

With regard to the taxi market, the main barriers to entry are the quantitative restrictions imposed by the local authorities which, in some cases, also impose restrictions on applicable fares.

The City of Zagreb's taxi regulations set a cap of one taxi licence per 500 inhabitants, which is an approximate cap of 1,600 taxi licenses for a whole metropolitan area of almost 1 million inhabitants. In December 2015, the City of Zagreb Assembly passed a decision that restricts the taxi operators' ability to offer fares' discounts to passengers and restricts the granting of new licenses by issuing a public call for licenses in June 2017 and every 4 years thereafter.

According to the CCA, the measures adopted by the City of Zagreb are "*objectionable in the sense of competition rules.*" The CCA found that any additional administrative price setting by the public authority would reduce competition between taxi operators with harmful effects on consumers. In fact, the provisions prevent promotional pricing, such as fares without initial charge. With regard to the quantitative restrictions on the number of taxis, the authority considered that they could be justified in case of public interest; however, a legislation that renders impossible the issuance of a taxi permit for a period of four years is a potential legal barrier to entry. Similarly, the decision of the Town of Split, which has autonomous jurisdiction, to restrict the number of taxi licences that may be issued to one taxi driver "to one-vehicle-one-permit principle" is an additional restriction to competition directed to protect the category of taxi drivers "*based on their legal status*".

With regard to hire cars with drivers, the absence of local regulation disciplining the service creates a vacuum which makes the performance of the service difficult. Uber started to provide its service in 2015 in Zagreb, but the drivers who decided to offer their services through the platform encountered difficulties since the Custom Administration assimilated them to taxi drivers and required the taxi permit. Recently, the service seems to encounter less difficulties and has also expanded to other cities. Moreover, since the fares restrictions are not applicable to hire cars with drivers, operators affiliated to the Uber platform can offer rides at fares lower than taxis. This renders their services more attractive.

IX. Capacity, growth, impact

The number of taxi licenses across the country varies from one municipality/city to another given that the national legislation allows them to regulate the number of licences. In addition, there are no uniform requirements/criteria for obtaining taxi licenses in Croatia, as these are defined at the municipality level, but generally include an exam on issues such as tourism city topography, conditions of fitness of the vehicle, taximeter.

With no readily available data and due to the lack of replies to the stakeholder consultation, only qualitative assessment could be carried out. The market is closed, and the approach of the local authorities in the main cities, has been to reduce the number of new licences. In Zagreb, the municipality has restricted the taxi operators' right to provide discounts. This, combined with a controlled number of licences, intends to maintain the status quo of the taxi operators. Despite a stringent regulation, Uber services have proven to be flexible. The intermediary has also launched a touristic season service in order to respond to increased demand of personal transport during the peak season.

Long distance pre-arranged ridesharing is provided by international players, such as Blablacar and Carpoolword.

X. Results

Taxis dominate the hire transport sector and, despite the recommendations of the national competition authority, the local self-governments are adopting regulations which restrict the access to the market for new operators.

While in principle the hire car with drivers is not prohibited, the conditions for obtaining the licence are the same as for taxis. As a result, currently the hire cars with drivers services, including black cars for hotels, corporations and diplomats, are provided by taxi operators. As said above, Uber first launched its services in 2015 in Zagreb but encountered difficulties and enforcement actions due to the obligation for the drivers to have a taxi licence. However, it has recently extended its area of operation with a flexible option available only for four months, during the peak touristic season, and with discounted and flat fares for the most demanded destinations.

XI. Conclusions

Access to the taxi market is restricted by quantitative thresholds adopted by the local governments, which, in some cases, are also combined with a strict control on the applicable fares. Hire car with driver is regulated at national level but the lack of regulation at local level has created a legislative gap where it is difficult to develop new transport services. However, large intermediaries have entered the market, and despite an initial resistance, they showed ability to provide flexible services that adapt to the needs of the demand.

Bibliography

1. Road Transport Act (Official Gazette No. 82/13) available at: http://narodnenovine.nn.hr/clanci/sluzbeni/2013_06_82_1732.html
2. Act on Working Hours, Compulsory Breaks for Mobile Workers and Recording Equipment in Road Transport (Official Gazette No. 75/13, 36/15) available at: <http://narodne-novine.nn.hr/clanci/sluzbeni/339523.html>,
3. Act on Inspection of Road Transport and Roads (Official Gazette No. 22/14) available at: <http://www.zakon.hr/z/469/zakon-o-inspekciji-cestovnog-prometa-i-cesta>
4. Ordinance on metrological and technical requirements for taximeters installed in taxis (Official Gazette No. 58/01, 74/14) available at: http://narodne-novine.nn.hr/clanci/sluzbeni/2011_05_58_1276.html,
5. Ordinance on special conditions for vehicles performing public road transport and transport for personal needs (Official Gazette No. 82/13) available at: http://narodne-novine.nn.hr/clanci/sluzbeni/2013_06_82_1732.html.
6. Decision on Taxi Transport of the City of Zagreb (Official Gazette of the City of Zagreb No. 16/13,24/13, 9/15) available at: <http://www1.zagreb.hr/slglasnik/index.html#/akt?godina=2013&broj=160&akt=559EB591CEAE762DC1257BAD003639AC>
7. Decision on Taxi Transport of the City of Rijeka (Official Gazette of Primorje-Gorski Kotar County Year XVIII. – number 6.) available at: <http://www.sn.pgz.hr/default.asp?Link=odluke&id=19295>
8. The opinion of the Croatian Competition Authority identified as Klasa 011-01/15-02/040, Ur.broj 580-12/26-15-004 dated 22 December 2015 available at: <http://www.aztn.hr/ea/wp-content/uploads/2016/01/011-012015-02040.pdf>
9. The opinion of the Croatian Competition Authority identified as Klasa 034-08/16-01/006, Ur.broj 580-12/26-16-002 dated 16 March 2016 available at: <http://www.aztn.hr/ea/wp-content/uploads/2016/02/UP-I-034-032015-02010.pdf>
10. <https://www.blablacar.hr/>
11. <http://www.ekotaxi.hr/en/#services>
12. <http://taxi-cammeo.hr/home/>
13. <http://www.aztn.hr/en/>
14. <http://www.zagreb.hr/default.aspx?id=1979>

6. CZECH REPUBLIC

General Legal Framework

The legal framework for taxi services is set forth primarily in Act No. 111/1994 Coll., Road Transportation Act, as amended (RTA). Ridesharing and car sharing are not specifically regulated under Czech law. However, if the driver pursues these activities regularly in order to make profit, it will most likely fall within the category of classic taxi services and be subject to the same regulation.

Licenses

Any person who intends to carry out taxi services must obtain the concession; the obligation is not applicable to taxi drivers employed under an employment contract with the carrier. The taxi driver must apply for the taxi drivers' permit with the Transportation Office according to the taxi driver's place of residence. In order to conduct the work of a taxi driver, taxi drivers must register their vehicles in the register of taxi vehicles.³⁰⁴ The vehicle must be registered either in the taxi drivers own name if he/she is also the carrier (i.e., a self-employed taxi driver) or in the name of the carrier if the taxi driver is employed with the carrier.

Technical requirements

The carrier must ensure that the vehicles used to provide taxi services are: equipped with a yellow roof lamp with the word "TAXI" on its rear and front side; labelled with name, surname or company name of the carrier placed on the vehicle in a way that the passenger can familiarize himself/herself with this information before the negotiations about the transportation with the taxi driver; and equipped with an up-to-date extract from the register of taxi services vehicles. In addition, the carrier must ensure that the vehicles are equipped with a taximeter device complying with the requirements set out by special legislation and consisting of a taximeter, memory card, measuring converter of the distance travelled and a printer. Taxi vehicles need to undergo technical inspections within a year after their first registration and each year thereafter.

Organisational and professional requirements

To obtain a trade licence, the taxi driver must fulfil the general and special conditions under the Trade Licensing Act, which are: to be at least 18 years of age; have legal capacity; and clean criminal records. A certificate of professional competence to operate road transportation must be obtained after having successfully taken a written examination at the Transportation Office. There are no legal regulations on organizational requirements in the Czech Republic on how a taxi may be hired. Taxis can be dispatched from taxi centres through customer requests via phone or mobile applications or hailed freely on the street.

Fares

There is no national legislation regulating fares. However, the possibility of imposing regulations on taxi fares follows from the general price regulation rules set out in the Act on Prices. In Prague, the maximum fares are set by Regulation No. 20/2006. Due to the lack of specific legal basis, maximum fares have been challenged before the courts. The Czech Supreme Administrative Court rendered an opinion in which it confirmed the legitimacy of the price regulation, which is directed to correct the asymmetry of information.

Passenger rights

Passenger rights are covered by several regulations. Core passenger rights are set forth in the RTA and includes carrier name visibility, legibility of taximeter, receipt, information obligation.

Labour rules

Taxi drivers shall be either employed by a carrier or provide taxi services as a self-employed driver. Taxi drivers who are employed by a taxi company are subject to the general Czech labour law rules.

Airports

Only one company has the authorisation to serve the Prague airport.

³⁰⁴ Sec. 21d(1)(a) of the RTA.

Enforcement

The Ministry of Transportation and the transportation offices, i.e. the Prague City Hall, municipal authorities of statutory cities and municipalities with extended powers, inspect the compliance with obligations set forth in the RTA. The Czech Trade Inspection Authority and trade licensing offices supervise and control compliance with obligations stipulated by the Consumer Protection Act. Compliance with the obligations stipulated in the taxi fares regulations, set out in accordance with the Act on Prices, and is monitored by the municipalities.

Hire cars with driver

The legal regulation applicable to taxi services also applies to hire cars with drivers. As a general requirement, Article 21 para. 4 of the Act no. 111/1994 Coll. provides for exemption from the obligation to use the taximeter and of identification signs during transportation provided under previous written contract. The operator of the occasional passenger transport is obliged to record the transport service booking in a book of advanced orders to ensure that the driver will be able to provide evidence of service at the request of the controlling authority.

Ridesharing

Ridesharing and car sharing are not specifically regulated under Czech law.

Country market

Any personal transportation by road motor vehicles conducted for non-private purposes and for remuneration is considered to fall within the category of taxi service. There is no specific legal recognition and regulation of ridesharing, peer-to-peer transport or hire car with driver services. Hire cars with drivers do not exist as a standalone category.

Market players

In the taxi sector, the competition is mainly concentrated around large dispatch centres: Taxi AAA (which is the only taxi operator authorised to stand in line at Prague airport) Halotaxi, and Citytaxi. They provide a large range of services, including business, cargo and limousine service. As for the hire car with driver's services, Uber is present with the top tier service Uberblack and the low cost option UberPop, and Blacklane is offering pre-booked limousine service., Taxi apps, such as Liftago Taxi, connect licensed taxi drivers with passengers. With regard to long distance ridesharing, Blablacar and Spolujízda are providing intermediation services.

Barriers, limitations and incentives

The market is not heavily regulated. There are no quantitative restrictions, and the taxi activity is subject only to qualitative regulation. The licence entitling the taxi service operation is, in principle, not locally restricted. Since there is no distinction between taxis and hire cars with drivers, the limousine service is mainly provided by taxi companies and dispatch centre offering both services. The contractual agreement necessary for hire car with driver's service could be the main obstacle to the development of services alternative to taxis, since it requires a prior booking but not immediately prior the riding, which excludes, in principle, booking via apps.

Capacity, growth and impact

The taxi market does not present significant barriers to entry, since there are no quantitative restrictions and no national regulation concerning fares. Maximum fares are only decided at local level in certain municipalities. Moreover, also hire transport provided by non-professional drivers may be facilitated by the intermediaries, such as UberPop. The low level of market regulation seems to provide the possibility to develop innovative services.

Conclusions

The legislation mainly covers the taxi sector. The indirect barriers to entry (special trade licence for taxi services, local taxi driver examinations, and effective inability to use electronic ordering of private hire cars) seems to render the access to taxi market difficult. However, the lack of regulation of hire cars with drivers and the relatively good acceptance of hire transport provided by non-professional drivers have rendered the development of alternative services possible.

I. Introduction

The existing regulation of taxi service has been subject to intensive discussions in the Czech Republic, mainly due to the arrival of many start-up enterprises offering non-professional hire transport services, including ridesharing. These ridesharing services are popular in particular in the capital city of Prague and taxi drivers consider them as a threat to their business. According to taxi drivers, these services enjoy unfair competitive advantages and even have organized a few strikes and demonstrations in 2014-2016 to convince the Government and the Prague City Hall to uphold the existing strict regulation and enforce it against ridesharing services. So far, in accordance with the statement of the spokesperson of the Czech Ministry of Transportation, drivers of private hire cars carrying passengers who ordered and paid for the service through a specialized mobile app are considered to be providing classic taxi services and are subject to the same regulation as taxi drivers.

II. Legal framework applicable to taxis

Provision of taxi services is mainly regulated by legislation adopted at the national level. To a certain extent, municipalities have competence to determine additional conditions, especially with respect to taxi drivers' qualifications, taxi stands and fares.

II.1 National/local/municipal regulations

II.1.1 National regulations

The legal framework for taxi services is set forth primarily in Act No. 111/1994 Coll., Road Transportation Act, as amended (**RTA**).

Ridesharing is not specifically regulated under Czech law. However, if the driver pursues the transport activity regularly in order to make profit, it will most likely fall within the category of taxi services and be subject to the same regulation.

Other national regulations affecting the provision of taxi services are:

- Act No. 455/1991 Coll., Trade Licensing Act, as amended (Trade Licensing Act);
- Act No. 262/2006 Coll., the Labour Code, as amended (Labour Code);
- Act No. 526/1990 Coll., on Prices, as amended (Act on Prices);
- Act No. 634/1992 Coll., on Consumer Protection, as amended (Consumer Protection Act); and
- Act No. 64/1986 Coll., on Czech Trade Inspection, as amended (Act on Czech Trade Inspection).

II.1.2 Local/municipal regulations

The RTA³⁰⁵ authorises the municipalities to issue decrees setting forth certain additional rules regarding the provision of taxi services. Particularly, the municipalities are authorised to issue decrees under which they may:

³⁰⁵ Sec. 21b of the RTA.

- require the drivers to, prior to commencing the passenger transport, pass examination on local geography; operation of taximeter and legislation regulating taxi services and consumer protection;
- determine the form of the examination, the standard form of the certificate attesting the passing of the examination and the period of validity of the certificate; and
- lay down conditions for the use of taxi stands and issue the rules of operation of the taxi stands.

Under the Act on Prices, municipalities are also authorised to issue regulations on maximum fares for taxi services.

II.2 Procedures for issuing licences and applicable criteria

II.2.1 Trade licence

Provision of taxi services, if carried out as a systematic activity, independently, in one's name and on one's own account, in order to make profit (business activity), would fall under the regulation of the Trade Licensing Act.³⁰⁶ If a person intends to provide taxi services as business activity, he/she has to obtain a specific trade licence (*concession*) in order to be legally entitled to do so.

The concession must be obtained by the self-employed and by the operators. It is not applicable to taxi drivers employed within an employment relationship with the carrier. The scope of business of the concession is "road passenger transport using vehicles designed to carry up to nine persons including the driver".³⁰⁷

Service providers may apply for the concession with any local Trade Office. Acceptance of the application is subject to the administrative fee of CZK 1,000 (approx. EUR 37).³⁰⁸ The Trade Office should issue the concession within 30 days from the filing of the application upon meeting the criteria of the Trade Licensing Act.

The applicant must comply with the following qualifications in order to be granted the concession:

- be at least 18 years of age;
- have full legal capacity;
- have clean criminal records within the meaning of the Trade Licensing Act.³⁰⁹

Furthermore, the applicant is obliged to attest the professional competence to the Trade Office by a certificate of professional competence. The competent Transportation Office issues the certificate after passing a written examination (Section II.5.1 below). The

³⁰⁶ Sec. 2 of the Trade Licensing Act.

³⁰⁷ Sec. 26 and Annex No. 3 of the Trade Licensing Act.

³⁰⁸ Item 22(b) of Part I of Annex to the Act No. 634/2004 Coll., on Administrative Fees, as amended.

³⁰⁹ Clean criminal records within the meaning of the Trade Licensing Act mean that the person has not been convicted for intentionally committed crime in relation to the business or the scope of business for which the person applied, unless such person is considered not convicted.

issuance of the certificate of professional competence is subject to a fee of CZK 1,000 (approx. EUR 37).³¹⁰

II.2.2 Taxi drivers' permit

Every taxi driver, irrespective of whether he is self-employed or employed by a taxi operator, must hold a valid taxi drivers' permit.³¹¹

The taxi driver must apply for the taxi drivers' permit with the Transportation Office according to the taxi driver's place of residence. Acceptance of the application for the taxi drivers' permit is subject to the administrative fee of CZK 500 (approx. EUR 18.50).³¹² The Transportation Office issues the taxi drivers' permit within 30 days from the filing of the application if the applicant meets the requirements of the RTA, such as the minimum age of 21 years and general reliability of the taxi driver (see details under s. II.5.1 below).

The taxi drivers' permit is valid for the period of 5 years and is non-transferrable. There are no limits on the number of permits issued to one taxi driver.

II.2.3 Registration of vehicles

Taxi drivers must register their vehicles in the register of taxi vehicles.³¹³ The vehicle must be registered either in the taxi driver's own name if he/she is also the carrier (i.e., a self-employed taxi driver) or in the name of the carrier if the taxi driver is employed with the carrier.

The relevant Transportation Office will register the vehicle based on an application of the carrier and upon meeting the conditions specified in Sec. 21a of the RTA. Importantly, the vehicle must fall in either the category L^{314 315} or M1³¹⁶ and the carrier must be registered as the owner or operator of the vehicle in the register of motor vehicles.

II.3 Technical requirements applicable to licensed vehicles *(taximeters, vehicles' technical specifications, accessibility, insurance, maintenance)*

II.3.1 Taxi equipment

³¹⁰ Item 24(c) of Part I of Annex to the Act No. 634/2004 Coll., on Administrative Fees, as amended.

³¹¹ Sec. 21c of the RTA.

³¹² Item 34(13) of Part I of Annex to the Act No. 634/2004 Coll., on Administrative Fees, as amended.

³¹³ Sec. 21d(1)(a) of the RTA.

³¹⁴ Section 3(1) of the Decree No. 341/2014 approving the technical competence and technical conditions for operating vehicles on road.

³¹⁵ Article 2 of the Directive 2002/24/EC of the European Parliament and of the Council of 18 March 2002 relating to the type-approval of two or three-wheel motor vehicles and repealing Council Directive 92/61/EEC.

³¹⁶ ANNEX II, part B of the 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 (Framework Directive).

The carrier must ensure that the vehicles used to provide taxi services are:³¹⁷

- equipped with a yellow roof lamp with the word "TAXI" on its rear and front side;
- labelled with name, surname or company name of the carrier placed on the vehicle in a way that the passenger can familiarize himself/herself with this information before the negotiations about the transportation with the taxi driver; and
- equipped with an up-to-date extract from the register of taxi services vehicles.

In addition, the carrier must ensure that the vehicles are equipped with:

- a taximeter device complying with the requirements set out by special legislation³¹⁸ and consisting of a taximeter, memory card, measuring converter of the distance travelled and a printer;
- taximeter book; and
- transportation records of the working day printed out from the taximeter's printer.

The colour of the vehicles used for taxi services is not regulated. Similarly, there are no specific requirements as to the technical specifications or technical condition of the vehicles. However, general rules applicable to all motor vehicles would still be applicable.

Finally, when on duty, the taxi driver must place the original of the taxi drivers' permit in the vehicle so it is visible and legible from the passenger's seat.³¹⁹

II.3.2 Insurance and maintenance

Carriers are not under any special obligation concerning liability insurance. Only general rules regulating mandatory insurance of liability for damage caused by the operation of a vehicle apply.³²⁰ Similarly, there are no special rules regarding the maintenance of taxi vehicles.

II.3.3 Technical inspections

Taxi vehicles need to undergo the technical inspections within a year after their first registration and each year thereafter.³²¹

II.3.4 Accessibility

There is no obligation to ensure wheelchair accessibility of taxi vehicles.

³¹⁷ Sec. 21 of the RTA.

³¹⁸ Act No. 505/1990 Coll., on Metrology, as amended, and Act No. 22/1997 Coll., on Technical Requirements for Products and on Amendments to Some Acts, as amended.

³¹⁹ Sec. 21d(3) of the RTA.

³²⁰ Act No. 168/1999 Coll., on insurance for liability for damage caused by the operation of a vehicle and amending some related laws (the Compulsory Motor Vehicle Insurance Act), as amended.

³²¹ Sec. 40(1)(b) of the Act No. 56/2001 Coll., on the Conditions for the Operation of Vehicles on the Road Network, as amended.

II.4 Qualitative requirements (*fitness of the driver, knowledge and skills required, drivers' training*)

II.4.1 Requirements concerning the skills of the taxi drivers

A Concession

Carriers must hold a concession under the Trade Licensing Act. In order to obtain it, the carrier must fulfil the general and special conditions under the Trade Licensing Act.

The general conditions to obtain a trade licence for natural persons are:³²²

- to be at least 18 years of age;
- to have the legal capacity; and
- to have clean criminal records within the meaning of the Trade Licensing Act.

Furthermore, a **professional competence**³²³ must be attested to the Trade Office by a certificate of professional competence to operate road transportation, which is issued by the relevant Transportation Office after having successfully taken the written examination. The examination is in Czech language, and it consists of a test and a case study. The subjects and the organization of the examination are stipulated in Article 8 and Annex I of the Regulation No. 1071/2009.³²⁴

B. Taxi driver permit

All taxi drivers must hold a taxi driver permit. To obtain such a permit, the applicant must be:

- at least 21 years old, and
- reliable.³²⁵

Lack of reliability is a reason for refusal to issue the taxi drivers' permit and, if already issued, for its withdrawal by the Transportation Office. A person authorised to perform state technical supervision, municipal police officer or a police officer of the Police of the Czech Republic can withhold the taxi drivers' permit in case of reasonable doubts about the taxi driver's reliability. The Transportation Office will then, within ten (10) days, decide on the withdrawal of the taxi drivers' permit or its return to the taxi driver.

Additionally, carriers who employ taxi drivers are under the obligation to ensure that only reliable taxi drivers conduct the work.³²⁶

A taxi driver is deemed to be reliable,³²⁷ unless he/she has been:

³²² Sec. 6 of the Trade Licensing Act

³²³ Sec. 7 of the Trade Licensing Act.

³²⁴ Regulation of the European Parliament and of the Council (EC) No. 1071/2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC.

³²⁵ Sec. 21c of the RTA.

³²⁶ Sec. 9(2)(a) of the RTA.

³²⁷ Sec. 9(3) of the RTA.

1. sanctioned two or more times during the last five (5) years for misdemeanour or other administrative offense committed when working as taxi driver and consisting of:
 - a) harm caused to the passenger by charging higher prices;
 - b) violation of pricing regulations;
 - c) failure to keep transportation records;
 - d) failure to issue a proof of payment to the passenger;
2. sanctioned for misdemeanour consisting of:
 - e) driving the vehicle immediately after the consumption or still under the influence of alcohol or another addictive substance;
 - f) driving the vehicle in a condition of inability to drive caused by the consumption of alcohol or another addictive substance;
 - g) refusal to submit to the examination to determine whether the taxi driver was driving under influence;
3. sanctioned during the last twelve (12) months for refusal to allow inspection related to the work of the taxi driver;
4. convicted of specified crimes;
5. prohibited to carry out the work of a taxi driver.

Additional requirements regarding the taxi driver's knowledge and skills can be introduced on optional basis by the municipalities by way of a decree. In practice, such decrees are frequently used in larger Czech cities.³²⁸ However, some large municipalities decided not to regulate this field at all.³²⁹

Specifically, the municipalities are entitled³³⁰ to require the taxi drivers, prior to commencing their activity, to pass an examination on:

- local geography;
- operation of taximeter; and
- legislation regulating the taxi services and consumer protection.

Prague regulations

Taxi drivers in the capital city of Prague must attest their knowledge of all the fields mentioned above in an examination organized by the Department of Transport of the Prague City Hall. The specifications of the examination are set out in the Decree of the capital city of Prague No. 23/1998 Coll., on verification of knowledge of taxi drivers in the territory of the capital city of Prague, as amended.

The Prague examination is held in Czech and consists of a computer based test and a practical test verifying the taxi driver's ability to operate the taximeter. Only the taxi drivers who succeed in the computer-based test can proceed to the practical part of the examination.

³²⁸ For example, the Decree of the capital city of Prague No. 23/1998 Coll., on verification of knowledge of taxi drivers in the territory of the capital city of Prague, as amended; Decree of the statutory city of Brno No. 28/2005 Coll., on conditions for operation of taxi services in the territory of the city of Brno; Decree of the city of Pilsen No. 42/1998, on attestation of knowledge of local geography, legislation on the taxi services and consumer protection, operation of taximeter by taxi drivers, as amended.

³²⁹ For example, the city of Usti and Labem, Teplice or Decin.

³³⁰ Sec. 21b of the RTA.

The computer-based test contains 60 multiple-choice questions prepared by the Department of Transport and randomly selected by the software: 30 questions focus on local geography and another 30 on legal regulations. Each question has three possible answers out of which only one answer is correct. To succeed in the test, the taxi driver needs to successfully answer at least 80% of questions from local geography and, at the same time, 80% of questions from legal regulations.

In the practical part of the examination, the examination commission assigns to the taxi driver three tasks concerning the operation of the taximeter. Only taxi drivers who correctly perform all three tasks pass the practical part of the examination.

After successfully passing the examination, the taxi driver receives a certificate attesting the passing of the examination. The certificate is valid in the territory of the capital city of Prague for an indefinite period.

If the taxi driver ceases to meet the reliability test or is prohibited to carry out the work of a taxi driver either by court or in misdemeanour proceedings, the certificate ceases to be valid.

II.4.2 Medical examinations

All professional drivers including taxi drivers must undertake regular medical examinations. Until the age of 50, the taxi driver needs to undergo the medical examinations every two (2) years, whereas after reaching the age of 50, the taxi driver needs to undergo the examinations on a yearly basis. The initial examination takes place before the commencement of the taxi driver's activities.³³¹

II.5 Organizational requirements (*dispatch affiliation centre, minimum service*)

There are no regulations on organizational requirements in the Czech Republic on how a taxi may be hired. Taxis can be dispatched from taxi centres through customer requests via phone or mobile applications or hailed freely on the street or at taxi stand. There are no specific requirements as to the minimum service or dispatch affiliation centres either.

In addition, there is no public register of taxi availability that provides live geo data on how many taxis are on the streets. Taxi drivers are not obliged to be bound to the radio dispatching by a contract, they could receive the orders for transportation also at the taxi service stations and on publicly accessible ground communications and on other public places.

The capital of Prague has adopted the decree No. 18/2006 by which it has issued operation regulations and stated conditions under which the taxi service stations are used. These operation regulations among others contain prescriptions on the car size,

³³¹ Sec. 87 of the Act No. 361/2000 Coll., on the transport on ground communications and on the amendment of certain acts.

the uniform colour (yellow), the age of the car (no more than 8 years), the air-conditioning equipment, and the smoking ban. In order to improve the taxi services, a taxi supervisory body has been created to ensure that the maximum fares are applied.

II.6 Fares (*criteria for taxi fare setting, authority/body in charge of setting the tariffs, maximum tariffs and/or fixed tariffs, composition of the tariff and tariffs adjustment mechanism [minimum charge, additional charge for using the radio taxi or dispatch centre, increase of the tariff during certain hours, such as at night or on certain journeys, such as towards the airports, reductions for certain categories, such as elderly people]*)

Taxi fares are not regulated at national level. However, the possibility of introducing regulations on taxi fares follows from the general price regulation rules set out in the Act on Prices. In particular, prices can be regulated where “*the market is threatened by the effects of restrictions on competition or if an extraordinary situation on the market calls for the price regulation*”.³³²

Municipalities are authorised to impose price regulations unless the relevant Ministries do so.³³³ In practice, the Ministry of Transportation has not issued any price regulation concerning taxi fares. Therefore, the setting of taxi fares remains in the sole discretion of municipalities.

For example, the maximum fares in the capital city of Prague are set by Regulation No. 20/2006, on maximum prices for taxi services, as amended, as follows:

Hiring charge	CZK 40 (approx. EUR 1.47) per ride
Waiting	CZK 6 (approx. EUR 0.22) per minute
Distance travelled in the capital city of Prague	CZK 28 (approx. EUR 1.03) per kilometre

In the past, the legitimacy of the price regulation in the area of taxi services has been challenged before courts. The Czech Supreme Administrative Court rendered an opinion in which it confirmed the legitimacy of the price regulation and of the taxi fares set out by the municipal authorities.³³⁴ One of the main arguments in favour of the price regulation was that the taxi services are, as opposed to typical market environment, affected by overall information asymmetry. A typical customer cannot obtain in advance the relevant information about the service and its quality, nor can he determine the adequacy of the price and compare it to prices offered by other competitors. Given that, the price regulation is seen as a necessary tool to outweigh the misbalance caused by the information asymmetry.

II.7 Passenger rights

³³² Sec. 1(6) of the Act on Prices.

³³³ Sec. 4a(1)(a) of the Act No. 265/1991 Coll., on the Competence of the Authorities of the Czech Republic in respect of Prices, as amended.

³³⁴ Decision of the Czech Supreme Administrative Court dated 5 November 2009, File No. 1 Afs 60/2009.

Passenger rights are covered by several legal regulations. The core of the rights is set forth in the RTA. The relationship between the carrier and passenger may also fall within the scope of the provisions of consumer protection laws.

- **Visibility of the carrier's name.**³³⁵ Labels with the carrier's name, surname or company name must be disclosed to passengers in such a way that enables the passengers to acquaint themselves with the data before the commencement of negotiations with the taxi driver on the ride.
- **Taximeter and drivers' permit legibility.**³³⁶ While on duty, the taxi driver must place the taxi drivers permit and the taximeter in the vehicle in a manner that makes the permit and taximeter's displayed data visible and legible from the passenger's seat.
- **Payment receipt.**³³⁷ Taxi drivers are obliged to provide the passengers with a receipt for payment of taxi fares at the passengers' request.
- **Information obligation.** Carriers are obliged to inform the passengers about the nature and price of taxi services.³³⁸ Moreover, the price information³³⁹ must be provided in such a way that enables the passengers to acquaint themselves with the price for services before the commencement of negotiations about the transportation with the taxi driver.

II.8 Subsidies applicable to taxi sector (including public developed applications for taxi sector, geolocalisation, etc.)

There is no special legislation regarding subsidies applicable to taxi sector in the Czech Republic.

Municipalities sometimes operate subsidy programs on an optional basis under which they engage a carrier to provide taxi services to elderly or people with disabilities. Typically, the municipalities cover the difference between the actual price for the ride charged by the carrier and the amount paid by the passenger.

II.9 Labour rules

Taxi drivers shall be either employed by a carrier or provide taxi services as sole practitioner (self-employed entrepreneur). Taxi drivers who are employed by a taxi company are subject to the general Czech labour law rules.

Labour rules are stipulated in the Labour Code.³⁴⁰ In general, an employee must perform his/her work in conformity with the employer's instructions and his/her employment contract and he/she comply with the obligations arising out of the employment law relationship. The employee is entitled to a salary for the performed work.³⁴¹

³³⁵ Sec. 21 Par. 3(c)(2) of the RTA.

³³⁶ Sec. 21 Par. 3(f) and Sec. 21d Par. 3 of the RTA.

³³⁷ Sec. 21 Par. 3(i) of the RTA.

³³⁸ Sec. 9 and 12 of the Consumer Protection Act.

³³⁹ Sec. 13 Par. 2 of the Act on Prices.

³⁴⁰ Sec. 38 Par. 1(b) of the Labour Code.

³⁴¹ Sec. 109 Par. 1 of the Labour Code.

However, a significant number of taxi drivers are self-employed affiliated to dispatch centres in order to receive orders. In this case, labour law rules do not apply.

II.10 Supervisory enforcement tools

The Ministry of Transportation and the transportation offices, i.e. the Prague City Hall, municipal authorities of statutory cities and municipalities with extended powers, inspect the compliance with obligations set forth in the RTA.³⁴² If they find out that these obligations were violated, e.g. taxi drivers who provide taxi services without a valid taxi drivers' permit, they may impose a fine of up to CZK 50,000 (approx. EUR 1,800) or they may prohibit the performance of the professional activity for a period ranging from six (6) months to two (2) years.³⁴³

The trade licensing offices may carry out trade inspections within the scope of their competence with the aim to monitor whether and how the obligations laid down in the Trade Licensing Act are fulfilled.³⁴⁴ The authorities may require correction of irregularities discovered in the course of inspections.³⁴⁵ Fines up to CZK 1,000,000 (approx. EUR 37,000) may be imposed on persons committing an administrative violation of providing taxi services without a valid trade licence (concession).³⁴⁶

The Czech Trade Inspection Authority and trade licensing offices supervise and control the compliance with the obligations stipulated by the Consumer Protection Act.³⁴⁷ An administrative offense may be committed by failure to comply with the information obligation pursuant to sections 9 and 12 of the Consumer Protection Act³⁴⁸ and a fine up to CZK 1,000,000 (approx. EUR 37,000),³⁴⁹ respectively CZK 5,000,000 (approx. EUR 185,000)³⁵⁰ may be imposed.

The compliance with the obligations stipulated in the taxi fares regulations is monitored by the municipalities. The municipal authorities impose and enforce fines for violations of price regulations.³⁵¹

Taxi drivers and carriers who illegally provide taxi services in a continuative manner could face criminal charges leading to imprisonment up to two (2) years or prohibition of their professional activities.³⁵²

III. Legal framework applicable to hire cars with driver

III.1. National/local municipal regulation

³⁴² Sec. 34 Par. 1 of the RTA.

³⁴³ Sec. 34e of the RTA.

³⁴⁴ Sec. 60a Par. 1 of the Trade Licensing Act.

³⁴⁵ Sec. 60d Par. 1 of the Trade Licensing Act.

³⁴⁶ Sec. 61 Par. 3(c), 4(e) and Sec. 63 Par. 1(c), 2(c) of the Trade Licensing Act.

³⁴⁷ Sec. 23 Par. 1 and 5 of the Consumer Protection Act.

³⁴⁸ Sec. 24 Par. 7(e and k) of the Consumer Protection Act.

³⁴⁹ Sec. 24 Par. 14(a) of the Consumer Protection Act.

³⁵⁰ Sec. 24 Par. 14(d) of the Consumer Protection Act.

³⁵¹ Sec. 4a(2) of the Act No. 265/1991 Coll., on the Competence of the Authorities of the Czech Republic in respect of Prices, as amended.

³⁵² Sec. 251 Par. 1 of the Act. No. 40/2009 Coll., Criminal Code, as amended.

The regulation applicable to taxi services also applies to hire cars with drivers (i.e., the contractual transportation vehicles under Czech law). Both the taxis and hire cars with drivers are considered as taxi services for the purposes of the RTA. (s.II.2).

III.2 Procedures for issuing licenses and applicable criteria

Conditions and requirements described under s.II.3 apply. Local/municipal regulations (such as obligation to pass examination on local geography) may differ.

III.3 Technical requirements applicable to hire cars with driver

Conditions and requirements described under s. II.4 apply.

Contrary to classic taxi services, providers of contractual transportation services cannot label their vehicle as a TAXI in the course of contractual transportation.³⁵³ If the vehicle is used solely for the provision of contractual transportation services, it does not need to be equipped with a taximeter. Importantly, this type of services may only be provided on the basis of a prior written contract concluded with the passenger. However, the contract cannot be concluded immediately before the commencement of the service. Furthermore, all the agreements under which the transportation is rendered on the relevant day (or copies thereof) must be available in the vehicle.

III.4 Qualitative requirements

Conditions and requirements described under s. II.5 apply.

As described under Section II.5, additional requirements regarding the driver's knowledge and skills may be set on an optional basis by the municipalities by way of a decree. According to the non-binding guidelines published by the Ministry of Transportation, municipal regulation that would require the providers of contractual transportation services to pass examination on local geography would need to be duly justified.³⁵⁴

III.5 Organisational requirements

As a general requirement, Article 21 para. 4 of the Act no. 111/1994 Coll., as amended, (effective from 1 May 2013) provides for the exemption from the obligation to use the taximeter and identification of taxis during transportation provided under previous written contract. The written contract must be signed between the transport operator and the passenger. The competition authority, in evaluating the issue, has considered that, while it is true that the taxis may agree for a fixed fare without using a taximeter, a company that is not providing taxi activity has to comply with the appropriate regulation in order to be able to meet the obligations, including tax obligation. If a company is not able to provide a service based on a pre-agreed contract, it should provide a taxi service. The operator of the occasional passenger road transport is obliged to keep records of the transport service order so that they may produce them upon request of the controlling

³⁵³ Sec. 21 of the RTA.

³⁵⁴ Available on: <http://www.mdcr.cz/cs/verejna-doprava/taxisluzba/casto-kladene-otazky/>.

bodies. The operator is also obliged to assure that the transported person will not pay directly the driver for the transport.

III.6 Passenger rights

The passenger rights described under s. II.8 apply with the exception of the passenger rights corresponding to the drivers' duties to label their vehicles and to provide the passengers with the invoice for the payment of taxi fares.

III.7 Labour rules

Labour rules described under s. II.10 apply.

III.8 Local incentives, subsidies provided by the administration in order to carry out certain services *(such as mini-van service for people with reduced mobility, elderly, schools)*

See s. II.9.

III.9 Supervisory enforcement tools

See s. II.11.

IV. Legal framework applicable to ridesharing and car sharing

IV.1 Current regulations and legislative proposals

Ridesharing and car sharing are not specifically regulated under Czech law. However, despite the lack of specific regulation, persons providing ridesharing and car sharing activities may fall under the regulation of the RTA or the Trade Licensing Act.

There are currently pending discussions about whether ridesharing is a business activity regulated by the Trade Licensing Act and, if yes, whether such activity, by its nature, also trigger the regulation of the RTA. The discussion is inconclusive and there are no available court decisions or authoritative views that would provide sufficient guidance in this respect.

There are no legislative proposals addressing this topic, even though from current market developments, such legislation will have to be adopted or the RTA will have to be amended to reflect market situation.

IV.2 National rules applicable to on-line platform and rules applicable to service providers

Ridesharing and car sharing are not specifically regulated under Czech law.

IV.3 Main operators and their business models

a) Car sharing

The car sharing system providers usually operate their own cars. The biggest players are Autonapul³⁵⁵ and CAR4WAY.³⁵⁶

Autonapul was the first car sharing association in the Czech Republic and provides services in all major cities in the country (currently Brno, the capital city of Prague, Liberec, Plzen, Ostrava, Pardubice and Hradec Kralove). In order to join the association, it is necessary to fill a form and pay CZK 5,000 (approx. EUR 185) as a deposit. Their customers pay for the hours of reservation and driven kilometres in accordance with the price list. The cars can be booked on-line for half an hour or the whole day. Autonapul operates 40 cars in seven cities.

CAR4WAY is a car sharing network that purports to bring a new kind of mobility to the Czech market in the area of personal transportation. Their customers pay for the time they use the car and number of driven kilometres in accordance with the price list. The overall price covers all costs of the car operation, including expenses for fuel, insurance, repairs, parking etc. In order to join CAR4WAY, it is necessary to fill out a registration form on their website and sign a contract. CAR4WAY's goal as regards the volume of the car park is to have 400 vehicles by year 2018 with 4,000 customers.

b) Ridesharing

The ridesharing services appear to be more active in the Czech Republic with the biggest providers such as Spolujízda³⁵⁷ Liftago Taxi³⁵⁸ BlaBlaCar³⁵⁹ and Uber.³⁶⁰

Spolujízda is an intermediary who links drivers with passengers. Passengers pay a fee to the agent, the amount of which varies according to the travel distance, i.e., from CZK 100 to 350 for international travels and from CZK 20 to 80 for travels in the Czech Republic and Slovakia. Drivers are paid by the passengers and receive CZK 1 per kilometre on international travels and CZK 0.60 on travels in the Czech Republic and Slovakia. Neither the drivers nor the passengers need to register. The passengers pay the agent via bank transfers and the drivers in cash. Spolujízda.cz is run by Mr. Vít Dosoudil.

Liftago Taxi connects licensed taxi drivers of cars with passengers through a free mobile application. Liftago Taxi collaborates with self-employed drivers and dispatch centres.

BlaBlaCar operates in Czech Republic.

³⁵⁵ <http://www.autonapul.org/en#page-home>.

³⁵⁶ <https://www.car4way.cz/en/>.

³⁵⁷ <http://www.spolujizda.cz>.

³⁵⁸ <http://taxiliftago.cz>.

³⁵⁹ <https://www.blablacar.cz/>.

³⁶⁰ <https://www.uber.com/cs>.

Uber offers various options for its partner's drivers and customers, including the low-cost ridesharing option Uberpop, with non-professional drivers, and the top tier option Uberblack, with professional drivers and luxury vehicles.

IV.4 Requirements imposed upon non-licensed activities (*safety and technical requirements, insurance requirements, obligations relating to licences and on-line platforms*)

Ridesharing and car sharing are not specifically regulated under Czech law. Only the general rules regulating mandatory insurance of liability for damage caused by the operation of a vehicle apply.³⁶¹ Regular vehicles must undergo technical inspections within four years after their first registration and each two year thereafter.³⁶²

IV.5 Local incentives, subsidies and other forms of promotion for ridesharing and car sharing (*including, parking spots, use of preferential lanes, etc.*)

There is no special legislation regarding subsidies applicable to ridesharing and car sharing in the Czech Republic.

V. Relevant national case law

No specific case law concerning taxis or hire transport has been found.

VI. Country Market

Any form of passenger transportation by road motor vehicles conducted for non-private purposes and for remuneration is considered to fall within the category of taxi service. There is no specific legal recognition and regulation of car or ridesharing, peer-to-peer transport or for hire car with driver services. Private hire services do not exist as a standalone category. The regulator considers them an exception to the general regulations and this may render difficult their development.

In the Czech Republic, there are no quantitative restrictions to the number of taxi licences entitling the taxi services operation, however, the licences are no longer transferable. The geographical area for the provision of the service is local, however, it depends from the municipality that provides the concession which may restrict the scope of the concession; it is a condition adjustment only in cases the taxi service is provided in the area of a given community. In the Czech Republic, there are no rules governing the conditions for taxi services provided outside the municipal area except the generally valid principles (the Price Act, technical condition of the car service, security of the traffic operations and so forth).

³⁶¹ Act No. 168/1999 Coll., on insurance for liability for damage caused by the operation of a vehicle and amending some related laws (the Compulsory Motor Vehicle Insurance Act), as amended.

³⁶² Sec. 40(1)(a) of the Act No. 56/2001 Coll., on the Conditions for the Operation of Vehicles on the Road Network, as amended.

With regard to hire cars with drivers, the same regulation than taxi apply with the exception that there is no need to use a taximeter and therefore, a previous contract between the parties is required. Some additional restrictions are imposed on the hire car with driver in order to avoid any confusion with the taxi sector: the transport operator is obliged to assure that the passenger cars used by the operator are not labelled in a way confusable with the taxi services cars and the transport services offered by the operator are not offered the way confusable with the taxi services. To receive orders for this kind of transport is possible only through the order for the transport service in advance (in writing, by phone, fax or electronically) – in the residence or plant of the legal person, in the place of the permanent residence of the operator or in the place of business in the case of natural person.

This provision renders quite difficult to use the web applications to book a hire car with driver.

Maximum taxi fares for taxis are regulated at municipal level, while the fares for hire car with drivers are free and they may offer lower price than taxis.

VII. Market players

Dispatch centres

- Taxi AAA is the largest dispatch centre in Prague and the official airport taxi service. The company provides services with various different vehicles, regular, combi, limousine, minivan, and both regular and luxury services. It offers a minivan for 5-8 people. The mini-van cannot be pre-ordered, it is only possible to book it "immediately", i.e. maximum of 20 minutes in advance. The service may be pre-booked via a dispatch centre or via a software application. Payment may be made by cash, credit card, moneyless (via web application with a registered credit card), and using vouchers and pre-paid cards from the company.
- CityTaxi: the company offers various services, from regular transfer, to business service, to car transfer for those that cannot drive the car and need it returned home, and cargo service. It also provides limousine service with black cars. In the last case, unlike the classical taxi service, the price is calculated taking into account the distance covered; therefore, the longer the journey, the lower the price per kilometre. The service may be paid either in cash or by a wire transfer on the basis of an invoice; in case of a payment based on an invoice, it is necessary to send a purchase order for every single trip or enter into a contractual relationship with City taxi. The company offers taxi service for passengers arriving at any station that can be boarded upon presentation of the train ticket and offering discounted fares.
- Halotaxi provides taxi and limousine service in Prague. It also provides a cargo service. It offers various price discounts. It offers pre-booked airport pick-ups.

Hire car with driver intermediaries

- **Uber** started with its top tier service, UberBlack, which is currently available in the capital Prague.
- UberBlack service was launched in August 2014 and it was followed by the ridesharing service UberPOP in October 2014.
- UberX is not currently available.

For UberBlack, the applicable fares in Prague are:

- Base Fare 40,00 CZK (approx. EUR 1,48);
- Per Minute 6,00 CZK (approx. EUR 0,22);
- Per KM 27,00 CZK (approx. EUR 1);
- Minimum Fare 150,00 CZK (approx. EUR 5,55);
- Cancellation Fee 100,00 CZK (approx. EUR 3,70).

The fares are the same than taxis, which renders the service very competitive.

- **Blacklane**, the German black cars service provider is present on the market. It provides top tier hire car with driver service via web or through its application.

VIII. Barriers, limitations, incentives

The market does not appear to be heavily regulated. There are no quantitative restrictions for the access to the market. Municipalities apply indirect barriers, such as qualitative requirements, following additional criteria according to their own regulations, such as the introduction of an exam for the access to the taxi profession.

The licence entitling the taxi service operation is, in principle, not restricted locally. Since there is no distinction between taxis and hire cars with drivers, the limousine service is mainly provided by taxi companies and dispatch centres offering both services. With regard to the hire cars with drivers, the main restriction is the need to have a prior contract between the operator and the passenger; however, as this does not occur in the immediate vicinity of the ride, bookings via apps are in principle excluded. However, taxi companies providing a limousine service do not require such contractual agreement if the service is paid cash to the driver.

The quality of the service seems to have improved in recent years, but the taxi service, especially in Prague, used to have a bad reputation, due to various taxi scams, especially vis-à-vis tourists. Platforms connecting passengers and licensed taxis are emerging, also at local level, and the arrival of Uber, including its UberPop service, has not provoked any reactions. Hire car with driver's service is provided by taxi operators or by top tier limousine operators via UberBlack or Blacklane. The fares are aligned to the taxis' maximum fares, which renders the services very competitive.

IX. Capacity, growth, impact

In the Czech Republic the taxi market was liberalised after the transition from the communist era (where all the taxis were operating under a national umbrella company) to the market economy. Due to the lack of quantitative restrictions, the Czech market seems to adapt itself to the demand. With few exceptions, the municipalities, including Prague, have introduced maximum fares; however, in general there is no national regulation on fares and the operators may compete on prices, also below the maximum

ones. The absence of direct barriers to entry has allowed the emergence of innovative services, including services that facilitate non-professional hire transport. International intermediaries compete with local intermediaries who offer services to residents with apps and websites only in Czech and the possibility to pay cash to the driver. The largest dispatch centres and taxi companies have improved their standards and enlarged the range of their services, especially in the capital, in order to compete with the various services offered by the international intermediaries such as the provision of luxury hire cars with drivers at affordable prices. The arrival of new innovative service providers seems to have been accepted without too much protests.

X. Results

The taxi market does not present significant barriers to entry: there is no maximum cap to the number of licences and there are no regulations on fares at the national level. Municipalities can set the maximum fares, such as in the case of Prague. Hire car with driver is considered a specific and luxury segment of taxi transport. Intermediaries such as Uber and Blacklane are active in the Czech market and Uber started offering its top tier service UberBlack, followed by the low-cost service Uberpop. This seems to indicate that there is a demand for luxury services at affordable prices as well as for low costs ridesharing.

XI. Conclusions

The taxi service is liberalised and the market access is regulated via qualitative restrictions. Professional exercise of transport services, including hire car with driver, is subject to the same provisions as taxi services. The liberalisation of the services has allowed the arrival of intermediaries that facilitate the provision of non-professional or occasional hire transport as well as luxury services. Their presence in the hire transport market has been, in general, accepted without too much protests.

Bibliography

1. Act No. 111/1994 Coll., Road Transportation Act, as amended;
2. Act No. 455/1991 Coll., Trade Licensing Act, as amended;
3. Act No. 262/2006 Coll., the Labour Code, as amended;
4. Act No. 526/1990 Coll., on Prices, as amended;
5. Act No. 634/1992 Coll., on Consumer Protection, as amended;
6. Act No. 64/1986 Coll., on Czech Trade Inspection, as amended;
7. Act No. 634/2004 Coll., on Administrative Fees, as amended;
8. Decree No. 341/2014 approving the technical competence and technical conditions for operating vehicles on road;
9. Act No. 505/1990 Coll., on Metrology, as amended;
10. Act No. 22/1997 Coll., on Technical Requirements for Products and on Amendments to Some Acts, as amended;
11. Act No. 168/1999 Coll., on insurance for liability for damage caused by the operation of a vehicle and amending some related laws (the Compulsory Motor Vehicle Insurance Act), as amended;
12. Act No. 56/2001 Coll., on the Conditions for the Operation of Vehicles on the Road Network, as amended;
13. Regulation of the European Parliament and of the Council (EC) No. 1071/2009 establishing common rules concerning the conditions to be complied with to

- pursue the occupation of road transport operator and repealing Council Directive 96/26/EC;
14. Decree of the capital city of Prague No. 23/1998 Coll., on verification of knowledge of taxi drivers in the territory of the capital city of Prague, as amended;
 15. Decree of the statutory city of Brno No. 28/2005 Coll., on conditions for operation of taxi services in the territory of the city of Brno;
 16. Decree of the city of Pilsen No. 42/1998, on attestation of knowledge of local geography, legislation on the taxi services and consumer protection, operation of taximeter by taxi drivers, as amended;
 17. Act No. 361/2000 Coll., on the transport on ground communications and on the amendment of certain acts;
 18. Regulation No. 20/2006, on maximum prices of personal taxi services, as amended;
 19. Act No. 265/1991 Coll., on the Competence of the Authorities of the Czech Republic in respect of Prices, as amended;
 20. Act. No. 40/2009 Coll., Criminal Code, as amended.

7. DENMARK

General Legal Framework

Danish law on commercial passenger transport is governed by the Danish (consolidated) Taxi Act of 2013-01-30 no. 107, hereafter the "Taxi Act". The Taxi Act operates with four types of commercial passenger transportation, (i) taxi service, (ii) limousine service, (iii) patient transport and (iv) public service transport.

Licenses

According to the Taxi Act Section 1, all operators that provide commercial passenger transport must have a licence (taxi permit). The licence is issued by the local council, and it is not transferable. The local council decides the number of licences in its municipality, with the purpose of reaching a satisfying service to the public. A person can have multiple licences but a licence is required for every taxi vehicle.

Technical requirements

Cars used to provide taxi services must be approved and registered. To be approved, the taxi car must: be constructed to carry at least 5 persons and no more than 9 persons (the driver included), have lights and luminous signals, internal surveillance camera, display contact information, have a taximeter installed and it must be equipped with an electronic control device to register when a passenger is in the taxi.

Organisational and professional requirements

A person is deemed professionally qualified if, within the last 10 years from the application date, has completed a course approved by the Danish Traffic Authority and he/she has passed a written test set by the Danish Traffic Authority. The applicant for the licence must not be insolvent or have unpaid taxes, and must be resident in Denmark or in the EU. The minimum age to be eligible to perform taxi services is 21 and the applicant must not have been convicted of a crime or offence that would have suspended the driving licence. The applicant of the licence must, at the time of application, prove to have assets in the form of liquid capital or other assets of a total value of DKK 50,000. The applicant must use the licence, and the municipal council may require the holder of the licence to be affiliated to a dispatch centre. Moreover, there is a minimum service obligation.

Fares

Maximum fares are set by the local council. This power can, however, be delegated to another municipal body.

Passenger rights

In Denmark, passenger rights are mainly stemming from duties and rules for professional operators, i.e. the taxi. This gives the customer possibilities (e.g. the possibility to order a taxi at 3 am due to permit holders' duty to serve 24 h) but not the right to enforce them.

Labour rules

The general labour rules applicable to employees and self-employed also apply to taxi drivers. There is a specific rule for taxi drivers who are employees, which impose that the permit holder must accept and follow the terms and conditions of the collective agreements for drivers in Denmark.

Airports

No separate authorisation is required to pick up passengers at the airports.

Enforcement

The issuing authority can revoke or refuse renewal of the licence if the holder (or a person in charge or a person representing the firm) grossly or repeatedly violates the provisions set forth in the Taxi Act or any of the 5 executive orders or the rules and conditions for the permit set forth by the relevant authority (c.f. Taxi Act Sec. 13). According to the Taxi Act Sec. 11(1), the management team of a dispatch centre, is authorised to impose a disciplinary fine if the licence holder: fails to appear on a shift with no legal reason, fails to assist with or participate in measures established by the dispatch centre in order to serve properly the passengers, or in any other way behaves in a damaging way for the cooperation between the affiliated permit holders of the relevant dispatch centre.

Hire cars with driver

Hire cars with driver are covered by the Transport Act EO3. A rented car is – opposed to a taxi – at the customer’s disposal, and a hired driver has to provide the service as mentioned in EO3 Sec. 1(1). In order to fall under this regulation, EO3 Sec. 1(2) states that the transport must concern a delimited group of people and the transport must be agreed upon in advance with the company providing the service. The agreement must contain the name of the customer, the pickup place and the destination for the customer. If these criteria are not met, the special provisions under EO3 do not apply and thus the service will fall under the default category of taxi service. The criteria for applying for a licence are the same than for taxi drivers, but rather than passing an exam, the applicant must prove to have followed a training course.

Ridesharing

Transport Act EO15 exempts car sharing and ridesharing from the definition in EO1 Sec. 1, and thus from the Taxi Act and the other relevant executive orders. The only condition for exemption is that the users of these kinds of services only pay for the costs directly connected to the use.

Country market

The relevant product market for taxi services is not defined in any legislation. According to the report from the Committee on commercial passenger transport in cars no. 1542 of October 2013, taxi services are primarily carried out for private persons, companies and public bodies.³⁶³ Until November 2014, the taxis only competed among themselves and at local level, but since innovative services have entered the market, the taxi sector has been under competitive pressure from other players. The geographical market is generally limited to the municipality that issued the licence. This means that a taxi may transport a customer from two places within the same municipality, except when the passenger must be dropped off at another municipality or the final destination of the passenger is within the municipality of the taxi licence.

Market players

In the taxi sector, the competition is mainly concentrated around large dispatch centres: DanTaxi, Taxi Nord and Taxi 4x48, Taxa 4x35. For hire car with driver, there are only 125 licences in Denmark. However, the sector is expanding due to the arrival of intermediaries, which facilitate the provisions of services.

Barriers, limitations and incentives

The taxi market is heavily regulated, with a cap on the number of taxis and maximum prices defined by each municipality. Moreover, the powers of intervention of the municipality are also directed at regulating the obligation for the holder of licences to create or to be affiliated to a dispatch centre. The service area for the licence is geographically limited and comes with a minimum service obligation for the area. The taxis from one area cannot pick up passengers in other areas unless the taxi has been pre-booked. Another limitation is that a taxi company can only be operated as a personal company. The licenses are personal and cannot be traded. Existing licenses are therefore only put in circulation when a person does not want to be an independent operator anymore or when the person dies. The local municipalities regulate the maximum fares. The hire cars with driver licence are based on qualitative requirements but they are issued at the discretion of the licensing authorities if it is demonstrated that there is a real need in the area. Authorities are supporting investment in the taxi sector in order to switch to electriccars.

Capacity, growth and impact

From 2012 to 2015, the number of taxi vehicles and passengers per unit has progressively decreased. In addition, the average revenue, at least in the Capital Region has decreased between 2014 and 2015; however, it remained around 1.228.232 kr.. The highly regulated sector renders difficult to introduce innovative services which could compete with taxis. However, non-professional hire transport such as UberPop seems tolerated, even if various court cases were brought against drivers and initial court rulings considered that the drivers were providing taxi service and not genuine ridesharing.

Conclusions

The taxi market is highly regulated with significant barriers to entry and geographical restrictions. Hire car with driver sector is characterized by few limousines licences, but it is currently expanding due to the arrival of intermediaries facilitating the services, but the lack of clear regulation and the complex quality requirements render difficult to experience rapid market changes. Ridesharing is allowed only when the

³⁶³ Betænkning fra udvalg om erhvervsmaessig befording i personbiler nr. 1542 oktober 2013, p. 1.

activity is carried out to cover the costs.

I. Introduction

Danish law on commercial passenger transport is governed by the Danish (consolidated) Taxi Act of 2013-01-30 no. 107, hereafter the "Taxi Act". The Taxi Act operates with four types of commercial passenger transportation, (i) taxi service, (ii) limousine service, (iii) patient transport and (iv) public service transport.

According to the Taxi Act Section 1, all operators must have a permission to provide commercial passenger transport.

II. Legal framework applicable to taxis

II.1 National/Local/municipal regulations

The Taxi Act is the only relevant piece of legislation, complemented by five executive orders namely

- i. *executive order of 2012-05-08 no. 405 on taxi services etc.* (hereafter "EO1");
- ii. *executive order of 2006-05-04 no. 399 on special requirements for taxis etc.* (hereafter "EO2");
- iii. *executive order of 2009-10-12 no. 967 on commercial passenger transport in vehicles controlled by the customer* (hereafter "EO3");
- iv. *executive order of 2015-09-11 no. 1086 on energy and environmental requirements for taxis etc.* (hereafter "EO4"); and
- v. *executive order of 2015-03-25 no. 312 on driver's licenses* (hereafter "EO5").

These regulations are national and apply in all Denmark except Greenland and the Faroe Islands, as clarified by the Taxi Act Sec. 18.

Commercial transport of passengers is legally defined in EO1 Sec. 1. This section stipulates that commercial transport of passengers occur when all the conditions are met:

- the drivers must perform the service with a registered vehicle built to carry no more than 9 people including the driver;
- with (a) passenger(s) without connection to the person, business or association carrying out the transport;
- carrying out the transport for remuneration exceeding the related costs, or
- when the action constitutes the operator's primary purpose.

Both the Taxi Act and the EO1 include with four categories of commercial passenger transport, i.e. taxi services, limousine services, patient transport and public service transport. If a service provided is deemed commercial passenger transport, it must be determined to which category the transport belongs.

Limousine services, patient transport and public service transport are all defined in EO1, respectively in Sec 1(2), (3) and (4). Taxi service is not defined. The shape of the Taxi

Act and EO1 suggests that these provisions should be interpreted in way that if a service is deemed commercial passenger transport, but cannot be subsumed under any of the defined groups (limousine, patient transport or public transport), the services must be considered taxi service.³⁶⁴

In this context it should be mentioned, that genuine ridesharing is specifically exempted in EO1 Sec. 1(5), and can therefore never be considered commercial passenger transport and thus not subject to the Taxi Act.

II.2 Procedures for issuing licenses and applicable criteria

According to the Taxi Act sec. 1, all the operators providing a commercial passenger transport must have a licence (taxi permit). As provided by the Taxi Act Sec. 2(1) the licence is issued by the local council, and is personal and non-transferable. The local council decides the number of permits in its municipality, with the purpose of reaching a satisfying service to the public.³⁶⁵

According to Taxi Act Sec. 5(1), a person can have multiple licences but there must be a permit for each taxi that the holder of the permit operates. If there are more applicants than the available licences, the relevant authority will appoint the most qualified applicants.³⁶⁶

It is in this context important to distinguish between a taxi service provider (who needs the licence) and a taxi driver.

The application for a licence to provide taxi services must be submitted to the local council,³⁶⁷ unless the local council, pursuant to the Taxi Act Sec. 2a, has delegated this power to a municipal community. Therefore, the procedure may vary from council to council.

According to the Taxi Act Sec. 3(1), the applicant must:

- reside in Denmark;
- be of legal age and not under legal guardianship;
- not be under insolvency proceedings;
- not have significant past due debt to the state or any municipality;
- have a sufficient financial standing to soundly run a business;
- not be convicted of a criminal offence forming the basis of misuse of the business, and
- be professionally qualified to carry out the job and be able to run the business in a responsible manner and in accordance with the good practise and the standards provided for the service.

³⁶⁴ In the same direction, "Betænkning 1542 fra Udvalg om erhvervsmæssig befordring i personbiler" p. 18 ff.

³⁶⁵ Taxi Act sec. 2(2).

³⁶⁶ EO1 Sec. 11.

³⁶⁷ EO1 sec. 2 (1)

According to EO1 Sec. 5(1), a person is deemed to be professionally qualified if he/she:

- within the last 10 years from the application date has completed a course approved by the Danish Traffic Authority and has passed a written test set by the Danish Traffic Authority;
- has already a permit regarding taxis, limousines or patient transport, or
- is approved as a responsible manager and employed in a limited company doing patient transport.

The residential requirement in EO1 Sec. 3(1) can be derogated from to the extent this is prescribed for by international agreements.³⁶⁸ This exemption applies for applicants from the EEA and thus impliedly also the EU.³⁶⁹

In addition to the mentioned requirements, the applicant of the permit must prove, at the time of the application, to have assets in form of liquid capital or other assets for a total value of DKK 50,000. For every extra permit, the amount rises by 25,000 DKK.³⁷⁰ If a person applies for permits for five taxis, he must prove assets for 50,000 DKK + 4 x 25,000 DKK = 150,000 DKK. An application can be rejected if the applicant has debt to the state or municipality in the amount of 50,000 DKK or above.³⁷¹

The applicant must give the relevant authority any information required by the authority in order check and assess the applicant's capability to properly run a business,³⁷² and the local council is empowered to set forth additional requirements and conditions for the use of the permit.³⁷³ Once a person has obtained a taxi licence, he/she has the obligation to use it.³⁷⁴

II.3 Technical requirements applicable to licensed vehicles *(taximeters, vehicles' technical specifications, accessibility, insurance, maintenance)*

According to Danish law, there are various requirements for the taxi vehicles. Most of these requirements stem from the executive order "EO2".

Cars used to provide taxi services must be approved and registered.³⁷⁵ To be approved, the taxi car must:

³⁶⁸ Taxi Act sec. 3(2).

³⁶⁹ EO1 Sec. 9.

³⁷⁰ EO1 Sec. 4(1).

³⁷¹ EO Sec. 4(3).

³⁷² EO1 Sec. 6(2).

³⁷³ Taxi Act Sec. 13(1).

³⁷⁴ Taxi Act Sec. 5(3).

³⁷⁵ EO2 Sec. 1.

- be built to carry at least 5 persons and at most 9 persons, the driver included, depending on the amount of seat belts available in the car;
- not be convertible and have at least 2 doors for the passengers;
- have lighting in the passenger room, which will always turn on when any of the car doors open and can be controlled from the driver's seat;
- be equipped with an electronic control device to register when a passenger is in the taxi;
- a luminous roof sign, that must be on whenever the taxi driver seeks customers;
- have a visible taxi licence number on the taxi in addition to the regular licence plate;
- be equipped to carry at least one bicycle or pram;
- be equipped with an internal surveillance camera;³⁷⁶
- have contact information in the form of the company name and a telephone number to the dispatch centre, the permit holder is associated with, painted on the side of the car;
- keep the permit, a copy of the current taxi tariffs and a traffic book (according to the provisions in EO2 Sec. 13) in the taxi, and show this to the customers or supervisory authorities upon request; and
- have a taximeter installed.³⁷⁷

The taximeter must be intact, must function correctly and in accordance with the set tariffs and the calculated amount must be visible for the passenger at all times and thus illuminated whenever the taximeter is on.³⁷⁸

The taximeters must be approved in accordance with 77/95/EEA for mechanical taximeters and with either European Standard EN 50148 or 2014/32/EU.³⁷⁹ The taximeter must be sealed.³⁸⁰

The permission issued according to the Taxi Act Sec. 2 must be present in the car, as well as the taximeter seal certificate, and the relevant authority may, at any moment, control the taximeter and the sealing.

If a taxi is obliged to affiliate to a dispatch centre in accordance with the Taxi Act Sec. 10 (c.f. below), the taxi car must have communication equipment connected to the relevant dispatch centre, and may not install any communication equipment that may circumvent the communication system with the dispatch centre.³⁸¹

Since 2015, the executive order "EO4" has set some environmental requirements for taxis. According to Sec. 2, there are three types of cars that can be used as taxis:

³⁷⁶ Taxi Act Sec. 15.

³⁷⁷ EO2 Sec. 6(1)

³⁷⁸ EO2 Sec. 6(1) and (4).

³⁷⁹ EO2 Sec. 6(2) and (3).

³⁸⁰ EO2 Sec. 6(5).

³⁸¹ EO2 Sec. 10(3)

- i. Ordinary (up to five persons);
- ii. Large-I (6 or 7 persons); and
- iii. Large-II (8 or 9 persons).

Ordinary cars must be of energy class A (at least 18,2 km/l for petrol; 20,5 km/l for diesel); Large-I cars must be of class B or better (at least 15,4 km/l for petrol; 17,3 km/l for diesel) and Large II cars must be of class D or better (at least 12,5 km/l for petrol, 14,1 km/l for diesel).³⁸² Additionally, all taxi cars must meet the requirements of "Euro 6" (EU emission standard for cars).³⁸³

Taxi cars may not be subject to modification and changes which impair the environmental and energy properties of the car.³⁸⁴

Insurance matters are not governed by the Taxi Act or any of the executive orders. The Danish Traffic Act governs this matter, and thus the rules are the same as for ordinary vehicles. The Traffic Act stipulates strict liability for motorized vehicles, Sec. 101(1). The strict liability is balanced through mandatory liability insurances, Sec. 105(1).

II.4 Qualitative requirements (*fitness of the driver, knowledge and skills required, drivers' training*)

Taxi drivers must be approved to legally drive taxis, Taxi Act Sec. 4a. Applicants for an approval to be a taxi driver must meet the following requirements set in the Taxi Act Sec. 4 a: They must:

- reside within Denmark or EEA (corresponding to the permit holders requirements);
- be of legal age and not under legal guardianship;
- not be convicted of a criminal offence giving suspicion or concerns of misuse of the job position;
- be professionally qualified to carry out the job and to be able to carry out the job in a responsible manner and in accordance with good practise within the branch.

Furthermore, according to EO1 Sec. 32(1) applicants must:

- within the last 10 years counting from the date of the application, he/she must have completed a course approved by the Danish Traffic Authority and have pass a written test set by the Danish Traffic Authority;
- to prove satisfying knowledge of the local area; and
- to know and speak the Danish language at the level necessary for carrying out the profession duly.

If the applicant already holds a taxi permit according to the Taxi Act Sec. 2, the above-mentioned requirements are not applicable.

³⁸² EO4 Sec. 5(1).

³⁸³ EO4 Sec. 6.

³⁸⁴ EO4 Sec. 9(1).

The approval of the application is granted by issuing a taxi driver's card which taxi driver must carry with him at all times when on duty.³⁸⁵

In addition to the taxi driver's card, the taxi driver must have a professional driver's licence.³⁸⁶

II.5 Organizational requirements (*dispatch affiliation centre, minimum service*)

Licences to provide taxi services must be used and correspondently, the taxi drivers are obligated to carry out passenger transport upon request within the nation's borders.³⁸⁷

In municipalities where the local council has issued 10 or more licences, the permit holders are obliged to form or join a dispatch centre.³⁸⁸ The decision to compel the licence holders to form or join a dispatch a centre is made by the local council. If a decision to form a dispatch centre is adopted, the licence holders must participate and ensure a reasonable operation of the centre.³⁸⁹ A licence holder can only be affiliated with one dispatch centre, EO1 Sec. 17.

The local council can exempt a licence holder permanently or for a limited amount of time if this serves the interest of the public.³⁹⁰

A dispatch centre must:

- possess a working phone and communication system;
- ensure 24-hour service;
- establish a shift schedule to cover 24-hour service;
- make use of the taxi licences by accepting all reasonable transport service requests by the customers;
- provide the relevant authorities with a list of the affiliated permit holders, annual reports and information about any breach of duties and contract of the affiliated permit holders.

II.6 Fares (*criteria for taxi fare setting, authority/body in charge of setting the tariffs, maximum tariffs and/or fixed tariffs, composition of the tariff and tariffs adjustment mechanism [minimum charge, additional charge for using the radio taxi or dispatch centre, increase of the tariff during certain hours, such as at night or on certain journeys, such as towards the airports, reductions for certain categories, such as elderly people]*)

The local council sets maximum tariffs, EO1 Sec. 28. This power can, however, be delegated to another municipal body.³⁹¹

³⁸⁵ EO1 Sec. 33(1).

³⁸⁶ EO5 Sec. 18.

³⁸⁷ Taxi Act Sec. 5(3) and EO1 Sec. 35(1).

³⁸⁸ Taxi Act Sec. 10(1).

³⁸⁹ Taxi Act Sec. 10(1) and EO1 Sec. 17.

³⁹⁰ Taxi Act Sec. 10(2).

When transporting a passenger, the taximeter must be on and working at all times. The taxi may only charge the customer for the driven distance and, when occurred, for the waiting time spent, unless the customer asks to get a larger object transported along with him, such as a bicycle that does not fit in the taxi. In such case, the taxi may charge the customer for the cargo.³⁹² Road expenses such as bridge toll can also be added to the bill.

If the fares change (e.g. because night shifts start) while the taxi is hired, the taximeter must immediately be adjusted accordingly. The passenger must be informed about this immediately and clearly.³⁹³

The rule in Sec. 29(1) can be derogated from, if the customer enters a written contract with the dispatch centre or the licence holder, if the licence holder is not affiliated with a dispatch centre, in case of transport contract for various rides or continuous service or one single transport exceeding duration of 3 hours.³⁹⁴

It is prohibited for the driver, dispatch centre or permit holder to ask the customer for tips,³⁹⁵ but the customer may obviously tip the driver out of his own free will.

Since the local councils set fares, the current maximum fares may vary from municipality to municipality. In the capital region, however, the taxis operate with two sets of fares, T1 and T2.

T1 is the default fare and applies whenever T2 does not. The fare starts with an initial fee of DKK 24 for pickups on the street, and DKK 37 for taxis ordered through the dispatch centre. Afterwards it costs DKK 15,25 per kilometre. Whenever the taxi is stopped while hired by the customer, the charge is DKK 7 per minute.

T2 applies on Fridays from 11:00 pm to Saturday morning at 07:00 am and then again on Saturdays from 11:00 pm to Sunday morning at 07:00 am. It also applies the whole day on any bank holiday. The fare starts with an initial fee of DKK 40 for pickups on the street, and DKK 50 for taxis ordered through the dispatch centre. Afterwards it costs DKK 19,15 per kilometre. Whenever the taxi is stopped while hired by the customer, the charge is DKK 7 per minute.

The structure of the fares is similar in the whole Denmark.

II.7 Passenger rights

In Denmark, the duties of taxi operators mainly stem from professional obligations and by the duty of care but they are not codified by the legislation. This gives the customer

³⁹¹ Taxi Act Sec. 2 a.

³⁹² EO1 Sec. 31(1).

³⁹³ EO1 Sec. 29(3).

³⁹⁴ EO1 Sec. 30.

³⁹⁵ EO1 Sec. 31(1).

nothing more than a variety of possibilities (e.g. the possibility to order a taxi at 3 am due to permit holders *duty* to serve 24 h), but there no possibility to enforce this obligation.

This does not mean that the customer is without rights at all. The customer can still invoke all the normal rights deriving from a contract.

There are some provisions (e.g. EO1 Sec. 35 about transport instructions from the customer) that are very close to passenger's rights, because they impose to the taxi driver to follow certain instructions from the customer. However, these are not passenger rights in the traditional sense, because if the provision is breached, it does not entitle the customer to anything more than what follows from normal contract law. The taxi driver will be fined if he does not follow these provisions according to EO1 Sec. 41, but that is unrelated to the customer.

II.8 Subsidies applicable to taxi sector

The taxi business in Denmark does not receive any form of subsidies from the state or municipalities.

Before 2015, the licence holder could drive the taxi car 'free' i.e. after driving a certain number of kilometres as a taxi, the car could be registered and sold without any registration tax. However, this possibility has been removed.

The Danish Energy Agency supports the taxi companies which intend to switch to electric cars. In the past, projects have been launched and supported by the authorities for the taxis companies which intend to change the diesel vehicles with the electric vehicles, especially in Copenhagen.³⁹⁶

II.9 Labour rules

General labour rules apply to taxi drivers, in case they employed by a taxi operator. A specific provision for taxi drivers is included in the Taxi Act, which states that the permit holder must accept and follow the terms and conditions of the collective agreements for drivers in Denmark.

II.10 Supervisory enforcement tools

Supervisory rules:

EO2 Sec. 6(7) lists the competent supervisory authorities, which are: the police, the licensing authorities, the tax authorities and any supervisory company. These bodies supervise compliance of technical requirements.

³⁹⁶ <http://designtoimprovelife.dk/electriccarmacopenhagen/>.

Taxis are obliged to keep the latest issued taximeter certificate in the taxi, and present it to any supervisory authority upon request. An approved taximeter controller must issue the (new) taximeter certificate and all installation adjustments. An approved taximeter controller can only do repairs and sealing.³⁹⁷

A new taximeter certificate must be issued (every time):

- a taximeter is un-mounted;
- a factory new taximeter is mounted;
- the tariffs change;
- the certificate is older than 6 months and the taxi car is scheduled for inspection;
- the first time a taximeter is mounted in the car;
- the car tires or wheels are changed to a different size;
- the taximeter is changed;
- the taximeter has been repaired.

The supervisory authorities may check a taxi at any time, and the taxi driver is obliged to make a reasonable test drive when required.³⁹⁸

In addition to technical supervision, the respective authorities, who issue licences or approvals according to the Taxi Act, are responsible for and obligated to supervise that the requirements for these approvals and licences are maintained.³⁹⁹

Enforcement rules

Taxi Act Sec 16(1) and the five executive authorise fines for the following infringements/offences:

- The taxi driver does not have having a licence to provide commercial passenger transport, including taxi services;
- The taxi driver failed from keeping the licence in the taxi at all times during operation, Sec. 5(2);
- The taxi driver is using an issued permit;
- The taxi operator does not comply with the collective agreements on wages and working conditions for taxi drivers;
- In case the taxi driver refuses to hand back any licence or approval or similar, once the relevant authorities have revoked the relevant official document;
- In case of failure to join and/or adequately contribute to maintain and run a dispatch centre when legally obligated hereto by the law or local council;
- Failure to install a surveillance camera in the taxi.

The issuing authority can revoke or refuse the renewal of the licence, if the licence holder or a person in charge or a person representing the firm grossly or repeatedly

³⁹⁷ EO2 Sec. 6(7).

³⁹⁸ EO2(10).

³⁹⁹ Taxi Act Sec. 4 b.

violates the provisions set forth in the Taxi Act or any of the 5 executive orders (EO1-5) or the rules and conditions for the permit set forth by the relevant authority.⁴⁰⁰

The licence may be withdrawn or refused if the criteria or conditions for receiving a licence are no longer met,⁴⁰¹ or if the criteria or conditions for approval as a taxi driver in accordance with the Taxi Act Sec. 4 are no longer present.

The withdrawal or refusal of renewal remains in effect for a period comprised between 1 and 5 years, or until further notice.⁴⁰²

According to the Taxi Act Sec. 11(1), the management team of a dispatch centre is authorised to impose a disciplinary fine, if the licence holder:

- fails to appear on a shift with no legal reason;
- fails to assist with or participate in measures established by the dispatch centre in order to serve the public properly, or
- behaves in a way damaging the cooperation between the affiliated licence holders of dispatch centre.

The amount of the fine depends from the gravity of the misconduct.⁴⁰³

III. Legal framework applicable to hire cars with driver

III.1. National/local municipal regulation

As mentioned above, the Taxi Act operates with a definition of commercial passenger transport and the choice of vehicle is part of the definition of *type* of commercial passenger transport. If the chosen vehicle is built for less than 10 persons, driver included, it is considered as commercial passenger transport vehicle under the Taxi Act. If the chosen vehicle is built for 10 persons or more, it falls under the (consolidated) Bus Act of 2012-11-12 no. 1050.

The Taxi Act does not mention hire car with driver service. The applicable law thus depends from the interpretation of hire car with driver taking into consideration the Taxi Act Sec. 1 and especially EO1 Sec. 1.

Hire car with driver falls under the Taxi Act, because the company providing the rental service will indeed transport the passenger according to the definition in EO1. Hereafter, the service is subject to the Taxi Act and the executive orders under it.

EO3 defines an additional type of passenger transport situation, where a driver carries out passenger transport in a car at the passengers' disposal. A rented car is – opposed to a taxi – at the customer's disposal, and a hired driver will thus provide a service as mentioned in EO3 Sec. 1(1).

⁴⁰⁰ Taxi Act Sec. 13, Taxi Act Sec. 6(1).

⁴⁰¹ Taxi Act Sec. 6(2).

⁴⁰² Taxi Act Sec. 6(6).

⁴⁰³ Taxi Act. Sec. 11(2).

In order to fall under this regulation, EO3 Sec. 1(2) state that the transport must concern a delimited group of people and the transport must be agreed upon in advance with the company providing the service. The agreement must contain the name of the customer, the pickup place and the destination for the customer. If these criteria are not met, EO3 does not apply, and thus the service will fall under the default category of taxi service.

As for any kind of commercial passenger transport, the service provider i.e. in this case the driver's employer must hold a licence.⁴⁰⁴

III.2 Procedures for issuing licenses and applicable criteria

The applicant must send an application to the local council in the municipality where his head office or legal seats is located. Together with the application, the applicant must provide a financial plan and an annual budget.⁴⁰⁵ Among other requirements, there is a need to demonstrate that there is enough demand, but the final decision to issue a new licence lies with the City Council. Furthermore, the applicant needs to have a large line of credit (50,000 DKK which is the equivalent of approximately 7.000 EUR) and many years of experience as a professional driver. In case of application for renewal, the annual report of the firm must be annexed.⁴⁰⁶

The criteria for the applicants for hire car with driver licences are the same as for taxi applicants.

III.3 Technical requirements applicable to hire cars with driver

There are no special technical requirements to provide services according to EO3, i.e. passenger transport in vehicles controlled by the customer.

III.4 Qualitative requirements

The driver merely needs to complete a course set by the Traffic Authorities, EO3 Sec. 9, to be approved as a driver providing services as mentioned in EO3.

III.5 Organisational requirements

There are no specific organisational requirements.

III.6 Passenger rights

The passenger rights follow from the normal regulations of consumer sales and services. There are no specific rights in EO3.

⁴⁰⁴ EO3 Sec. 1(1).

⁴⁰⁵ EO3 Sec. 5, EO3 Sec. 4.

⁴⁰⁶ EO3 Sec. 7.

III.7 Labour rules

The labour rules applicable to the hire cars with driver are the same than for taxis.

III.8 Local incentives, subsidies provided by the administration in order to carry out certain services

There are no specific public subsidies provided by the administration for hire cars with driver. Special services for wheelchair and people with reduced mobility are provided by traffic companies which are not included under EO3.

III.9 Supervisory enforcement tools

The enforcement rules for taxis also apply for services under EO3, taking into consideration the specificities of the service, such as that the hire cars with driver are not obliged to have surveillance in the car, or the taximeter.

IV. Legal framework applicable to ridesharing and car sharing

IV.1 Current regulations and legislative proposals

Car sharing is mentioned in EO1. It is specifically exempted from the definition of commercial passenger transport in Sec. 1(5). In this provision both car sharing and ride-sharing are exempted from the definition in EO1 Sec. 1, and thus exempted from the Taxi Act and the relevant executive orders. The only condition for exemption is that the users of these kinds of services only pay for the costs directly connected to the use.

The exception is applicable also to ridesharing that is legal only when compensation covers the direct costs of driving. It has not been properly defined, as to what these costs actually include, however tax authorities have published a guide to paying tax, when performing these services.

According to the official parliament webpage, there are no legislative proposals at the moment concerning car sharing and or ridesharing.⁴⁰⁷

IV.2 National rules applicable to on-line platform and rules applicable to service providers

Any product or service offered online is subject to the Danish Consumer Agreements Act, act 2013-12-17 no. 1457.

IV.3 Main operators and their business models

GoMore⁴⁰⁸

⁴⁰⁷ http://www.ft.dk/Dokumenter/Vis_efter_type/Lovforslag.aspx.

⁴⁰⁸ www.gomore.dk.

GoMore is a ridesharing service operator. Through their online platform, it is possible for users to arrange for a ride. The car owner then announces a date, starting point and destination, and if this fits the needs of a passenger, he will sign up for the trip. If there are multiple seats, it is possible for more users to join the trip. The costs are split between the users, but a certain percentage of the amount received by the car provider constitutes the fee for GoMore.

Samkoersel⁴⁰⁹

The concept is similar to the one used by GoMore, see above.

Uber⁴¹⁰

Uber launched its services in Denmark in November 2014. It offers the top service UberBlack and the low costs UberPoP. The last one was very criticised and subject to various complaint and reported to the police for violating the Taxi Act. The Ministry of Transport and Buildings at the time, Magnus Heunicke, stated that according to his ministry, Uber services were taxi services and thus illegal without a permit. Uber announced that since the drivers were not transporting passengers as part of their professions, the service did not fall under the Taxi Act. It is the prevailing view in Denmark, that Uber's services are taxi services, and thus far, they do not hold the relevant permits and approvals, their business is illegal, Taxi Act Sec. 1. A recent court decision, mentioned below, has taken this direction

IV.4 Requirements imposed upon non-licensed activities

There are no specific requirements. General Danish law such as the Road Traffic Act still applies fully.

IV.5 Local incentives, subsidies and other forms of promotion for ridesharing and car sharing

The municipality of Copenhagen has decided to reserve 150 parking spaces for shared vehicle. This is not according to national law, but a decision adopted by the local authority in order to incentivize the car sharing and to reduce the environmental impact.

With regard to web applications, Denmark-based Drivr, which develops technology that helps companies to develop platforms for booking hire transport services, raised, in October 2015, EUR 3 million in additional funding, mainly backed by the Danish Growth Fund, the Danish state's investment fund.⁴¹¹

V. Relevant national case law

Danish Transport Authority filed a police report on Uber's alleged breach of the taxi law in relation to UberPOP. In May 2016, the police brought the charges before the public prosecutor. Several Uber drivers have been charged for illegal taxi driving. In July 2016, the Copenhagen City Court found six Uber drivers guilty of violating the Danish Taxi

⁴⁰⁹ www.samkoersel.dk.

⁴¹⁰ <https://www.uber.com/en-BE/cities/copenhagen/>.

⁴¹¹ <http://tech.eu/brief/drivr-funding/>.

Act. The City Court found that Uber's drivers profit motive means it is not a true ridesharing but instead is akin to an illegal taxi service.⁴¹²

VI. Country Market

The relevant product market for taxi services is not defined by the legislation. According to the report from the Committee on commercial passenger transport in cars no. 1542 of October 2013, taxi services are primarily performed for the benefit of persons, companies and public bodies.⁴¹³ Until November 2014, taxis only competed among themselves, but since Uber has entered the market, the taxi operators started to be under competitive pressure.

The geographical market is generally limited to the municipality where the licence holder is based, which is the issuing municipality. This means that a taxi may transport a customer from two places within the same municipality, but the taxi may not provide services outside the municipality.

There are some exceptions to this rule. Firstly, the taxi driver may transport a passenger anywhere within the national borders, as long as the transport originates within the municipality that issued the licence. Secondly, whenever a taxi performs the service mentioned above, it may pick up a passenger on its way home, if the passenger's destination is within the taxi's licence municipality. Thirdly, if a passenger outside a particular taxi's municipality asks the taxi for transport service, the taxi may only accept if the passenger's destination is within the taxi's home municipality, in which case the taxi is allowed to drive outside its municipality and pick up a passenger. Therefore, as long as the ride originates or ends within the municipality that issued the licence, the taxi may provide the service on the whole Danish territory.

These rules are the consequence of the legal framework regarding taxi services, and thus impliedly stem from many provisions combined, namely the Taxi Act Sec. 2(2) and 10, and EO1 Sec. 17 – 21 and 35.

VII. Market players

- **Dantaxis** is the Denmark's largest booking centre, with branches in all the Denmark's cities. It is the result of various recent mergers and it currently runs 950 taxis. It provides a large range of services, from business accounts, to voucher for payment, senior cards which offer discount rates, instant or pre-booking also via web applications.
- **Taxi Nord** is one of the largest companies, created in 1936. During the years, it has operated various mergers and has gained a leading position in the metropolitan area of Copenhagen with a strong presence, as the market leader, in the northern Sealand area. It provides different services, immediate or pre-booked pick up via phone or application, corporate services, medical (non-emergency) service and social visits, such as accompanying children and students.

⁴¹² <http://www.thelocal.dk/20160708/court-ruling-could-mean-the-end-for-uber-in-denmark>.

⁴¹³ Betænkning fra udvalg om erhvervs-mæssig befordring i personbiler nr. 1542 oktober 2013, p. 1.

- **TAXA 4x35** has approximately 800 taxis in Copenhagen and Kolding, offering taxi services for private and business customers, as well as special transportation of passengers with reduced mobility. The company provides booking via a taxi application that has been considered one of the most successful in Denmark, with the largest number of downloads. The application also allows the payment via apps through pre-registered credit cards.
- **Taxi 4x48** has a total of 625 vehicles, covering the entire Capital Region, following the merger with West Taxi in January 2012. At the time of the merger, it was announced that the company expected an annual turnover of over DKK 600 million with 60 employees in its headquarter who manage up to 1,400 drivers.

Taxi Nord and Taxi 4x48 have recently merged.

Data from the 2015 report from the Taxi Board of the Copenhagen Capital (a joint municipal authority for the 28 municipalities in Greater Copenhagen and North Zealand), provided the following data for the dispatch centres' activities.

Dispatch centre	Number of taxis at 1 January 2016	Space rent including account services and owners' association
Taxa 4x35	739	71.760 kr
DanTaxi	337	70.200 kr
Taxi Nord 4x48	603	71.250 kr
Amager-Øbro taxi	235	42.960 kr

The number of licensed drivers for the region in 2015 was 7.472

With regard to hire car with driver, it currently results that only 121 licences have been released. The company Uber BV has found difficulties in launching the service UberX, due to the shortage of licenced hire cars with drivers. UberPop is available in Copenhagen from November 2014. However, some drivers have been indicted for transporting passengers without a licence or, in case of licensed cars, for providing the service without the specific elements distinctive of the taxi vehicles.

Drivr⁴¹⁴ is a Danish application, now available in 3 countries, that intermediates between customers and licensed operators. The application offers both taxis and hire cars with drivers, as well as a hire transport service provided with luxury electric cars.

VIII. Barriers, limitations, incentives

The taxi market is heavily regulated. Each municipality defines the number of taxis and the maximum prices and may also compel the licence holders to create or to be affiliated to a dispatch centre.

⁴¹⁴ <http://drivr.com/>.

The licence is geographically limited and comes with a minimum service obligation for the area covered. There are two exceptions which may extend the geographical area of the service: a taxi may transport a passenger anywhere in the Danish territory if the ride origins from the municipality that issued the licence and it may pick up a passenger in another licensing area if the final destination is the municipality that issued the licence. Another limitation is that a taxi company can only be operated as a personal company. The licenses are personal and cannot be traded. Existing licenses are therefore only put in circulation only when the licence holder renounces to its status as independent operator or dies.

The Danish Competition Authority declared, in a public statement, that competition in the Danish taxi market is restricted by laws and executive orders and that those restrictions prevent innovation and the development of new products.⁴¹⁵

With regard to the hire car with driver, while in principle there are no quantitative restrictions, the municipalities can decide when the licences are to be issued, and whether there is a need to provide additional services to taxi drivers. Consequently, up to date, only 115 limousine licences have been issued in the whole of Denmark. Moreover, high qualitative entry requirements hinder the further development of the activity.

Once the hire car licence is issued, the transport of passenger is subject to a contract with a vehicle at passengers' disposal. This limits the possibility to provide immediate hire or short time pre-booking services via applications. However, as indicated above, the sector is expanding following the arrival of intermediaries. One respondent to the stakeholder consultation has nonetheless indicated that it is difficult to develop a critical mass of users.

The taxi sector has also been characterized by anticompetitive behaviour. In 2006, the Danish Competition Council found that a group of taxi companies abused their collective dominant position by excluding another taxi company from the agreement regarding the mutual clearing of taxi cheques and taxi debit cards. As a result of the investigation by the Danish Competition Council, these companies readmitted the third taxi company into the agreement.

Despite these restrictions, innovative service providers are entering the market, facilitating the services for taxis and hire cars with drivers, and improving the service's quality. Certain services, such as UberPop, are encountering difficulties, but the service is still active on the market.

IX. Capacity, growth, impact

Data from the Danish statistical office showed the following figures for taxis.

⁴¹⁵ <http://borsen.dk/nyheder/avisen/artikel/11/99395/artikel.html?hl=VWJlcg>.

Number of vehicles

2016	4 384
2015	4 883
2014	4 689

Source Statistic Denmark

Transport of passenger per taxi unit

2014	339
2013	345
2012	358

Source Statistic Denmark

A study performed in 2014 by COWI on the taxi in Greater Copenhagen⁴¹⁶ revealed that, between 2012 and 2013, 12,496 million of taxi trips were performed in the Capital Region, with a turnover of DKK 2.215 billion for the period 2012/2013.

The average gross yearly turnover for a taxi was DKK 1.1 million with an average of 6,205 rides. The 2015 Taxi Board Report confirmed this data, reporting that, in 2015 and 2016, the average yearly gross turnover of a taxi driver was around EUR 160,000 (DKK 1,228,232).

The average price per trip was DKK 177, with a journey distance of 7.7 km and a duration of 14.6 min. Half of all trips were made within the two metropolitan municipalities (Copenhagen and Frederiksborg) and around 25% of rides either started or ended in the two metropolitan municipalities. Approximately 1/6 of all rides were performed within the former Copenhagen County (including the airport), while about 1/12 of the trips were made within the former Frederiksborg. The lowest average price was DKK 126 per trip between two municipalities, while the highest average price was DKK 260. About 31% of all taxi trips are under tariff 1, while the tariff type 2 covers about 42% of trips and tariff type 3 covers approximately 24% of trips. These three types of fees thus constitute most of all rides, namely over 97%, and cost on average range between DKK 166-181 with the highest one in tariff type 1.

Airport rides to and from Copenhagen Airport (Kastrup) represented about 11% of all taxi rides, with approximately 1.35 million rides to or from the airport. Over 2/3 of all airport rides started or ended within the two metropolitan municipalities with an average price of DKK 254. Trips to or from the former Copenhagen County were 1/4 of all airport rides with an average fare of DKK 410.

Long distance pre-arranged ridesharing is offered by international platforms. Apps for taxi rides and hire cars with drivers have developed recently, facilitating the provision of new services.

⁴¹⁶ JANUAR 2014 TAXIÆVNET I REGION HOVEDSTADEN, <http://www.taxinaevn.dk/dokumenter/COWIs%20rapport%20-%20korsels-%20og%20omsetningsanalyse.pdf>.

According to the data provided by IRU until 2011, most taxi drivers are salaried employees (9,000 at January 2011), while a smaller number of taxi drivers are self-employed (2,500 at January 2011). This is in line with the general statistical results for Denmark, which indicated that in 2015 9% of the total workforce was self-employed.

X. Results

The Danish taxi sector is heavily regulated. A large number of obligations are imposed on taxi drivers. Recently, the number of vehicles and rides has slightly decreased but the turnover of the taxi drivers has remained slightly constant.

Hire cars with drivers are expanding, with the arrival of intermediaries that facilitate the provision of services. However, according to one respondent to the stakeholder consultation, obtaining the licence is particularly difficult due to the discretion of the licensing authority and the obligation to demonstrate that there is an effective need for hire car with drivers in a specific area. Intermediaries have recently entered the market with a focus on the top tier luxury limousine service. However, some intermediaries also facilitate taxi bookings and non-professional hire transport. In Copenhagen, a large range of services are available and the authorities are also investing in the modernisation of the taxi fleets and in projects that sustain the development of less polluting cars and electric vehicles.

XI. Conclusions

In Denmark, the taxi sector is characterised by quantitative barriers and by stringent regulation. Despite the lack of licences for hire car with driver, the sector is currently expanding due to the arrival of intermediaries that facilitate the provision of various services. Non-professional hire transport is present in Copenhagen but its status remains unclear, even if a recent court case considered that the service should be assimilated to taxis and should therefore comply with the taxi regulations.

Bibliography

1. The Danish (consolidated) act of 2013-01-30 no. 107 on taxi driving etc. ("Taxi Act").
2. Executive order of 2012-05-08 no. 405 on taxi services etc. ("EO1").
3. Executive order of 2006-05-04 no. 399 on special requirements for taxis etc. ("EO2").
4. Executive order of 2009-10-12 no. 967 on commercial passenger transport in vehicles controlled by the customer ("EO3").
5. Executive order of 2015-09-11 no. 1086 on energy and environmental requirements for taxis etc. ("EO4").
6. Executive order of 2015-03-25 no. 312 on driver's licenses ("EO5").

8. ESTONIA

General Legal Framework

The main legal acts regulating the carriage of passengers on road are the Public Transport Act⁴¹⁷ (PTA), the Road Transport Act⁴¹⁸ (RTA) and the Law of Obligations Act⁴¹⁹ (LOA). The PTA lays down the rules for the organisation of public transport on road, railway, waterway and air traffic. The RTA provides the grounds for the organisation of national and international road transport, including the grounds for the organisation of occupational training of drivers. The LOA is the primary legal act regulating contracts in civil law including contracts of carriage. Currently, a draft law is being processed to cover a legal vacuum and introducing the prearranged service regulating occasional transport provisions under the conditions that certain minimum requirements are met.

Licenses

To provide the taxi services, a taxi licence and a vehicle card are required. Drivers must also hold a service provider card, which is a document proving the driver's right to work as a taxi driver. A person applying for a taxi licence must be "of good repute". The applicants are of good repute if they have not been convicted of a criminal offence of the first degree or if they have no more than once been convicted of a wilful criminal offence of the second degree or certain misdemeanours. A vehicle card is a document granted to a carrier holding a taxi licence, which certifies the carrier's right to use the vehicle specified on the vehicle card for the provision of taxi services. Service provider cards can be issued to natural persons. Licenses are non-transferable.

Technical requirements

The technical requirements applicable to vehicles used as taxis are set forth on a national level in the PTA, whereas the requirements for the quality of the service, including comfortableness of passengers and environmental friendliness, may be established by a regulation of the rural municipality. Vehicles must pass a roadworthiness test. Taxi vehicles must be equipped with taxi features - an illuminated sign, a price list, a taximeter and a printer.

Organisational and professional requirements

In order to receive a service provider card to work as a taxi driver, the applicant must: hold a driver's licence, have completed a taxi driver training course, and be of good repute.⁴²⁰ According to the law, the applicant must pass a course of occupational training in an educational institution recognised by the Ministry of Economic Affairs and Communications and he must pass the final exam to work on a contractual basis in national or international road transport or provide transport services for hire or reward as a self-employed person, including working as a taxi driver. There is no obligation to use any dispatch affiliation centres or to provide a certain amount of service as a compulsory minimum. Taxi drivers are not obliged to belong to any trade unions.

Fares

Carriers have the right to establish their own prices for taxi services. The carrier must program the prices of taxi services into the taximeters installed in the vehicles and the prices must be indicated in the relevant taximeter adaptation certificates and in the price lists.

Passenger rights

The PTA gives to the passengers certain special rights against the obligations of the taxi driver. If taxi drivers violate certain requirements imposed by the PTA, (such as the requirements of switching the taximeter on, making the service provider card visible, giving the receipt with the name of the carrier to the passengers) the passenger has the right to refuse to pay for the service.

Labour rules

⁴¹⁷ Official Gazette of Estonia, Public Transport Act 23.03.2015 (as amended) (available in English online: <https://www.riigiteataja.ee/en/eli/516022016006/consolide>).

⁴¹⁸ Official Gazette of Estonia, Road Transport Act, 07.06.2000 (as amended) (available in English online: <https://www.riigiteataja.ee/en/eli/505022016005/consolide>).

⁴¹⁹ Official Gazette of Estonia, Law of Obligations Act, 26.09.2001 (as amended) (available in English online: <https://www.riigiteataja.ee/en/eli/514012016002/consolide>).

⁴²⁰ See subsection 57 (2) of the PTA.

No specific labour rules apply to taxi drivers.

Airports

There are no specific rules for airports.

Enforcement

Local authorities mainly exercise supervision over taxi services, including compliance with the requirements of rural or urban regular service authorisation, taxi licence, vehicle cards and service provider cards. In Tallinn, the Tallinn Municipal Police Board has carried out a large number of enforcement activities. According to the Tallinn Municipal authority, the infringements have dropped after the introduction of the maximum fares.

Hire cars with driver

Hire car with driver service belongs to the category of occasional services under the PTA and may be performed by holding a Community licence and a certified true copy of a Community licence. The PTA provides that hire cars with drivers are allowed to provide fee-charging passenger transport services only if they hold a Community licence and a certified true copy of the latter. The services that hire cars are permitted to provide are only occasional services. A Community licence is a document that is specified in Article 4 of Regulation (EC) No 1073/2009 which certifies the holder's right to provide domestic and international regular services on the basis of an authorisation for a regular service or contract, domestic and international occasional services as well as other domestic carriage of passengers for a charge, except taxi services. The Association of Estonian International Road Carriers (ERAA) grants the Community licences and certified true copies. Similar to vehicles used for taxi services, all vehicles engaged in public transportation including private hire cars, must be entered in the traffic registry and pass a roadworthiness test.

Ridesharing

There are no specific ridesharing regulations in Estonia. However, the RTA regulates 'own-account road transport which is the carriage of passengers for which the carrier does not receive remuneration. The Estonian Parliament has registered a draft law (an amendment to the Public Transportation Act) that would allow for unlicensed prearranged services intermediated by electronic platforms. The draft would allow for both physical persons and legal persons to offer services via the electronic platform operator, subject to minimum requirements, such as fully electronic ordering of a ride, payments, good repute of the drivers.

Country market

On April 11th, 2016, there were 2320 valid taxi licences in Estonia. The service area of 1555 of the valid licences is Tallinn. The number of valid vehicle cards in Estonia is 4131, a majority of these, the exact number of 2080, are registered in the service area of Tallinn. The exact data of service provider cards is not publicly available.

There are currently 3699 valid certified copies of Community licences for carriage of passengers in Estonia (this number includes cars as well as buses). 1804 of these are registered in Tallinn. The number of Community licences is 540.

Market players

According to the Ministry, of the 2320 taxis in service, 1900 are operated by self-employed drivers. The largest taxi company has 87 employees. The largest companies are: Tulika Takso, Tallink Takso, Reval Takso, Saksa Takso, AA Takso, Alfa Takso, Amigo Takso, Eestimaa Takso, Inter Takso, Krooni Takso, Logo Takso, Marabu Takso, Oberst Takso, Sõbra Takso, Viiking Takso. Uber and Taxify are providing similar intermediary services for licensed hire car. Taxify also operates Hopp, a car-pooling/ridesharing application that is directed to passengers moving between Tartu and Tallinn, the two biggest cities in Estonia.

Barriers, limitations and incentives

The market is lightly regulated with only qualitative requirements, mainly focused on the good reputation of the driver and knowledge exam. There are no quantitative restrictions to the number of licences for taxis and hire cars with driver. The exploitation of the hire car with driver requires community licence according to regulation (EC) No 1073/2009. The new draft legislation, once implemented, will recognize ridesharing as prearranged service (which must not be taxis or hire cars), when the contact between the carrier (which may also be a private person) and the passenger is performed through an electronic platform. The remaining part of the Bill will be directed at reducing the administrative burdens for the taxi sector, including the removal of

the taxi card and licence, and removal of the geographical restriction for taxi service.

Capacity, growth and impact

The market is characterized by small players. The majority of the drivers are self-employed. The number of licences has slightly increased over the years. However, since no data on the average turnover were obtained, we cannot define if the increase in the number had an impact on the turnover. The ongoing reform intends to reshape the hire for transport market.

Conclusions

Currently, the carriage of passengers for a fare is possible by a) providing taxi service by holding a taxi licence and a vehicle card; or b) providing occasional services by holding a Community licence and a certified true copy of the latter. There are few barriers to entry in the market and the access, both for taxis and hire cars with drivers, is mainly based on qualitative requirements. The draft ridesharing reform under discussion at the Estonian Parliament will reshape the hire transport market by further lowering the administrative burdens for taxi licences and allowing occasional transport, under certain requirements, when booked through electronic platforms.

I. Introduction

Passenger transport by car is a rapidly developing market in Estonia. It is a field where business innovation has passed the limits of the existing legal framework, creating a situation where some market participants are acting in a potentially illegal or grey area among taxi services, hire car services, occasional transport services and mediation of these services.

The main legal acts that regulate carriage of passengers on road are the Public Transport Act⁴²¹ (PTA), Road Transport Act⁴²² (RTA) and Law of Obligations Act⁴²³ (LOA). The PTA laid down the rules for the organisation of public transport in road, railway, waterway and air traffic. The RTA provides the grounds for the organisation of national and international road transport, including the grounds for the organisation of occupational training of drivers. The LOA is the primary legal act regulating contracts in civil law including contracts of carriage.

As of today, there are two main legal options for conducting road carriage of passengers for a charge in Estonia. The first option is offering occasional services by holding a Community licence and a certified true copy of the Community licence. The second option is offering taxi services by holding a taxi licence and a vehicle card. The vehicles used for fee-charging occasional carriage of passengers may not have any characteristics of taxi services. Currently, any other type of fee-charging passenger transportation by car is considered illegal, although the Ministry of Economic Affairs and Communications has recently expressed the opinion that sharing the direct costs of transportation (e.g. sharing the cost of fuel between the passengers and the driver) does not constitute a violation.⁴²⁴

⁴²¹ Official Gazette of Estonia, Public Transport Act 23.03.2015 (as amended) (available in English online: <https://www.riigiteataja.ee/en/eli/516022016006/consolide>).

⁴²² Official Gazette of Estonia, Road Transport Act, 07.06.2000 (as amended) (available in English online: <https://www.riigiteataja.ee/en/eli/505022016005/consolide>).

⁴²³ Official Gazette of Estonia, Law of Obligations Act, 26.09.2001 (as amended) (available in English online: <https://www.riigiteataja.ee/en/eli/514012016002/consolide>).

⁴²⁴ <http://tehnika.postimees.ee/3351101/ministeeriumi-uus-arvamus-soiduvahendusappidest-on-see-toredus-voi-mull>.

However, Estonia is known for its supportive approach towards innovative solutions and entrepreneurship. The government is making efforts to support innovation and simplify the establishment and running of small businesses.

In Estonia, currently a draft law is being processed in Parliament to regulate some of the existing legal vacuum. The draft law intends to create a new legal term – prearranged service. With this new regulation, occasional transport service provision would be allowed under the condition that certain minimum requirements are met, such as fully electronic ordering of a ride, payments etc. The requirements would allow the service to be provided through mediation of an electronic platform. In effect, this would be the only means by which the service could be ordered – hailing on the street would not be allowed. The latest amendments to the initial draft aim to regulate only the transport service provider and would consider the mediating platform as an information society service provider. To differentiate prearranged service providers from traditional services a range of criteria are considered, such as setting a ceiling to the annual turnover. The activity would not be subject to licences as the two current legal service options (taxi or occasional transport service of groups) are. The exact details are subject to negotiations in Parliament.

Technological innovation is not the only recent development the Estonian passenger transportation market has experienced. Estonian cities, the especially the capital Tallinn, have recently become more and more popular among service providers operating in another grey area. These are so called bicycle-taxis. Bicycle taxis are rickshaw-type three wheeled bicycles that have a wide backseat for passengers behind the driver. Some of the bikes are also equipped with a small engine powered by electricity. The current legal framework does not regulate this service and the Traffic Act⁴²⁵ categorises the mentioned vehicles as bicycles. Moreover, the term “bicycle taxi” or “velotaxi” is not a legal term at all, rather an expression from spoken language. Although the described service undoubtedly offers to a certain degree competition to taxi drivers, it does not fall under the regulations set forth for services provided using power-driven vehicles, therefore it will not be analysed in detail in this analysis.

The vehicles referred to in the analysis are power-driven vehicles.

II. Legal framework applicable to taxis

Estonian legislation categorises taxis under public transportation. Therefore, the most relevant legal act is the PTA, setting out the legal requirements for the organisation of public transport on roads.

II.1 National/Local/municipal regulations

Taxi services are regulated by the PTA. The PTA sets the definition for taxi services, which is the carriage of passengers by road to the destination requested by a customer or the picking up of the passenger using a public transport vehicle adjusted for taxi services as well as waiting with such a vehicle for the passenger at a taxi stand or at the place agreed with the passenger.

⁴²⁵ Official Gazette of Estonia, Traffic Act 17.06.2010 (as amended) (available in English online: <https://www.riigiteataja.ee/en/eli/516022016004/consolide>).

The PTA establishes the main rules and requirements for the provision of taxi services, such as the necessary documents, the granting of these documents and procedures in order to apply for these documents. The PTA also sets the requirements for the vehicles used as taxis, the rights and obligations of the taxi operator, driver and passengers. In addition to that, the PTA regulates the taxi fares and price structure. The general rule is that the prices are established by the carrier. However, the PTA gives to the local authorities the right to establish the maximum fees that can be charged by the carriers. Rural municipalities and city councils may set the maximum fares for charging, price per kilometre and time-based price, taking into account that the carrier must be able to bear the direct costs relating to the service, the capital costs and a proportion of its overheads as well as make at least a reasonable operating profit.

The PTA also directly addresses many other rights and obligations regarding taxi services to local authorities, such as the granting of taxi licences, vehicle cards, service provider cards and supervision over the holders of these documents. Local authorities also have the right to designate municipal taxi stands where other vehicles are not allowed to stop. Additionally, while national regulation mainly regulates the technical requirements for the provision of taxi services, the PTA gives local authorities the right to set their own requirements to ensure the quality of the services, including comfortableness of passengers and environmental friendliness of the vehicles used for the provision of taxi services.

In addition to national regulations and acts, all the major local municipalities have established their own specific criteria for the provision of taxi services.

II.2 Procedures for issuing licences and applicable criteria

To provide taxi services, a taxi licence and a vehicle card are required. Drivers must also hold a service provider card, which is a document proving the driver's right to work as a taxi driver. However, if the draft law that is currently being processed passes, a taxi licence will not be required if the taxi service is provided by a self-employed person (with no employees) personally.

A taxi licence is a document that certifies the right of the carrier to provide taxi services. The carrier may be a legal person or a self-employed person (entered in the commercial register). A person applying for a taxi licence must be "of good repute". Reputation is considered good if the applicant has not been convicted for a criminal offence of the first degree or no more than once been convicted for wilful criminal offence of the second degree or for certain misdemeanours.⁴²⁶ The applicant must also have good financial standing. The financial standing is considered good if the applicant has not been declared bankrupt by a court or if the/she has not staggered tax arrears. The same good repute principle also applies to the applicants for service provider cards.

A vehicle card is a document granted to a carrier holding a taxi licence, which certifies the carrier's right to use the vehicle specified on the card in order to provide taxi services. If the new draft law will be approved the requirement to obtain a vehicle card will be repealed.

⁴²⁶ See subsection 56 (1) of the PTA.

Taxi licences, vehicle cards and service provider cards are issued by the rural municipality or city government of the carrier's place of registration.

Taxi licences can be issued to legal persons or self-employed persons entered in the commercial register. To apply for a taxi licence the applicant must submit the following documents to the local authority:

- An application with the applicant's contact details;
- The applicant's business name and registry code; if the applicant is a legal person that is being founded, a foundation document; if the applicant is a self-employed person, the name and registry code of the applicant;
- The requested term of validity of the licence (otherwise it will be granted for an unspecified period).

Possible grounds for refusal of issuing a taxi licence may be the following:

- The applicant is subject to a prohibition of operation or disqualification from the practice of commercial activities imposed by a final judgment in a criminal case; or to a prohibition on business arising from law or a judicial decision; or the applicant has non-staggered tax arrears; or the applicant has been declared bankrupt;
- The previous licence was withdrawn due to the violation of the reason the requirements established by the law and less than two years has passed since then;
- The applicant does not meet the established requirements;
- A driver employed by the applicant has, in relation to professional activities, been convicted of certain criminal offences and the criminal records have not been deleted from the database in accordance with the Criminal Records Database Act;⁴²⁷
- The applicant has not complied with prescribed precepts;
- The applicant has knowingly provided false information that could affect the decision on the application.

When the necessary documents have been submitted, the issuer of the licence verifies the data presented by the applicant and checks the criminal records database. The applicant for the taxi licence will be notified of a decision to grant or to refuse the licence by post or electronically within 30 days from the submission of all the data and documents.

A vehicle card can be applied for a vehicle that has been entered in the traffic registry and complies with the requirements set to vehicles used for the provision of taxi services. Vehicle cards can be issued to holders of taxi licences. If the applicant is applying for a vehicle card, he/she also must submit the following documents:

- If the applicant is not the owner or user specified in the vehicle's registration certificate, the contract for the use of the vehicle;
- The taximeter adaptation certificate (may be submitted immediately before the granting of the vehicle card).

Possible grounds for refusal of a vehicle card are the following:

⁴²⁷ See clause 60 (1) 4) of the PTA.

- The applicant does not comply with the established requirements or the applicant has non-staggered tax arrears;
- The applicant is not the owner or authorised user of the vehicle according to the registration certificate or contract of use;
- The vehicle for which the vehicle card is applied for has not been entered in the traffic registry or it did not pass the roadworthiness test;
- The taximeter adaptation certificate sets out services that are not included in the list established by the rural municipality or by the city council, also if the fees indicated in the taximeter adaptation certificate exceed the maximum permitted fares established by the local authority;
- The applicant has knowingly given false information that could affect the decision on the application.

When the necessary documents have been submitted, the issuer of the vehicle card verifies the data presented by the applicant and checks the criminal records database. The applicant for the vehicle card will be notified of the decision by mail or electronically within seven days from the submission of all the documents.

Service provider cards can be issued to natural persons. If the applicant is applying for a service provider card, the following must be submitted to the local authority:

- An application with the applicant's contact details;
- The applicant's driver's licence, unless it has been entered in the Estonian traffic registry;
- A certificate certifying the completion of a taxi driver training course;
- A photo that complies with the requirements set out for identity documents;

The requirement of the special taxi driver training course could be abolished under the new draft legislation.

Possible grounds for refusal of issuing a service provider card may be the following:

- The applicant does not meet the established requirements;
- The applicant has knowingly given false information that could affect the decision on the application;
- The PTA also excludes certain persons from being able to receive a service provider card. These are applicants who hold provisional driving licences or a licence with the limited right to drive.

When the necessary documents have been submitted, the issuer of the service provider card verifies the data presented by the applicant and checks the criminal records database. The applicant for the service provider card will be notified of a decision to grant or to refuse the card by post or electronically within 15 days from the submission of all the documents.

Before submitting any of the mentioned applications, the applicant for a taxi licence, vehicle card and service provider card must pay a state fee, unless the issuer or approver of the document is a non-profit association or a regional public transport centre.

If the documents submitted for obtaining any of the mentioned licences contain deficiencies, the applicant will be granted a reasonable time limit for eliminating the deficiencies. If the applicant fails to eliminate the deficiencies within the time limit, the application may be dismissed.

Licenses are non-transferable. Vehicle cards may be leased with vehicle, e.g. in Tulika Takso leasing a car of the company is 337.60 EUR/month + franchise fee from 365 EUR/month (<http://www.tulika.ee/meist/tule-taksojuhiks>).

II.3 Technical requirements applicable to licenced vehicles (taximeters, vehicles' technical specifications, accessibility, insurance, maintenance)

The technical requirements applicable to vehicles used as taxis are set forth at national level in the PTA, whereas the requirements for service quality, including comfortableness of passengers and environmental friendliness regarding vehicles used for the provision of taxi services may be established by a regulation of the rural municipality.

Vehicles used for providing taxi services must comply with the following requirements:

- The vehicles must be entered in the traffic registry and pass the roadworthiness test. The exact criteria for passing the roadworthiness test are set forth in regulation No 42 of 13 June 2013 of the Ministry of Economic Affairs and Communications, "*Technical requirements for power-driven vehicles, trailers and equipment*" and its annexes.⁴²⁸ There is no separate set of rules specifically set for taxi vehicles;
- The name of the carrier or the relevant trademark must be visible on the outer right side of the taxi vehicle;
- The taxi vehicle must be equipped with taxi features - an illuminated sign, a price list, a taximeter and a printer;
- The taximeter must pass a proper metrology inspection and be adjusted to fit the vehicle, the readings of the taximeter must be verified and the connections thereof that allow for changing the measurement result must be sealed. The Ministry of Economic Affairs and Communications defines the detail of the regulation concerning the taximeter device in a separate act.⁴²⁹

It is not allowed to install any of the taxi features on a vehicle for which a vehicle card has not been issued. The PTA expressly prohibits installing features imitating a taxi feature on a vehicle. It is prohibited to provide any service at all using a vehicle that has a feature imitating a taxi feature. If taxi services are not provided, the illuminated sign must be removed from the vehicle. If the illuminated sign has not been removed, it will be deemed that the driver is providing taxi services.

⁴²⁸ Official Gazette of Estonia – RT I 16.06.2011, 8; RT I, 31.07.2015, 10. Mootorsõiduki ja selle haagise tehnonõuded ning nõuded varustusele. (available in Estonian only online: <https://www.riigiteataja.ee/akt/131072015010>).

⁴²⁹ Official Gazette of Estonia - RT I, 28.09.2015, 5. Nõuded taksoveol kasutatava sõiduki plafoonile, taksomeetrile ja hinnakirjale ning nende paigutusele. (available in Estonian only online: <https://www.riigiteataja.ee/akt/128092015005>).

All motor vehicles that have been registered in the Estonian traffic registry must be covered by a mandatory motor insurance contract for the liability arising from damage caused to a third party by the use of a vehicle (insurance obligation). There is no special regulation concerning the insurance obligation of taxi vehicles. Vehicles subject to the insurance obligation that do not have mandatory motor insurance or automatic motor insurance are prohibited from being put in circulation.

The insurance contract must be concluded by the person who is registered as the owner of the vehicle or as an authorised user of the vehicle. The insurance contract is concluded for a fixed term, whereas the duration of the insurance period may range from 1 day to 12 months.

If the insurance obligation has not been abided by with regard to a vehicle registered in the traffic registry, an automatic motor insurance relationship is established between the Estonian Motor Insurance Fund and a person subject to the insurance obligation. Automatic insurance is considerably more expensive than the third-party liability insurance provided by insurance companies. The automatic insurance cover will terminate when a contract is concluded with an insurance provider or when the vehicle is deleted from the traffic registry or is declared as an unregistered vehicle.

The insurance premiums for vehicles used as taxis are higher than for normal vehicles. In light of the draft act on prearranged services, the Estonian Insurance Association has indicated that the vehicles used for prearranged services should also be subject to higher premiums similarly to taxis.⁴³⁰

II.4 Qualitative requirements (*fitness of the driver, knowledge and skills required, drivers' training*)

According to Estonian legislation, taxi drivers may, in addition to being employees of taxi service companies, also be self-employed and therefore individual holders of both, the taxi licence and the service provider card.

To be permitted to work as a taxi driver and receive a service provider card, the applicant must:

- Hold a driver's licence;
- To have completed a taxi driver training course (this requirement will be abolished if the new draft law passes);
- To comply with the requirement of good repute.⁴³¹

The terms of the taxi driver training course are set forth in the RTA. According to the law, the applicant must pass a course of occupational training in an educational institution recognised by the Ministry of Economic Affairs and Communications and pass the final exam of the course in order to work on a contractual basis in national or international road transport or provide transport services for hire or reward as a self-employed person, including working as a taxi driver.

⁴³⁰ <http://tehnika.postimees.ee/3655681/kokkuleppevedajad-ei-pruugi-paaseda-korgemast-kindlustusmaksest>.

⁴³¹ See subsection 57 (2) of the PTA.

II.5 Organizational requirements (*dispatch affiliation centre, minimum service*)

There is no obligation to use any dispatch affiliation centres or to provide a minimum service. Taxi drivers are not obliged to belong to any trade unions. However, the Estonian Transport and Road Workers' Trade Union (ETTA)⁴³² is one of the biggest and most active trade unions in Estonia. Taxi drivers have established a separate organization to mutually represent their interests, an NGO named *Eesti Taksojuhtide Liit* (Estonian Taxi Driver's Association).

II.6 Fares (*criteria for taxi fare setting, authority/body in charge of setting the tariffs, maximum tariffs and/or fixed tariffs, composition of the tariff and tariffs adjustment mechanism [minimum charge, additional charge for using the radio taxi or dispatch centre, increase of the tariff during certain hours, such as at night or on certain journeys, such as towards the airports, reductions for certain categories, such as elderly people]*)

The carrier has the right to set its own fares. The carrier must program the prices of taxi services into the taximeters installed in the vehicles and the fares must be indicated in the relevant taximeter adaptation certificates and in the price lists.

Rural municipalities and city councils have the right to establish the structure of the fares for taxi services, thereby distinguishing between the charging fee, the fare per kilometre or the time-based fee. They may also set the maximum permitted fares for each component of the price, into account that the carrier must be able to bear the direct costs relating to the provided service, the capital costs and a proportion of its overheads as well as make at least a reasonable operating profit. Local authorities may also create a list of services for which a price may be established and it is thereby permitted to distinguish between daytime and night time services.

For example, in Tallinn, the capital of Estonia where most of the taxi service market operates, the maximum fares are EUR 5,50 for the journey commencement fee; EUR 1,10 per kilometre fee; and EUR 24,20 per hour for the time-based fee.⁴³³

The PTA also sets some travel fare concessions for certain types of public transportation. Taxi services are not included in this list. According to the PTA, the carriers may establish their own travel fare concessions, but these are not compensated by the state.

II.7 Passenger rights

The PTA gives passengers certain special rights against the obligations of the taxi driver. If taxi drivers violate any of the requirements below, passengers have the right to refuse to pay for the service. The taxi driver is required to:

⁴³² For more information about the Estonian Transport and Road Workers' Trade Union ETTA please refer to their website available at <http://www.etta.ee/eng> (In English).

⁴³³ Official Gazette of Estonia. Regulation nr 20 from 15. October 2015 by the Tallinn City Council „Tallinna taksoveonõuded“. (Available online in Estonian: <https://www.riigiteataja.ee/akt/429102015031>).

- Place the service provider card on the dashboard in a place visible to the passenger;
- Switch on the taximeter upon commencement of service. If the passenger orders a taxi outside the service area, the taximeter may be switched on at the border of the service area upon an agreement with the passenger;
- Hand the passenger a printed invoice that indicates the name and registry code of the carrier, the registration number of the vehicle, the date of provision of the service, the start and end time, the length of the journey, the prices and discounts used, the volume and cost of the provided service across all the prices and discounts used, and the total cost.

The law prohibits taxi drivers from servicing passengers with a malfunctioning taximeter or printer and possessing or using any accessories that may alterate the measuring result or reading of the taximeter.

Passengers are granted additional rights according the Consumer Protection Act⁴³⁴ (CPA). In the sense of the CPA, taxi passengers are consumers, if they are natural persons who are not acting on the purposes related to their business or professional activities.

The fundamental consumer rights regarding services are the following:

- To demand and obtain services which meet the legal requirements, are harmless to the life, health and property of the consumers, and are not prohibited from being used;
- To obtain necessary and truthful information on the services offered in order to make an informed choice, and timely information on any risks relating to the services;
- To demand compensation for any patrimonial or non-patrimonial damage caused to them.

II.8 Subsidies applicable to taxi sector *(including public developed applications for taxi sector, geolocalisation, etc.)*

There are no known subsidies applicable to taxi sector.

II.9 Labour rules

There are no special labour rules for taxi drivers. General labour rules applies.

II.10 Supervisory enforcement tools

Local authorities mainly exercise supervision over taxi services, including the compliance to the requirements of a rural or urban regular service authorisation, taxi licence, vehicle card and service provider card. Preventing the provision of unlicensed taxi services is among their main priorities. As a substantial part of taxi services are conducted in

⁴³⁴ Official Gazette of Estonia, Consumer Protection Act 09.12.2015 (as amended) (available in English online: (<https://www.riigiteataja.ee/en/eli/515032016002/consolide>)).

Tallinn, the Tallinn Municipal Police Board has shown the most dedication regarding the supervision of taxi services.

The authorities with the right to exercise supervision over the provision of taxi services are the following:

- Police officers;
- Rural municipality government or city government officials;
- County government officials;
- Road Administration officials;
- Consumer Protection Board officials.

In general, law enforcement authorities may, for exercising state supervision under the PTA, take certain special measures provided by the Law Enforcement Act⁴³⁵ including:

- Exercising supervision ex officio and without notice;
- During supervision, using a public transport vehicle on its travel route free of charge;
- Using photo and video recording equipment;
- Questioning and requiring documents;
- Summons and compelled attendance;
- Identification of the person;
- Stopping of vehicle;
- Examination of moving goods;
- Entry into premises, including a public transport vehicle and a vehicle that has a feature imitating a feature of a public transport vehicle;
- Taking into storage of movable goods.

The investigative bodies and Prosecutors' Offices have a wider sphere of investigatory and enforcement powers when investigating criminal offences.

According to the replies of the Ministry of the Transport, in Tallinn, between 2010-2015, there were 5500 controls and in 2759 cases a proceeding for misdemeanour was started. No further data has been provided on the controls. Over the period 2010-2015 penalties amounted at EUR 550,700.

III. Legal framework applicable to hire cars with driver

As mentioned before, there are two legal options for the road carriage of passengers by car for a fee according to Estonian legislation. The first option is providing taxi services by holding a taxi licence and a vehicle card. The second option is providing occasional services under the PTA by holding a Community licence and a certified true copy of a Community licence. Hire cars with drivers fall under this second category.

⁴³⁵ Official Gazette of Estonia, Law Enforcement Act 23.02.2011 (as amended) (available in English online: <https://www.riigiteataja.ee/en/eli/504012016003/consolide>).

Therefore, there is clear distinction between taxi services and hire car services (as occasional services) according to Estonian legislation.

III.1. National/local municipal regulation

The PTA provides that hire cars with drivers are only allowed to provide fee-charging passenger transport services if they hold a Community licence and a certified true copy of the latter. However, they are only permitted to provide occasional services.

According to the PTA, occasional services must have the following characteristics:

- Passengers are being carried by road, except for regular services and taxi services;
- The carriage of groups of passengers is constituted on the initiative of the customer or the carrier.

III.2 Procedures for issuing licences and applicable criteria

A Community licence is a document that is specified in Article 4 of Regulation (EC) No 1073/2009 of the European Parliament and of the Council and certifies the holder's right to provide domestic and international regular services on the basis of an authorisation for a regular service or contract, domestic and international occasional services as well as other domestic carriage of passengers for a charge, except taxi services.

A certified true copy of Community licence is a document specified in Article 4 of Regulation (EC) No 1073/2009 of the European Parliament and of the Council and certifies the right of the holder of a Community licence to use the vehicle bearing the registration number specified in the certified true copy of the Community licence for the carriage of passengers authorised under the Community licence.

Under the general rules, the Road Administration, country governments, rural municipality governments and city governments, grant the Community licences and certified true copies. The granting of Community licences and certified true copies may be delegated to non-profit associations by an order of the Government of the Republic. A relevant public law contract has been concluded between the Ministry of Economic Affairs and Communications and the Association of Estonian International Road Carriers (ERAA)⁴³⁶ and the Community licences are currently issued by the ERAA.

The requirements for applying for and holding a Community licence are the following:

- The applicant must comply with the terms set in article 3(1) of Regulation (EC) No 1071/2009 of the European Parliament and of the Council;
- The applicant must be registered in the commercial register or in the register of non-profit associations and foundations;
- The applicant must communicate the address of their establishment in Estonia to the issuer of the Community licence, where their main business documents are

⁴³⁶ Association of Estonian International Road Carriers (ERAA). See <http://eraa.ee/?setlang=eng> for additional information.

kept, unless the address overlaps with the carrier's address in the commercial register or in the register of non-profit associations and foundations. The issuer of the licence must be informed of a change of the address within 28 calendar days;

- Comply with the requirements of good repute;⁴³⁷
- The applicant must appoint one or several transport manager of good repute for the purposes of Article 3(1)(b) of Regulation (EC) No 1071/2009 of the European Parliament and of the Council and that complies with the requirements provided for in § 44 of this Act and Article 4 of Regulation (EC) No 1071/2009 of the European Parliament and of the Council.

Possible grounds for refusal of issuing a Community licence are the following:

- The applicant is subject to a prohibition on operation or disqualification from the practice of commercial activities imposed by a final judgment in a criminal case or to a prohibition on business arising from law or a judicial decision or the applicant has non-staggered tax arrears or the applicant has been declared bankrupt;
- The reason for the revocation of the previous Community licence of the applicant lies in a violation of the requirements established by legislation and less than two years has passed since then;
- The applicant does not comply with the requirements laid down by the legislation;
- A driver employed by the applicant has been convicted of certain criminal offences⁴³⁸ in relation to the professional activities and the records have not been cleared in accordance with the Criminal Records Database Act. In the event of application for the Community licence, the criminal records on transport and traffic offences obtained from abroad are taken into account, unless the term of deletion of the records provided for in §24 of the Criminal Records Database Act has not passed from the making of the decision made regarding the offence committed abroad;
- The applicant has not complied with a precept;
- The applicant has knowingly given false information that could affect the decision on the application.

The issuer of a Community licence verifies the data presented by the applicant and checks the criminal records database. The applicant for the Community licence will be notified of a decision to issue or to refuse to issue the licence by post or electronically within 30 days as of the submission of all the data and documents.

An applicant for a Community licence must submit the following data and documents:

⁴³⁷ See subsections 43 (4) -(7) of the PTA.

⁴³⁸ See clause 48 (1) 4 of the PTA.

- An application with the applicant's contact details;
- The applicant's business name and registry code;
- If the applicant is a legal person that is being founded, a foundation document;
- If the applicant is a self-employed person, the name and registry code of the applicant;
- The requested term of validity of the licence (otherwise it will be granted for an unspecified period);
- Documents certifying the financial standing as specified in Article 7 of Regulation (EC) No 1071/2009 of the European Parliament and of the Council;
- The name and personal identification code of the transport manager, the person's consent to the appointment as a transport manager, a document certifying the professional competence of the transport manager, and a document certifying the appointment of the transport manager or a written certificate of the transport manager status if the transport manager is a self-employed person or a legal person's board member having the exclusive right of representation.

A certified true copy of the Community licence can be applied for a vehicle that has been:

- Entered in the traffic registry and that has passed the roadworthiness test; and
- The contract of use of the vehicle if the applicant is not the owner of the vehicle or the user of the vehicle based on the registration certificate of the vehicle.

Possible grounds for refusal of issuing a certified copy of a Community licence may be the following:

- The applicant does not comply with the requirements established to the applicant or has non-staggered tax arrears;
- The applicant is not the owner or authorised user of the vehicle for which a certified true copy of the Community licence is applied for according to the registration certificate or contract of use of the vehicle;
- The vehicle for which a certified true copy of the Community licence is applied for has not been entered in the traffic registry or passed the roadworthiness test;
- The applicant has knowingly given false information that could affect the decision on the application.

The issuer of a certified true copy of the Community licence verifies the data presented by the applicant and checks the criminal records database. The applicant will be notified of a decision to issue or refuse to issue the certified true copy of the Community licence by post or electronically within 15 days as of the submission of the documents.

Transport managers must comply with the following set of rules:

- Comply with the requirements of good repute;⁴³⁹
- Be professionally competent - a transport manager is considered to be professionally competent if he/she has completed a passenger transport manager training course organised in an educational institution recognised by the Ministry of Economic Affairs and Communications, passed the written final examination of the course and holds the training certificate;
- A self-employed person is also considered professionally competent if he/she has completed a professional driver training in accordance with the Road Transport Act, taken a respective examination and holds the professional certificate of a taxi driver.

III.3 Technical requirements applicable to hire cars with driver

All vehicles engaged in public transportation including hire cars with driver, must be entered in the traffic registry and pass a roadworthiness test.

The technical requirements and characteristics of hired vehicles have been a key issue in the authorities' efforts to eradicate unlicensed service providers, so called "pirate taxis". The use of taxi features or any features imitating taxi features on vehicles that are not used for provision of taxi services is prohibited. According to the PTA and relevant court practice, taxi features include:

- An illuminated taxi sign placed on the roof of the vehicle. The courts have ruled that any light box or a similar attribute with distinctive characteristics to taxis is considered a taxi feature;⁴⁴⁰
- A sign placed on the vehicle which is characteristic to taxis and taxi services or that may indicate potential passengers that the particular vehicle is used for the provision of taxi services. Court practice has found that any logos on the body of the vehicle that are generally known as taxi logos, e.g. logos with black and yellow squares and images of a car can be considered taxi features;⁴⁴¹
- A taximeter;
- A fare chart that is placed in a visible location on or inside the vehicle that indicates services for carriage of passengers for a fare;
- Court practice has also found that a radio transmitter and a microphone near the driver can also be considered imitation of taxi features.⁴⁴²

III.4 Qualitative requirements

There is no specific set of rules for hire cars with drivers.

⁴³⁹ See clause 44 (1) 1-5 of the PTA.

⁴⁴⁰ Ruling of the Estonian Supreme Court No 3-1-1-81-10 of 21 October 2010; Ruling of the Harju County Court No 4-10-4038 of 23 May 2011; Ruling of the Harju County Court No 4-10-3597 of 1 February 2011; Ruling of the Harju County Court No 4-10-3595 of 1 February 2011; Ruling of the Harju County Court No 4-13-1334 of 2 May 2013; Ruling of the Harju County Court No 4-10-3597 of 1 February 2011; Ruling of the Harju County Court No 4-10-3869 of 31 March 2011.

⁴⁴¹ Ruling of the Harju County Court No 4-13-1334 of 2 May 2013; Ruling of the Harju County Court No 4-11-2151 of 3 October 2011.

⁴⁴² Ruling of the Harju County Court No 4-11-2151 of 3 October 2011.

III.5 Organisational requirements

Holders of a Community licence must be registered in the commercial register (legal persons or self-employed) or in the register of non-profit associations and foundations.

III.6 Passenger rights

There is no specific set of passenger rights for hire cars with drivers. The main principles regarding contracts in the LOA and basic consumer rights set in the CPA apply.⁴⁴³

It is important to note that the carriers are free to establish the occasional service prices. However, if the fare is not agreed upon before the start of the journey, the price will be formed based on subsection 28 (2) of the LOA.⁴⁴⁴

III.7 Labour rules

There is no specific set of labour rules for hired cars. For employees, the general labour rules are applicable.

III.8 Local incentives, subsidies provided by the administration in order to carry out certain services (such as mini-van service for people with reduced mobility, elderly, schools)

There are no such known local incentives or subsidies regarding hire cars with drivers.

III.9 Supervisory enforcement tools

Supervision over the requirements of the PTA is conducted by:

- Within the limits of their competence, rural municipality, city and county governments, the Road Administration and the Ministry of Economic Affairs and Communications exercise supervision over compliance with the requirements of licences for the carriage of passengers;
- The Consumer Protection Board ensures the implementation of Regulation (EU) No. 181/2011 of the European Parliament and of the Council concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004⁴⁴⁵ on regular bus services falling within the scope of application of the regulation and, within the limits of its competence, exercises supervision over compliance with the regulation and other requirements concerning consumer rights;
- Within the limits of their competence, police authorities, rural municipality, city and county governments, the Ministry of Economic Affairs and Communications,

⁴⁴³ See s. II.7, p. 251.

⁴⁴⁴ Subsection 28 (2) of the LOA stipulates that where a contract does not determine the price or a method for determining the price and the nature of the contract or other circumstances do not dictate the price or the method of determining the price, the price to be paid shall be the price generally charged at the time of the entry into the contract at the place of performance of the contract for the performance of such contractual obligations or, if no such price can be determined, a price reasonable under the circumstances.

⁴⁴⁵ OJ L 55, 28.02.2011, pp. 1–12.

the Consumer Protection Board and the Road Administration exercise state supervision over adherence to carriage requirements.

IV. Legal framework applicable to ridesharing and car sharing

There are no specific ridesharing regulations in Estonia. However, the RTA regulates 'own-account road transport', which is the carriage of passengers for which the carrier does not receive remuneration. The requirements of the RTA are applicable and complementary to Regulation (EC) No 1073/2009 if own-account carriage of passengers is organised using a motor vehicle having more than nine seats (the driver's seat included). Any fee-charging type of passenger transportation that does not qualify as taxi services or occasional services is considered illegal, although the Ministry of Economic Affairs and Communications has expressed the opinion that sharing the direct costs of transportation (e.g. sharing the cost of fuel between the passengers and the driver) does not constitute a violation.⁴⁴⁶

IV.1 Current regulations and legislative proposals

As mentioned, there are currently no specific ridesharing regulations in Estonia. However, there is currently a draft law⁴⁴⁷ being processed in the Parliament to regulate some of the existing legal vacuum. The draft law intends to create a completely new legal term – prearranged service. With this new regulation, both companies and natural persons would be able to offer on road passenger transport by car through special electronic applications. The proposed term of prearranged service does not qualify as neither of the previously mentioned two options currently regulated (taxi service, occasional service). Thereby the draft law would legalise the activities of companies and natural persons who already offer peer-to-peer transportation services via electronic systems in Estonia.

The definition of prearranged services is devised to be *"the carriage of passengers for a fare with an automobile that has up to nine seats, except occasional services and taxi services, and the main characteristic of which is that the ordering of the carriage is only made through an electronic system for prearranged services that meets the requirements of section 53² of [the PTA]."*

Prearranged services can be provided by undertakings, by self-employed persons and natural persons. If the service provider does not use the mentioned electronic system, the transportation is considered as taxi service. Vehicles used for the provision of prearranged services must not have any taxi features or features imitating taxi features. If such features exist, the service is considered taxi service.

The provider of prearranged services must comply with the requirements of good repute. Reputation is considered good if the provider has not been convicted of a criminal offence or misdemeanour consisting of driving under the influence of alcohol or illegal substances.

⁴⁴⁶ <http://tehnika.postimees.ee/3351101/ministeeriumi-uus-arvamus-soiduvahendusappidest-on-see-toredus-voi-mull.>

⁴⁴⁷ <http://www.riigikoju.ee/download/b4cd4af0-8cd2-43d0-83b7-8c1df8e7f3a9.>

IV.2 National rules applicable to on-line platform and rules applicable to service providers.

The draft legislation proposes that the electronic system for prearranged services must:

- Enable ordering and accepting of prearranged services and enable an overview and retention of completed orders;
- Display a name of a driver conducting the prearranged service and the licence plate number of the relevant vehicle utilized in providing the prearranged service at the time of ordering the carriage;
- Enable disclosure of the fare calculation method for the prearranged service at the time of placing an order;
- Provide an estimated fare for the prearranged service at the time of placing an order if the final destination is provided at the time of placing an order;
- Enable the possibility of making electronic payments between the provider of the prearranged service and passengers.

If the prearranged service is provided by an entrepreneur entered into the commercial register, the electronic system for prearranged services must ensure that the passenger is provided with an invoice that meets the requirements established under the Accounting Act for source documents and contains: the name of the provider of the prearranged service; the name of the driver; the licence plate number of the vehicle; the date of the provision of the prearranged service as well as the start and end time; the origin and destination of the trip; the total time and distance of the trip; and the total fare paid.

If the prearranged service is provided by a natural person, the electronic system for prearranged services must ensure that the passenger is provided with an overview of the completed order that must at minimum include the name of the provider of the prearranged service, the name of the driver, the licence plate number of the vehicle, the date of the provision of the prearranged service as well as the start and end time, the origin and destination of the trip, the total time and distance of the trip and the total fare paid.

If the same electronic system for prearranged services enables ordering of taxi services the providers of prearranged services and taxi services must be clearly distinguishable to the passenger.

According to the draft law, the operator of the electronic system for prearranged services is an entrepreneur whose electronic platform is used for intermediation of orders for prearranged services. The operator of the electronic system for prearranged services must:

- Retain the information specified in subsections 53(2) and (3) of the (draft) PTA at least for three years after completion of each relevant prearranged service, whereas the processing of information must be made in a manner that does not enable identification of personal data of relevant passengers.
- Disclose on its webpage the principles of resolving any complaints, monitoring of the quality of the prearranged services and the requirements applied to the providers of the prearranged services, drivers conducting the prearranged services and the vehicles used for provision of prearranged services.

IV.3 Main operators and their business models

Uber

In Tallinn, Uber is providing only the low-cost option UberPoP, the non-professional hire transport. Pending the adoption of the draft law, some drivers have been fined for providing unlicensed fee-charging passenger transportation services through the Uber application.⁴⁴⁸

Taxify

Taxify is an Estonian application that is widely used for different services. The company started out as an intermediary between professional taxi service providers and clients. Recently the company has started intermediating with hire cars with drivers. Taxify also operates Hopp, a ridesharing application that is directed to passengers moving between Tartu and Tallinn, the two biggest cities in Estonia. Via Hopp, anyone who is driving between the two cities can find passengers to join them for a predetermined price.

Wisemile

Wisemile is an application and online service functioning similarly to Hopp. Wisemile is not limited to transportation between Tallinn and Tartu, but users can determine their own destinations. In addition to passenger transport, Wisemile also offers the option to transport luggage.

IV.4 Requirements imposed upon non-licensed activities (safety and technical requirements, insurance requirements, obligations relating to licences and on-line platforms)

According to current law, unlicensed fee-charging passenger transport is prohibited. The draft law does not set any further requirements. Regarding the requirements planned for the electronic platform, please see above, s.IV.2.

⁴⁴⁸ <http://tehnika.postimees.ee/3578037/politsei-tunnistas-uberi-juhtide-tegevuse-eestis-ebaseaduslikuks>.

Regarding supervision, according to the new draft law, the Tax and Customs Board will have the right to access information about prearranged services retained by the provider of the prearranged service or the operator of the electronic system to conduct tax proceedings.

IV.5 Local incentives, subsidies and other forms of promotion for ridesharing and car sharing (including, parking spots, use of preferential lanes, etc.)

There are no current or proposed forms of promotion for ridesharing and car sharing.

V. Relevant national case law

The case law regarding fee-charging passenger transportation in Estonia is related to unlicensed taxi services. Some of the relevant rulings are the following:

- Ruling of the Estonian Supreme Court No 3-1-1-81-10 of 21 October 2010 – a driver without a taxi licence and vehicle card used features that imitated taxi features;
- Ruling of the Harju County Court No 4-10-4038 of 23 May 2011 - a driver without a taxi licence and vehicle card used features that imitated taxi features;
- Ruling of the Harju County Court No 4-10-3597 of 1 February 2011 - a driver without a taxi licence and vehicle card used features that imitated taxi features;
- Ruling of the Harju County Court No 4-10-3595 of 1 February 2011 - a driver without a taxi licence and vehicle card used features that imitated taxi features;
- Ruling of the Harju County Court No 4-13-1334 of 2 May 2013 - a driver without a taxi licence and vehicle card used features that imitated taxi features;
- Ruling of the Harju County Court No 4-10-3869 of 31 March 2011 - a driver without a taxi licence and vehicle card used features that imitated taxi features;
- Ruling of the Harju County Court No 4-11-2151 of 3 October 2011 - a driver without a taxi licence and vehicle card used features that imitated taxi features.

As it stems from case law, the authorities' main efforts so far have been directed towards unlicensed service providers that imitate the features of licenced taxis.

VI. Country Market

As of April 11th, 2016, there were 2320 valid taxi licences in Estonia. The service area of 1555 of the valid licences is Tallinn. The number of valid vehicle cards in Estonia is 4131, the majority (2080) being registered in the service area of Tallinn. The exact data of service provider cards is not publicly available.

There are currently 3699 valid certified copies of Community licences for carriage of passengers in Estonia (these number include cars as well as buses) of which 1804 are registered in Tallinn. The number of Community licences is 540.

The number of Community licences and certified copies of Community licences includes the providers of domestic and international regular services based on an authorisation for a regular service or contract, domestic and international occasional services as well as other domestic carriage of passengers for a charge, except taxi services (but including also buses).

VII. Market players

Taxi service

There is large number of players in the market. Largest companies with more cars are (their brands): Tulika Takso, Tallink Takso, Reval Takso, Saksa Takso, AA Takso, Alfa Takso, Amigo Takso, Eestimaa Takso, Inter Takso, Krooni Takso, Logo Takso, Marabu Takso, Oberst Takso, Sõbra Takso, Viiking Takso.

According to the replies from the Ministry of Transport, the biggest company has 87 vehicles.

Among 2302 taxi service providers there are 1900 sole proprietors.

Hire car with drivers

- 1-5 seats – 17 carriers and 50 cars
- 6-9 seats – 78 carriers and 123 cars

VIII. Barriers, limitations incentives

The market is lightly regulated. Qualitative requirements exist to ascertain the driver's good reputation and knowledge through an exam. There are no quantitative restrictions to the number of licences for taxis and hire car with driver. The exploitation of the second service is based on the rules for the community licence laid down by the regulation (EC) No 1073/2009. The hire car with driver must be provided upon a contract concluded between the parties, and the service must be organised in such a way as not to create confusion with the taxi service.

The Estonian system relies very much on digitalisation in order to simplify the regulatory burden. A respondent to the stakeholder consultation is developing, in partnership with the Estonian Tax & Customs Board (ETCB), a digital platform, interoperable with the company's electronic system, for the simplified declaration of tax by self-employed people working as hire transport providers.

As indicated above, a draft legislation regulating the pre-arranged ridesharing via electronic platforms has been proposed. The current draft allows for both physical persons and legal persons to offer services via the electronic platform operator, subject to minimum requirements, including good reputation of the driver. Where the electronic platform enables ordering taxi services, these must be clearly distinguished from other ridesharing services. The electronic platform must display a picture of the driver conducting the prearranged service and the plate number of the vehicle, as well as disclose the fare calculation method for pre-arranged service and allow an estimate fare

for pre-arranged rides before the passenger enters the vehicle used for the provision of the pre-arranged service. It must allow the monitoring of the quality of the pre-arranged services, the possibility of making electronic payments; and provide to the passenger an invoice for the service within a reasonable time.

IX. Growth, capacity, impact

According to the information provided by the Municipality of Tallinn, the following data are available:

Year	New issued licences
2013	522
2014	251
2015	422

According to a respondent to the stakeholder consultation, the draft legislation will increase the provisions of ridesharing and hire transport. This could also boost the hire car with driver sector which could increase competition with the taxi sector.

X. Results

The market is characterized by small players; the largest taxi company has 87 vehicles. Most drivers are self-employed. The number of licences has slightly increased over the years. However, since no data on the average turnover could be obtained, we cannot ascertain whether the increase in the number of licences has had an impact on turnover. The number of hire cars with drivers' licences is smaller, with 173 cars. Most of the carriers (78) operate cars with a number of places between 5 and 9, which seems to indicate that the service is direct to minivans transport. However, intermediaries are starting to offer also hire car with driver services. The barriers to enter the market are low; there are no quantitative restrictions and the barriers mainly focus on qualitative requirements. The on-going reform will reshape the market, allowing new entrants and new players, in particular in the ridesharing market. This should increase the availability of innovative services.

XI. Conclusions

The carriage of passengers for a fee is possible by way of: a) providing taxi services, thereby holding a taxi licence and a vehicle card; or b) providing occasional services by holding a Community licence and a certified authentic copy of the latter. Barriers to entry are low and mainly focus on qualitative requirements. There are no quantitative barriers. Hire car with driver is included in the category of occasional transport, which requires a professional certificate. In addition, this service must be organised in such a way as not to create confusion with taxis, otherwise it will be considered as a taxi service. We have not identified any significant barriers regarding the provision of the hire transport service. The new draft legislation intends to further reduce the administrative burdens for obtaining a taxi licence. The new draft legislation will also allow to provide,

under certain conditions, prearranged services. This should allow legal and natural persons to provide passenger transport services that do not qualify as taxi services or occasional services.

Bibliography

Legislation

1. Official Gazette of Estonia, Public Transport Act 23.03.2015 (as amended) (available in English online: <https://www.riigiteataja.ee/en/eli/516022016006/consolide>) [last accessed on 11 July 2016];
2. Official Gazette of Estonia, Road Transport Act, 07.06.2000 (as amended) (available in English online: <https://www.riigiteataja.ee/en/eli/505022016005/consolide>) [last accessed on 11 July 2016];
3. Official Gazette of Estonia, Law of Obligations Act, 26.09.2001 (as amended) (available in English online: <https://www.riigiteataja.ee/en/eli/514012016002/consolide>) [last accessed on 11 July 2016];
4. Official Gazette of Estonia, Traffic Act 17.06.2010 (as amended) (available in English online: (<https://www.riigiteataja.ee/en/eli/516022016004/consolide>) [last accessed on 11 July 2016];
5. Official Gazette of Estonia - RT I 16.06.2011, 8; RT I, 31.07.2015, 10. Mootorsõiduki ja selle haagise tehnonõuded ning nõuded varustusele. (available in Estonian only online: <https://www.riigiteataja.ee/akt/131072015010>) [last accessed on 11 July 2016];
6. Official Gazette of Estonia - RT I, 28.09.2015, 5. Nõuded taksoveol kasutatava sõiduki plafoonile, taksomeetrile ja hinnakirjale ning nende paigutusele. (available in Estonian only online: (<https://www.riigiteataja.ee/akt/128092015005>) [last accessed on 11 July 2016];
7. Official Gazette of Estonia. Regulation nr 20 from 15. October 2015 by the Tallinn City Council „Tallinna taksoveonõuded“. (Available online in Estonian: <https://www.riigiteataja.ee/akt/429102015031>) [last accessed on 11 July 2016];
8. Official Gazette of Estonia, Consumer Protection Act 09.12.2015 (as amended) (available in English online: (<https://www.riigiteataja.ee/en/eli/515032016002/consolide>) [last accessed on 11 July 2016];
9. Official Gazette of Estonia, Law Enforcement Act 23.02.2011 (as amended) (available in English online: (<https://www.riigiteataja.ee/en/eli/504012016003/consolide>) [last accessed on 11 July 2016];
10. Proposal for amending the Public Transport Act 188 SE 25.02.2016. Available: <http://www.riigikogu.ee/download/b4cd4af0-8cd2-43d0-83b7-8c1df8e7f3a9> [last accessed 11 July 2016].

News articles

1. "Ministeeriumi uus arvamus sõiduvahendusäppidest - on see toredus või mull?" Available: <http://tehnika.postimees.ee/3351101/ministeeriumi-uus-arvamus-soiduvahendusappidest-on-see-toredus-voi-mull> [last accessed on 11 July 2016];
2. "Eestis oleks uus taksokutse nutirakendus seadusevastane." Available: <http://www.pealinn.ee/koik-uudised/eestis-oleks-uus-taksokutse-nutirakendus-seadusevastane-n16250> [last accessed on 11 July 2016];
3. "Kokkuleppevedajad ei pruugi pääseda kõrgemast kindlustusmaksest." Available: <http://tehnika.postimees.ee/3655681/kokkuleppevedajad-ei-pruugi-paaseda-korgemast-kindlustusmaksest> [last accessed on 11 July 2016];
4. "Politsei tunnistas Uberi juhtide tegevuse Eestis ebaseaduslikuks." Available: <http://tehnika.postimees.ee/3578037/politsei-tunnistas-uberi-juhtide-tegevuse-eestis-ebaseaduslikuks> [last accessed on 11 July 2016].

Court practice

1. Ruling of the Estonian Supreme Court No 3-1-1-81-10 of 21 October 2010;
2. Ruling of the Harju County Court No 4-10-4038 of 23 May 2011;
3. Ruling of the Harju County Court No 4-10-3597 of 1 February 2011;
4. Ruling of the Harju County Court No 4-10-3595 of 1 February 2011;
5. Ruling of the Harju County Court No 4-13-1334 of 2 May 2013;
6. Ruling of the Harju County Court No 4-10-3869 of 31 March 2011;
7. Ruling of the Harju County Court No 4-11-2151 of 3 October 2011.

9. FINLAND

General Legal Framework

The Finnish Taxi Transport Act (Taksiliikennelaki 217/2007) entered into force in 2007. However, last year the Ministry of Transport and Communications started discussions on a thorough reform of the whole transport legislation, including the Taxi Transport Act. The Transport Code would cover all transport modes. In its first phase, the focus has been on road transport, including taxi transport, where the need for changes is most significant. In the legislative proposal, road transport regulation will become closer to market regulations in force for other transport modes.

Licenses

The maximum number of taxi licences (quotas) per municipality is decided on an annual basis by the regional authorities, and the licences are then granted in a specific order to those applicants that meet the general criteria laid down in the Act. The competent authority for issuing taxi licenses is the Centre for Economic Development, Transport and the Environment (EDTE-centre). The EDTE-centres set the quota for available taxi licenses in each municipality each year. Requirements on taxi car's accessibility for disabled persons may be imposed in the licence. To meet the criteria, all applicants have to successfully complete the training for taxi transport operators and must have no criminal background. Since in many locations, and in larger towns and cities in particular, the number of applicants is usually a lot higher than the number of licences granted, the Taxi Transport Act contains specific provisions on the order of priority to be used to determine which applicants are granted a licence. Taxi licenses in Finland are not assignable or otherwise transferrable (Sec. 11 Taxi Traffic Act), except in case of an uncompensated transfer of taxi business (and the licence) to a near relative.

Technical requirements

A taxi vehicle must be a four-wheel passenger car. The properties of and equipment in the vehicle used in taxi traffic must be suitable and appropriate for the purpose and the vehicle must be in appropriate condition. Further, the original taxi licence must be kept in the vehicle at all times when the services are provided. A taxi must be equipped with a taximeter. The taximeter has to fulfil the requirements set for measuring instruments in Directive 2004/22/EC and the taximeter has to be CE-certified.

Organisational and professional requirements

Taxis are allowed to operate in the whole country, i.e. they may carry passenger where they request but taxis are obliged to return to the municipality, except for trips for which a short-time contract has been made. There are specific provisions for taxi drivers (those who actually drive the car) to get a special taxi driving licence (The Act on the Competence of Taxi Drivers). There is no obligation to be affiliated to a dispatch centre. Pursuant to section 15 of the Taxi Traffic Act, commencing the activity of dispatch centre services requires a notification to the competent authority (EDTE-centre). The only regulatory requirements imposed on dispatch centres are that it must be capable of providing services at any hour and take advance orders. Dispatch centres are typically companies owned and ran by the licence holders.

Fares

Maximum fares are set out by government decree. Pursuant to section 16 of the Taxi Traffic Act, the price of the journey comprises the basic fare, a distance-based fare and a fare charged for waiting time.

Passenger rights

The customer is not obliged to choose the taxi that is first in the line. Generally, the driver cannot refuse a customer's transport request when waiting at his base station. However, the refusal is possible in cases of sickness, dysfunction of the vehicle or a risk to driver's occupational safety (e.g. intoxicated and potentially violent customers). The Taxi Quality Centre, which is an affiliate of Finland's Taxi Association, has created a nationwide certification system called Quality Pass. Licence holders and dispatch centres that fulfil the criteria specified in the Quality Pass may receive the certification.

Labour rules

Finnish labour regulation applicable to taxi drivers comprises mainly of Työsopimuslaki (Employment Contracts Act (55/2001)) and Työaikalaki (Working Hours Act (605/1996)). Finland has a system of collective labour agreements, which take precedence over legislation where applicable. There is also a collective agreement for taxi traffic. The legislation is not applicable to self-employed drivers.

Airports

The licensing authority may also take a decision to allow all taxis from one or more municipalities to wait for and pick up new customers outside their own municipality (especially airports, harbours).

Enforcement

Competent authorities (EDTE-centres) must regularly, and at least once a year, check that the licence holder still meets the requirements set for issuing the licence and that the taxi services are still provided in accordance with the licence conditions. The police control that taxi services are not provided without a taxi licence; that a taxi is not driven without taxi driver's licence and that the drivers meet the requirements for driving a taxi. The Consumer Ombudsman supervises the compliance with the Consumer Protection Act and other laws protecting consumers.

Hire cars with driver

There is no specific legislation concerning hire cars with driver. The business falls within the scope of the Taxi Traffic Act and it requires a taxi licence.

Ridesharing

As clarified by the Ministry of Transport in the reply to the stakeholder consultation, ridesharing and car sharing are not regulated in Finland since they are not regarded as professional in their nature. To be considered nonprofessional, the payment for the ride should be insignificant, i.e. it should only cover the costs of the trip.

Market players

There are approximately 9,500 licence holders who operate about 10,000 vehicles. This means that typically a licence holder operates only one car. As confirmed by the Finnish Taxi Association, most of the taxi companies have one licence. However, there are companies that have accumulated multiple licenses and cars. Kovanen and Helsingin Taksipalvelu are one of the largest providers of taxi services in Finland. Uber and Taxify are available in Finland (mainly in the Helsinki metropolitan area) and the Ministry has regarded Uber and Taxify as dispatch centres. Operating a dispatch centre for ridesharing or taxis does not require a taxi licence.

Capacity, growth and impact

Due to the cap on the licences, their number has been stable (about 10,000 taxi licences) for many years. According to the replies of the Taxi Association, the demand for taxi services has decreased because of the general financial situation. Demand varies throughout the year, with higher peaks in November and December, and, during the week, in the morning and weekend nights. The ongoing reform, which plans to remove the quantitative restrictions and the fares, will probably increase the number of suppliers with a decrease in fares due to a more competitive environment.

Conclusions

The market is heavily regulated, with a maximum number of licences, rules for the precedence across the applicants, and qualitative requirements for drivers (exams, training, and fitness conditions). The hire car with driver operation is not differentiated from taxis and it requires a licence. Ridesharing is allowed as long as the private drivers do not invoice more than the real costs of the journey; any transport activity for profit requires a licence. Intermediaries like Uber and Taxify are allowed and considered as dispatch centres. The proposed reform should remove the quantitative restrictions and allow more competition between services.

I. Introduction

In Finland, professional transport of passengers by roads is currently defined as either *taxi traffic* or *public transport*. Transport service up to eight (8) passengers is regulated in the Taxi Traffic Act and transport service for more than eight passengers by the Public Transport Act.

Every road transport service for profit is governed by either one of these acts. A licence is required to provide such services. Further, the drivers must meet the requirements set out by the law. Concerning taxi traffic, licence holders have a service obligation to provide taxi services at the time and place specified in the taxi licence.

Legislation concerning taxi traffic does not currently acknowledge nor regulate hire car with driver or car/ridesharing services. However, the Finnish legislation concerning passenger transport on road is currently under revision. A government proposal for the new legislation (titled *Liikennekaari* – Transport Code) is expected to be published in 2016 and it should enter into force in the beginning of 2017. The new Transport Code will collect all the current legislation concerning transport markets (passengers and goods) under one title. The aim is to promote new service models and to better meet the needs of the users of transport services. The Ministry of Transport and Communications has provided a factsheet on the revision.⁴⁴⁹ The analysis in this country report is based on the regulation existing at September 2016.

On 22 June 2016, the Finnish Government has submitted to the Parliament the proposal for the new Transport Code. The Transport Code will facilitate entering the taxi sector and increases the freedom of taxi operators to develop their operation. The proposal would bring about essential changes in the taxi system relaxing the requirements to enter the market and the provisions of services. Taxi quotas will be removed and any operator that fulfils the conditions for a licence laid down in the act could offer taxi services. A taxi licence would be operator-specific, and drivers would also need a taxi driver licence. The requirement for a licence would also apply to small-scale operation carried out in order to earn an income as it does currently.

Taxis would continue to have a defined principal zone of operation. According to the legislative proposal, operators would have to register their principal operating area and hours of service, i.e. their zone of operation and hours of providing service. However, after the reform, a taxi could remain waiting for passengers also outside its registered zone of operation, and taxis from other localities can serve another locality when the demand is high.

The holder of the taxi licence will be required to have an office in Finland. Taxi drivers should possess sufficient interaction and language skills regarding each service situation and be capable of assisting special needs groups. However, taxi drivers would not be required to pass a language test. Drivers would need a taxi driver licence, which would still be granted by the Finnish Transport Safety Agency, Trafi. The taxi driver licence would be valid for five years at a time.

The regulation of taxi fares would be discontinued and left to the market. If necessary, Trafi could determine maximum prices if prices began to rise unreasonably. In addition, Trafi would have a duty to monitor the impact of the reform on the market situation. Open data interfaces make new services possible. The Transport Code proposes that essential data on transport services are made open and it also lays down provisions for the interoperability of ticket and payment systems.

(Source, Ministry of Transport and Communication, reply to the consultation and <http://www.lvm.fi/-/preparations-for-the-second-phase-of-the-transport-code-started>).

II. Legal framework applicable to taxis

II.1 National/Local/municipal regulations

Legislation applicable to taxis is entirely national and consists of the following:

Acts:

⁴⁴⁹ Factsheet (in English) available at: <http://www.lvm.fi/documents/20181/880492/3-2016+Transport+Code.pdf/930dbb2c-d4c2-4248-a61c-3cb4fed8eaf9>.

- Taxi Traffic Act (217/2007) (*Taksiliikennelaki*). Entry into force: 1 August 2007.
- Act on the professional qualifications of the taxi driver (695/2009) (*Laki taksinkuljettajien ammattipätevyydestä*). Entry into force: 1 January 2010.
- Employment Contracts Act (55/2001) (*Työsopimuslaki*). Entry into force: 1 June 2001.
- Working Hours Act (606/1996) (*Työaikalaki*). Entry into force: 23 November 1996.
- Vehicles Act (1090/2002) (*Ajoneuvolaki*). Entry into force: 1 January 2003.
- Car Tax Act (1482/1994) (*Autoverolaki*). Entry into force: 1 January 1995.
- Traffic Insurance Act (279/1959) (*Liikennevakuutuslaki*). Entry into force: 1 January 1960.
- Consumer Protection Act (38/1978) (*Kuluttajansuojalaki*). Entry into force: 1 September 1978.
- Driver's Licence Act (386/2011) (*Ajokorttilaki*). Entry into force: 19 January 2013.

Decrees:

- Government Decree on the Professional Qualifications of the Taxi Driver (825/2009) (*Valtioneuvoston asetus taksinkuljettajien ammattipätevyydestä*). Entry into force: 1 January 2010.
- Government Decree on Maximum Prices Charged from Customers for Taxi Transport Services (796/2015) (*Valtioneuvoston asetus taksiliikenteen kuluttajilta perittävästä enimmäishinnoista*). Entry into force: 1 July 2015.
- Ministry of Transport and Communications' Decree on Quality Standards for the Equipment of Taxi Cars with Unimpeded Access (723/2009) (*Liikenne- ja viestintäministeriön asetus taksiliikenteessä käytettävän esteettömän kaluston laatuvaatimuksista*). Entry into force: 29 September 2009.
- Decree of Ministry of Transport and Communications on the Construction and Equipment of Motor Vehicles and Trailers (1248/2002) (*Liikenne- ja viestintäministeriön asetus autojen ja perävaunujen rakenteesta ja varusteista*). Entry into force: 1 January 2003.
- Decree on the Vehicle Construction and Equipment (1256/1992) (*Asetus ajoneuvojen rakenteesta ja varusteista*). Entry into force: 1 January 2003.
- Decree of Ministry of Transport and Communications on the Contents of a Taxi Entrepreneur's Course (730/2007) (*Liikenne- ja viestintäministeriön asetus taksiliikenteen yrittäjäkurssin opetussisällöstä*). Entry into force: 1 August 2007.
- Government Decree on the Fees and Charges of Employment and Economic Development Offices, Centres of Economic Development, Transport and the Environment and Centres of Development and Governance in (1731/2015) (2016 *Valtioneuvoston asetus elinkeino-, liikenne- ja ympäristökeskusten, työ- ja elinkeinotoimistojen sekä kehittämis- ja hallintokeskuksen maksullisista suoritteista vuonna 2016*). Entry into force: 1 January 2016.

II.2 Procedures for issuing licences and applicable criteria

The Taxi Traffic Act is applicable to the (1) professional provision of personal transportation services (2) by a car (3) on the road (Sec. 3 Taxi Traffic Act). Pursuant to section 4 of the Taxi Traffic Act, the provision of personal transportation services requires a *taxi licence*. Driving a taxi requires a separate licence, *taxi driver's licence*.

II.2.1 Requirements

The competent authority for issuing taxi licenses is the Centre for Economic Development, Transport and the Environment (EDTE-centre). The EDTE-centres set the quota for available taxi licenses in each municipality for each year. Requirements on a taxi car's wheelchair accessibility may be imposed in the licence. A taxi licence may be issued to a natural or a legal person. If the applicant is a legal person, it must appoint a *traffic manager*. To obtain a taxi licence, the applicant, or in case of a legal person, its traffic manager, must fulfil the following criteria (Sec. 6 Taxi Traffic Act), in particular:

- Be 18 years of age or older (and whose legal competence has not been restricted);
- Have a good reputation;
- Have a certificate issued by Finnish Transport Safety Agency certifying having passed a taxi entrepreneur's course;
- Have 6 months of taxi driving experience;
- Be capable of fulfilling his/her economic obligations;
- No prior taxi licence, where it existed, has been annulled in the past 12 months.

Good reputation

Applicant's good reputation is evaluated on the basis of his law abidance. An applicant is considered as not having a good reputation if he has been sentenced:

- in the past 10 years to imprisonment of more than 2 years;
- in the past 5 years to imprisonment of no more than 2 years;
- in the past 3 years to a fine for drunk driving or for an offence committed against a customer, or for operating an unauthorised taxi business (without a licence);
- in the past 2 years and at least 3 times to a fine for offences for failure to comply with legal obligations concerning employment relationships, accounting, taxes, debt relationship, driving- and resting times, operation of transportation business, traffic-and vehicle safety or other rules concerning the proper conduct in carrying out transport business.

Taxi entrepreneur's course

The purpose of taxi entrepreneur's course is to ensure that the applicant has the necessary professional skills and qualifications to operate a taxi traffic business (Sec. 8 Taxi Traffic Act). These skills and qualifications include the knowledge of entrepreneurship in general together with the details of the relevant legislation. Further, the course includes training on legislation concerning taxi traffic, employment relations and traffic safety. Information on customer service, vehicle's optimal technical and operational use and occupational health are also provided.⁴⁵⁰ The course requires minimum 120 hours of professional training.

Financial obligations

The applicant's capability of fulfilling his financial obligations is evaluated based on any insolvency procedures the applicant may have been subject to and his ability to pay taxes. The applicant is not considered capable of fulfilling his/her economic obligations if

⁴⁵⁰ Decree of Ministry of Transport and Communications on the contents of a taxi entrepreneur's course (730/2007), section 2.

he/she has become the subject of bankruptcy proceedings, he/she has debts in execution or his payable tax debts exceed his ability to pay (Sec. 9 Taxi Traffic Act).

II.2.2 Procedure

The licences are issued to a certain specific *base station*. In principle, 'base station' is synonymous to municipality area, e.g. Helsinki is one base station, although in rural areas the term may refer to an area smaller than municipality.

New taxi licenses are issued to the applicants that fulfil the criteria described above, on the basis of the following order of priority: 1) remoteness of the base station;⁴⁵¹ 2) working experience of the applicant; and 3) applicant's existing taxi licences (Sec. 10a Taxi Traffic Act). To ensure the availability of taxi services in sparsely populated areas, the new licences are primarily issued to a base station that is further than 20 km away from the municipality centre where no valid taxi licenses are currently issued. If there are no such applicants, the new licence will be issued to the applicant with the longest working experience as a taxi driver, or in case the applicant is a legal entity, to the one whose traffic manager has the longest working experience as a taxi driver.⁴⁵² Applicants with no existing licences are prioritized, except for every third licence, which will be issued to an applicant with an existing licence or licenses. If there is more than one applicant with an existing taxi licence, the new licence will be issued to the applicant with the lowest number of licenses in order to ensure the equal treatment of licence holders. Conditions concerning vehicle's accessibility may be imposed in the licence.

There is no case law concerning the new service models like MaaS (Mobility as a Service) or their operators. However, according to the former Ministry of Transport and Local Government, the provision of passenger transport services requires a taxi licence irrespective of how the rides are dispatched. Thus, a dispatch service in the form of a web application does not eliminate the car owner's obligation to apply for a taxi licence nor the driver's obligation to apply for a taxi driver's licence (s. II.5).⁴⁵³

II.2.3 Costs:⁴⁵⁴

Taxi licence	EUR 350
Modification to a taxi licence (e.g. base station)	EUR 265
Minor modification to a taxi licence	EUR 100
Annual supervision and enforcement fee	EUR 33

II.2.4 Transferability

⁴⁵¹ Not applicable in largest cities, such as Helsinki, Vantaa, Espoo, Kauniainen, Turku, Tampere and Oulu.

⁴⁵² The required working experience varies greatly depending on the year and the number of available licenses in municipality. For example, the required working experience was 19 years in Vantaa in 2011, 13 years in Helsinki in 2013 and 2 years in Helsinki in 2014. For more, see (in Finnish):

http://yle.fi/uutiset/taksilupien_jaossa_vuodet_eivat_ole_veljeksia/8195509.

⁴⁵³ <http://www.lvm.fi/-/minister-risikko-provision-of-uber-rides-is-legal-but-driving-requires-taxi-licence-796955>.

⁴⁵⁴ Government decree on the fees and charges of Centres of Economic Development, Transport and the Environment and Centres of Development and Governance in 2016 (1731/2015), annex 1.

Taxi licenses in Finland are not assignable or otherwise transferrable (Sec. 11 Taxi Traffic Act), except in case of an uncompensated transfer of taxi business (and the licence) to a near relative. The purpose of this exception is to enable the transfer of family businesses to younger generations. However, the licence cannot be inherited or bequeathed. The estate of a deceased licence holder may however continue to operate a taxi business for a period of 18 months to ensure income to the surviving spouse and descendants.

Where the licence holder is a legal entity and that entity is sold or otherwise transferred as a whole, the competent authority has to be notified and the new owner needs to reapply for the licence within 6 months of the transfer of the business. This (re)application enjoys no priority over other applications and will follow the ordinary procedure.

If the licence holder is declared bankrupt, the bankrupt's estate may continue to operate the business for a period of 3 months following the declaration of bankruptcy.

II.3 Technical requirements applicable to licensed vehicles *(taximeters, vehicles' technical specifications, accessibility, insurance, maintenance)*

II.3.1 Vehicle and required equipment

A taxi vehicle must be a four-wheel passenger car.⁴⁵⁵ The properties of and equipment in the vehicle used for taxi service must be suitable and appropriate for the purpose and the vehicle must be in appropriate condition (Sec. 17 Taxi Traffic Act). Further, the original taxi licence must be kept in the vehicle when services are provided (Sec. 26 Taxi Traffic Act).

A taxi must be equipped with a taximeter (Sec. 25 subsec. 2 Vehicles Act). The taximeter must fulfil the requirements set for measuring instruments in Directive 2004/22/EC of the European Parliament and of the Council of 31 March 2004 on measuring instruments. Further, the taximeter must be CE-certified.⁴⁵⁶

A taxi roof sign must be about 300 mm in width and 115 mm in height and emit yellow light in all directions. The word "TAKSI" or "TAXI" must be marked in black letters at the front or both at the front and at the back of the sign. The sign must be installed on the roof of the taxi on the centre line of the vehicle or on the left-hand side at a distance of at least 0.15 metres from the side of the vehicle.⁴⁵⁷ Equipment that can be mistaken for a taximeter or a taxi roof sign may not be installed to vehicles other than taxis (Sec. 4a Taxi Traffic Act).

II.3.2 Insurance

⁴⁵⁵ Precluding the use of a lorry, a van, a motor tricycle, a quadricycle (unloaded mass does not exceed 400 kg) or a light quadricycle (moped car or ATV) (Sec. 4a Taxi Traffic Act).

⁴⁵⁶ Decree of Ministry of Transport and Communications on the Construction and Equipment of Motor Vehicles and Trailers (1248/2002), section 17.

⁴⁵⁷ Decree of Ministry of Transport and Communications on the Construction and Equipment of Motor Vehicles and Trailers (1248/2002), section 25.

In Finland, all road vehicles are required to have a basic insurance in accordance with the Traffic Insurance Act (279/1959). The mandatory insurance covers the personal and property damage (traffic damage) caused to others, as well as the personal damage incurred by the party that caused the accident. However, it does not cover the property damage (including damage to the vehicle) incurred by the guilty party. Towards that end, an additional insurance coverage may be obtained.

II.3.3 Accessibility

There are two regulated types of taxis for persons with disabilities. They are a *taxi for disabled persons* and a *taxi with unimpeded access*. In general, both must allow an easy access to the vehicle. The main difference is the number of places for wheelchairs. Both enjoy considerable tax benefits (s. II.10).

Property	Taxi for disabled persons	Taxi with unimpeded access
No. of wheelchair places	2	1
Minimum space for wheelchair (m)	0,7 x 1,1 x 1,45	0,7 x 1,1 x 1,35
Access (width x height) (m)	0,8 x 1,45	0,8 x 1,30
Access aids	A lift or a ramp	A lift or a ramp
Other	A sign indicating the ability to carry disabled persons	-

II.4 Qualitative requirements (*fitness of the driver, knowledge and skills required, drivers' training*)

II.4.1 Taxi driver licence

Driving a taxi requires a permit, a *taxi driver's licence*, whether or not the driver also has a taxi licence. Pursuant to section 4 of the Act on the Professional Requirements of the Taxi Driver (695/2009), in order to obtain a licence, the applicant must fulfil the following criteria:

- to have a valid driver's licence;
- to fulfil the health criteria;
- to have passed a course for taxi drivers;
- to have passed a test on local knowledge of the area where he is to provide taxi services;
- not to be banned from driving;
- to be otherwise deemed fit to drive a taxi.

The competent authority for issuing the licence is the Finnish Transport Safety Agency. The licence application must include two photographs of the applicant, a medical certificate including doctor's statement on the applicant's health and a certificate of a

passed local knowledge test. The medical certificate and the certificate of the local knowledge test may not be dated earlier than 6 months before.

Health

The health requirements pursuant to section 18 of the Driver's Licence Act (386/2011) are stricter than those set for a normal driving licence. The applicant is tested for sight, hearing and other medical conditions, including cardiovascular and neurological diseases, locomotor disabilities, diabetes, mental and renal disorders. Applicant's history of or tendency to alcohol and drug abuse are also considered.⁴⁵⁸ Evaluating the effect of any such medical condition remains in the doctor's discretion.

Training

The applicant must first attend the taxi driver's course. The course consists of 30 hours of training and its purpose is to ensure that the applicant has the basic knowledge and skills needed to drive a taxi. For this purpose, the applicant is provided with information concerning the applicable legislation, traffic safety, taxi driver's responsibilities, customer service, technical and organizational knowledge (taximeters, dispatch centres) and occupational health and safety regulations. The courses and tests are organized by licensed training organizations. Such organizations are typically companies owned by taxi licence holders.

Local knowledge

After the applicant has passed the taxi driver's course, he may take the local knowledge test. The applicant must demonstrate sufficient knowledge of his base station area and the surroundings concerning the streets, harbours, airports, hotels, restaurants, theatres and important local and public places.

II.4.2 Consideration of the application

Having obtained the medical certificate and passed the local knowledge test, the applicant may submit the licence application together with the required certificates to the competent authority. The authority controls that the applicant is not banned from driving and it determines if the applicant is otherwise deemed fit to drive a taxi.

To be considered fit to drive a taxi, the applicant must have sufficient Finnish or Swedish language skills. The applicant is not considered fit to drive a taxi if, in the last 5 years he has committed certain grave traffic offences, such as drunk driving. Offences of violent or of sexual nature within the last 5 years prior to the application, which demonstrate the applicant's unsuitability to act as a taxi driver, preclude the issuing of the licence as well. Offences against traffic safety within a year prior to the licence application also preclude the issuing of the taxi driver's licence.⁴⁵⁹

Provided that all the requirements described above are met, the applicant is issued a taxi driver's licence. The licence is valid for 5 years at a time, after which period the driver is

⁴⁵⁸ As per Annex III of the Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licenses (Recast).

⁴⁵⁹ Act on the professional requirements of the taxi driver (695/2009, section 9).

required take further 7 hours of additional training before being applied for the renewal of the taxi driver's licence.

II.5 Organizational requirements (*dispatch affiliation centre, minimum service*)

II.5.1 Minimum service

Pursuant to section 12 of the Taxi Traffic Act, a taxi licence holder has a *service obligation*. The obligation consists of two aspects: 1) where and 2) when the services must be provided.

The licence holder is obliged to operate a taxi business and offer transport services in the base station for which the licence is issued. A journey may end up elsewhere than the licence holder's base station, but in principle the vehicle must be immediately returned to the base station after the journey has finished. However, if the demand in the area where the journey ended so requires, it is allowed to stay in that area for a short while to help satisfy that demand.

In principle, the service obligation means 24 hours of service for 7 days a week. However, the competent authority may grant exceptions from the service obligation upon licence holders' proposition for a driving schedule. After the competent authority's confirmation, the driving schedule becomes binding and the licence holder must ensure that services are provided on the times allotted to the licence holder.

II.5.2 Dispatch centres

Pursuant to section 15 of the Taxi Traffic Act, commencing the provision of dispatch centre services requires a notification to the competent authority (EDTE-centre). Dispatch centres must be capable of providing services at all hours and take advance orders. Dispatch centres are typically companies owned and ran by the licence holders.

According to the former Ministry of Transport and Local Government, the digital dispatch services provided via a smart phone application cannot be considered as the operation of a dispatch centre within the meaning of section 15 of the Taxi Traffic Act.⁴⁶⁰ Thus, they are not subject to the obligations set therein.

II.6 Fares (*criteria for taxi fare setting, authority/body in charge of setting the tariffs, maximum tariffs and/or fixed tariffs, composition of the tariff and tariffs adjustment mechanism [minimum charge, additional charge for using the radio taxi or dispatch centre, increase of the tariff during certain hours, such as at night or on certain journeys, such as towards the airports, reductions for certain categories, such as elderly people]*)

Pursuant to section 16 of the Taxi Traffic Act, the price of the journey comprises the basic fare, the distance-based fare and the fare charged for waiting time. On weekends

⁴⁶⁰ <http://www.lvm.fi/-/minister-risikko-provision-of-uber-rides-is-legal-but-driving-requires-taxi-licence-796955>.

and during the night time the basic fare may be increased. It is further allowed to charge an advance booking fee, assistance surcharge for passengers requiring assistance (e.g. disabled or elderly) and an airport and luggage surcharge. The maximum fares are set annually in a government decree.⁴⁶¹

The basic fare is charged and any waiting time fare starts to run when the taxi arrives at the required destination to pick up the customer. Possible additional fees and surcharges are added to the fare either in the beginning or at the end of the journey. Notwithstanding the regulatory maximum fares, the driver and the customer may negotiate a fixed price for the journey.

The maximum fares set in the Government Decree for 2015-2016 are:

Basic fare

Time	Fare (EUR)
Monday to Friday 6:00-20.00	5,36
Saturday 6:00-16:00 ⁴⁶²	5,36
Other times	8,18

Distance-based fare

Tariff (number of passengers)	Fare (EUR/km)
Tariff I (1-2 passengers)	1,41
Tariff II (3-4 passengers)	1,70
Tariff III (5-6 passengers)	1,84
Tariff IV (>6 passengers)	1,98

Fare charged for waiting time

The maximum fare that may be charged for waiting time is 40,55 EUR/h (0,68 EUR/min). Waiting fare starts to run automatically when the taximeter is on and the car is stationary. The waiting fare also starts to run automatically during the drive, if the car is moving slow enough (e.g. due to congestion) for the distance-based fare to become lower than the waiting fare (approximately <0,5km/min).

Additional charges

Basis of the fee	Fee (EUR)
Advance booking fee (When the transport is ordered at least 30 minutes before the departure time given by the customer)	6,45
Airport surcharge	2,09

⁴⁶¹ The decree in force: Government Decree on maximum prices charged from customers for taxi services (769/2015). English translation of the 2013 decree available at: <http://finlex.fi/en/laki/kaannokset/2013/en20130460.pdf>.

⁴⁶² Saturday fare is also applied to the days that by law are comparable to Saturday, eg. Christmas Eve, Eve of the Independence Day and Eve of 1st of May.

(At large airports taxis need to pay for the guidance and supervision of taxi traffic to the airport operator. This cost is thus passed on to the customer)	
A surcharge for providing assistance	
- basic assistance, when the customer requires a vehicle with unimpeded access;	14,27
- assistance of persons in wheelchair	28,55
- assistance requiring stretcher.	26,55
A surcharge for transporting big luggage or big domestic animal	2,54

II.7 Passenger rights

II.7.1 Legislation

Pursuant to section 17 of the Taxi Traffic Act, the driver must:

1. be polite towards the customer and take his special needs into account;
2. wear appropriate clothing (discreet, clean);
3. drive the route the customer wants or if left with the decision, choose the most economical and appropriate route;
4. comply with the traffic regulations and drive safely to avoid danger and accident;
5. keep the information the customer discloses to him confidential;
6. accept payment with cash or with the most common credit cards;
7. apply the correct tariff or follow the price agreed upon;
8. ensure that the customer can safely get on and off the vehicle and provide assistance thereto;
9. provide assistance with luggage.

The customer is not obliged to choose the taxi that is first in the line. Generally, the driver cannot refuse to provide a transport service requested by a customer in his base station. However, the refusal is possible e.g. in cases of sickness, dysfunction of the vehicle or a risk to driver's occupational safety (e.g. intoxicated and potentially violent customers).

The drivers must keep their taxi driver's licence on display to the passengers at all times (Sec. 23 Act on the Professional Requirements of the Taxi Driver (695/2009)). Prior to agreeing on the taxi journey, the passenger must be provided with information on the total price of the journey or on the basis for determining the price (Sec. 7 Government Decree on maximum prices charged from customers for taxi transport).

Consumer Protection Act (38/1978) governs the provision of services by businesses to consumers. However, more detailed provisions has been provided for e.g. in the aforementioned acts. In addition, other typical issues between the driver and the passenger, such as whether the transport contract has been entered into, are governed by other statutes. Therefore, the Consumer Protection Act generally does not find much application with regard to taxi traffic.

Confidentiality obligation

The licence holder (and his employee) is obliged to keep confidential the information concerning privacy and the business or professional secrets of the customer. The use of

such information for the benefit of the licence holder or a third party, or for the harm of a third party is prohibited. The confidentiality obligation remains effective even after the licence holder no longer operates a taxi business or the employee no longer works as a taxi driver (Sec. 24 Taxi Traffic Act).

II.7.2 Self-regulation

The Taxi Quality Centre, which is an affiliate of Finland's Taxi Association, has created a nationwide certification system called Quality Pass. Licence holders and dispatch centres that fulfil the criteria specified in the Quality Pass may receive the certification. Furthermore, certain local taxi associations such as Taksihelsinki have drawn up their own quality systems. In such a system, a driver enters into a direct contractual relationship with a dispatch centre. In the contract, the driver undertakes to follow certain quality principles concerning e.g. the cleanliness of the car and customer service. A breach against those principles is sanctioned and may lead to a dispatch ban of up to 7 days.

The Finland's Taxi Association suggest to passenger to always take the receipt, as it specifies the date, place and time of the journey and the taxi's number and register plate, in order to facilitate the submission of any complaint. The complaints are primarily handled by *taxi inspectors*. Taxi inspectors are not authorities, but experienced licence holders or drivers appointed by other licence holders or local associations thereof for the purposes of self-regulation and quality control. They monitor and control that the drivers and cars in service comply with the requirements set out in the legislation and in the possible self-regulatory codes of conduct.

II.8 Subsidies applicable to taxi sector (including public developed applications for taxi sector, geolocalisation, etc.)

Taxi sector is subsidized with tax benefits. Since the beginning of 2015, the car tax imposed on a new taxi vehicle can be reduced by maximum of EUR 4,800 (previously: EUR 9,600). If the taxi fulfils the requirements set for taxi cars with unimpeded access, the measure of the reduction may be up to EUR 15,000 (Sec. 28 Car Tax Act). A new taxi car for disabled persons is fully exempted from the car tax (Sec. 21 Car Tax Act) (s. II.3.3).

Further, there are other subsidies that can be divided into: 1) direct subsidies and 2) reimbursements of travel expenses. Direct subsidies consist of service procurement of the state and municipalities as well as deficit compensation. In total, the taxi sector was funded from public finances with EUR 473.2 million, of which the direct funding constituted about EUR 0.8 million. The rest was reimbursement granted e.g. for social service purposes, i.e. for disabled persons and persons of ill-health.⁴⁶³

There are also special lanes for buses and taxis.⁴⁶⁴

⁴⁶³ Liikennevirasto – Julkisen liikenteen suoritetilasto 2013, p. 10 (Liikenneviraston tilastoja 2/2015), pp. 17-18. Available at (in English): http://www2.liikennevirasto.fi/julkaisut/pdf8/lti_2015-03_public_transport_web.pdf.

⁴⁶⁴ According to the judgement of the ECJ in case C-518/13 *Eventech*, such lanes do not appear, although it is for the national court to determine, to constitute a state aid within the meaning of Article 107(1) of the TFEU.

II.9 Labour rules

Finnish labour regulation applicable to taxi drivers comprises mainly of *Työsopimuslaki* (Employment Contracts Act (55/2001)) and *Työaikalaki* (Working Hours Act (605/1996)). Finland has a system of collective labour agreements, which take precedence over legislation where applicable. There is also a collective agreement for taxi traffic.⁴⁶⁵ However, not many licence holders are organized and thus apply the collective agreement. The agreement is not generally binding.

Taxi drivers working as employees are subject to the Working Hours Act and the limitations set to working hours therein.

In contrast, self-employed licence holders are neither subject to the Employment Contracts Act nor to the Working Hours Act (Sec. 1 Working Hours Act). Further, there are no other statutory provisions regulating the working hours of the self-employed licence holders.

Pursuant to section 8 of the Working Hours Act (605/1996), the maximum daily working time of a taxi driver (an employee) is 11 hours. However, if the work cannot be conveniently organized otherwise, the daily working time may be extended to 13 hours, provided that in the next 48 hours following the end of the daily rest period (minimum of 10 hours), the working time does not exceed 22 hours. No overtime compensation is required to be paid to the taxi drivers, under a statute or the collective agreement.⁴⁶⁶

Taxi drivers must be given a minimum of 30 minutes' break for each work shift of 5 hours 30 minutes (Sec. 28 subsection 3 Working Hours Act). The breaks should not be taken in the beginning or at the end of the shift. A driver must be given an uninterrupted resting period of at least 10 hours between shifts. However, if the work cannot be conveniently organized otherwise, the resting period may be shortened to 7 hours twice a week. (Sec. 30 Working Hours Act).

Taxi driver must keep a personal driving log. The log must show the starting and ending times of their daily working hours, resting periods and breaks. Drivers are required to keep with them, while driving, the current week's log and the one from last driving day of the previous week (Sec. 37a Working Hours Act). A tachograph may be used instead of a driver's log. Neglecting the obligation to keep the log shall lead to a fine for violation of the working hours' regulations (Sec. 42 Working Hours Act).

II.10 Supervisory enforcement tools

In Finland, given the similarity of local circumstances to those of the judgement, the specific taxi lanes are not likely to be considered as prohibited state aid.

⁴⁶⁵ Available at (in Finnish): http://www.akt.fi/site/assets/files/2184/taksi_tes_2014-2017_nettiin_id_11809.pdf.

⁴⁶⁶ Section 8 is a special provision that concerns only *motor vehicle drivers*, including taxi drivers. Whereas normal provisions set a "regular" working time of e.g. 8 hours a day and 40 hours a week, according to which overtime compensation is calculated, section 8 provides for a *maximum* working time, precluding overwork and thus overtime compensation.

Taxi traffic is supervised mainly by the Centres for Economic Development, Transport and the Environment (EDTE-centres), the police and the taxi drivers' association as self-regulation (see s.II.9.2). EDTE-centres control that the requirements set in the taxi licence are complied with and that the licence holder fulfils his service obligation. The police control that taxi services are not provided without a taxi licence, a taxi is not driven without taxi driver's licence and that the drivers meet the requirements for driving a taxi. The taxi inspectors monitor and control that the quality requirements are met by both the drivers and vehicles. Further, they handle the complaints.

II.10.1 Supervision of licence holders

Competent authorities (EDTE-centres) must regularly, and at least once a year, check that the licence holder continues to meet the requirements set for issuing the licence (see s. II.3) and that the taxi services are still provided in accordance with the licence conditions (Sec. 21 Taxi Traffic Act). Pursuant to section 25 of the Taxi Traffic Act, the licence holders and dispatch centres are obliged to provide information to competent authorities upon request. Such information may comprise of traffic data, turnover and other necessary information for the purpose of supervision and must be provided regardless of obligations concerning commercial or professional secrecy. The information must be provided promptly, in the requested form and free of charge. If the licence holder or a dispatch centre operator fails to cooperate within a given time, it may be obliged to cooperate under the penalty of a provisional fine. The EDTE centres are further entitled to receive information from other relevant authorities and registers for the purposes of supervision and enforcement, regardless of obligations concerning commercial and professional secrecy (Sec. 29 Taxi Traffic Act).

Taxi licence may be revoked permanently or for a fixed period, if the licence holder no longer fulfils the criteria for being granted the licence. The competent authority controls annually that the criteria continue to be met. Further, serious infringements of licence holder's obligations may lead to the withdrawal of the licence. These obligations include the prohibition to transfer the licence; the obligation to operate taxi traffic (service obligation, see s.II.7.1); the confidentiality obligation (see s.II.9.1); the obligation to inform of the prices properly and to comply with the mandatory maximum prices. In case the failures or infringements are of minor significance and repairable, and withdrawing the licence would constitute a disproportionate measure, the authority may issue a warning to the licence holder instead of revoking the licence.

Operation of a taxi business (or other provision of passenger transport services) without a valid taxi licence is punishable as illegal taxi operation. The criminal sanctions range from a fine up to 6 months imprisonment. Unauthorised transfer of the taxi licence and failure to keep the licence in the vehicle while providing the services, are sanctioned with a fine.

II.10.2 Supervision of drivers

When providing services, the drivers are monitored by the police and by the taxi inspectors, who, if necessary, may report the driver to the police. If the driver no longer fulfils the criteria for being granted the licence (see s. II.5) or he/she violates licence conditions (e.g. provides services elsewhere than in the base station the licence was issued for), the licence may be revoked, for a fixed period or temporarily, depending from the circumstances. Furthermore, being banned from driving or convicted of a crime

of violent or sexual nature shall lead to withdrawal of the taxi driver's licence. Should the withdrawal be deemed disproportionate, the police may issue a warning instead. Driving a taxi without a valid taxi driver's licence is sanctioned as illegal taxi operation, for which the driver can be fined or sentenced to imprisonment up to six months. The police controls that the regulations concerning driver's working time are complied with.

III. Legal framework applicable to hire cars with driver

There is no specific legislation concerning hire cars with drivers. To the extent the business falls within the scope of the Taxi Traffic Act (see s. II. 3), the operation of business requires a taxi licence.

A service where e.g. a limousine is hired with a driver may fall within the scope of the exception provided by the Taxi Traffic Act (Sec. 4, subsection 2, point 3 Taxi Traffic Act). Under the exception, no licence is required where the transport service is a part of tourism service ('main service'). Thus, to the extent for which such services are provided, their provision is governed by the general contract legislation, i.e. the Consumer Protection Act and/or the Contracts Act (228/1929).

Where these services are provided with a limousine that is registered as a bus (more than 8 passengers) instead than a passenger car, the provision of such services falls within the scope of *Joukkoliikennelaki* (869/2009) (Public Transport Act).

III.1. National/local municipal regulation

General legal framework applicable to hire cars with driver comprises of the following:

1. Consumer Protection Act (38/1978) (*Kuluttajansuojalaki*). Entry into force: 1 September 1978.
2. Contracts Act (228/1929) (*Laki varallisuus oikeudellisista oikeustoimista*). Entry into force: 1 February 1929.

As explained above, these services are included in the proposed Transport Code.

III.2 Procedures for issuing licenses and applicable criteria

None.

III.3 Technical requirements applicable to hire cars with driver

None specific. See s. II.4.2 Insurance.

III.4 Qualitative requirements

None.

III.5 Organisational requirements

None

III.6 Passenger rights

Where the service does not fall within the scope of the Taxi Traffic Act, the Consumer Protection Act is the main statute governing the consumer (passenger) rights. It contains provisions that e.g. set requirements for the permitted conduct in the marketing of consumer goods or services, as well as provisions that regulate the permitted contract terms.

III.7 Labour rules

The standard labour rules, i.e. the Employment Contract Act and the Working Hours Act apply normally. This means for example that the regular working time of the employees is, in principle, 8 hours a day and 40 hours a week. Further, there may be a sector-specific collective agreement covering the provision of 'main services' (see s. III).

III.8 Local incentives, subsidies provided by the administration in order to carry out certain services (such as mini-van service for people with reduced mobility, elderly, schools)

None.

III.9 Supervisory enforcement tools

The *Consumer Ombudsman* supervises that the Consumer Protection Act and other laws passed to protect consumers are observed.⁴⁶⁷ Further, the *Consumer Disputes Board* handles and resolves individual disputes where the consumer is seeking reimbursement for an error with a product or service.⁴⁶⁸ The cases are handled free of charge. The Board's decisions are in form recommendations, but they are largely complied with.

IV. Legal framework applicable to ridesharing and car sharing

Car and ridesharing cannot be operated professionally in Finland, as any provision of passenger transport services against payment requires a licence (see s. I and s. II.3). Thus, all the 'operators' are websites or groups, which match the demand and the offer of rides with the purpose to share the travel costs.

In the absence of specific legislation, such activity is governed by the general contract legislation (e.g. the Contracts Act). The vehicles used in ridesharing are covered by a mandatory traffic insurance (see s.II.3.2 Insurance) and the drivers are subject to traffic rules set out in the *Tieliikennelaki* (Road Traffic Act 261/1981)). The websites are not 'dispatch centres' within the meaning of the Taxi Traffic Act and thus are not subject to the obligations set therein (see s. II.6.2). A law-making process is currently on-going to revise the legislation concerning taxi traffic. The aim of the revision is to take into

⁴⁶⁷ For more information (in English): <http://www.kkv.fi/en/about-us/the-consumer-ombudsman/>.

⁴⁶⁸ For more information (in English): <http://www.kuluttajariita.fi/en/index.html>.

account the new service models, possibly including rules concerning car sharing and ridesharing. For example, a report from the Finnish Transport Safety Agency suggested that ridesharing could be incentivized by tax benefits.⁴⁶⁹

As clarified by the Ministry of Transport in the reply to consultation, ridesharing and car sharing are not regulated in Finland since they are not regarded as professional in nature. The difference between professional and unprofessional ridesharing mainly depends on the payment. In order to be considered free, the payment for the ride should be insignificant, i.e. to cover the costs of the trip only. Professional ridesharing is forbidden by the Taxi Transport Act and is punishable by fine or imprisonment.

IV.1 Current regulations and legislative proposals

The proposal for the Transport Code mainly covers the taxi sector relaxing the requirements for the access to market removing, among others, the quantitative restrictions which will help the provision of new innovative services.

IV.2 National rules applicable to on-line platform and rules applicable to service providers.

See Section IV.

IV.3 Main operators and their business models

Popular ridesharing services are inter alia *kimppa.net*, *kyydit.net*, *kimppakyyti.fi* and various Facebook-groups, of which the biggest, *kimppakyyti*, had 41 000 members in March 2016.

IV.4 Requirements imposed upon non-licensed activities (safety and technical requirements, insurance requirements, obligations relating to licences and on-line platforms)

No specific requirements are provided for the non-licensed services.

IV.5 Local incentives, subsidies and other forms of promotion for ridesharing and car sharing (including, parking spots, use of preferential lanes, etc.)

There are no preferential lanes for vehicles used in ridesharing car sharing, nor any other incentives or subsidies.

V. Relevant national case law

No relevant case law for the purposes of this study is identified.

⁴⁶⁹ For general direction, see (in English): http://yle.fi/uutiset/report_recommends_tax-free_lift_sharing_experiment/8019848.

VI. Country Market

Finland has approximately 5,492,000 inhabitants. The greatest market potential is in Helsinki and other big cities. On the other hand, Helsinki is strongly committed in developing bicycle routes and public transport, which may have an effect on the demand of passenger transportation by car as well.

Taxi traffic has a 1.4 % share of the total amount of passengers as well as passenger kilometres of all the passenger transportation in Finland (including private cars and public transportation). The total turnover of taxi sector was EUR 1,061 million in 2013.⁴⁷⁰

According to the Finnish Taxi Association, there are approximately 9,500 licence holders who own approximately 10,000 vehicles. About 55 % of the cars operate in cities and the rest in rural areas. 50 million passenger journeys are driven each year constituting 830 million journey kilometres. Approximately 40 % of all the journeys are private, 40 % are procured or subsidized by public authorities and 20 % are procured by companies.⁴⁷¹ In total, the taxi sector employs about 14,000 persons.⁴⁷²

The amount of new taxi licenses is limited and obtaining one is dependent on the applicant's working experience as a taxi driver. Entry to the market is considered rather difficult. Taxi services are criticized from being too expensive and the regulation applicable thereto somewhat rigid. There seems to be a demand for new, cheaper and more agile services. Finland's Taxi Association has responded to the new emerging service models with their own, nationwide smart phone application called *Valopilkku*. Further, there is an application called *Lähitaksi*, which operates in Helsinki metropolitan area.

There is no differentiation between pre-booked taxi services and taxis hailed from the streets; all the licensed taxis can operate both. There are few hire cars with drivers and the service does not compete effectively with taxis.

Although there are a number of ridesharing intermediaries, the rides shared are mostly for longer distances e.g. between cities and thus they compete mainly with buses and trains.

The legislation concerning taxi traffic and provision of passenger transport services is currently under review. The aim of the review is to take into account the new service models such as MaaS (Mobility as a Service) and to deregulate the sector to enable better market-based functioning.

VII. Market players

⁴⁷⁰ Liikennevirasto – Julkisen liikenteen suoritetilasto 2013 (Liikenneviraston tilastoja 2/2015), p. 21.

⁴⁷¹ <http://www.taksiliitto.fi/taksiliikenne/yleista/> (in Finnish).

⁴⁷² Liikenteen markkinat Suomessa, Trafín tutkimuksia 16/2015, p. 27. Available at: http://www.trafi.fi/filebank/a/1452675021/34e771ac250db32ab331b2d71ae92ffc/19497-Liikennemarkkinat_raportti_2015-12-10.pdf (in Finnish).

As mentioned above, there are approximately 9,500 licence holders who operate about 10,000 vehicles. This means that typically a licence holder operates only one car. However, there are companies that have accumulated multiple licenses and cars.

According to the replies to the stakeholder consultation by the Finnish Taxi Owners' Federation, there are few bigger companies that operate mainly in the Helsinki Metropolitan Region. Most of the operators have 1-3 employees but the majority are self-employed. *Kovanen* and *Helsingin Taksipalvelu* are one of the largest providers of taxi services in Finland. According to the same stakeholder, there are around 30 dispatch centres.

New market players such as Uber and Taxify have also launched in Finland. The Ministry has regarded Uber and Taxify as dispatch centres. Operating a dispatch centre for ridesharing or taxis is allowed without a taxi licence, however, as indicated in s. II.6.2, commencing the provision of dispatch centre services requires a notification to the competent authority (EDTE-centre).⁴⁷³

Two Finnish starts ups, together with the Finnish Taxi Association, have created an interface for taxis *Valopilkku*⁴⁷⁴ a platform to book a taxi everywhere in Finland, monitoring the arrival and pay through the application.

In Helsinki, a new form of service merging a bus and a taxi was piloted by a publicly owned *Helsingin seudun liikenne*. The service allowed the customer to order a vehicle (a minibus) in advance just like he/she would order a taxi. However, rather than picking up the customer from the address given, the driver arrived at a predefined bus stop near the customer. The driver had other customers on board as well. The driving route was constantly adjusted and optimized depending on the incoming orders and customers on board. The service gained some popularity due to the cheaper rates compared to a taxi and its better agility and speed as compared to a bus. The pilot service was discontinued on 31 December 2015. However, the possibility to create a completely market-based service is currently being investigated.⁴⁷⁵

There are multiple ridesharing and car sharing platforms (see s. IV.3). For the time being, they do not compete effectively with taxis, at least not in the cities.

VIII. Barriers, limitations, incentives

According to the current Taxi Transport Act, the number of taxi licences is limited; maximum charges for taxi services are regulated, and a general driving obligation applies to taxi operators.

The regional authorities establish on an annual basis the maximum number of taxi licences (quotas) per municipality, and the licences are granted (by the same authorities) in a specific order to those applicants that meet the general criteria laid down in the Act.

⁴⁷³ Reply to the stakeholder consultation received from the Finnish Ministry of Transport and Communication.

⁴⁷⁴ <http://valopilkkutaksi.fi/briefly-in-english/>.

⁴⁷⁵ More on Kutsuplus (in English): http://yle.fi/uutiset/hsl_orders_kutsuplus_shutdown/8462055, and http://yle.fi/uutiset/growing_pains_helsinki_web-based_transit_revolution/8244684.

To be able to meet the criteria, all applicants must complete successfully the training for taxi transport operators and have no criminal precedents.

Since the number of licence applicants in many locations, and in particular in larger towns and cities, is usually very much higher than the number of licences that could be granted, the Taxi Transport Act establishes in detail who can actually receive a licence per quota i.e determines the order of priority for granting a licence to the applicants. Even if licences are granted according to local needs, taxis can operate in the whole country and can drive customers anywhere. Taxis are, however, obliged to return after every trip to the municipality for which the licence was granted, except for trips for which a short-time contract was made.

The proposed reform of the Transport Code aims to support the development of new service models and to better respond to the needs of transport users. The Transport Code would make market access easier and promote the interoperability of the different parts of the transport system. One aim of the Transport Code is to remove at least the quantitative restrictions of taxi licences and the fares.

Municipalities make a large use of taxis for the transportation of elderly people and children; therefore, a significant part of the service is supported by the local authorities. However, as clarified by the Finnish Ministry of Transport, there is no paratransit service.

IX. Capacity, growth, impact

According to the Ministry of Transport, the number of valid taxi drivers' licences is 30,114 (situation at 31.3.2016). Below is reported the number of licences issued per year:

2010	2,005
2011	2,775
2012	2,687
2013	2,813
2014	18,811
2015	7,313
2016	607 (situation 31.3.2016)

Licences are not tradeable, except those licences granted for taxi companies before 1 March 1991 which are tradeable until 1 August 2017. In Helsinki (the biggest city) the revenue (not including VAT) is approx. EUR 120,000, in Naantali (medium sized city) EU 83,000 and in Pyhärinta (small town) EUR 53,000.

According to the replies of the Taxi Association, the demand for taxi services has decreased because of the general financial situation. In order to better exploit the market, taxis are investing in smart technologies in order to put into practice 'Mobility as a Service (MaaS)' and rideshare solutions and improving the utilisation rate of taxis, as well as encouraging new customer groups to choose public transport over private cars.

According to the Finnish Taxi Owners' Federation, the demand conditions vary a lot. Generally, January and July are quieter and November and December are the busiest months, but demand varies depending on the times of the day and of the week as well. Most nights are quiet, but Fri-Sat and Sat-Sun nights are busier. Mornings are often busy. Weather conditions have quite a big impact on demand, too.

A study carried out in 2011 analysed the possibility to develop a ridesharing service in Finland and carried out a SWOT analysis of the potential service. The main purpose of the study was to explore the possibility to run ridesharing service in Finnish Capital region, in particular to analyse whether such a business concept is sound within Finnish conditions and whether there is sufficient demand for the service to warrant its realization. A secondary purpose of the study was to determine size and structure of the market segment targeted by the service. The analysis concluded that the transport industry in Finland *"has low barriers to entry, high competition, strong substitutes, strong suppliers and moderately strong customers. Revenues from successful market entry are not high. The market is a very specialized niche. There is clear acceptance of the service by the populace, but the preferred price level is set below taxi price levels. Potential entrepreneur launching this kind of service has to utilize very efficient model of operations to ensure profitability. Target group of the service should be people of young and working ages who drink alcoholic beverages"*.⁴⁷⁶

The future reform should ensure an increase in the number of suppliers with lower fares and more benefits for consumers, including higher choice and better service.

X. Results

The Finnish hire transport market is dominated by taxis because the legislation requires a licence for all professional transport (for profit). The market is considered to be overregulated, and characterized by lack of competition and a cartel-like environment between taxi operators, as indicated by the Finnish Competition and Consumer Authority (FCCA).⁴⁷⁷ Innovative service providers have proved difficult to develop due to the restrictive environment.

Given the above market conditions, hire car with driver does not exist or is limited to specific tourist services, such as limousine services, which are contractually regulated by the parties and not covered by the Traffic Act.

Services such as Uber are considered to be legal, but investigations are ongoing about the activity of the non-professional drivers. The FCCA called for more liberalisation, the removal of the exam to access the profession, and the possibility for the taxi to rank in any place of its choice. According to the authorities, easing the taxi regulation would improve the availability of taxis, thus creating incentives for the development of new forms of service based on entrepreneurship, and causing a reduction in prices. Through regulation it would also be possible to reduce the state and municipal contribution to taxi services (via reimbursement), which currently amounts to EUR 400 million.

⁴⁷⁶ Dejie Qi, Introduction of a New Transport Service on the Finnish Market, 2011

https://www.theseus.fi/bitstream/handle/10024/25269/Oi_Dejie.pdf?sequence=1.

⁴⁷⁷ <http://www.kkv.fi/en/current-issues/press-releases/2014/fcaa-more-competition-in-taxi-services-through-legislative-reform/>.

Basic fares are among the highest across the EU Member States. Interestingly, disabled passengers must pay more for accessibility (i.e. if an accessible taxi is requested, a surcharge is applied).

XI. Conclusions

The taxi market is overregulated, with quantitative barriers to entry and stringent qualitative regulation. Hire car with driver's services are not contemplated by the legislation since any hire transport service for profit requires a licence and must comply with the taxi regulations. Ridesharing is only allowed to cover the cost of the ride, since any activity done for profit requires a licence. Intermediaries are considered to be dispatch centres. The proposed reform should remove the quantitative restrictions, relaxing the requirements to access the hire transport market and allowing more competition between taxis and potential innovative services.

Bibliography

National legislation:

Acts:

1. Taxi Traffic Act (217/2007) (*Taksiliikennelaki*). Entry into force: 1 August 2007.
2. Act on the professional qualifications of the taxi driver (695/2009) (*Laki taksinkuljettajien ammattipätevyydestä*). Entry into force: 1 January 2010.
3. Employment Contracts Act (55/2001) (*Työsopimuslaki*). Entry into force: 1 June 2001.
4. Working Hours Act (606/1996) (*Työaikalaki*). Entry into force: 23 November 1996.
5. Vehicles Act (1090/2002) (*Ajoneuvolaki*). Entry into force: 1 January 2003.
6. Car Tax Act (1482/1994) (*Autoverolaki*). Entry into force: 1 January 1995.
7. Traffic Insurance Act (279/1959) (*Liikennevakuutuslaki*). Entry into force: 1 January 1960.
8. Consumer Protection Act (38/1978) (*Kuluttajansuojalaki*). Entry into force: 1 September 1978.
9. Contracts Act (228/1929) (*Laki varallisuusosoikeudellisista oikeustoimista*). Entry into force: 1 February 1929.
10. Driver's Licence Act (386/2011) (*Ajokorttilaki*). Entry into force: 19 January 2013.

Decrees:

1. Government Decree on the Professional Qualifications of the Taxi Driver (825/2009) (*Valtioneuvoston asetus taksinkuljettajien ammattipätevyydestä*). Entry into force: 1 January 2010.
2. Government Decree on Maximum Prices Charged from Customers for Taxi Transport Services (796/2015) (*Valtioneuvoston asetus taksiliikenteen kuluttajilta perittävistä enimmäishinnoista*). Entry into force: 1 July 2015.
3. Ministry of Transport and Communications' Decree on Quality Standards for the Equipment of Taxi Cars with Unimpeded Access (723/2009) (*Liikenne- ja viestintäministeriön asetus taksiliikenteessä käytettävän esteettömän kaluston laatuvaatimuksista*). Entry into force: 29 September 2009.
4. Decree of Ministry of Transport and Communications on the Construction and Equipment of Motor Vehicles and Trailers (1248/2002) (*Liikenne- ja*

viestintäministeriön asetus autojen ja perävaunujen rakenteesta ja varusteista). Entry into force: 1 January 2003.

5. Decree on the Vehicle Construction and Equipment (1256/1992) (*Asetus ajoneuvojen rakenteesta ja varusteista*). Entry into force: 1 January 2003.
6. Decree of Ministry of Transport and Communications on the Contents of a Taxi Entrepreneur's Course (730/2007) (*Liikenne- ja viestintäministeriön asetus taksiliikenteen yrittäjäkurssin opetussisällöstä*). Entry into force: 1 August 2007.
7. Government Decree on the Fees and Charges of Employment and Economic Development Offices, Centres of Economic Development, Transport and the Environment and Centres of Development and Governance in 2016 (1731/2015) (*Valtioneuvoston asetus elinkeino-, liikenne- ja ympäristökeskusten, työ- ja elinkeinotoimistojen sekä kehittämis- ja hallintokeskuksen maksullisista suoritteista vuonna 2016*). Entry into force: 1 January 2016.

Websites:

3. Centre for Economic Development, Transport and the Environment, available at: <https://www.ely-keskus.fi/en/web/ely-en/frontpage>.
4. Finnish Competition and Consumer Authority, available at: <http://www.kkv.fi/en/about-us/the-consumer-ombudsman/>.
5. Finnish Transport Safety Agency Trafi, available at: <http://www.trafi.fi/en>.
6. Public Transport Performance Statistics 2013 (Statistics of the Finnish Transport Safety Agency 3/2015), available at: http://www2.liikennevirasto.fi/julkaisut/pdf8/lti_2015-03_public_transport_web.pdf.
7. Ministry of Transport and Communications, available at: <http://www.lvm.fi/en/home>.
8. Factsheet on the revision of transport legislation (Transport Code), available at: <http://www.lvm.fi/documents/20181/880492/3-2016+Transport+Code.pdf/930dbb2c-d4c2-4248-a61c-3cb4fed8eaf9>.
9. The Consumer Disputes Board, available at: <http://www.kuluttajariita.fi/en/index.html>.
10. The Finnish Taxi Owners Federation, available at: <http://www.taksiliitto.fi/>.
11. Transport Workers' Union AKT, available at: <http://www.akt.fi/in-english/>.

News articles:

1. "Minister Risikko: Provision of Uber rides is legal, but driving requires taxi licence". Press release of the Ministry of Transport and Communications on 6 March 2015, available at: <http://www.lvm.fi/-/minister-risikko-provision-of-uber-rides-is-legal-but-driving-requires-taxi-licence-796955>.
2. "HSL orders Kutsuplus shutdown". Yle Uutiset on 17 November 2015, available at: http://yle.fi/uutiset/hsl_orders_kutsuplus_shutdown/8462055.
3. "Growing pains: Helsinki's web-based transit "revolution". Yle Uutiset on 21 August 2015, available at: http://yle.fi/uutiset/growing_pains_helsinkis_web-based_transit_revolution/8244684.
4. "Taksilupien jaossa vuodet eivät ole veljeksiä". Yle Uutiset on 3 August 2015, available at: http://yle.fi/uutiset/taksilupien_jaossa_vuodet_eivat_ole_veljeksia/8195509.
5. "Report recommends tax-free lift sharing experiment". Yle Uutiset on 26 May 2015, available at: http://yle.fi/uutiset/report_recommends_tax-free_lift_sharing_experiment/8019848.

10. FRANCE

General legal framework

The taxi activity in France has always been subject to strict regulation which includes both quantitative and qualitative regulation. In recent years, the taxi sector has found itself in competition with the hire cars with drivers (*voiture de transport avec chauffeur*- VTC), especially in the area of the Ile-de France. Hire cars with drivers were liberalised in 2009 by the Loi Novelli⁴⁷⁸ which removed restrictions to the private hire car service in order to increase the number of vehicles providing touristic transport, especially in Paris. In 2014, a Bill⁴⁷⁹ was passed to provide new regulation for both taxis and VTCs that intended to modernize the taxi sector and reintroduce some regulation for the VTC sector while prohibiting peer-to-peer ridesharing. The 2014 Bill has been subject to various actions lodged before the courts, including the Constitutional Court in order to evaluate their compliance with the French constitution and, following the courts' decisions, some of the new provisions were repealed.⁴⁸⁰

The Bill introduced three main statutes concerning passenger cars (≤ 10 seats) in the Transport Code:

1. *Public transport for private individuals*
 - Taxis: hailing + taxi stands (including airports and railway stations) + booked rides;
 - *Véhicules de Transport avec Chauffeurs* or « VTC » (hire cars with drivers): booked rides only;
 - Two-wheels or three-wheels motorized vehicles: booked rides only.
2. *Transport public collectif* (Public transport for groups), often referred to as « *Capacitaires LOTI* » (*Loi d'Orientation sur les Transports Intérieurs*⁴⁸¹). Under this regime, private operators, including taxis, are called to supplement public transport, such as in the case of school transport.
3. *Covoiturage* (Ridesharing) which is only allowed in order to cover the costs of the ride.

Currently, another draft Bill (*Loi Grandguillame*) is pending before the Senate with the main purpose to regulate the booking centres for taxis and hire cars with drivers, both the traditional dispatch centres and the web apps, imposing upon them additional requirements.

Licences

Under the French system, the licences are called "parking permits" (*autorisation de stationnement* or ADS). At the national level, Section 2 of the Transport Code regulates the issuance and transfer of new licences. New licences are valid for five years. As a general rule, from the enactment of Article L3121-2 of the 2014 Bill, licences may not be transferred for consideration. The licences issued before the reform remain tradable under certain circumstances. The current average price in France for tradable licences is around EUR 100,000. In order to obtain a taxi licence, the applicant must hold a professional card, which is the document that includes the certificate of professional competence. This certificate is obtained after a period of training and after having passed an examination divided into two parts (national and departmental) with theoretical and practical tests. Once the candidate has successfully passed the exam, he may enrol in the waiting list for free taxi licences. The application for the licences must be renewed every year. In Paris, there are currently 46,871 pending applications.

Local regulation

The competent authorities for each department determine by decree the number of licences, the applicable fares and the contents of one of the three tests included in the exam for the professional card. The departments' prefects may also regulate the parking rights attached to the different licences. Issues related to the prefectural competence for the regulation of taxi traffic have been challenged before the courts several times. The municipalities are competent to issue the licences (with the exception of Paris, where the Police Prefecture is competent). Each department or municipality set a maximum number of licences. In the smallest cities, the taxis are mainly providing a public transport service under the LOTI law, such as transport of patients to and from hospitals, transport of minors to/from schools or sports centres under agreements with the local authorities.

Organisational and technical requirements

The Transport Code covers the technical requirements applicable to vehicles, including the taximeter. There are no (legal) obligations in France regarding to the need to ensure the taxis' wheelchair accessibility. In

⁴⁷⁸ LOI n° 2009-888 du 22 juillet 2009 de développement et de modernisation des services touristiques, JORF n°0169 du 24 juillet 2009.

⁴⁷⁹ LOI n° 2014-1104 du 1er octobre 2014 relative aux taxis et aux voitures de transport avec chauffeur, JORF n°0228 du 2 octobre 2014.

⁴⁸⁰ Décision n° 2014-422 QPC du 17 octobre 2014 (Chambre syndicale des cochers chauffeurs CGT-taxis), CE, 17 décembre 2014, Sas Allocab et autres Nos 374525, 374553 ; CE 9 mars 2016, Uber SA, N° 388213.

⁴⁸¹ Loi n° 82-1153 du 30 décembre 1982 d'orientation des transports intérieurs.

France, there is no obligation to be affiliated to a dispatch centre. In the largest urban areas, around 35% of the taxi drivers are not affiliated to a dispatch centre. The 2014 Bill introduced a national registry listing the information relating to the identification, availability and geolocation of taxis. This registry, known as the "Registry of taxi availability", aims at improving access to taxis by promoting the development of innovative services. The administrative authorities competent for issuing licences are required to transmit to the registry's manager all the information concerning the licence, including its transfer, renewal or withdrawal. Taxi operators may decide to add information to the interface of the registry regarding the "real-time position" of their taxi vehicles. The information regarding the "geo-localisation" of the taxis included in the registry is made available for free to the public, including to intermediaries creating apps which connect clients with the drivers. A pilot project was launched in Montpellier in October 2015.

Fares

Different ministerial decrees (the most recent adopted in 2015⁴⁸²) provide the criteria for setting the taxi fares; however, the applicable fares are fixed each year by the police prefect within its jurisdiction. The taxi rate includes a maximum price per kilometre. When the vehicle is slowed down and during the waiting period requested by the customer, this price is replaced by a maximum hourly fare. A surcharge may be imposed for night shifts; pets; heavy and large luggage; and for taxi booking. The detailed tariffs are set at departmental or municipal levels. However, among the examined metropolitan areas (Île-de-France- Paris, Rhône-Lyon, Alpes maritimes - Nice), we have found different fares. The fares in Île de France are the highest both in terms of the client's charging (EUR 3,83) and of waiting hours (EUR 35,43).

Passenger rights

Passengers have the right to be informed of the applicable fares, to take the taxi of choice (not necessary the first in line), to receive an invoice, and have the driver take the shortest route. Complaints must be lodged at the prefectural police of the department of activity of the taxis. The local offices of the FNAUT may provide assistance to the passenger for the submission of the complaint. The largest French taxi operators have introduced quality charts in order to ensure a high quality service to their passengers. They also provide electronic payment support (POS) to the taxi driver in order to allow him to accept electronic payments.

Labour rules

The labour rules applicable to the taxi sector in France are particularly complex. In general, taxi drivers may be self-employed or employees. A hybrid situation exists for licence leasing: the owner leases the fully equipped vehicle with the licence. The licensee does not receive a salary and retains the receipts. In return, he pays the rent to the licensor, the licensor's social security contribution and taxes, as well as the maintenance costs of the vehicle. A 2014 reform has introduced the *location-gerance*, which is more favourable to the licensee granting him management autonomy. The reform was intended to remove the misuse of renting to dissimulate employment contracts.

Enforcement

In the largest French cities there is a specialized police department which operates like a traditional investigation service. They track down illegal taxis especially located in the most touristic areas, airports, stations, and night clubs. Various administrative enforcement systems are in place, including municipal commissions in charge of imposing the disciplinary sanctions on taxis that infringe upon regulatory provisions.

Airports

A separate licence is not required to pick up passengers at airports. The taxis authorised in the city where the airport is located (the *taxi parisien* in Paris, the CUS in in Strasbourg) are allowed to enter the airport to pick up passengers at the taxi ranks. However, in Paris, in order to avoid the concentration of taxis at Charles de Gaulle during peak hours, each licence holder is allowed only two passages per day at the airport barrier. Taxis are provided with a badge to control passage at the airport.

Hire cars with driver (VTC)

France has one of the most detailed set of rules for the hire cars with drivers. The 2014 Bill introduced a special chapter in the Code of Transport containing restrictions on VTCs to avoid direct competition with taxis. Certain provisions, such as the imposition of fixed flat fares and 15 minutes waiting between the booking and the pick-up of the passengers were considered illegal by the Constitutional Court⁴⁸³ and by the State

⁴⁸² Décret n° 2015-1252 du 7 octobre 2015 relatif aux tarifs des courses de taxi, JORF n°0234 du 9 octobre 2015.

⁴⁸³ Décision n° 2014-422 QPC du 17 octobre 2014 (Chambre syndicale des cochers chauffeurs CGT-taxis).

Council.⁴⁸⁴ Intermediaries for hire cars with drivers (including apps), as well as the operators, must be registered in the public registry, which from 2015, is managed by the Ministry of the Ecology, Sustainable Development and Energy. VTC drivers are required to hold a professional card, obtained after training and an exam, in order to be allowed to drive a VTC vehicle. Under the current regime, LOTI drivers are allowed to drive VTC vehicles, but they must have at least two passengers on board. A ministerial decree provides technical specifications for VTC vehicles that mainly relate to large and luxury vehicles.⁴⁸⁵ The driver must obtain a professional card which is subject to certain fitness requirements. Among the main organizational requirements for VTC, there is the need to prove the financial standing and the obligation to "return to the garage" unless there is a prior reservation or contract with the customer.⁴⁸⁶ The majority of the hire cars' drivers registered under the statute of self-employed are subject to a lighter tax regime, with no VAT, reduced social contributions and forfeit income tax.

Ridesharing

A 2015 legislative reform in the Transport Code introduced the definition of ridesharing (*covoiturage*) that is, the joint use of a motor vehicle with a driver and one or more passengers as part of a journey that the driver performs on its own account, for no consideration except cost-sharing.

Market analysis

With regard to the non-scheduled passengers public transport, the 2014 Bill (as well as the decisions of the National Competition Authorities⁴⁸⁷), divided the market into two segments:

- The hailing market (*maraude*) where the taxis have monopoly;
- The pre-booked segment, where the taxis are in direct competition with the hire car with drivers (VTC). The pre-booked market for taxis is dominated by Group G7 which, through its controlled entities G7 and Taxis bleu, has more than 2,200 affiliated taxis.

According to the analysis of the French National Competition Authority, among the largest VTC companies, two different business models exist:

- The intermediaries, which connect (i.e. matchmaking) the independent drivers affiliated to the company with clients through an app and taking a commission between 20 and 30% over the ride fare (Uber, Allocab, Le Cab).
- The service provider, where the VTC company owns its vehicles to transport passengers and employs salaried drivers.

From a geographical point of view, the dimension of the hailing market (*maraude*) is municipal/prefectural, since it corresponds to the area where the taxi is authorised to park. The pre-booked market is larger than the authorisation area since the taxis are allowed to pick-up passengers outside their area of authorisation. As clarified by the National Competition Authority, the pre-booked segment, where the taxis are in direct competition with the VTCs, is the most profitable segment. The competition seems strong since Uber reduced its fares for weekends about 20% in order to respond to a weekend offer from Group G7 at the end of 2015. From 2015, a third sector has been defined by the Transport Code, the ridesharing (*covoiturage* - shared use of a vehicle performed for one's own account for no consideration except cost sharing). This activity is not considered, by the legislation, as transport activity. This market includes various players, such as Blablacar and Heetch, which are active on different segment (long distance pre-arranged ridesharing and short distance).

Barriers to entry, limitations, incentives

For the taxi sector, there are two main barriers to entry: a quantitative barrier (limited number of licences) and an indirect qualitative barrier (the exam for the taxis professional card). The limitation on the number of

⁴⁸⁴ CE, 17 décembre 2014, Sas Allocab et autres Nos 374525, 374553 ; CE 9 mars 2016, Uber SA, N° 388213.

⁴⁸⁵ Arrêté du 26 March 2015 provides that vehicle must be of no more of six years, unless it comes to collection vehicles. Transport vehicles with driver must have at least four doors and have an overall minimum length of 4.50 meters and an overall width of minimum 1.70 meters. Their engine must have a higher net power or equal to 84 kilowatts. However, those provisions do not apply in case of hybrid vehicles according to Article L3120-1.

⁴⁸⁶ There has been a lot of discussion about the definition of contract with the end customer, and if the condition general provided by apps-based operators could be included in the definition. The 2014 Bill has imposed that the name of the passenger must be indicated in the contract in order to be valid. However, large VTC service providers have contracts with business companies and hotel and they do not have the name of the transported passenger, who is a client of the business or hotel.

⁴⁸⁷ Avis n° 13-A-23 du 16 décembre 2013 concernant un projet de décret relatif à la réservation préalable des voitures de tourisme avec chauffeur ; Avis n° 14-A-17 du 9 décembre 2014 concernant un projet de décret relatif au transport public particulier de personnes, para 35.

issued licences and the fact that no new licences were issued in the last 10 years, created a "scarcity value" especially in metropolitan cities. According to the 2015 IGF Report,⁴⁸⁸ the transfer price of licences in the metropolitan cities varies between EUR 365,000 in Nice (2014) and EUR 81,000 in Lyon (2014 and 2015). The French Competition Authority, in its opinion, considered that the cost of the licence is a disruptive element for the activity's economic conditions, especially in the pre-booked sector.⁴⁸⁹ With regard to the indirect qualitative barriers, the taxi driver exam to obtain the professional card is considered particularly difficult and it requires significant preparation. Following the liberalisation of the VTC sector and before the 2014 Bill, applications for taxi professional cards dropped as well as the price of the licences for the reason that many professional drivers, after the 2009 liberalisation of the VTC sector, preferred to obtain the professional card for VTC drivers, which required less training and a lower financial investment, and work for VTC companies. Following the 2014 Bill and the temporarily suspension of VTC professional cards, the price of the taxi licence, at least in Paris where the largest number of VTC players is concentrated, returned to the 2012 levels. In order to avoid any indirect competition between taxis and VTC on qualitative requirements, the new draft legislation is planning to extend the taxi driver exam to applicants for the VTC professional card. Currently, for VTCs, the entry barriers are lower and they are mainly related to the cost of the vehicle. Technical requirements are imposed for VTC vehicles (minimum length and height, or hybrid vehicles). With regard to taxation, the VTC's operators, for the first 3 years, have right to reduced tax and social security, and for the following years, the tax is not more than 33% of the revenues. On the contrary, the fee applicable by the intermediaries are in the range of 20-30% of the price of the ride, while for taxi, dispatch centre applies a fixed monthly fee or a fee in the range of 8-10%. In the context of the stakeholder consultation, ridesharing intermediaries identified the lack of clarity in the regulatory framework as the main barrier, which substantially limits the business segment.

Growth, capacity, impact

In France there are around 60,000 taxi licences, 37% of which are concentrated in Ile-de France (88% of which in Paris). There are nearly 25,000 VTC licenses at the national level (42% compared with taxis), mainly concentrated in the Ile-de France (60%) but less in Paris (only 42% of Ile-de France). Looking at the dynamics, publicly available data showing a 41% growth at the national level for taxis, slower within the Ile-de France (30%), while much faster in departments of other metropolitan cities (64%). Data on VTC are available only for 2015, where a 12% growth is reported.

Conclusions

The French taxi industry is strictly regulated with both quantitative and qualitative barriers to entry. The sector, especially in metropolitan areas, suffered the aggressive competition from the hire cars with drivers, the market of which was liberalised in 2009. The 2014 Bill has attempted to relax some requirements for taxi sector while regulating again the hire cars with drivers. Despite the reforms, the French taxi market remains characterized by significant quantitative barriers and indirect qualitative barriers. The pending draft legislation intends to introduce additional requirements for intermediaries for both taxis and hire cars with driver and more stringent qualitative requirements for hire cardrivers. The French market is characterised by the presence of ridesharing intermediaries but only not for profit ridesharing is authorised.

I. Introduction

The taxi activity in France is subject to a very detailed and stringent regulation. The pivotal principle of the taxi regulation is that only taxis can park on the streets in quest for clients (*maraude*). For this reason, as recalled by the IGF Report,⁴⁹⁰ the juridical definition of taxis is focused on the authorisation to park on a public road to wait for clients, which is considered the essential characteristic of the taxi service ("maraude"). The licences in France are called "parking permits" (autorisations de stationnement). However, the technological developments and the widespread of the innovative services have brought the legislator to introduce some common rules for all the forms of non-scheduled transport of passengers: taxis, small car delivery, hire cars with drivers, mototaxis, and small group passenger's vehicles. The need to reform the sector has been discussed for the last 10 years.

⁴⁸⁸ Rapport sur l'application de la Loi n. 2014-1104 du 1^{er} octobre 2014 relative aux taxis et aux voitures de transport avec chauffeur.

⁴⁸⁹ Avis n° 13-A-23 du 16 décembre 2013 concernant un projet de décret relatif à la réservation préalable des voitures de tourisme avec chauffeur.

⁴⁹⁰ Id, footnote 456.

The 2008 Attali Report (Decision 221)⁴⁹¹ provided the indication for some reforms of the sector, including: to grant free licence through a procedure spread over two years; to provide non-transferable licences for all applicants registered before 2007; and to enlarge the taxis supply opening the market to the “*voiture de petit remise*.”⁴⁹²

A first reform was introduced in 2009 with the *Loi Novelli*, which modified the Code of Tourism introducing the category “*voiture de tourisme avec chauffeur (VTC)*” a category of hire cars with drivers with a lighter regulation compared to taxis. The purpose was to increase the supply of non-scheduled passenger transport in order to satisfy the demand, especially in Paris. The VTC had the obligation to accept only pre-booking request, and to not pick up passengers on the street. The arrival of new innovative service providers allowed the development of the VTC sector, which became a strong competitor of taxis in the pre-booked segment.

In 2014, a new legislation was passed with the purpose to regulate again the hire car with driver sector and to relax some of the requirements for the taxi activity, including the new taxi licences and the creation of the taxi registry.

In July 2016, the French National Assembly has approved a new draft legislation, the *Loi Garandguillame*, which intends to clarify the rules applicable to intermediaries. In particular, Article 1 of the draft legislation extends the rules for VTC intermediaries introduced by the 2014 Bill (*Loi Thévenoud*) to all different types of passenger transport, including taxis, moto-pros, LOTI and ridesharing (*covoiturage*). The draft legislation clarifies that the special regime concerns the intermediaries for passenger transport. A booking centre (*centrale de réservation*) is defined as professional matching of passengers with professional drivers. When a booking central starts to operate for the first time in France, it must submit a declaration to the administrative authority in order to be registered and the registration must be renewed each year. The centrals are also responsible of the good execution of the obligations of the transport contract towards the client, also in case of distance contracts, and both when the transport is performed by them or by a third party. The centrals may be exonerated from the responsibility by providing the evidence that the non-execution of the service was due to the client or to a *force majeure*. As general rule, the centrals cannot forbid a taxi driver to pick up a client when it is not booked and is in a rank or parked on the street. The draft legislation also requires to the intermediaries to have in place an insurance contract for third party civil responsibility.

II. Legal framework applicable to taxis

II.1 National Legislation

The national legislation covering the taxi sector is included in the French Transport Code (*Code des transports*), Book I, Title II. Article L 3121-1 defines taxis as vehicles with up to nine seats, equipped with a taximeter and light and providing transportation of passengers and their luggage. To operate, the individual or the company must hold a licence issued by the Mayor of the municipality where the service is performed.

⁴⁹¹ J. Attali, *Rapport de la Commission pour la libération de la croissance française: 300 décisions pour changer la France*, <http://www.ladocumentationfrancaise.fr/rapports-publics/084000041/>.

⁴⁹² Authorize the taxis to rebate the increasing price of fuel on the tariffs within a maximum tariff; Allows multiple drivers to use the same taxi plate, provided that they do not exceed the maximum working hours per day; Set a single service of 11 hours, with the purpose to increase the number of shifts without increasing the surface occupation; Remove territorial restrictions; Merge all the Parisian taxis with those of the Ile de France and fix a fare for the airports; Create a lane reserved to taxis, buses and carpooling between Paris and the airports; Replace the prefects to the mayor in cities where the allocation of new taxis licences does not follow the demographic trends; Streamline the secondary market by allowing the immediate sale of the held licences.

The national legislation has been amended by the Law 2014-1104, the so-called *Loi Thévenoud* (hereinafter, "the 2014 Bill"),⁴⁹³ which changed the provisions concerning the issuing of licenses and their exploitation while introducing new rules for the hire cars with drivers (*voiture de tourisme avec chauffeur-VTC*). Among the most contested provisions there is the taxis' exclusive use of the geolocalisation. However, a recent decision of the *Conseil d'Etat* has annulled this provision since the Government did not notified it to the European Commission prior its adoption according to Article 8 of the Directive 98/34/EC.⁴⁹⁴

Article L 3121-7 of the Transport Code provides that where an agreement is reached in one or more municipality among taxis' trade unions, the public authority will establish:

1. The working hours in accordance with the Labour Code requirements;
2. The fares;
3. The methodology to allocate the generated turnover, as registered by the taximeter, between the owner and the driver of the car;
4. The number of cars in the concerned municipalities, the number of new drivers admitted to driving these cars and the review of the admission of the drivers who are exempted from proving the practice of the profession during a certain period. The national competent administrative authority may, by order, make compulsory the provisions resulting from the agreement at national level only in the concerned municipalities.

As a general principle, the regulation applicable to the taxis sector is the result of an agreement between the trade unions representing the taxi sector and the public authority.

Taxi activity is considered as a commercial activity (hire transport) and not a public service. However, under the LOTI regime,⁴⁹⁵ the local authorities have opened the public transport on demand to taxis and other private operators, such as the medical transport of patient or school transport, especially in rural areas, in order to supply the demand of transport. Taxi operators wishing to provide "transport on demand" must register as public passenger transport operators, which implies the financial capacity to fulfil the conditions, and the professional reputation specified by the Decree of 16 August 1985.

When the transport on demand is organized within a perimeter of urban transport, the agreement can intervene directly between the authorities competent for transport and the taxis or as a sub-contract between the operator of the urban public transport network and the taxi operators.

In non-urban areas, the agreement is concluded between taxi operators and the (municipality or group of municipalities). To facilitate the access of taxi operators to the public procedures, they can be grouped within an Economic Interest Group (EIG) better able to respond to the call of interest.

II.2 Local regulation

⁴⁹³ LOI n° 2014-1104 du 1er octobre 2014 relative aux taxis et aux voitures de transport avec chauffeur.

⁴⁹⁴ Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations OJ L 204, 21.7.1998.

⁴⁹⁵ Loi n° 82-1153 du 30 décembre 1982 d'orientation des transports intérieurs (LOTI).

The Transport Code and the Ministerial decrees define the relevant applicable legislation. Local regulations issued by the department authorities define the applicable fares (see s. II.8) and the contents of one of the three tests (UV3) that must be passed in order to obtain the taxi driver's professional card. The test UV3 covers the departmental regulation and a written test of ability to evaluate orientation and the capacity to calculate a fare without a taximeter.

The prefects of the departments may also regulate the parking rights attached to the different licences. The prefectural competence with regard to the regulation of taxi traffic has been challenged various times before the courts. The 2000 circular of the Ministry of the Interior, while confirming the competence of the prefect, provided a model of decree for the regulation of the access to the airports. According to the Ministry, the prefect's competence over the circulation in the areas near to the airports is provided by Article R 213-6 of the Aviation Code. The prefect may authorise all the taxis from the municipalities of the department or only those of the city where the airport is included, depending from the airport traffic level and the number of taxis already authorised.

In Strasbourg, a 2008 prefectural decree provided that the taxis hors-CUS (a licence obtained outside the *Comunité Urbaine de Strasbourg-CUS*) were allowed to park in the airport of Entzheim for only 30 minutes in advance on their booking. This prefectural decree was adopted to avoid abuses of the non-CUS taxis that would park at the airport premises in quest of clients. A 2013 decision of the administrative court declared this provision void because the prefect was not the competent authority to adopt an order of police, considering instead that the municipality was competent for the regulation of the licences in the airport area. Conversely, in Paris, the access to the airport was not regulated by the prefect and is open to all the taxis of the *Île de France*, which has created overcrowding at the airport, during peak times, with most of the Parisian taxis waiting for clients at the airport. A recent decree allows each Paris licensed taxi to provide only two shifts per day at the Charles de Gaulle airport. A badge is necessary to control the passage of the taxi at the airport's barrier.

II.3 Procedures for issuing licences and applicable criteria

At national level, Section 2 of the Transport Code regulates the issuing and the transfer of the new licences. As a rule, from the enactment of the 2014 Bill, licences may not be transferred for consideration with the exception of certain circumstances. Under the previous legislation, it was possible to transfer the licences after five years of exploitation (for permits issued before 1995) or fifteen years (for permits issued after 1995).

Article L3121-2 provides that the licences introduced by Article L. 3121-1, and delivered after the enactment of the 2014 Bill, are non-transferable and are valid for five years. They are renewable under the conditions set by a decree. The holder of a licence issued before the enactment of the Law has the right to submit the name of a successor for consideration to the competent administrative authority which has issued the permit. This option shall be subject to the effective and continuous operation of the licence for a period of fifteen years from the date of issuance or five years from the date of the first transfer.

According to the opinion of the *Autorité de la Concurrence* (the French Competition Authority)⁴⁹⁶, the new law distinguishes between licenses issued prior to its enactment, which will remain transferable for consideration, and those issued after the cut-off date, which will be non-transferable. For the new licences, at the end of the professional activity of the holder, the licence will be taken back by the administrative authority and transferred, without consideration, to the first candidate in the waiting list. Ultimately, according to the French Competition Authority, this arrangement is useful to create a level playing field between taxis and VTCs, in particular in the pre-booked segment, where the cost of the licence is a disturbing element for the activity's economic conditions. However, it will take time before the bubble produced by the scarcity value will deflate and, in meanwhile, a distortion will remain in the hailing segment (*marauding*) between the taxis who have paid for the licence at market prices and those who have obtained it for free.

According to Article L3121-3, in case of total or partial cessation of activity, merger with a similar business or division, taxi companies operating several licences issued before the enactment of the Law and whose legal representatives or themselves do not drive a vehicle, are entitled to submit for consideration one or more successors to the competent administrative authority. In case of permanent incapacity, recognized in the manner established by regulation, resulting in the cancellation of the driving licence vehicles of all categories, the holders of the licence acquired for consideration may present a successor without any condition applicable. The person who has transferred the licence for consideration cannot drive a taxi, or solicit, operate one or more licences for five years following the date of presentation of the successor. In case of death of the holder of a licence, his beneficiaries have the possibility to present a successor for a period of one year from the death.

The transactions provided for by Article L. 3121-2 are listed, with the indication of the amount, in a register kept by the administrative authority competent for issuing the parking permit. The new owner then hands to the authority the documentary evidence of the effective and continuous operation of the authorisation by his predecessor. These transactions are reported or recorded by the competent tax office within of one month from the date of their conclusion (Article L3121-4).

The new Article L3121-5 regulates the issuing of the new licences. The issuance of new licences by the competent administrative authority does not provide any right to compensation for the holders of licences issued before the enactment of the Law. The new licences are issued based on the publicly available waiting list in the competent municipality. It is not possible to register in more than one waiting list. Applicants for the waiting list must hold a valid professional certificate provided for in Article L. 3121-9, issued by the State representative in the department where the licence is requested. The requesting person must not already hold a licence. Priority is given to the holders of a professional card that can justify the exercise of the activity of taxi driver for a minimum period of two years during the five years before the issuance.

The licences are issued by the City Hall or, in case of Paris, by the Police Prefecture. The number of licences is fixed in each municipality, following the opinion of the departmental committee or communal commission for taxis. In Paris, an indexation formula exists since 2002 to determine the optimal number of taxis. It incorporates five parameters established by professional organizations: population, purchasing power,

⁴⁹⁶ Avis n° 14-A-17 du 9 décembre 2014 concernant un projet de décret relatif au transport public particulier de personnes, para 35.

overnight stays in hotels in Paris, the number of train travellers provided by SNCF and the number of passengers travelling through Paris airports.

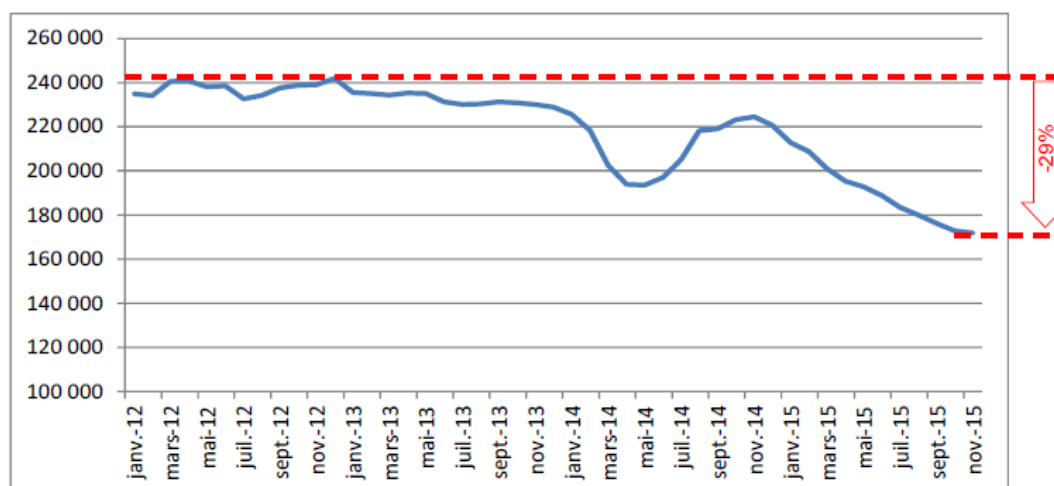
However, according to the report accompanying the 2014 Bill, it was clarified that, between 1990 and 2002 no new licenses were granted while the GDP of the Ile-de-France region increased by 16.9%, the number of airports' passengers increased by 49% and the number of first class passenger travelling by train increased by 36%. Between 2001 and 2013, a significant increase in supply was observed in the range of 18% in Paris, with the issuance of 2730 new parking permits, and 36% in the provinces.

As noted also by the French Competition Authority, the combination of the restrictions to the number of licences and their tradability has created the "scarcity value". According to the French Competition Authority, the evolution of the price of the licence constitutes "*un bon indicateur du degré de tension pouvant exister entre l'offre et la demande sur le marché du taxi.*"⁴⁹⁷

The price of the licences depends from the department of activity. The most expensive area is the Nice-Côte D'Azur. In Paris, the prices have decreased in the last three years from EUR 240,000 to EUR 170,000, mainly due to the large competition of the VTC sector, which had low entry barriers and regulation, but also to the increasing difficulty of the taxi exam. The number of the candidates who failed the exam increased in the last two years. The average price in France remains around EUR 100,000.

The evolution of the price of licences is the following:

Evolution du prix de la licence [EUR]



Source: Taxirama.

II.4 Technical requirements applicable to licensed vehicles

II.4.1 Taxi equipment

⁴⁹⁷ Avis n° 04-A-04 du 29 janvier 2004 relatif à une demande de la fédération nationale des taxis indépendants concernant la réglementation de l'activité des taxis.

Article R3121-1, introduced in the Transport Code by Decree 2014-1725,⁴⁹⁸ provides the following technical requirements applicable to taxis:

- A certified taximeter which must comply with the requirements of Decree No 2006-447 of 12 April 2006 on the placing on the market and to the implementation of certain instruments for measures. The taximeter must have the CE mark.
- A luminous external device marked "taxi", whose characteristics are determined by the Ministry of Industry, which lights green when the taxi is free and red when it is charged or reserved.
- A plate attached to the vehicle and visible from the outside indicating the parking authorisation number and geographic jurisdiction as defined by the authority competent to issue the parking permit.
- If the taximeter does not fulfil this function, there must be an approved device attached to the vehicle, enabling the recording of the beginning and the end of service, to allow the competent authority to control the compliance with the maximum working hours.
- A printer connected to the taximeter, allowing automated invoice indicating the total price payable pursuant to Article L. 113-3 of the Consumer Code.
- An electronic payment terminal, as mentioned in Article L. 3121-1, in working order and with visible light, which must comply with Article L. 314-14 of the Monetary and Financial Code.

Each municipality or prefecture of department issues a decision defining the technical specification and reproducing the national legislative provisions. Both at national and local level, the colour of the taxis is not pre-determined in a mandatory way. Additional requirements may be imposed by the local authorities: for example, the *Arrêté préfectoral n. 2015048-0006 du 17 Février 2015 de la Préfecture du Rhône*, which includes the city of Lyon, requires that, in addition to the technical specifications mentioned above, the number of the licence must be shown in a way that is visible from the outside.

According to Article 2 of Arrêté of 18 July 2001,⁴⁹⁹ taximeters and other devices are subject to:

- verification of the installation;
- in service control;
- initial verification of repaired instruments.

The driver must keep in the vehicle a document that reports each verification.⁵⁰⁰

The Arrêté du 13 février 2009,⁵⁰¹ regulates the technical specifications for lighting devices that must be installed on the vehicles in order to identify if the taxi is free or

⁴⁹⁸ Décret n° 2014-1725 du 30 décembre 2014 relatif au transport public particulier de personnes, JORF n°0302 du 31 décembre 2014.

⁴⁹⁹ Arrêté du 18 juillet 2001 relatif aux taximètres en service NOR: ECOI0100395A (Version consolidée janvier 2003).

⁵⁰⁰ Arrêté du 21 août 1980 relatif à la construction, à l'approbation de modèles, à l'installation et à la vérification primitive des taximètres (Version consolidée août 2001); Arrêté du 17 février 1988 fixant les conditions de construction, d'approbation et d'installation spécifiques aux taximètres électroniques.

occupied and the applicable fare. The lighting device must be white but other colour may be admitted if compatible with the technical specifications approved. The order defines the position of the lighting device, the visibility, the way the tariffs are indicated as well as the position and protection of the electric cables.

II.4.2 Insurance and maintenance

According to Article 3 of Decree 2015-1252, the Ministry of Economy establishes every year, with a decree, the costs of the vehicles, the costs of the repairs and maintenance, the insurance, the price of an average journey by taxi. The prices will take into account the fuel cost. The journey-type will be determined taking into consideration the average journey performed by the taxis, including pick up, travelled distance per km, average speed, different moment of the day and geographical areas.

The self-employed drivers must purchase a professional motor vehicle insurance covering damages to the passengers and properties. The professional motor vehicle insurance is essential as it covers damages caused to passengers by the driver (injuries resulting from a collision, damage to baggage) and other damages to the vehicle (accident, fire, theft). In case the vehicle is rented with the licence, the owner must ensure that the vehicle has the required motor vehicle professional insurance. The driver may subscribe an additional complementary insurance. The price for the professional motor vehicle insurance for a taxi is in a range between EUR 1,300 and EUR 3,000 a year, depending from the driver's bonus/malus.

II.4.3 Technical Inspections

Taxis must undergo a technical inspection, no later than one year after the date of first registration, or prior to their use in the case of change of destination, if the vehicles are affected to taxi use one year after the date of their first registration.⁵⁰² The technical inspection must be renewed every year.

II.4.4 Accessibility

There are no obligations in France to ensure the wheelchair accessibility of the taxis.

II.5 Qualitative requirements

According to Article L-3121-9 of the Transport Code, the activity of taxi driver may only be exercised by:

1. Holders of a certificate of professional competence issued by the administrative authority;
2. Citizens of the of EU or EEA holding a certificate of professional competence issued by the competent authority of one of those States where such a certificate

⁵⁰¹ Arrêté du 13 février 2009 relatif aux dispositifs répéteurs lumineux de tarifs pour taxis NOR: ECEI0902028A.

⁵⁰² Décret n° 73-225 du 2 mars 1973 relatif à l'exploitation des taxis et voitures de remise, Modifié par Décret n°95-935 du 17 août 1995 - art. 15 JORF 24 août 1995.

is required, or which authorises the exercise of the profession in one of those States where such a certificate is not required. In this case, the applicant must perform a training course.

According to Article L3121-9, the exercise of the taxi driver's activity is subject to the issuance of a professional card by the administrative authority. A new provision introduced by the 2014 Bill declared that the activity of the taxi driver was incompatible with the activity of driver of hire cars. The possibility to cumulate the two different licences/authorisations was considered to increase the risk of fraud. However, the Constitutional Court, in its judgement of 15 January 2016, declared this provision incompatible with the French Constitution. The Court considered that the two activities are carried out using vehicles with different characteristics and with different distinctive signs. The holder of both the licence and the VTC authorisation, when performing each activity, must change of vehicle and cannot simply switch from one activity to the other using the same vehicle. Therefore, the provision was not proportionated to the scope of protecting the public order.⁵⁰³

Access to the taxi driver profession is subject to obtaining a certificate of professional competence, embodied by the professional card (a pink document affixed to the windshield). This certificate is obtained after a training culminating in an examination in two parts (national and departmental) with theoretical and practical tests. The departmental examination is also valid in the department. A taxi driver wishing to work in another department must pass the test in the department in question. The Arrêté 3 March 2009⁵⁰⁴ regulates the organization and the content, at national level, of the exams for taxi drivers.

To successfully pass the exam, the candidate must obtain 10 out of 20 marks for each module. The exam covers the French linguistic knowledge, the minimum management rules (including fiscal, labour, and accounting), the ability of reading a map, choosing a journey, and set a fare based on a map. The exam assesses the knowledge of the taxi regulation within the relevant department. A driving test must be passed using a vehicle without any GPS system. The candidate randomly selects the destination from a list set in advance by the jury. A behavioural test is included. A voluntary test of the English knowledge may be entered.

The candidate must pass a medical exam and a technical inspection of the vehicle.

Once the exam has been passed, the successful candidate may be enrolled in the list for the delivering of the free licences. The application for the licence must be renewed every year. In Paris, there are currently 46,871 pending applications.

Once the driver has obtained the licence and started the activity, he must follow a periodic professional training. Every 5 years, the driver must follow a training course which has to last sixteen hours divisible in four periods.⁵⁰⁵

⁵⁰³ Décision n° 2015-516 QPC du 15 janvier 2016 M. Robert M. et autres (Incompatibilité de l'exercice de l'activité de conducteur de taxi avec celle de conducteur de VTC).

⁵⁰⁴ Arrêté du 3 mars 2009 relatif aux conditions d'organisation de l'examen du certificat de capacité professionnelle de conducteur de taxi.

⁵⁰⁵ Arrêté du 3 mars 2009 relatif à la formation continue des conducteurs de taxi.

The training includes updates of the legislative and regulatory framework; the national and local developments; road safety; the legislative and regulatory developments concerning to other activities of transport of passengers; including scheduled and on demand passengers' transport as well as transport of disabled people; passenger's rights; marketing; and conflict management.

A certificate is issued at the end of the training which has the validity of 5 years.

II.6 Organizational requirements (*dispatch affiliation centre, minimum service*)

Article L3121-11-2 provides that dispatch centres and web applications cannot impose to a taxi driver to refuse to pick up a passenger when the taxi is parked or travelling on the streets open to public traffic, including when the passenger has booked the taxi via another apps. Any contractual provision, granting exclusivity to the dispatch centre or to the apps, of this kind is considered null and void.

In France, there is no obligation to be affiliated to a dispatch centre. In the largest urban areas, around the 35% of the taxi drivers are not affiliated to a dispatch centre. Those affiliated realise half of their turnover through the dispatch centre. However, as provided by Article L3121-11-2 of the Transport Code, the taxi that has been reserved via dispatch centre may accept another passenger that it has found on its own, also using other apps.

When a taxi driver affiliates to a dispatch centre, the dispatch centre provides him with the equipment to match him with the requested/booked journeys, as well as the logo of the dispatch centre.

The licence mentioned in Article L. 3121-1 of the Transport Code allows taxi drivers to stop their vehicle to park or circulate along the path opened to public traffic, accepting clients waiting at the taxi stand or hailing a taxi on the street, within the area defined by the competent authority. Outside the area of authorisation, taxi drivers are subject to Article L. 3120-2, and they only pick up passengers if they have a prior reservation.

In the smallest cities, the taxis are mainly providing a public transport service under the LOTI law, such as transport of patient to and from the hospitals or medical facilities, transport of minors to/from schools or sports centre.

II.6.1 Register of taxi availability

The 2014 Bill has introduced a national register listing the information relating to the identification, availability and geolocation of the taxis. This register, known as "Registry of taxis availability", aims at improving access to taxis by their clients as well as promoting the development of innovative services. The project has been set up by the Ministry of the Interior which has created a public start-up.

The competent administrative authorities for issuing taxi licences are required to transmit to the manager of the registry the information related to licences including their transfer, renewal or withdrawal.

During the execution of the service, the taxi driver may transmit to the manager of the registry the information about his/her real-time availability and the geolocalisation of the taxis. The manager is signalling the taxi drivers to the intermediaries matching taxis to the customers.

Article L 3120-2, para III, prevents the hire car with drivers from the use of geolocalisation (i.e. informing clients of the availability of a car on the road also through technological means).

II.7 Fares (*criteria for taxi fare setting, authority/body in charge of setting the tariffs, maximum tariffs and/or fixed tariffs, composition of the tariff and tariffs adjustment mechanism [minimum charge, additional charge for using the radio taxi or dispatch centre, increase of the tariff during certain hours, such as at night or on certain journeys, such as towards the airports, reductions for certain categories, such as elderly people]*)

The Decree 2015-1252⁵⁰⁶ has repealed Decree 87/238⁵⁰⁷ on taxi fares. The Decree provides the criteria for setting the taxi fares; however, the applicable fares are fixed each year by the police prefect within his jurisdiction. The taxi stroke rate includes a maximum price kilometre. For periods when the vehicle is slowed down or is waiting upon client request, different maximum fares are provided. Surcharge may be imposed for night shifts; pets; heavy and large luggage, and for taxi booking.

Article 4 of the Decree 2015-1252 provides the competence of the Ministry of the Economy in fixing maximum fares and surcharges applicable. The Ministry may also impose flat rates for the service in certain journeys that are particularly requested or very travelled. The prefects are competent to set the maximum price per kilometre travelled, the maximum hourly price and the maximum price of acceptance of the clients, in compliance with the variation of the type-journey mentioned. The prefects may also set the condition for the application of the waiting period order by customer, the allowances and surcharges, when not fixed by the Ministry.

In France, there are four types of fares:

- Tariffs A – Day tariff with trip back to the base with passenger from 7 to 19;
- Tariffs B – Night tariff with trip back to the base with passenger from 19 to 7;
- Tariffs C – Day tariff with empty trip back to the base from 7 to 19;
- Tariffs D – Night tariff with empty trip back to the base from 19 to 7.

The prices of taxi fares include three components: pick up of the passenger, mileage allowance, waiting time or slow speed. Prices may be rounded to the nearest euro cent. The pick-up of the passenger (*prise en charge*) corresponds to the first 250 meters. Every x meters, 10 cents are added. This fare's component is called "chute".

⁵⁰⁶ Décret n° 2015-1252 du 7 octobre 2015 relatif aux tarifs des courses de taxi, JORF n°0234 du 9 octobre 2015.

⁵⁰⁷ Décret n°87-238 du 6 avril 1987 réglementant les tarifs des courses de taxi.

The chute is added to the fare per kilometres, when the vehicle is travelling at a certain speed. When the vehicle is slowed down due to the traffic (in Paris under 20 km/h), the fare "slow speed" (*marche lente*) is applied. According to an opinion of the French Competition Authority, this pricing method encourages the driver to select hours when traffic is light and where it possible to travel at higher speed. Conversely, the driver sometimes has more interest in waiting and ride during "bottleneck" hours that make traffic particularly slow, which correspond to the peak hours.

Within the limit of maximum fares, the largest taxis operators are starting to offer special price, in form of flat fares, to compete with the VTC sector. For example, Taxis Bleus offers a "maximum guaranteed price" to cap the fares in case of pre-booked service and other form of promotional fares such as the special price (EUR 10) for night rides and during the weekends between midnight and 5 a.m. Other promotions were offered during the "day without cars".

Paris and Île-de-France

The minimum fare for a ride, including increases and supplements, is set at EUR 7. Rates are calculated differently in Paris (where tariffs increase during peak hours, at night, on Sundays and public holidays) than in suburbs and provinces.

For 2016, the maximum rate remains unchanged for non-Parisian taxis. Parisian taxis can upgrade their fares up to 0.5%, compared to 2015.

In 2016, fares are capped at: EUR 3,83 for passenger pick up; EUR 1,05 (or EUR 1,06 for Parisian taxis) for mileage allowance (kilometre price); EUR 35,26 (or EUR 35.43 for Parisian taxis) for waiting hour (upon passengers' request or booking) or slow down speed. For taxis in Paris, the waiting period begins: if not pre-booked, at the moment of the client's pick up; in case of booking, when the customer is informed that the taxi arrived at the place indicated by the client; in case of advanced booking, at the time the taxi at has arrived at the requested place.

Some surcharges of the kilometre price are possible, in case of: night ride (up to 50%); ride outside the area of the licence when the taxi must return empty to the base (up to 100%); ride performed on snowy or icy roads (up to 50%), provided that special equipment or "winter tires " are used; rides during peak hours.

The surcharge for the pick up at the ports, airports, or train stations was removed. From 1 March 2016, the surcharge for taxi booking became fixed, regardless of the distance travelled by the taxi before picking up the passenger. For the immediate hiring, the fare is EUR 4, for advanced booking, EUR 7.

For the journey between Paris and the city airports, a flat fare was introduced (in both directions) from 1 March 2016. Between Paris right bank and Charles de Gaulle, the fare is EUR 50, between Paris left bank and Charles de Gaulle, the fare is EUR 55. Between Paris Orly and Paris right bank, the fare is EUR 30, between Paris Orly and the Paris left bank, the fare is EUR 30.

The invoice is mandatory only when the fare exceeds EUR 25 VAT included. Below this price, the invoice is issued only upon passengers' request.

Department du Rhône, Lyon

The maximum fares have been revised in 2015 by the Arrêté préfectoral du 17 février 2015. The minimum fare is EUR 7, which may be perceived day and nights, working days and week-ends. The Article 3 the following minimum and maximum fares.

Fare	Charging client	Price per km	Chute EUR 0,1 FOR	Waiting for slow down EUR 0,1 for	Waiting hours
EUR	EUR	EUR	METERS	SECONDS	EUR
A	2,00	0,76	131,58	10,37	34,72
B	2,00	1,14	87,72	10,37	34,72
C	2,00	1,52	65,79	10,37	34,72
D	2,00	2,28	43,86	10,37	34,72

A surcharge may be applied for luggage, pets, and journey on highways. In this case, the client is also charged for the toll and for the empty return to base, upon agreement. Surcharges are applied (up to 50%) in the case of driving on icy or snowy roads and if the vehicle is equipped with winter tires.

For journeys between Gare de Lyon Perrache et Lyon part-Dieu – Airport Saint Exupéry – Parc d'exposition de Chassieu there is a surcharge of EUR 1,62 for each taxi rented on the plan of Lyon Perrache, Lyon part-Dieu, Lyon Saint Exupéry and exhibition parc de Chassieu.

Article 9 provides that the taximeter must switch on when the ride starts, in case of hailing on the street or ranking and the client must be informed of any changing of the fare during the journey. When the clients book a taxi, the taximeter will be switched on from the stand closest to the point where the client must be taken on board. In case of taxi charging passenger outside the area of authorisation, the taximeter will be switched on from the last base of the authorisation area.

Prefecture Alpes- Maritimes, Nice

The fares have been fixed by the Arrêté préfectoral n°2013-11 of 8 January 2013. In the department of the Alpes Maritimes, which includes Nice, the taxis' maximum fares are:

Fare	Charging client	Price per km	Waiting hours
EUR	EUR	EUR	EUR
A	3	0,94	28,2
B	3	1,25	28,2
C	3	1,88	28,2
D	2	2,5	28,2

Surcharges may be applied for luggage, depending from the dimensions, and animals. For taxis departing from the Nice airport a surcharge of EUR 1,53 per person, from the fourth person charged, may be applied. In case of circulation on an icy or snowy road, a surcharge up to 10% may be applied. In case of highway trips, the toll is charged on the client.

According to Article 10, the fares must be clearly displayed in a panel inside the taxi in a way that is directly visible and readable for the passenger. In this panel must mention the conditions under which the invoice is mandatory or facultative. According to Article 11, for any fare above EUR 25, the invoice is mandatory. This information must also be in English.

II.8 Passenger rights

The passenger rights mainly stem from the taxi obligations. The passenger has the right to be informed about the fares. In Paris, a disclaimer message (in French, English and Spanish) must be displayed in the vehicle indicating the following price conditions: schedules and mileage rates; pick up rate; amount and conditions for surcharge; flat rate (if applicable); conditions according to which the issuance of an invoice is mandatory or optional; information that the consumer may request that the invoice mentions his name as well as the points of departure and arrival of the ride; the acceptance of the electronic payment; the office competent for complaints and its address.

At the rank, taxis are obliged to accept passengers at "first come first serve" basis. However, the passenger may decide to board another taxi if: the first vehicle does not have enough seats; the car does not fit the client requirements; the customer is person with reduced mobility; the destination is outside the authorisation area.

The driver can refuse a passenger when: the person is accompanied by an animal (except guide dogs); the person in a state of intoxication; or the passenger is located within 50 meters from a taxi stand. Refusing a client for any other reason makes the driver liable of a sanction of EUR 1,500. Currently, taxis are not obliged to accept electronic payments. However, the taxi must indicate if electronic payments are not accepted.

The taxi has to the obligation to take the shortest route to destination unless the customer asks for another route. Any "scam meter" practice is illegal.

Each complaint must be lodged to the prefectural police in the department of the licence. The local offices of the FNAUT may assist the passenger with the submission of the complaint.

The French legislation does not impose any obligation of providing wheelchair accessible vehicles, but special licenses may be issued for the transport of people with reduced mobility.

II.9 Subsidies applicable to taxi sector

The Primary Health Insurance (CPAM) reimburses taxi journeys made for medical reasons only when the passenger uses a taxi affiliated to the CPAM. In order to obtain the reimbursement, the prescription and the insurance certificate must be presented to the taxi driver. The taxis will send the bills and the relevant documentation directly to the CPAM.

For patient with serious illness, the hospitals may launch a call for transport services opened to taxi operators. In the rural areas, this service represents up to 90% of the turnover of a taxi operator. Protests recently surged when the Government passed an amendment to the 2013 financial law that provided that all the calls for transport services launched by the hospitals must be opened to all "light-vehicles" transport providers, to reduce costs.⁵⁰⁸

II.10 Labour rules

The taxi driver activity may be performed in different ways:

- *Self-employed (artisans)*: the taxi driver is registered in the directory of businesses and holds a licence. Self-employed must be registered Directory of Chamber of Trades and Crafts, unless he/she employs more than 10 employees at the time of registration. Besides the driver activity, he/she also has an entrepreneurial activity and must have a basic knowledge on how to run a business.
- *Employee of a taxi company*: a single entity may hold several licenses and use either with salaried drivers or renting them. In case of employed drivers, the driver is bound to the licence's holder by a work contract. The contract regulates working hours, and the employee must provide to the employer the receipts and he must return the vehicle to the owner's garage at the end of each working day. The rules governing this contract are those of the common labour law (except in Paris, where a collective agreement was adopted).
- *Leasing of the licence*: the licence's holder leases the taxi vehicle together with the licence (Article 1713 and following of the Civil Code). The lessee does not receive a salary but retains the receipts. In return, he pays a monthly rent to the lessor, the lessor's social security contributions and taxes, as well as the maintenance costs. It is estimated that the average monthly cost of the leasing is around EUR 4,500.
- *Social contributions*: Article L 311-3 7 of the Code of Social Security requires that the lessor is affiliated to the general scheme for the calculation of due contributions. Based on a decree of October 4, 1976, the social security contribution will be calculated on a flat rate of 70% of the social security ceiling for Parisian taxis. In Lyon and Marseille, contributions are calculated based on a fixed salary equal to eight times the hourly minimum wage per day (orders of August 13, 1974 and January 3, 1975). Outside these cities, the calculation is governed by a Ministerial Decree of 22 November 1946, which provides that "contributions are calculated on the basis of a salary package equal to the lowest level for workers" (SMIC). It is up to the lessor to collect the part of contribution from the lessee and to repay these amounts in the hands of the URSSAF.

⁵⁰⁸ <http://transports.blog.lemonde.fr/2013/01/09/la-france-cet-etrange-pays-ou-le-taxi-fait-lambulancier/>.

- *Location-gerance*.⁵⁰⁹the 2014 Bill modified the system of licences' rental in a system of lease management governed by Article L 144-1 of the Commercial Code, which is more favourable to the lessee with management autonomy. The reform, which will enter into force in 2017, intends to avoid the abuses of the leasing to dissimulate employment contracts. The lessor will lease the vehicle, equipped with the taxi elements and with a licence, in exchange of a monthly rent. The lessee retains his/her independence as to the organization of the work and he/she will keep the all the receipts. Article 10 of Decree No. 95-935 of 17 August 1995 provides that the licence's holder shall keep a register containing information on the lessees, including the professional card number. This register is transmitted at any time upon request to officials of the authorities responsible for checks.

The lessee must register with his residence tax office. It will also be listed at the National Institute of Economic Studies (INSEE). As for the lessor's share of social contributions, a decision of the High Court of Nanterre, and a note from the Ministry of Social Affairs, based on Article L 241-8 of the Code of Social Security, confirmed that the lessor shall bear his costs. Any other provision is void. Articles from L 144-3 to L 144-5 regulate the leasing conditions (the licence's holder must have exploited the licence for at least two years). A notice of the leasing contract must be published in a legal gazette (L 144-6 of the Commercial Code).

II.11 Supervisory enforcement tools

Article L3124-1 provides that when the licence is not used effectively or continuously, or in case of serious or repeated breaches of the conditions attached to the licences or of the applicable legislation, the competent administrative authority may issue a warning or it can withdraw the licence temporary or permanently. In case of breaches of the professional regulations applicable, the administrative authority may issue a warning or withdraw temporarily or permanently the professional card (Article L3124-2). A decree will set the procedure for the sanctions.

Article L3124-4 provides for criminal sanctions. The exercise of the activity of taxi operator without the licence is punished with imprisonment up to one year and with a fine up to 15,000 EUR. Physical people convicted for the crime of illegal taxi activity may also be sanctioned with the following additional sanctions:

⁵⁰⁹ By notice of November 12, 2003, the State Council has opened the "management lease" to the taxi sector on the grounds that:

- The licence is part of the taxi artisanal funds, as an intangible asset, and can be transferred to heirs or to another successor.
- No provision imposes the personal exploitation of the licence by the licence's holder.
- Article 10 of the Decree of 17 August 1995 regulating the management lease does not preclude it for taxis service. The business operational risks are transferred to the lessee according to the definition of lease management laid down in Article L 144-1 of the Commercial Code.

The leasing of licence did give raise to the exploitation of the drivers. In 2015, the Labour section of the Court of Cassation, Social Chamber, re-qualified a series of leasing contract between a taxi driver and different lessors belonging to the same group as employment contract. Indeed, it was found that the driver was terminating the lease every year during the summer holidays and resuming it in September, but when returned that year and asked for the new lease, the company that granted him a lease told him that no taxi was available and therefore he was not able to resume any activity. The Court of Cassation rejected the appeal of the leasing company finding that a very close control over the driver's activities was exercised by the holder of the licences. Therefore, the driver was in a state of subordination and the existence of an employment contract was concealed under a guise of a leasing. The Court considered the termination of the employment contract as without just cause.

- suspension of the driving licence up to five years;
- the immobilization for a period of one year of the vehicle used to commit the offence;
- the confiscation of the vehicle that was used to commit the offence.

In the case of violation of Article L 3121-11-2, which makes voids any contractual provision on the exclusivity, is punished with a fine up to EUR 15,000.

When the violations are committed by a legal entity, such as taxi companies or intermediaries, the criminal sanctions, including the dissolution of the company, may be imposed as provided by Article 131-39 of the Penal Code.

In Paris, Lyon, and Strasbourg there is a special police department in charge of enforcing the passengers' transport legislation, called the "Boers". They are responsible for monitoring, control and punish offences relating to the regulations of the various passenger transport modes, including taxis, hire cars with drivers or occasional services of transport of persons (such shuttle buses chartered by companies).

They operate like a traditional investigation services, to track down illegal taxis especially in the most touristic areas, airports, stations, and nightclubs.

The Decree No 86-427⁵¹⁰ has created a committee for taxis and hire cars with drivers responsible for providing advice on the organization, functioning and discipline of the professions.

This committee may also be consulted on issues related to vocational training and other policies related to passenger transport. This departmental committee, which is set up by the Commissioner of the Republic, is competent for municipalities with fewer than 20,000 inhabitants. In municipalities with more than 20,000 inhabitants, these competences are attributed to a Communal commission constituted by the Mayor or the Commissioner of the Republic.

In Paris, a prefectural order⁵¹¹ regulates the disciplinary sanctions for the taxis that infringe the regulatory provisions. The infringements are categorized in three levels depending from the seriousness and they may be punished by warning, suspension, and withdrawal of the professional card from fifteen days to an indefinite period. Within this committee, a sub-committee for holders of licences is created pursuant the Arrêté n° 2014-00408⁵¹² in order to sanction breaches of regulations or to the conditions and terms attached to the licences. The Commission may withdraw the licence when it is not used effectively or continuously.

⁵¹⁰ Décret n° 86-427 du 13 mars 1986 portant création de la commission des taxis et des voitures de petite remise (*Version consolidée au 16 mars 1986*).

⁵¹¹ Arrêté n° 2007-21253 du 15 novembre 2007 relatif au règlement intérieur de la commission de discipline des conducteurs de taxi. (RAA n° 20 du 16 novembre 2007).

⁵¹² Arrêté n° 2014-00408 du 21 mai 2014 relatif à la création, à la composition et au fonctionnement de la commission de discipline des titulaires d'autorisations de stationnement. (RAA n°85 du 23/05/2014 et BMO du 3/06/2014).

When the commission, after an investigation and a hearing of the driver, finds that an infringement has been committed, it may issue a warning, or propose the temporary withdrawal of the professional card for a period not exceeding two years. For serious infringements, a permanent withdrawal may be imposed. Sanctions other than warnings are adopted by the prefect but the committee's opinion is mandatory.⁵¹³

II.12 Taxes

The licence's holder must pay a parking fee.⁵¹⁴ In Paris, the parking fee is fixed and it amounts to EUR 0,23 per day for a licence that authorises a single taxi exit per day. The taxi operator receives a tax refund calculated at the rate of one day per week and whose annual amount is set accordingly to 52 times the daily parking fee. For licences, allowing two exits per day (for taxis with double licence), the tax is EUR 0,46.

For hire cars with driver, the first-class tax is EUR 0,30 per day and per vehicle. The tax is due on 1st November, 1st February, 1st May and 1st August of each year by the holder of the licence. The proceeds of the parking fee are allocated to the budget of the City of Paris.

When organization of hire cars with drivers and taxi drivers in different towns are in favour of the unification of the parking charges in these municipalities, the Ministry of the Interior, with the agreement of the municipal councils concerned, may adopt an order fixing the flat tax rate and the conditions of distribution of its proceeds between these municipalities (Article L3121-8).

III. Legal framework applicable to hire cars with driver

III.1 National regulation

The 2014 Bill introduced a new regime for the hire cars with drivers (*voiture de transport avec chauffeur- VTC*). The previous regime was introduced in 2009 in the Code of Tourism, requiring them to respect certain technical conditions and comfort. Following the liberalisation by the *Loi Novelli* in 2009, the sector has flourished, especially in Paris. In December 2013, 6,515 VTCs enterprises were registered, mainly concentrated in the Île de France (around 50%) and in the region Provence-Alpes-Côte d'Azur (around 18%). They had 12,404 vehicles and they employed 13,962 drivers.

On 21 November 2014, according to figures provided by ATOUT France, there were 10,315 VTC operators in France, of which 4,150 were registered in 2014. Of these 10,315 operators, 3,502 were legal entity (nearly 80 % were EURL and SARL), the other being self-employers. Finally, 63.2% of VTC operators were in the region Île-de-France.

Hire cars with drivers are regulated by Chapter II, of the Title II, of Book I of the third party of the Transport Code, as amended by the 2014 Bill. The provisions apply to companies that provide hire cars with drivers to the clients under conditions agreed in advance as well as to intermediaries, matching the providers of the service with the passengers (Article L3122-1).

⁵¹³ Arrêté n° 2014-00409 du 21 mai 2014 relatif à la création, à la composition et au fonctionnement de la commission de discipline des conducteurs de taxi (RAA n°85 du 23/05/2014 et BMO du 3/06/2014).

⁵¹⁴ Arrêté n° 01-17204 du 27 décembre 2001 relatif à la taxe de stationnement des taxis parisiens.

The previous version of the Chapter II included a fare system based on flat fares or time-fares, with the exclusion of distance/kilometres fares. The Constitutional Court, in January 2016, declared that this limitation was not justified and the restriction was disproportionate.⁵¹⁵

The Constitutional Court, called to decide on the constitutionality of the provisions of the Tourism Code allowing the VTCs to perform their activity on the pre-booking segment, clarified that there is a net separation between hire cars with drivers and taxis in the hailing and street market. The hailing activity is exclusively reserved to taxis, which are highly regulated, for reason of public policy and security. On the contrary, in the pre-booking sector, there is competition between taxis and VTCs. The principle of equality imposes to avoid any discrimination in the pre-booking sector.⁵¹⁶

Article L 3122-5 provides that the intermediary who becomes active for the first time in France must submit to the administrative authority in charge of the registry a written declaration providing the information on its professional insurance for civil liability. This declaration must be renewed each year and at any time when there are changes in the elements of the declaration.

Article L 3122-6 provides that intermediaries must ensure that the service providers (offering their service through the intermediary) have the professional certificate, the professional motor vehicle insurance and that they are registered in the registry for hire car with drivers.

In 2013, the Government introduced a decree imposing a 15 minutes delay between the booking of a VTC and the pick-up of the client. The French Competition Authority, in its opinion of 16 December 2013, expressed the opinion that this provision distorted competition between pre-booked rides and it was not justified by imperative reasons of public protection.⁵¹⁷ The State Council voided the decree in December 2014 considering that no provisions in the Code of Transport allowed the regulatory power to set new conditions restricting the activity of VTC by making the management of their clients subject to a booking delay of 15 minutes.⁵¹⁸

III.2 Procedures for issuing licenses and applicable criteria

⁵¹⁵ Décision n° 2015-516 QPC du 15 janvier 2016 M. Robert M. et autres (Incompatibilité de l'exercice de l'activité de conducteur de taxi avec celle de conducteur de VTC).

⁵¹⁶ « *Le législateur a distingué, d'une part, l'activité consistant à stationner et à circuler sur la voie publique en quête de clients en vue de leur transport et, d'autre part, l'activité de transport individuel de personnes sur réservation préalable; que, poursuivant des objectifs d'ordre public, notamment de police de la circulation et du stationnement sur la voie publique, le législateur a réservé la première activité aux taxis qui l'exercent dans un cadre réglementé particulier; que la seconde activité peut être exercée non seulement par les taxis mais également par d'autres professions, notamment celle de voitures de tourisme avec chauffeur; que le principe d'égalité n'imposait pas que les taxis et les voitures de tourisme avec chauffeur soient traités différemment au regard de cette seconde activité; que le droit reconnu par les dispositions contestées aux voitures de tourisme avec chauffeur d'exercer l'activité de transport public de personnes sur réservation préalable ne porte aucune atteinte au principe d'égalité devant la loi* ». Décision n° 2014-422 QPC du 17 octobre 2014 (Chambre syndicale des cochers chauffeurs CGT-taxis)

⁵¹⁷ Avis n° 13-A-23 du 16 décembre 2013 concernant un projet de décret relatif à la réservation préalable des voitures de tourisme avec chauffeur.

⁵¹⁸ CE, 17 décembre 2014, Sas Allocab et autres Nos 374525, 374553.

To be allowed to operate, the hire car operators must be registered in the hire car with driver public registry. Before the 2014 Bill, the registry was managed by ATOUT, the national agency for the tourism promotion. From July 2015, the Ministry of the Ecology, Sustainable Development and Energy oversees the new registry. Both the physical and legal person operating a hire car with driver and who is requesting the registration for the first time, must provide all the documents necessary to prove their professional capacity.

Conditions for the exercise of the activity are:

- An insurance certificate covering professional liability, pursuant to Article L. 3120-4 of the Transport Code;
- The copy of the extract of the registration of the company (KBIS extract or SIREN directory);
- A copy of the registration certificate (grey card) for each vehicle and driver;
- A copy of the professional card of each driver;
- Proof of financial capacity for each vehicle used regularly (excluding exceptional event, etc.). The financial standing is set at EUR 1,500 for each vehicle. Financial guarantees must be released by one or more financial institutions, approved by the Prudential Control Authority, granting security for the amount due. In case the vehicle is owned and used in connection with the hire car activity or is the subject to a long-term rental (over six months), a financial guarantee is not required. In this case, the applicant must submit the documentation to verify ownership or leasing of the vehicle.

The cost of the registration is EUR 170.⁵¹⁹ The authority checks the documents submitted and that the operator meets the conditions set out in Article L. 3122-4. The register is public. The registration is renewable every five years, but the information must be regularly updated.

It must be noted that many VTC drivers operate under the LOTI regime which, as explained above, is used to fulfil the needs of public transport. The professional requirements for the LOTI drivers are less stringent than for VTC professional card: the access to the profession is granted after a shorter training, there are no requirements concerning the vehicle for the service and it allows the use of the bus lanes. The LOTI operators have a violet medallion on the corner of the windshield, and they are obliged to carry at least two passengers plus the driver.

III.3 Technical requirements applicable to hire cars with driver

Article R3122-8 provides that hire cars with drivers must have a distinctive sticker which must be removed or hidden if the vehicle is not used as a transport car with driver. The Arrêté 28 January 2015⁵²⁰ provides the characteristics of the sticker that must include the company's registration number with the registry mentioned in Article L. 3122-3 of the Transport Code and the vehicle registration number assigned to the service performed. It must be placed in the corner of the front windshield at the bottom left of

⁵¹⁹ Arrêté du 30 décembre 2014 relatif au montant des frais d'inscription des exploitants de voitures de transport avec chauffeur, JORF n°0001 du 1 janvier 2015.

⁵²⁰ Arrêté du 28 janvier 2015 relatif à la signalétique des voitures de transport avec chauffeur, JORF n°0031 du 6 février 2015.

the driver's seat and in the angle of the rear window at the bottom right, opposite to the driver's seat.

Arrêté du 26 March 2015⁵²¹ provides that vehicle must be no older than of six years, unless it comes from collection vehicles. The vehicles must have at least four doors and have an overall minimum length of 4,50 meters and an overall width of minimum 1,70 meters. Their engine must have a net power higher or equal to 84 kilowatts. However, those provisions do not apply in case of hybrid vehicles according to Article L3120-1.

III.4 Fares

Based on the 2014 Bill, only fixed fares were applicable to the VTC or additional time-based fares only if the VTC operator had informed the client in advance. The Constitutional Court, in May 2015, declared this provision unconstitutional because in the pre-booked market, where the taxis do not have the legal monopoly, the tariffs based on the distance could not be reserved only to the taxi sector.⁵²²

III.5 Qualitative requirements

The Transport Code provides that hire car with driver vehicles must satisfy the conditions of fitness and comfort laid down by the implementing regulation (Article L3122-4) and the drivers must obtain a professional card from the administrative authority (Article L3122-8).

Article L 3122-7 provides that only drivers who may prove their fitness conditions may be authorised to exercises the professional activity of driver. The mandatory requirements in order to obtain the professional card are:

- a driving licence valid for more than 3 years;
- a certificate of medical fitness issued by the prefect;
- having followed a basic vocational training of 250 hours minimum (including foreign language courses, representing 20% of the training time). From 2 February 2016, the 250 hours of training are replaced by an exam with multiple choice test⁵²³ preceded by 7 hours of training in an agreed training centre; or
- having an experience as professional driver for transport of passenger of at least 1 year over the previous 10 years.

The professional card cannot be issued to people convicted of certain crimes: imprisonment of at least six months for theft, embezzlement, crime of traffic, etc.

The professional card must be placed to the windscreen or on the vehicle so that the photograph is visible from the outside.

⁵²¹ Arrêté du 26 mars 2015 relatif aux caractéristiques des véhicules utilisés par les exploitants de voitures de transport avec chauffeur, JORF n°0079 du 3 avril 2015.

⁵²² Décision n° 2015-468/469/472 QPC *Société UBER France SAS et autre*, 22 mai 2015.

⁵²³ Arrêté du 2 février 2016 relatif à la formation et à l'examen de conducteur de voiture de transport avec chauffeur.

The application for the professional card must be submitted in writing to the prefecture of the department where the driver is resident (or to the Prefect of Police in Paris). The professional card is issued at the latest within three months. If there are no responses within two months, the application is considered rejected. The driver must return his professional card as soon as it ceases his business.

III.6 Organisational requirements

Article L 3122-9 introduces the return to garage after the service for the hire cars with drivers, unless there is a prior reservation proved by a contract with the end customer.

According to Article R 3120-2 of the Transport Code the evidence of the contract with the end client must be on paper or electronic support and it must contain the name of the final client.

The French Competition Authority has intervened on this provision indicating that the burden of justifying a reservation, which is an exception to the return to garage rule, applies only to VTCs working with an application. Indeed, traditional VTC companies do not operate on the model of the web reservations prerequisites. In fact, traditional VTC companies (ex- *grand remises*) mainly work on the basis of long-term contracts with hotels, congress centres, enterprises for which they make vehicles available to customers or professionals, sometimes for several days. However, the traditional VTC's operators complained about the definition of "*contract with the end clients*": in fact, as indicated above, these companies have long-term arrangement with hotels, airlines companies, large corporations for which they make the cars available without knowing who is the end client. The fact that they cannot park on the street while waiting for the client, forced them to use private and expensive parking or drive empty around the city increasing the traffic congestion and pollution.

The Constitutional Court considered that a restriction to the freedom of enterprise is imposed upon the VTC, but it is justified by imperative reasons of police and public security. In the absence of the obligation to "*return to the base*", VTCs would park or move in nearby places where they are subject to prior reservations, besides the stations or airports, major hotels, shopping areas.⁵²⁴ However, the court has clarified that this restriction is also applicable to the taxis outside to their area of authorisation. In fact, as provided by the Article L 3121-11, outside the area of validity of their licence, taxi drivers are subject to Article L. 3120-2, and the pick-up of passenger is subject to justification of a prior reservation.

The operator meets the requirement of financial capacity if, according to the provisions of Article R. 3122-1 of the Transport Code, can demonstrate that:

- he is the owner of the vehicle; or
- he has obtained a lease of more than six months;
- he is able to provide a financial guarantee of an amount equal to EUR 1,500; or
- the vehicle has already led to a justification of financial capacity in accordance with the preceding three paragraphs.

⁵²⁴ Décision n° 2013-318 QPC du 07 juin 2013 - M. Mohamed T. [Activité de transport public de personnes à motocyclette ou tricycle à moteur].

An agreed financial institution must provide the financial guarantees. The requirement of financial capacity, mentioned in Article R. 3122-9 of the Transport Code, is satisfied at the time of registration on the register mentioned in §1 of Article R. 3122-1 and during each start updated mentioned in §3 of II of Article R. 3122-1 on the number of vehicles declared in regular use and on renewal of the registration at the end of the five-year period mentioned in the third paragraph of Article L. 3122-3.⁵²⁵

III.7 Passenger rights

The VTC operators do not have specific obligations towards passengers, except those under the general rules of transport contract. However, the major operators have introduced quality charts. For example, the largest VTC French operator, Allocab, has published a "Chart of Quality and Ethic" on its website, which includes the commitments that the transport providers must fulfil towards the clients and the company.

The transport provider has:

- to keep an update agenda of its drivers and to indicate the unavailability of each of them on Allocab platform;
- to satisfy all the journey's reservations;
- to perform the trip according to the clients' booking;
- to ensure the management and the follow up of the bookings;
- to act with efficacy privileging the quality of the service in the interest of the member of the Allocab platform;
- not to make the client waiting for the driver;
- to inform the passenger or the client within the shortest delay about any impediment to the performance of the booked trips;
- to provide a comfortable environment to the passenger;
- to inform the passenger of the quantity of carbon dioxide produced by the trip;
- to respect the existing legislation and regulation.

III.8 Labour rules

VTC's drivers are mostly self-employed, and the majority operate their business under the micro-enterprise regime (created by French law in 2009 for self-employed but much less protective and restrictive than the artisan status). Beyond a certain turnover (EUR 32,900), they should switch into the artisan status.

III.9 Taxes and insurance

The majority of the VTC drivers registered under the statute of self-employed are subject to a lighter tax regime, with no VAT, reduced social contributions and forfeit tax. In particular, a former unemployed who start to work as a VTC driver under the self-employed regime has access to the system *Aide au chômeur créateur ou repreneur d'entreprise* (ACCRE): under this regime, the social charges are limited to the 22,9% of the turnover, with only the 5,8% for the first year, then 11,5% for the second year and 17,2% for the third year.

⁵²⁵ Arrêté du 28 janvier 2015 relatif à la capacité financière des exploitants de voitures de transport avec chauffeur, JORF n°0031 du 6 février 2015.

VTC cars must have motor vehicle and operating responsibility insurance. It includes property damages and damages to passengers but also the damages caused to customers outside of the vehicle (as at the moment of the drop-off, for instance) and to their material goods (for example damaged luggage).

III.10 Local incentives, subsidies provided by the administration in order to carry out certain services *(such as mini-van service for people with reduced mobility, elderly, schools)*

There are no local incentives. However, VTC operators with the LOTI statute may participate in the calls published by the local authorities to supply specific transport needs.

III.11 Supervisory enforcement tools

Article L3124-6 provides that, in case of infringement of the regulation applicable to the profession, by a driver of a hire car, the administrative authority may issue a warning or withdraw, temporarily or permanently, his professional card.

Article L3124-7 sanctions with imprisonment up to one year and with a fine up to EUR 15,000, the provision of services without being registered in the registry of the hire cars with drivers' operators, or in case of an intermediary, without having notified the activity to the registry. Physical person convicted for the crimes indicated above may incur in the accessory sanction of:

- suspension of the driving licences up to five years;
- seizure of the vehicle used for a period up to one year;
- seizure of the vehicle.

IV. Legal framework applicable to ridesharing and car sharing

IV.1 Current regulations and legislative proposals

According to the 2014 Report, *"the ridesharing aims to link individuals performing all or part of a journey they would have performed by themselves in their individual vehicle. The frequently chosen criteria (...) are sharing a particular vehicle (at least two occupants) to perform a common journey and that the driver is not a professional and derives no income. (...) The ridesharing is different from car sharing. It is based on sharing a vehicle at a given time for performing a common path; on the contrary, car sharing, although based on the concept of sharing a vehicle, it is a share over time, by successive users. There are many ridesharing practices, which are distinguished by the matchmaking system, the frequency of trips, or the distance travelled. Crews can form by direct, informal contacts, through a third-party contact (association or private company by providing a website or phone platform), through the practice of hitchhiking, spontaneous ridesharing (hitchhiking "organized" through meeting places or defined membership in a car sharing network) or dynamic ridesharing (organization in real time through the use of ICT SMS type or smartphone applications)".*

IV.1.1 Ridesharing

The Law 2015/992⁵²⁶ introduced the definition of ridesharing (*covoiturage*) in the Transport Code. The Article L. 3132-1 defines ridesharing as a jointly use of a motor vehicle with a driver and one or more passengers, as part of a journey that the driver performs for its own account, for no consideration except the cost-sharing. The activity of linking the driver with the passengers (*intermediation*) does not fall within the scope of the transport professions defined in Article L. 1411-1.

The current legislation does not provide a systematic legislative framework for the ridesharing or for the innovative mobility service providers. However, it contains Article L 3124-12 which punishes the organization of matchmaking system between consumers and taxis without being a road transport company allowed to carry out occasional services, a taxi company or a VTC company. The offence is a criminal offence. According to parliamentary work, the criminal offences introduced by the reform are aimed to specifically punish reservation system organizing a fraudulent or fake ridesharing.

IV.2 National rules applicable to on-line platform and rules applicable to service providers

The intermediaries/platform connecting hire cars with drivers and passengers must declare their activity to the registry managed by the Ministry before starting the business. This declaration must include the following documents: identity and nationality of the intermediary; the legal form and the appropriate the amount of share capital; the address of its principal establishment; the proof of the insurance covering his professional civil liability.

IV.3 Main operators and their business models

After the shutdown of the peer to peer ridesharing companies UberPop and Djump (which has been incorporated by the VTC company Chauffeur Privé), the only peer to peer ridesharing company using non-professional drivers has remained Heetch.

Heetch is a mobile application, available in Paris, Lyon to help individuals to find rides at night. Available only at night, from 8pm to 6am, Heetch helps to absorb high demand during peak periods, when the supply of traditional mobility services is not enough (taxi, public transportation network, etc.). Mainly used by party-goers (75% of the rides are made on Thursday, Friday or Saturday nights), Heetch also claims to have the purpose to avoid dangerous behaviours (drunk driving), especially among young people. Its users are mainly young people (80% of their passengers are under 25, 65% are students). Differently from BlaBlaCar, the driver does not have a pre-determined journey but make the trip at the passenger's request. However, to avoid that the drivers are qualified as professional drivers, Heetch has set a threshold of EUR 6,000 a year, which correspond to the average annual car costs (insurance, gas and maintenance) according to the *Automobile Club de France*. To prevent any excess, Heetch does not allow its members to get new rides when they have already made EUR 6,000 a year. The average drivers are receiving EUR 1,850 as costs sharing.

⁵²⁶ [LOI n° 2015-992 du 17 août 2015 relative à la transition énergétique pour la croissance verte](#), JORF n°0189 du 18 août 2015.

The platform does not fix a ride price. Heetch suggests a donation which is calculated on the previous donations made by Heetch's passengers on similar rides (time/distance). The passenger is free to respect, or not, the suggestion (he can choose to give more, less or nothing). The average donation is around EUR 12. The company keeps the 15% of the donation to cover the EUR 2 million insurance provided by the company as additional insurance to the third-party liability insurance of the owner of the vehicle.

In Paris, some short distance pre-arranged ridesharing tried to emerge, but in some cases, it was unsuccessful such as **Sharette** which, despite being integrated in the RATP website in order to arrange ridesharing between people arriving at certain station and going in the same direction in Paris, did not succeed in surviving.⁵²⁷

A similar integrated service is offered by **idVroom**, a carpooling platform offered by SNCF. The platform offers all the long and short distance. The price per km is EUR 0,20. It is calculated that for a round trip of 35 km every day with three car-poolers, the driver may recover around EUR 1,026 on the total estimated costs (fuel and maintenance) amounting at EUR 1,540. This app also allows the riders to pay in cash to the driver without using the electronic payment system provided by the platform.

The French **BlaBlaCar** is the world's largest long-distance ridesharing community, connecting people seeking to travel with drivers going the same way. They travel together and share the cost of the journey. The average journey is about 340 kilometres. BlaBlaCar drivers are only splitting the costs of a journey; they do not make a profit. The average cost-contribution suggested by BlaBlaCar is around EUR 6 cents/km/passenger, which is at least 20 times less than the price paid for on-demand taxi-like service. Cost-sharing is strictly enforced by the BlaBlaCar platform through terms and conditions, recommended fares, capped maximum fares, limited number of seats that can be offered, and an 80-people Member Relations Team in charge of monitoring member interactions and ensuring that cost-sharing is enforced.

Various applications are available to smartphone users to find a transport service. These are merely application developed for certain cities or certain software users (Apple, Android) often linked to other social networks. One example is **Hitch-a-Ride**, an app which helps to look for co-workers or friends to rideshare. It connects the user to his friend's network via Facebook. Through this application, the passenger and the driver negotiate the fees.

⁵²⁷Sharette was a platform for pre-arranged short-distance ridesharing, mainly active in Ile de France. Until 2015 the platform has mainly provided it services to students in university campus, commuters from the agglomeration outside Paris or enterprises. The costs for the ride was fixed and not based on distance: the price was fixed at EUR 2,36 for any journey independently from the traveled distance. EUR 2 were paid to the driver and EUR 0,36 were kept by the platform to remunerate its service. The low fees intended to ensure the loyalty of the users. The fee scale of mileage was set annually by the Financial Directorate on the basis of the average cost of a vehicle per kilometer traveled. For an average distance of 15,000 km traveled per year, the total cost of ownership (fuel and maintenance) of a car is estimated at EUR 0,35 / km. The average distance of each trip is 20 km. The driver earned EUR 2 per trip, and with an average of 20 kilometers per journey made, the drivers largely remained within the law. The passenger cannot decide the trip but it had to adapt to the driver's itinerary while choosing on the platform the most suitable itinerary for him. During 2015, the platform entered into an agreement with RATP, the Paris public transport company. The Sharette application was integrated in the RATP website with the purpose of allowing those taking the RER to share the other part of the journey within the suburban areas as part of an integrated mobility service. The service was launched at the time of the shutdown of the RER A due to renovation. In October 2015, the application had 23,000 registered users. In March 2016, the application was shut down.

Car sharing is developed both in the two options, professional companies managing the service such as Autolib' in the Paris area or peer-to-peer car sharing such as **Drivy** and **Ouicar**. Both the companies operate in the largest French cities.

The first company has incorporated the competitors Buzzcar, developed by the founder of Zipcar, the US giant of the private car sharing. In order to overcome the main issue related to the fact that the motor vehicle insurances allow only the owner to driver the vehicle and only cover third-parties related damages, the platform subscribe a separate insurance with an international group (in case of Drivy, Allianz; for Ouicar a branch of the Generali Group) specifically designed for a car rental between individuals. During each lease agreement, this insurance contract replaces the car owner's insurance. In case of theft or damages, the company's insurance provides fully coverage. The price of the insurance is included in the rental fee.

The rental price is based upon the kilometres that the renter will drive and that must be declared in advance for Drivy while in case of Ouicar is a daily price which includes 100 km per day. For supplementary kilometres, an additional fee is provided. The contractual conditions are very detailed concerning the obligations of the lender and of the person renting the vehicle. The owner of the vehicle (lender) receives around the 70% of the rental price.

Tripndrive is a P2P car sharing platform for cars parked at the airports. It covers the two Paris airports and it also operates in Italy. Passengers parking their cars at the airport parking when leaving for a long trip may rent them to other passengers arriving at that airport. The platform offers a free parking spot to the owner of the car that accepts renting it to another passenger.

Autolib', a company belonging to the Bolloré Group, is a professional electrical vehicles car sharing operator in Paris and Île de France. It currently has 2,500 vehicles (and plans to expand to 3,000) in 880 stations. It provides point to point-to-point free-floating car sharing, which enables one-way journey with the possibility of returning the vehicle in another point of the city. The fares are charged over the time, for each minute after the 20th. In the metropolitan area of Nice, **Autobleu**, a joint venture between EDF and the transport operator Transdev, provides the professional car-sharing of electric vehicles. The operator provides two categories of services, round trip vehicle with the obligation to return the vehicle in the same rental station and a point-to-point free floating (Flex tariffs). This service exists in all the major French cities.

IV.4 Requirements imposed upon non-licensed activities (*safety and technical requirements, insurance requirements, obligations relating to licences and on-line platforms*)

With regard to ridesharing and car sharing, the companies usually require that the owner of the vehicle is compliant with its legal obligations in terms of insurance, vehicle maintenance, driving licences. The platform requires that the driver has not been condemned for any offence to the traffic laws.

About peer to peer car sharing, the owner of the vehicle must ensure that it is compliant with the requirements imposed by the law or by the regulation and that the requested

maintenance was carried out and that the safety equipment is in perfect condition, including the tires, brakes, headlights and lights, steering, seatbelts including the mandatory safety equipment imposed by the legislation. The vehicle must be in order with the mandatory technical control in the country of registration of vehicle, any other compulsory insurance under the laws of the country of registration of vehicles.

Insurance issues arise mainly with regard to ridesharing platform such as Heetch, using non-professional drivers, and in case of private car sharing. The mandatory motor vehicle insurance only covers the damages and personal injuries of third party involved in a car accident when the owner of the vehicle is driving and it does not cover the professional use of the vehicle, such as in case of driving passengers around for consideration. In case of peer to peer car sharing, appropriate insurance must be put in place, negotiated by the intermediary, in order to cover the vehicle when it is driven by a third person who is not the policy owner. According to experts, insurance charges for car sharing services are typically 3-4 times more than what the private car owner would pay.

For ridesharing, in general, additional or professional insurance is not required, since it is a non-profit activity. BlaBlaCar has partnered with AXA to provide insurance cover for drivers using the ridesharing service. The product complements the drivers' existing insurance policies and also provides access to emergency and assistance services. Heetch provides the same additional insurance, however, other small ridesharing operators, active in the short-trip ridesharing, do not provide such additional coverage.

IV.5 Local incentives, subsidies and other forms of promotion for ridesharing and car sharing (*including, parking spots, use of preferential lanes, etc.*)

The Agency for Environment provides financial assistance to those municipalities that intend to install electric car sharing stations. Only infrastructures belonging to one of two categories are eligible:

- public infrastructure accessible exclusively for recharging vehicles;
- charging infrastructure open to car sharing mobility services or free mobility if they are also open to the public, not reserved for fleet vehicles. As such, these facilities must be open to third charging vehicle, and at acceptable rates and use conditions, having regard to the Green Paper's recommendations;
- The basis of the eligible costs of this type of infrastructure will be determined depending on the conditions of use of the public charging rates, availability recharging in public access, etc., and can be between 0 and 100% of the infrastructure's costs.⁵²⁸

V. Relevant national case law

The majority of recent courts' decisions concern the 2014 Bill and have been described in the previous sections.

⁵²⁸ Programme Véhicule du futur Dispositif d'aide Edition Juillet 2014 Déploiement d'infrastructures de recharge pour les véhicules hybrides et électriques, Juillet 2014.

In December 2015, Uber was condemned by the Court of Appeal of Paris to pay a fine of EUR 150,000 for misleading advertising committed by a legal entity, based on a decision of the *Tribunal correctionnel* of 16 October 2014.⁵²⁹ The court of first instance considered that the advertising was proposing an illegal service to both the potential drivers and the potential passengers, while omitting relevant information concerning the characteristics of the service, the professional requirements of the drivers, and the insurance in case of accidents.⁵³⁰

The proceeding for misleading advertising was parallel to various judicial proceedings against Uber, which culminated in the Constitutional Court's decision of 22 September 2014 on the constitutionality of the Article L. 3124-13, as introduced by the 2014 Bill. According to the provision, matching of non-professional drivers with passengers is a criminal offence, punished with imprisonment. The court rejected Uber's arguments that the law would effectively outlaw ridesharing services that involve any kind of payment. The court ruled that such services are easily distinguishable from Uberpop, which uses drivers without professional licenses.

The *Cour de Cassation*, in 2013, condemned a taxi company in Strasbourg for having performed the VTC activity without changing vehicle but dissimulating the taxi equipment and the distinctive marks. The case concerned a public procurement launched by the European Parliament in order to provide hire cars with drivers for the MEPs. A taxi company was awarded the procedure (subsequently annulled) without complying with the legislative requirements of the French legislation for exercising both the taxi and the VTC activities, which mainly relate to the obligation to switch vehicles for the provision of the VTC services. Moreover, the company did not have the authorisation for the VTC service but only the LOTI status, which allows a complementary transport activity only on behalf of the local authorities. The European Parliament was not one of the public authorities included within the LOTI perimeter.⁵³¹

VI. Country Market

With regard to the non-scheduled public passenger transport, the 2014 Bill (as well as the decisions of the French Competition Authority), divided the market into two segments:

- The hailing market (*maraude*), where the taxis have monopoly; and
- The pre-booked segment, where the taxis are in direct competition with the hire cars with drivers.

⁵²⁹ Cour d'appel de Paris, Pôle 4 – Chambre 10, arrêt du 7 décembre 2015, *Uber France / DGCCRF, ministère Public et autres*.

⁵³⁰ «*Considérant que c'est à tort que, concernant les délits de pratique commerciale trompeuse en raison des communications commerciales incitant les particuliers à participer comme conducteurs au service de transport à but lucratif UberPop, en leur fournissant de façon ambiguë des informations substantielles sur les caractéristiques essentielles du service, et notamment sur le statut de particulier ou de professionnel ainsi que sur le type d'assurance, particulier, covoiturage ou professionnel nécessaire pour garantir leur responsabilité civile, et par des communications commerciales incitant les consommateurs à utiliser le service de transport à but lucratif par des conducteurs particuliers UberPop en omettant ou en dissimulant une information substantielle sur les caractéristiques essentielles du service, en l'espèce l'absence d'assurance adaptée garantissant leur indemnisation en cas d'accident, le tribunal a estimé qu'une assurance spécifique n'était pas utile compte tenu de caractère illégal du service de transport proposé et, d'autre part, que le passager en cas d'accident serait néanmoins indemnisé, au besoin par le fonds de garantie des assurances obligatoires de dommages ; qu'en effet les informations visées correspondant aux caractéristiques principales du service proposé tant à l'égard des conducteurs que des consommateurs, l'omission ou dissimulation constatée dans les messages publicitaires étudiés est bien constitutive des délits de pratique commerciale trompeuse ; que les infractions sont caractérisées dans tous leurs éléments (...)* ».

⁵³¹ Cour de cassation chambre criminelle, 3 avril 2013, 08-83982.

In the pre-booked segment, as clarified by the French Competition Authority, the direct competition is between dispatch centres and VTC intermediaries, since the majority of taxi and VTC drivers are self-employed. As recalled by the French Competition Authority, the pre-booked is the most remunerative segment of the market since the clients usually book a ride for the longest journeys, such as for the airports, or during certain hours of the day. For the VTC, the business services, i.e. the contract with a corporation or business office and VTC company for the provision of transport, are among the most remunerative activities.

From 2015, a third sector, ridesharing (*covoiturage*), has been defined by the Transport Code as the jointly use of a motor vehicle by the driver and one or more passengers, as a part of a journey that the driver performs on its own account, for no consideration except cost sharing. This activity is not considered, by the legislation, as transport activity.

From a geographical point of view, the dimension of the hailing market (*maraude*) is municipal/prefectural, since it corresponds to the area of authorisation. The magnitude of the catchment area depends from the area of issuance. For the metropolitan cities (which are present in 13 departments), the licence covers a catchment area larger than in the municipalities of the departments which are not seats of metropolitan cities, which also explains higher licence value in the metropolitan cities.

The geographical market for the pre-booked segment may be considered wider than a municipality, and even regional. As general rule, there are no restrictions for a taxi or VTC to carry passengers in another department. Pre-booked operators, both dispatch centres as well as VTC intermediaries, are mainly of national dimensions. The VTC registry is national and in principle, once the professional card is obtained, there are no restrictions to the area where the professional card may be exploited.

Airports are not a separate market. The licence obtained in Paris, as well as in the other metropolitan cities where there is an airport, allows the taxis to pick up passengers at the airport rank. Taxis from other departments may pick up passengers at the airports only upon reservation and may park at the airport half an hour/one hour in advance on the reservation to wait for clients.

Concerning car sharing, the market is at least national. Ridesharing intermediaries for both long distance trips and regular commuting trips are accessible everywhere. Intermediaries provide a demand-responsive service and the matching of the demand and the offer is based *on the spatiotemporal proximity of the requests they receive*.⁵³²

VII. Market players

The French statistical nomenclature (INSEE) includes a code 4932Z "Passenger transport by taxis" which covers the following activities:

⁵³² N. Masoud, R. Jayakrishnan, A Real-Time Algorithm to Solve the Peer-to-Peer Ride-Matching Problem in a Flexible Ridesharing System UCI-ITS-WP-15-, Institute of Transportation Studies University of California, July 2015. <http://www.its.uci.edu/its/publications/papers/ITS/UCI-ITS-WP-15-1.pdf><http://www.its.uci.edu/its/publications/papers/ITS/UCI-ITS-WP-15-1.pdf>.

- the passenger transport by taxis, including the service provided by dispatch centres;
- the hire cars with drivers;
- the non-medical transport for people with reduced mobility;
- the radio-taxi;
- passengers' transport by moto-taxis.⁵³³

With regard to the taxis, according to INSEE, in 2013, there were 32,000 taxi companies in France, of which 80% were run by self-employed, 11% were in leasing regime, 6% were companies and 3% employees. In Paris the landscape is different, with 9,300 self-employed (the majority is affiliated to a central radiotaxi/dispatch centre), 600 companies (managing 6,000 licences), 1,000 employees and 6,000 lessees.⁵³⁴

Taxis

Taxi players must be divided between taxi operators, dispatch centres and those taxi web applications which are defined as *pure players* (in order to be distinguished by the applications belonging to the dispatch centres).⁵³⁵

- Taxi operators

Taxi operators may be self-employed drivers, who hold the licence and the vehicle, or taxi companies who hold the licences and vehicles and employ the drivers. According to the Rapport 6-t⁵³⁶, the 80% of the taxi operators are self-employed drivers, while only the 3% of the taxis are employed. These operators are the owners of the vehicles used as a taxi, they have the professional card but the licence belongs to the company who employs them under an employment contract. The 6% are *taxi cooperatives* participated by taxi drivers who are the owners of a quota of the company, which gives them the right to use a vehicle owned by the company who also owns the licences. The licence's holders who are renting a vehicle with the licence represent the 11%.

One of the biggest taxi cooperatives is the **Gescop Alpha Taxi group**, which counts 1,200 associated drivers. The company owns the taxis and the licences; it has created its own dispatch centre; and it provides to the associated drivers various services, including a health insurance in case of sickness not covered by the French social security. To be associated, the candidate must pass an interview with an administrator and an active taxi driver and he must invest EUR 78,000 in the company.⁵³⁷

Among the largest leasing companies, who are the owners of the vehicles and of the licences, there are **G7 TAXI SERVICE and SLOTA**.

⁵³³ The French Nomenclature does not make a distinction between the taxis operators and hire car with driver operators, no distinction is made between the taxi drivers and the LOTI operators.

⁵³⁴ Source, "Un taxi pour l'avenir, des emplois pour la France" Mission de concertation Taxis-VTC conduite par Thomas Thévenoud, Avril 2014, <http://www.ladocumentationfrancaise.fr/var/storage/rapports-publics/144000239.pdf><http://www.ladocumentationfrancaise.fr/var/storage/rapports-publics/144000239.pdf>.

⁵³⁵ IGF-IGA-CGEDD, *Rapport sur l'application de la loi 2014-1104 du 1^{er} octobre 2014 relative aux taxis et aux voitures de transport avec chauffeur*, Novembre 2015, Annexe VII-4, p. 10.

⁵³⁶ Provided by a respondent to the stakeholder consultation.

⁵³⁷ <http://www.economie.gouv.fr/ess/alpha-taxis-cooperative-qui-roule>.

G7 TAXI SERVICE, belonging to the Group G7, holds 763 taxi licences and rents taxi vehicles with full equipment to taxi drivers (vehicle + licence + taxi equipment + insurance), including also garage service (maintenance). It is the largest taxi licences' rental company in Paris and in France.

SLOTA has been created in 1932 by the Automobile Peugeot, and it owns more than 700 licences and vehicles and offers the full-service package including customer service. It is possible to rent a vehicle for a week (*location gerance*) or for a year (*location classique*).

Dispatch centres

The pre-booked market for taxis is dominated by **Group G7** which, through its controlled subsidiaries G7 and Les Taxis Bleus, has more than 11,000 affiliated taxis. In 2014, it realized a turnover of EUR 298,1 million (-4% less than 2013) for a net income of EUR 25 million (-4% less than 2014). The largest part of the turnover is generated by the dispatch centre (EUR 145,7 million).⁵³⁸

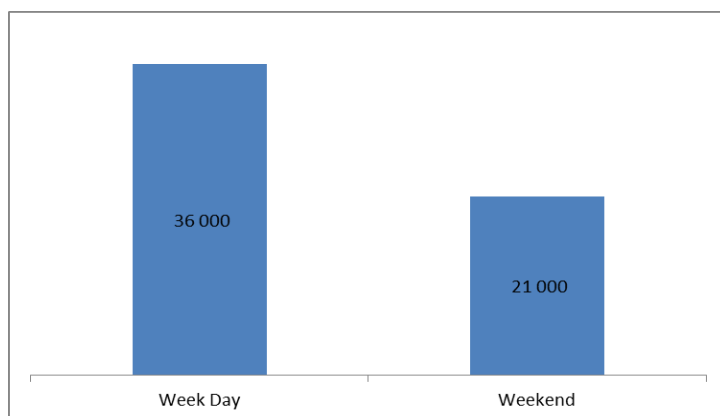
The company provides a large range of services:

- **Night cab**, a service for young people aged between 15 and 25 years. The taxis is booked through an application and there is a 20% fare discount on Thursday, Friday and Saturday;
- A **taxi personal application**, which allows booking a taxi 24/7, geolocalising the nearest taxis. The application keeps the client informed about the taxis' features (vehicle brand and colour, taxi registration number) visualizing the arrival on a map. The clients pay through the application and they can provide a feedback on the ride within 48 hours;
- **Maxicab**, a fleet of large vehicles to accommodate up to 7 persons and their luggage;
- **Wecab**, an airport transfer towards the two Paris airports and towards all Paris train stations at a flat fare.

It provides additional services, such as specific taxis for families travelling with kids, fully accessible taxis, and third-party payment in case of use of the taxi for medical reasons.

The taxi traffic seems particularly concentrated during the week. According to one respondent to the stakeholder consultation, the distribution of the rides and the peak of the demand over the week is the following:

⁵³⁸ Source, Group G7 2014 Activity Report.



Hire cars with driver – Voiture de Transport avec Chauffeur

The VTC segment has rapidly expanded in recent years. According to the figures provided by ATOUT France, in 2011 there were 120 VTC operators in France. On 21 November 2014, there were 10,315 VTC operators, of which 4,150 were registered in 2014. In three years, the number almost hundred folded.

Of these 10,315 operators, 3,502 are legal entity (almost 80 % are EURL and SARL), the others self-employed. Finally, 63.2% of VTC operators are in the region Île-de-France. In December 2014, at the transfer of the registry towards the Ministry, there were 12,081 registered operators. No inscription could be registered between 17 December 2014 and 15 March 2015. From 1st January 2016, the new registry should be in the form of an electronic registry where the documents may be charged and submitted on-line. However, due to the difficulties experienced in the creation of the electronic registry, the convention with ATOUT has been prolonged until 30 June 2016. No new data are available concerning the number of VTC operators.

- VTC operators

Similarly, VTC operators are divided in two categories: self-employed VTC drivers, who drive their own car (owned or leased) and VTC operators which owns the vehicles and employ the drivers. The second model is not very developed, with few companies, such as **LeCab**, which own the fleet and rent the vehicles to the drivers. Le Cab, founded in 2012, is the largest VTC operator in France with around 1,000 vehicles in the Parisian Region. It is estimated that its drivers earn around EUR 6,000 per months.⁵³⁹ The company has also a partnership with Peugeot which provides to LeCab luxury “made in France” vehicles for its fleet. The company provides also various services, including a web platform to book taxis and/or VTC, private jet bookings (in partnership with PrivateFly) and priority accounts for business clients (with payments every 30 days upon invoice)⁵⁴⁰. During their journey, the customers are provided with various comforts, including Ipad, free Wi-Fi, magazines, and soft drinks. The price is fixed and calculated according to the distance to be covered and is not time-based. The company has opened a maintenance centre in the former Peugeot factory to provide the service for the fleet.

⁵³⁹ Information from the press.

⁵⁴⁰ <https://en.lecab.fr/press-chauffeur-service.html>.

Another VTC operator, **Chabé Limousine**, is active on all the French territory, including Paris. It focuses on the high-end segment, providing business and luxury transport service, including made on measure transport for luxury hotels, business clients and event organizers.⁵⁴¹ It also has an accredited academy for VTC drivers' training.

- *VTC intermediaries*

Companies active in this segment, **Uber, Allocab, Chauffeur Privé**, offer various kind of service, from occasional pre-booked rides for airport or the city, to business services for companies and hotels, through business and priority accounts. Companies pay a monthly fee to get priority when the car is reserved for a client and they pay monthly upon invoice. This service is a legacy of the activity of *voiture de grand remise* from where the VTC has originated.

Ridesharing

For the peer-to-peer short distance ridesharing, the main player is currently **Heetch**, which is reserved only for rides at night and during the weekend. Ride-sharing on long distance (carpooling) is mainly dominated by **Blablacar**. Short distance carpooling is still a small activity but there is a growing interest around it (s. IV.3).

VIII. Barriers, limitations, incentives

1. Taxi sector

As for the taxi sector, there are quantitative restrictions to entry the market, since the number of licences is limited in each department/municipality. There are also qualitative barriers, related to the training and to the need to pass an exam to obtain the professional card. The combination of quantitative restrictions with their transferability (for the licences obtained before 2015), has produced a "scarcity value" especially in metropolitan areas. This has been confirmed by the 6t Report: the turnover of the taxi operators between 2007 and 2012 has remained the same but the price of licences has increased, which may only be explained by a speculative bubble.⁵⁴² According to the 2015 IGF Report, the transfer price of licences in Paris and in the metropolitan cities varies between EUR 365,000 and EUR 81,000 (data for 2014 and 2015).

		2012	2013	2014	2015
Nice	n. of transfer	29	18	13	17
	Average price/EUR	340,000	350,000	365,000	351,875
Paris	n. of transfer	716	734	687	484
	Average price/EUR	223,661	235,000	214,000	210,782

⁵⁴¹ <http://www.chabe.fr/en/agence/chabe-paris>.

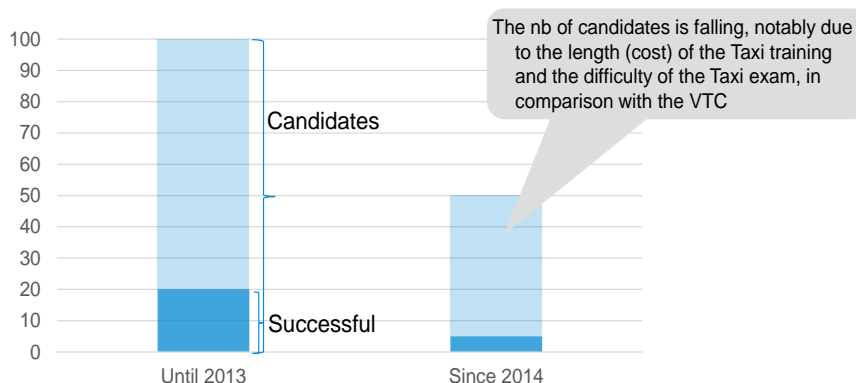
⁵⁴² Rapport 6t, id, p.12. According to the Report, the price of the licences has increased, starting from 1995, of 275% in 18 years. If the results take into consideration the inflation, the increase is of 172%.

		2012	2013	2014	2015
Strasbourg	n. of transfer	16	18	17	5
	Average price/EUR	163,656	173,639	164,235	168,000
Lyon	n. of transfer	51	58	41	28
	Average price/EUR	86,245	82,000	81,200	81,000

According to a respondent to the stakeholder consultation, the main obstacle to the creation of new business models for the taxi sector is the coexistence of four different statutes for the pre-booked transport of passenger on short distance: taxis, VTC, LOTI and ridesharing. While the taxi sector is highly regulated with high barriers to entry, the other sectors are less regulated and supervised.

With regard to the taxi exam, according to the collected information, the rate of successful candidates has decreased as well as the number of applications, since many potential candidates have switched to VTC professional card application, in order to work for VTC intermediaries, under a less strict regime.

Paris Taxi exam : 2013-2014 comparison
(2013 is 100 reference)



Source: Taxi G7

In the context of the continuation of the activity, taxi drivers lament the higher costs compared to a VTC operator, notably due to the specific taxi equipment: light (initial cost + maintenance); taximeter (initial cost + maintenance + yearly configuration update); credit-card machine + receipt printing machine; licence-related costs; and parking tax (Paris). Moreover, when the self-employed taxi driver reaches a certain turnover threshold (EUR 33,000), he cannot benefit anymore of the reduced taxation under the ACCRE regime.

2. Hire cars with driver

According to one respondent to the stakeholder consultation, the main obstacles to the development of VTC sector are the costs for obtaining the VTC professional card, register their company and, especially, the need to buy or rent a car which complies with the

regulations. Operators must also provide a financial guarantee of EUR 1,500. The 250 hours of training are considered especially expensive (in the range of EUR 2,500-5,000) and the fact that the vehicle must be bought or rented before the activity is starting to generate revenues. The activity requires a high up-front investment. The average price of the vehicle is around EUR 40,000 or a EUR 1,200 monthly lease.

Recently, the training for VTC professional card has been replaced with an exam. The new legislative proposal (*loi Grandguillame*) intends to extend to VTC drivers the taxi exam. While the main purpose is to ensure that the drivers of both sectors have the same preparation, for VTC drivers this may be an additional burden, since VTCs do not operate in the hailing and rank segment but only in the pre-booked, where the asymmetry of information is reduced and the passenger is granted a wider choice of operators.

LOTI capacitaires

According to the 2015 Report, many VTC drivers do not have the VTC professional card but they are providing the service under the regime of LOTI operators (*capitaires*). The LOTI operators are defined by the 1982 law as operators performing collective transport of passengers with minimum two and maximum nine passengers. The regime was created in order to complement the public urban transport with additional services, especially for elderly or school transport or to serve the area where no public transport exists, especially public areas. It is a regime used also by taxi operator to participate in public call for services in rural areas. The entry requirements for the LOTI status are lower compared to VTC: there is a shorter training, there are no specific requirements for the vehicle (drivers can use any vehicle) and they may also use the bus lanes.

The essential aspect is that the LOTI operators have the obligation to carry minimum two passengers however, in the largest cities, the LOTI driving for VTC intermediaries are carrying only one passenger for most of the time. According to the 2015 Report, in Paris the fact to carry only one passenger is the most common infringement among VTC operators with LOTI status. According to the calculations of the Observatory Taxis-VTCs, France counted 70,000 LOTI operators in 2015, part of which would work for the largest VTC intermediaries.⁵⁴³

In order to enforce the legislation, in January 2016 a notice has been sent to all the intermediaries to recall that all the LOTI drivers must have a reservation indicating that the driver will carry at least two passengers.

3. Ridesharing

According to various respondents to the stakeholder consultation, the main obstacle to the development of ridesharing is the lack of clarity concerning the legal framework applicable. The pre-arranged ridesharing (*covoiturage*) has been regulated by the Transport Code, and the intermediaries matching the offer and the demand have to be registered in the intermediary registry. Moreover, a recent legislative proposal seems to

⁵⁴³ <http://observatoire-taxi-vtc.com/analyses-et-productions/qui-est-le-mieux-loti/>.

assimilate the ridesharing intermediaries to the mobility service providers and requiring them to disclose certain data concerning the availability of the service.

According to another respondent to the stakeholder consultation, one of the main problems is the lack of qualification of the ridesharing for urban rides. Ridesharing, as regulated by the legislation, does not work for the short-distance rides. When a driver decides to share a ride with passengers, he will lose some time (10-30 minutes to wait and pick up the passengers) and money (10-30 km of detours to drop them where they want to). When the ride is long enough, the driver may get just 0,1 EUR/km, because at the end, he will get EUR 20 or 30 from each passenger and will be well off. However, if the ride is only 10 kilometres, the driver will not accept to lose time just to recover EUR 1.

IX. Capacity, growth, impact

➤ Taxi sector

On 1 July 2015, the total number of licences issued in France was 59,666 of which 1,800 doubles (two licences for the same vehicle, which allows the continuous use of the vehicle but only in Paris). 240 new and non-transferable licences were issued after the enactment of the 2014 Bill.

The Ile-de France counts for 37% of the total of French licences and 88% of the Ile-de France licences are concentrated in Paris. Globally, the Île-de-France and the 13 departments with metropolitan cities, aggregate the 56% of the existing licences.

	N of licences in 1992	N. of licences in 2003	n. of licences at 1 July 2015	%	New licences free and non-transferable	Evolution 1992-2015
Île-de France	17,112	20,164	21,884	37%	46	28%
• Paris	14,900	17,636	19,328 (17,770 licences and 1558 doubles)	32%	31	30%
13 Departments non-franciliens seat of metropolitan cities	9,097	11,427	11,410	19%	29	25%
• Alpes-Maritimes	945	1075	1028	2%	0	9%
• Bouches du Rhone	1614	1716	1755	3%	1	7%
• Rhone	1532	1616	1632	3%	0	7%
Other departments	16,036	26,010	26,372	44%	165	64%
Total France	42,245	57,601	59,666	100%	240	41%

Source: Rapport sur l'application de la loi n. 2014-1104 du 1^{er} Octobre 2014 relative aux taxis et au voiture de transport avec chauffeur, Novembre 2015 p. 40.

Geographic concentration of professional cards for taxi driver issued at 15 June 2015

	N. of professional card	% Total
Total France on 15 June 2015	87,434	100
Île-de France	26,702	31%
13 departments non-franciliens seat of metropolitan area	19,150	22%
Other departments	41, 582	48%
Ten departments with the largest number of professional cards	41,257	47%
• Paris	23,884	27%
• Rhône	3,209	4%
• Finistère	2,272	3%
• Alpes maritimes	2,322	3%
• Bouches du Rhône	2,192	3%
• Ille et Vilaine	2,081	2%
• La Réunion	1,414	2%
• Haute Garonne	1,366	2%
• Savoie	1,319	2%
• Côtes d'Armor	1,198	1%

Source: Rapport sur l'application de la loi n. 2014-1104 du 1^{er} Octobre 2014 relative aux taxis et au voiture de transport avec chauffeur, Novembre 2015 p. 40.

According to the INSEE, from 2010 the market "taxis+VTC" has increased only by 4%, but the number of VTC vehicles has increased from few hundreds in 2010 to 14,000 at the end of 2015. According to one respondent to the stakeholder consultation, in 2015, the number of drivers under the LOTI regime was around 40,000. According to the Observatories Taxis-VTC, the general number of LOTI operators, in the same year, was around 70,000. From 2009, the demand for LOTI services has doubled. For the taxis, the demand for medical transport has increased while for the other segments, such as hailing and pre-booking outside metropolitan areas, it has decreased.

In the second semester of 2015, the taxis' pre-booked activity decreased due to the strong competition operated by the VTC intermediaries, offering lower fares. Taxis maximum fares have remained the same, and in some cases, small increased were introduced by local authorities. In the pre-booked segment, especially in large metropolitan cities such as Paris, there is a strong competition with VTC and the taxis offer fares below the maximum for services such as week-end rides for younger passengers.

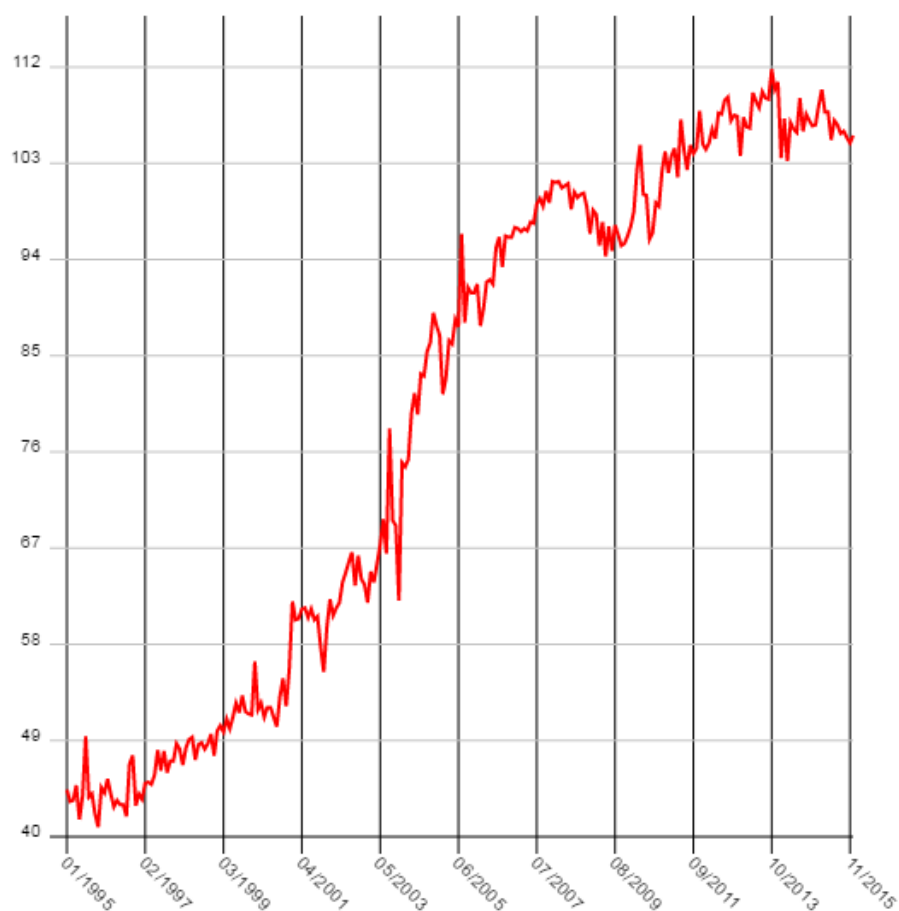
According to the information provided by a respondent to the stakeholder consultation, the turnover of the taxi sector in 2013-2014 has decreased by 30% and the price of licences has decreased by the same percentage. The number of candidates entering the exam and succeeding it has diminished due to the length of training, costs and difficulties compared to the VTC profession.

➤ **Taxis sector turnover**

- *INSEE source*

The public available data on the turnover of the passenger transport by taxi, provided by INSEE, aggregates the turnover of the taxi operators; hire cars with drivers; the non-medical transport; transport of people with reduced mobility; the activity of the dispatch centre; and the passenger transport with moto-taxis. Since a specific code for each of these activities does not exist, the turnover is calculated per "legal units", which cover indistinctly the mentioned activities. The last available official data were from 2013. In 2013, the non-scheduled public transport of passengers included 42,700 legal units with an increase of 8% from 2011. The total turnover of the sector was more than 3 billion in 2013 with an increase of 9% from 2011. The turnover of a single legal unit, which is **EUR 70,451 gross per year**, was stable. According to the 2015 Report, this may be explained by the fact that the new entrants in the sector are legal units with no employees or less than nine employees.

Turnover value index - Taxi operation (NAF rev. 2, lev. Class, item 49.32)
 - SA-WDA data - Base 100 in 2010 - Stopped series

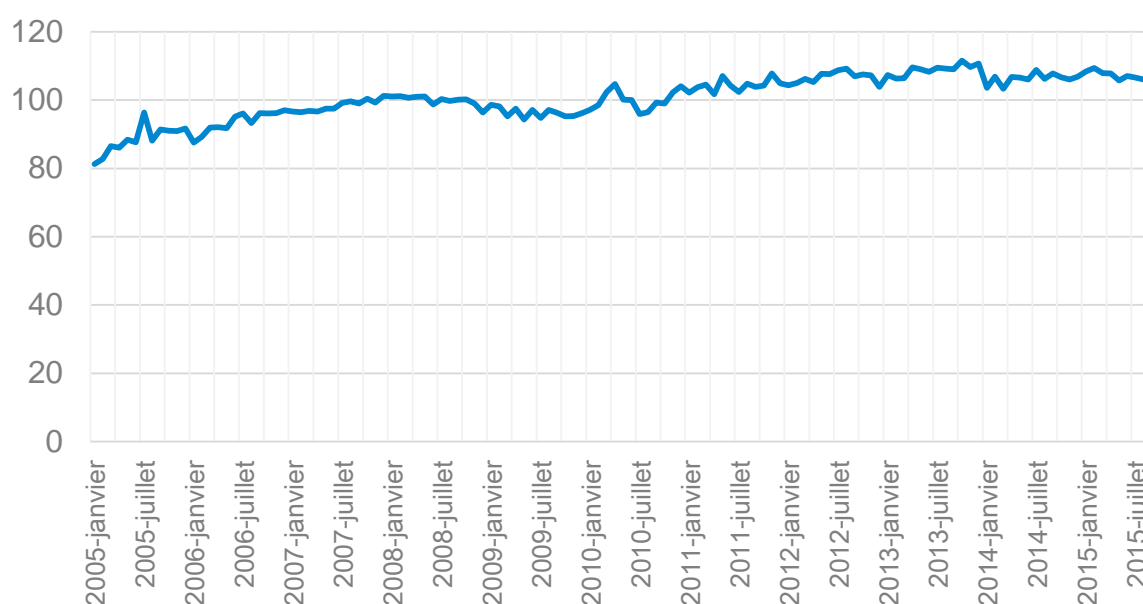


■ Series 001658740 : Turnover value index - Taxi operation (NAF rev. 2, lev. Class, item 49.32)
 - SA-WDA data - Base 100 in 2010 - Stopped series

	2009	2011	2013	Evolution 2009-2011	Evolution 2011-2013
Number of legal units	31,500	39,600	42,700	35%	8%
ETP effective employees	13,900	13,400	15,100	9%	13%
Effective employee at 31 December	17,400	16,900	18,400	5%	9%
Gross Turnover (MEUR)	2,265	2,756	3,008	33%	9%
Gross turnover per legal unit (EUR)	71,795	68,578	70,451	-2%	1%
Net accounting result (MEUR)	541	653	653	25%	4%

Source: Rapport sur l'application de la loi n. 2014-1104 du 1^{er} Octobre 2014 relative aux taxis et aux voitures de transport avec chauffeur, Novembre 2015 p. 40.

Marché du transport de personnes par taxis et VTC (INSEE, indice 100 en 01/2010)

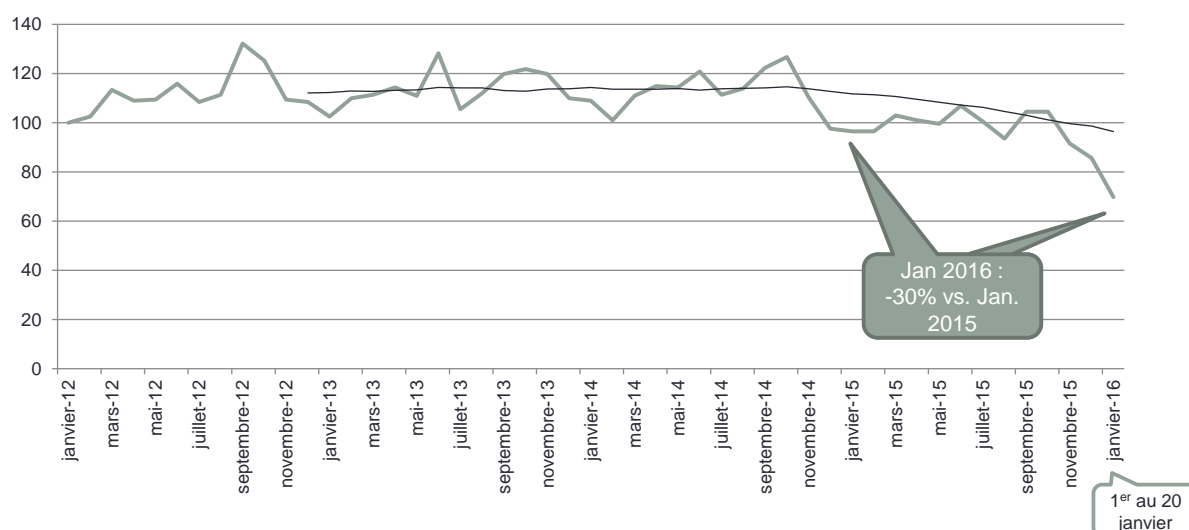


- 6-t Report

According to the report, which is based on public sources from 2013, the average annual turnover of a Parisian taxi in 2013 was around EUR 60,000 but the average annual charges were around EUR 53,340. The data gives, as result that the net earnings would be around EUR 6,600, i.e. more or less EUR 500 per month. While the monthly charges of EUR 4,000 for the taxi and licence leasing are confirmed also by the desk research and by the respondents to the stakeholder consultation, it should be possible that the real revenues are higher than declared, otherwise the survival would seems impossible. Moreover, the 6-t Report considers that the number of rides has progressively decreased from 2004 to 2015; however, the turnover has remained almost the same due to the increase of the maximum fares. The Report has considered that the level of fares has increased of almost 50% from 2000 to 2015 while the increase of the prices in the same years was around 25%. The fares fixed by the State have allowed the taxi drivers to keep the turnover at almost the same levels.

- Stakeholder Consultation

According one taxi operator, the updated figures on revenues in the hailing market for an operator not affiliated to a dispatch centre are the following:



Moreover, according to the data provided, fiscal and social charges account for 31% of the taxi revenues, while VTCs have a three years' fiscal reduction and after the third year, the fiscal and social charges account for 25% of the revenues. However, for VTC, the 20% of the revenues is kept by the booking/intermediary platform opposed to 4% in case of the taxis.

➤ VTC (hire car with driver)

The VTC sector includes all the intermediaries and the VTC operators.

	Variation in the number of exploiting registered	Validated inscriptions	Instructing registration	Non-conformity registration	Not-updated
Registration at 1 st January 2015	12,081	-	-	-	-
Radiations	-85			85	
New entries	1477	1477	1500		
<ul style="list-style-type: none"> 927 Obsolete entries 		344		583	
<ul style="list-style-type: none"> 11,069 to be updated 		1100	1340		8629
TOTAL (1s September 2015)	13,473	2042	2840	668	8269

Source: Rapport sur l'application de la loi n. 2014-1104 du 1^{er} Octobre 2014 relative aux taxis et aux voitures de transport avec chauffeur, Novembre 2015 p. 40.

Geographic concentration of professional cards for VTC drivers delivered at 15 June 2015.

	N. of professional cards	%
Total France	24,935	100%

Île de France	14,948	60%
13 departments non-franciliens seat of metropolitan area	5,578	22%
Other departments	4,409	18%
Ten departments whit the highest number of professional cards	18,690	75%
• Paris	3,600	14%
• Hauts de Seine	3,010	12%
• Alpes Maritimes	2,989	12%
• Val d'Oise	2,284	9%
• Val de Marne	1,853	7%
• Essonne	1,581	6%
• Seine Saint Denis	1,145	5%
• Yvelines	1,113	4%
• Var	632	3%
• Rhône	483	2%

Source: Rapport sur l'application de la loi n. 2014-1104 du 1^{er} Octobre 2014 relative aux taxis et aux voitures de transport avec chauffeur, Novembre 2015 p. 40.

➤ Innovative taxi service providers

The 2015 IGF Report, in Annex VII (covering the partners of the Charter for the Taxi Registry) introduces a new definition for the taxi web applications which do not belong to any taxi operator/dispatch centres (such as G7, Taxis Bleus, Alpha Taxis) but they are independent and exclusively specialized in intermediation. Those applications have been defined by the IGF Report as "pure players" and they include both French players such as **Taxiloc** (an app to find a taxi for /from an airport) and international players such as **Mytaxi**. **eCab**, founded in 2013, is currently active in 6 countries (France, Belgium, the Netherlands, Ireland, Canada, India), with 35,000 taxis connected (via taxi operators).

The 2014 Bill has introduced a single platform, *Le Taxi*, collecting all the operators' booking centres or applications, transport operator applications and pure players in order to allow the electronic taxi booking in the entire French territory. *Le Taxi* is not a web application but an interface for other applications. The passenger uses his/her preferred application. The applications is connected to *Le Taxi* and a taxi driver, affiliated to one of the web applications/dispatch centre and who results available at that moment, is redirected towards the passenger. The application is expected to regroup around 50,000 taxi drivers. To register, small independent drivers will go through a licensed operator, which provides the geolocation system.

➤ Ridesharing

With regard to the ridesharing market, the market seems characterized by various market players carrying out different activities, including long-distance ridesharing, short-distance and peer-to-peer ridesharing.

Ridesharing (*covoiturage*) has been regulated in France in 2015, and covers the jointly use of motor vehicle with a driver and one or more passengers as part of a journey the driver performs on its own account, for no consideration except the cost-sharing.

The main player on pre-arranged long-distance ridesharing is BlaBlaCar. BlablaCar is one of the largest ridesharing companies in the world and the largest in Europe, following the acquisition of some local competitors (the German Carpool and the Hungarian Autohop). The company aims at growing in existing markets and internationally.

Heetch is a ridesharing platform, connecting non-professional drivers with passengers at night. It mainly targets the young community who is going out at night when the urban public transport is not available. In 2013 and 2015, it experienced a 30% monthly growth and it performs 50,000 rides a week. However, data are aggregated for all the countries where it operates.

With regard to the drivers' revenues, the company's mission is to engage in an activity which should only cover the costs of the trips. The maximum reimbursement that a driver may obtain per year is capped at EUR 6,000 and the estimate average yearly earning was EUR 1,850 in 2015.

Despite the difficulties related to the competitors' acceptance and the new legal framework, the car-sharing operators expect a growth in the next years and expansion in other EU and third countries.

X. Results

As previously explained, the French market for hire transport can be segmented according to the legislative framework into hailing (*maraude*) where the taxis have the legal monopoly, and pre-booked services; ridesharing (*covoiturage*) is not considered as hire transport according to the legislation.

Concerning **market players**, France registered 32,000 firms covering different non-scheduled transport including VTC (hire cars) in 2013. Available data (ATOOUT France, 2014) allow an estimation of the composition of the figure of 19% VTC, 81% taxis and others (non-medical transport for people with reduced mobility, radio-taxi, and passenger transport by mototaxis). According to ATOOUT France, in 2014 VTC operators were 10,315, of which 4,150 were registered within the year as a result of the legislation issued in 2014, with an increase of 67%.

Looking at the type of enterprise, which provides a view of the **concentration of the market**, companies represent 9% of total, while other forms referring to self-employment (artisans, leases) account for 81% of the market. Within the former category, the main player in the market operating in 60 different cities is G7, with around 19% of affiliated licenses (and performing about 11% of total turnover). VTC segment shows a higher percentage of company shape, around 44%. Among them, larger companies are organized according two different models: the intermediaries, connecting the independent drivers affiliated to the company with clients (Allocab, Uber); the service providers, owning vehicles and employing salaried drivers (LeCab, Chabé Limousine).

About **barriers, limitations and incentives**, the analysis has shown a cost of taxi **licenses** between EUR 365,000 and EUR 81,000. However, it has been reported to be fallen from 2014 of around 30% (in parallel with turnover), due to the rapid entry in the market of more than 4,000 VTC operators in 2014 (with around 12,000 VTC operators between 2011 and 2015) and the raise in competition within the pre-booked services segment. The 2014 Bill forbids the re-sale of taxi licences granted in the future, which all else being equal will further increase the price of current licence.⁵⁴⁴

Concerning other relevant costs, taxi operators mainly report costs as lighter, taximeter, paying facilities (credit card equipment); VTC operators highlighted training costs (EUR 2,500 to EUR 5,000), and higher average costs for the vehicles. Another relevant issue is represented by **taxation**: while taxi drivers have fiscal and social charges equal to 31%, VTC, after a 3-year exemption, contribute to taxes up to 25%.

On the other side, the incidence of the dispatch centre fee is 4% for taxis and 20 to 30% for VTC operating via intermediaries.

Looking at other not strictly monetary barriers, the exam to obtain the professional taxi driver car seems to be a relevant obstacle, with 20% success rate in 2013. It has been reported a 50% decrease in applications for 2014, stated as related to the raise of VTC.

Pre-arranged ridesharing operators identified as main barrier the lack of clarity on regulatory framework, which limits substantially the business segment. In particular, regarding short distance travel, the actual fares envisaged disincentive short distance trips by ridesharing, not matching the minimum expected remuneration of time.

Looking at **capacity** figures, as shown before the number of taxi licenses are around 60,000 in France, 37% in Ile-de France (of which 88% in Paris). The same figures investigated for VTC show a different picture, with nearly 25,000 licenses at national level (42% compared with taxis), more concentrated within the Ile-de France (60%) but less in Paris (only 42% of Ile-de France).

With regard to growth, looking at the dynamics, publicly available data provide long-term growth figures within the period 1992-2015 for taxis showing a 41% growth at national level, slower within the Ile-de France (30%), while much faster in departments of other metropolitan cities (64%). Data on VTC are available only for 2015, where a 12% growth is reported.

A more interesting overview is provided by data on economic parameters, although aggregated according to the INSEE classification (taxi operators, hire cars with drivers, non-medical, transport of people with reduced mobility, dispatch centres, passenger transport with moto-taxis).

Results are provided for two different time frames, respectively 2009-2011 and 2011-2013.

⁵⁴⁴ European Commission, *Macroeconomic imbalances Country Report – France 2015*, Occasional Papers, June 2015, ISSN 1725-3209, p. 55.

Within the first-time frame, the number of legal entities, turnover and net income grew respectively by 35, 33 and 25%, to slow down then in the second period (8, 9 and 4%). Looking at the number of employees, the dynamics are substantially different, with a 5% growth between 2009 and 2011 and an increase by 9% in the 2011-2013 periods. Figures suggest an expansion trend within the first three considered years, and a fine-tuning period with lower marginal turnover and income between 2011 and 2013.

Looking at growth dynamics, 2011 and 2014 seem to be interesting years for the analysis of the taxi and VTC sectors: a rapid growth in terms of local units and turnover in the years before 2011 has slowed down until 2014, according to official data. Information collected on latest development between 2014 and 2015 report - as result of higher competition in the pre-booked segment between taxis and VTCs - a decrease for the former category due to the dramatic growth of the latter together with a significant decrease in prices. Unfortunately, data are not yet available from 2014 on, making the interpretation of the latest dynamics in VTC market more difficult.

Concerning impact, one stakeholder active in the VTC sector declared a 4% turnover growth for 2010-2015 (substantially in line with official data). Between 2010 and 2015, the VTC registered operators were 14,000. The rapid surge in the number of VTC operators and in the supply of service by VTC could explain the decrease of taxi supply in 2015 (accelerated in the second semester). Another participant added that in 2013-2014, during the peak of VTC registrations, taxis turnover and cost of licenses has decreased by 30%.

Concerning P2P ridesharing, although a marginal phenomenon, the main operator Heetch reported a 30% monthly growth, at the beginning of the activity at aggregated level. Ridesharing, except for long-distance ridesharing, is still a limited phenomenon, both due to the current legislation as well as to the lack of critical mass of most of the actors. The fragmented market structure does not allow for significant estimation of the growth potential at local level, especially under the current legal framework, while the only segment somehow relevant is represented by the long distance pre-booked ridesharing.

XI. Conclusions

The French market has undergone an in-depth reform, starting in 2009 with the liberalisation of the hire cars with drivers (VTC) sector followed by the 2014 Bill, which intended to reorganise both taxis and VTC sectors. Other legislative revisions for taxis and VTC are expected. However, the new regulations seem to further restrict competition. The five years that followed the liberalisation of the VTC sector saw its rapid development, with the entry of new players competing with taxis in the pre-booked segment, especially in the metropolitan areas where the demand for personal transport is high. The new innovative service providers have focused mainly on the hire cars with drivers' sector, since the sector was expanding rapidly. The 2014 Bill tried to fill the technology gap between VTC intermediaries and taxis operators reserving the mobile electronic booking to taxis and by introducing a national application which aggregates all the taxi operators under a single umbrella. Despite the reforms, the French taxi market remains characterized by significant quantitative barriers and indirect qualitative barriers. The combination of the cap on the number of taxi licences with their tradability has created a "scarcity value" which has generated licences' prices not affordable for

many professional drivers. Therefore, in France the practice of the leasing of the licence and of the vehicle has developed: the taxi drivers who cannot afford to buy the licence may rent it from a licence holder together with the taxi car. Another consequence of the quantitative restrictions is that the VTC sector had become a valid alternative for taxi drivers which had the professional card but they do not have the taxi licence. However, the restrictions imposed by the 2014 Bill have rendered more difficult to enter this sector, especially for the upfront investment required to set-up the activity. The pending draft legislation intends to introduce additional requirements for intermediaries for both taxis and hire cars with drivers and more stringent qualitative requirements for hire cars' drivers. Both the markets are characterized by the presence of self-employed drivers, affiliate to large dispatch centres and intermediaries which are among the Europe's largest. Ridesharing over long distances has experienced success with the French operator Blablacar's which has rapidly become the largest European player. However, small short distance ridesharing operators are struggling to develop.

Bibliography

1. Inspection General de Finances, Inspection Général de l'Administration et Conseil général de l'environnement et développement durable, *Rapport sur l'application de la Loi n° 2014-1104 du 1^{er} octobre 2014 relative aux taxis et aux voitures de transport avec chauffeur*.
2. Granger, Marc-Antoine La sauvegarde de l'ordre public n'est pas un droit ou une liberté que la Constitution garantit, *Constitutions*, juillet-septembre 2015, n° 2015-3, p. 378-380.
3. Haquet, Christophe, Taxis contre VTC devant le Conseil constitutionnel: victoire de la liberté d'entreprendre, *Actualité juridique. Droit administratif*, 9 février 2015, n° 4, 226-229.
4. Camus, Aurélien Le Conseil constitutionnel valide le dispositif législatif encadrant l'activité des voitures de tourisme avec chauffeur, *Concurrences : revue des droits de la concurrence*, janvier-mars 2015, n° 2015-1, 213-215.
5. European Commission, *Macroeconomic imbalances Country Report – France 2015*, Occasional Papers, June 2015, ISSN 1725-3209.
6. http://ec.europa.eu/economy_finance/publications/occasional_paper/2015/pdf/ocp217_en.pdf

11. GERMANY

General legal framework

In Germany, the legal framework applicable to taxis is regulated by national law as well as by municipal law. The main legislation applicable to taxis and private hire car at the national (federal) level is the Carriage of Passengers Act. (*Personenbeförderungsgesetz "PBefG"*).⁵⁴⁵ This law forms the traditional legal framework of police and public commercial law for passenger transport. As an exception, passenger transport will not be subject to the Carriage of Passengers Act when it is performed without remuneration or when the overall remuneration does not exceed the running costs of the trip. This exemption will also apply if the services are provided on a commercial basis. By the Act of 14 December 2012, amending the Carriage of Passengers Act,⁵⁴⁶ the above-mentioned exception was supplemented by a legal clarification for private ridesharing/carpooling schemes such as shuttle services for festivals and fairs, to ensure that they are not subject to the Carriage of Passengers Act even in the commercial case, i.e. repeated services, insofar as any payment does not exceed the running costs. In addition to the PBefG, there is the German Ordinance on Operation of Motor Transport Business in Passenger Transport ("BOKraft"), which governs technical requirements for licensed vehicles for passenger transport as well as several organisational requirements and obligations of the taxi operator. Another national legal framework applicable to taxis is the German Ordinance for Entering Professions for Passenger Transport on Roads ("PBZugV"). The PBZugV lays down personal admission criteria that an entrepreneur has to fulfil if he wants to establish a passenger transport business. These requirements refer to personal reliability, financial capacity, as well as professional suitability. In addition, the Driver's Licence Ordinance ("FeV") sets the legal framework for obtaining a driver's licence which covers taxi transport.

Licences

To obtain a licence for taxi service (called "concession"), the entrepreneur has to submit an application according to Sec. 12 PBefG. The licence may be denied if new licences threaten the functioning of the local taxi business. In this context, certain conditions must be taken into account such as the demand for taxi transport in the area where the licence was requested, the concentration of taxis in this area, the development of the profit and expense situation of taxi companies considering operating time, and the number of and reasons for business closures. Most of the German licensing authorities have imposed a cap on the number of concessions. There are a few exceptions, for example the State-cities of Hamburg and Berlin which do not impose limitations. Trading of licenses is prohibited in Germany. It is only possible to transfer the operation of an entire business.

Organisational and technical requirements

Technical requirements for vehicles used for taxi services are set out by the German Road Traffic Act ("StVG"), the German Road Traffic Regulation ("StVO") and the German Regulation on Licensing Vehicles for the Use in Road Traffic ("StVZO"). The general technical requirements are contained in the German Compulsory Motor Civil Liability Insurance Law ("PflVG") and the German Ordinance on Operation of Motor Transport Business in Passenger Transport ("BOKraft"). The German Ordinance on Operation of Motor Transport Business in Passenger Transport ("BOKraft") also governs several organisational requirements of the passenger transport operator. Pursuant to Sec. 47 para. 2 PBefG, taxis may only be parked within the municipality in which the entrepreneur has its place of business. The competent authorities, however, are allowed to coordinate with other municipalities in order to create larger operating areas. In Germany, there is no obligation for taxi operators to be affiliated to a dispatch centre.

Passenger rights

Under German law, each ride by taxis is a contract between the licence's holder and the passenger. Therefore, all general principles and rules of German contract law, in particular German service contract law as well as general civil liability law applies. However, some special rules in the PBefG modify these civil law principles and rights. Particularly, Sec. 22 PBefG provides a service obligation if the conditions of transport are fulfilled (number 1), the transport is possible by the current regular transport means (number 2) and if the transport is not prevented by circumstances the entrepreneur cannot avert and which he cannot remedy (number 3). Accordingly, the taxi driver cannot reject the transport e.g. in cases of a short distance rides. In addition, passengers are not obliged to take the first taxi in line at a taxi stand but are free to choose whichever taxi they prefer. Furthermore, there are special rules about liability in cases of damages in Sec. 23 PBefG. Municipal regulations may introduce more stringent passenger's rights. The federal states or – on their behalf – the municipal authorities may define the specific and detailed conditions for taxi operations: holding taxis ready in special cases including on-call service; regulation of dispatch centres; transportation of disabled people; and medical transportation. The Taxenordnung (Taxi ordinance) of various German cities contain provisions concerning the obligation of minimum service, the order at the taxi stands, work schedules and

⁵⁴⁵ Personenbeförderungsgesetz (PBefG) as amended and promulgated on 8 August 1990 (BGBl. I p. 1690), last amended by Art. 2 para. 14 of the Act of 17 February 2016 (BGBl. I p 203).

⁵⁴⁶ Act amending the passenger transport laws of 14 December 2012 (BGBl. I p. 2598).

operation services.

Fares

According to Sec. 51 para. 1 PBefG the regional governments or – on their behalf – the municipal authorities are also entitled to adopt regulations on taxi fares. All federal states except Hamburg and Berlin have transferred to the municipal authorities the right to adopt regulations on taxi fares pursuant to Sec. 51 para. 1 PBefG. Therefore, nearly every municipality has a specific ordinance on taxi fares (“Taxitarifordnung”). These fares are binding for all the taxis licensed within their respective territory (Pflichtfahrgebiet). The fare includes a basic price and additional rate graduated on the distance travelled, special destinations (i.e. the airports) and for waiting times. Moreover, there is often an additional surcharge i.e. for using a larger taxi or for use of a taxi service at night time.

Labour rules

In Germany, many taxi drivers are self-employed. Nonetheless, disguised employment contract (*Scheinselbstständigkeit*) is a well-known problem in the German taxi sector. Employed drivers enjoy several rights. For example, there are rules protecting employees against dismissal in special circumstances, rules about the minimum holiday entitlement and the entitlement to be remunerated also in the event of illness within the first six weeks of incapacity to work. Since January 2015, the German Minimum Wage Law (Mindestlohngesetz, “MiLoG”) regulates a nationwide general statutory minimum wage of EUR 8,50 per hour for all employees, including taxi drivers.

Enforcement

The authority in charge of issuing licences has competence over enforcement, through various enforcement tools including the withdrawal of the licence or administrative fines. BOKraft contains a list of administrative offences in the context of passenger transport which can be fined with up to EUR 10,000. The respect of the technical requirements is considered of particular importance since it was one of the reasons behind the Court decisions to suspend certain hire transport services because they did not comply with the technical requirements obligations.

Airports

There are no particular requirements for airports and there is no need for a special licence. As mentioned above, a taxi can operate within the area of licence, including the airports if they are licensed in such area. In case the airport is located outside the municipality, the taxis can drop passengers but it must return empty. Furthermore, it has to be noted that taxi stands at airports (likewise taxi stands at railway stations) are often located on private property, owned by the airport operator. Therefore, each taxi operator needs a permission from the airport manager in order to wait at the airport’s taxi stands. In the past, there have been various court cases addressing the problem of unfair conditions of the access to taxi stands at airports.⁵⁴⁷

Hire cars with driver

As indicated above, the same legal framework as to taxis is applicable hire cars with driver, with certain exemptions. In the first place, there is no obligation for the operator who got a licence for hire cars with drivers’ service to start or continue the business. Licences for hire cars with drivers are subject to special conditions for the provision of services, including the obligation to receive orders at the place of business, the prohibition to stand in public areas or to pick up passengers on the street, the obligation to keep evidence of the reservation (contract with the passenger) in the vehicle and the prohibition on the use of signs and features reserved for taxis, the return to garage rule (return obligation “Rückkehrpflicht”). According to PBefG, passenger transport by hire cars with drivers requires a licence from the competent public authorities. The authority must grant the licence if all personal admission criteria are met. In case of hire cars with drivers, the licensing authority is not allowed to impose quantitative restrictions or additional material criteria. The organisational requirements are the same for taxis and private hire cars. In the context of labour rules, there are no significant differences between taxis and hire cars with drivers. This was confirmed by the Monopolies Commission which called for the abolition of the restrictions on taxis activities and the need to regulate hire cars with drivers.

Ridesharing

With regard to ridesharing, in the event that a ridesharing service provider enters into the contract for transport with the passenger – beyond the mere mediation/facilitation – and influences the price of the

⁵⁴⁷ For example: Federal Administrative Court, decision 26 January 2015, 3 B 35.14; Higher Regional Court of Frankfurt, decision 6 March 2014, 6 U 246/13.

transport, he is considered to run a passenger transport business and therefore, it has to obtain a licence pursuant to PBefG. This was repeated by various courts' decisions regarding ridesharing operators.⁵⁴⁸ Ridesharing intermediaries which matches drivers offering the rides with passengers (without running a ridesharing service business themselves and without entering into a passenger transport contract) are not covered by PBefG or BOKraft or by any separate legal framework. However, there are some general provisions in relation to online platform services which also covers ridesharing platform such as the Telemedia Act (*Telemediengesetz*, "TMG"), which implements Directive 2007/65/EC. Interestingly, PBefG allows competent authorities to issue a licence for occasional passenger transport services mixing up several types of admissible forms of occasional passenger transport if public order interests does not oppose to such licence. Until now, the authorities never issued such mixed licences.

Market analysis

According to the German Federal Cartel Office (*Bundeskartellamt*), in certain areas, almost all taxi rides are provided via radio communication, whereas in the largest cities a large part of the taxi turnover is generated by the hailing and picking up on the streets. According to a recent representative poll, overall, approximately 74% of all taxi rides are ordered via telephone or via dispatch centre. New taxi web applications with geolocalisation allow the real time booking in the largest cities. A German court decision has prohibited the dispatch centres from applying exclusivity clauses and prohibitions on third party advertising.

Barriers to entry, limitations, incentives

In Germany, there are more than 800 regulated fare areas ("*Tarifgebiete*"). The number of taxis is capped in most areas (with the exception of Berlin and Hamburg); for example, in Munich the cap is set at 3400, in Düsseldorf at 1300, in Frankfurt at 1700. Recently, several cities (such as Munich and Düsseldorf) have publicly discussed to introduce further limitation on taxi licenses. In case of hire cars with drivers, there are no quantitative restrictions. However, even if all the criteria for granting of the concession are met, the local authority can still deny it for a broad set of reasons (including the protection of local taxi trade). According to a respondent to the stakeholder consultation, the main difficulty arises from the fact that all services must fit into the existing regulatory regimes of either (1) traditional taxi, (2) hire cars with drivers ("*Mietwagen mit Chauffeur*"), or (3) intercity/intracity non-profit ridesharing. Taxi regulation leaves no room to innovate in terms of service or pricing, which are fixed. Hire cars with drivers' regulation allow for more flexibility in terms of pricing and supply volume. However, the authorities grant the licences at their discretion, often consulting with the local incumbent taxi associations/companies. Local authorities are also required to interpret laws and requirements strictly, making it difficult to increase the number of hire cars with drivers' operators. Various courts have upheld the system, considering that the main rationale of the Carriage of Passengers Act is the protection of taxis sector. The Monopolies Commission has considered that the current legislation together with the local authorities approach limits the supply of taxi services and prevents to the largest extent the differentiation between services offering varied price-quality combinations. The Monopolies Commission has recognized that provision of hire cars with drivers via smartphone apps has intensified competition with taxis, and "*has aligned taxi and rental car services further*".

Growth, capacity, impact

Annual figures (2014) indicate 327 million trips (distributed as 55,000 to taxis and 35,000 to hire cars with drivers) with a daily average of about 900,000 rides which correspond, on average, to 10 rides/vehicle/24 h. According to the national taxi association, the growth in the taxi sector nationwide is the following: 2011 (+3%), 2012 (0%), 2013 (1%), 2014 (+0.5%), 2015 (+2%). The average earnings were broadly stable over the period 2010-2014. With the introduction of legal minimum wage of 8,50 EUR/hour in 2015 there has been an increase in the drivers' revenues of around 20-25%. After minimum wage law, a full-time driver employed 48 hours a week earns around EUR 21,216 gross per calendar year (without wage labour costs etc.).

Conclusions

The German taxis sector is strictly regulated with quantitative barriers and stringent qualitative and organisational requirements. Moreover, there are various prescribed fare areas. The combination of the quantitative restriction with the fare areas limits the supply of taxi services and prevents the development of services offering varied price-quality combinations. Hire cars with drivers are subject to the same concession system and are equally regulated as taxis. However, the licensing authorities seem reluctant to issues hire cars with driver licences, in order to avoid disrupting the taxi market, due to the pressure from the new service providers offering hire cars with driver via smartphone applications at lower fares than taxis. Ridesharing is allowed only when it is performed without remuneration or when the overall remuneration does not

⁵⁴⁸ Higher Regional Court of Celle, decision 30 July 2015, 13 U 57/15; District Court of Hamburg, decision 15 September 2015, 312 O 225/15; Higher Administrative Court Hamburg, decision 24 September 2015, 3 Bs 175/14; Higher Administrative Court Berlin-Brandenburg, decision 10 April 2015, OVG 1 S 96.14.

exceed the running costs of the trip.

I. Introduction

German legislation and case law by German courts have established several requirements for transport by taxi (II) transport by hire car with driver (III) and transport by car sharing and ridesharing (IV).

II. Legal framework applicable to taxis

In Germany, the legal framework applicable to taxis is regulated in national law as well as in municipal law.

II.1 National regulations

II.1.1 Carriage of Passengers Act

The main legislation applicable to taxis on national (federal) level is the Carriage of Passengers Act (*Personenbeförderungsgesetz "PBefG"*). This law forms the traditional legal framework of police and public commercial law for passenger transport. The scope is defined by Sec. 1 para. 1 PBefG and covers transport "*in return for payment or business-like transportation of passengers by tram, trolley bus and motor vehicles*". However, transportation of passengers by motor vehicles is only subject to this act if it is done against payment and if the entire payment exceeds the operating costs of the transport.

PBefG rests upon a market-based system as it defines the transport of passengers as commercial business, which in principle is open to everyone who fulfils certain material and personal criteria (principle of commercial freedom). However, any servicing of public transport needs to be authorised under public law by a state agency before its start. PBefG contains formal as well as material statutory requirements regarding such an authorisation (see s.II.3). Furthermore, PBefG defines the effects of such authorisation for the recipient. Sec. 3 para. 2 PBefG provides that a person who has obtained a licence must carry out the permitted business in his own name, under his own responsibility, and for his own account. Moreover, the entrepreneur is obliged to commence the licensed activity and to maintain public transport interests and the state of the art during the validity period of the authorisation (Sec. 21 PBefG).

In addition, the PBefG defines the scope of licences issued under this law. The scope of the licence is defined according to the kind of passenger transport that is to be conducted. Pursuant to the definition of the Carriage of Passengers Act, transport with taxis is a so-called "*occasional service with motor vehicles*", where the destination of each ride is determined by the passenger in exchange of payment (cf. Sec. 47 para. 1 PBefG). For such occasional service with motor vehicles, a licence is only issued for the specific kind of occasional service, for which the application was made. It is valid only for operating certain motor vehicles which have to be indicated by the official car licence number (cf. Sec. 9 para. 1 number 5 PBefG).

PBefG contains also basic obligations of licence's holders regarding to the execution of their occupation. For example, pursuant to Sec. 22 PBefG, the entrepreneur has a basic obligation to provide for transportation, insofar as the transportation conditions are fulfilled, the transportation is possible by the regular transportation means, and the transportation is not prevented by circumstances which the entrepreneur cannot avert and which he cannot remedy. According to Sec. 47 para. 4 PBefG, this obligation for transportation applies to taxis only within their so-called "*obligatory driving area*" (*Pflichtfahrgebiet*) which corresponds to the fare zone to which the licence's holder is assigned (for details see s.II.8). Currently, there are about 800 obligatory driving/fare areas in Germany.

Sections 23 and 39 PBefG stipulate fundamental requirements of the transport contracts between the operator and the passenger, as for examples regarding the agreement of limited liability for material damage and regarding fares (cf. for details Section II.9 or II.8). More details may be laid down by the federal state legislator or by the municipalities.

Sec. 54 to Sec. 54c PBefG also contain provisions about expiration and revocation of issued licences as well as about the supervision by public bodies (see also Section II.12). Sec. 57 and 58 PBefG authorise state and municipal authorities to enact ordinances (*Rechtsverordnungen*) and general administrative regulations (*Allgemeine Verwaltungsvorschriften*) (see also Section II.2). Sec. 61 PBefG regulates administrative fines for non-compliance with some provisions of the PBefG which can amount to up EUR 20,000.

With respect to taxis, there are further rules in Sec. 47 PBefG. According to Sec. 47 para.1 PBefG an entrepreneur can hold taxis ready at places authorised by public bodies and can accept passengers on the street or pre-booked rides received at his place of business. Furthermore, taxis may, in principle, only be held ready in the municipality in which the place of business of the licence holder is located pursuant to Sec. 47 para. 2 sentence 1 PBefG. Pre-booked transport may, however, also be conducted from other municipalities. In addition, the licencing authority may allow – in agreement with other authorities – that taxis are held ready at authorised places outside the municipality where their place of business is located thus creating a larger licence/fare area (Sec. 47 para. 2 sentence 3 PBefG). Pursuant to Sec. 47 para. 3, the state government may lay down further rules for taxis having to provide special on-call services, as well as rules for dispatch centres and use of radio communication. Municipalities may also do so after this right is bestowed upon them (see s.II.2).

II.1.2 Ordinance on Operation of Motor Transport Business in Passenger Transport

In addition to the PBefG, there is the German Ordinance on Operation of Motor Transport Business in Passenger Transport (*Verordnung über den Betrieb von Kraftfahrunternehmen im Personenverkehr "BOKraft"*) which governs the technical requirements for licensed vehicles for passenger transport as well as several organisational requirements of the passenger transport service provider, operational duties of taxi drivers and detailed provisions implementing fare obligations and the obligation to carry in taxi. Additionally, the BOKraft contains a list of administrative offences in the context of passenger transport which contain be fined with up to EUR 10,000.

II.1.3 Ordinance for Entering Professions for Passenger Transport on Roads

Another national framework applicable to taxis' operation is the German Ordinance for Entering Professions for Passenger Transport on Roads (*Berufszugangsverordnung für den Straßenpersonenverkehr "PBZugV"*).

The PBZugV lays down personal admission criteria which an entrepreneur has to fulfil if he wants to establish a passenger transport business. These requirements refer to personal reliability (Sec. 1 PBZugV), financial standing (Sec. 2 PBZugV), as well as professional suitability (Sec. 3 PBZugV) (s. II.3.1). Moreover, PBZugV lays down provisions on the monitoring of taxi service providers by the competent authorities (Sec. 9 PBZugV).

II.1.4 Driver's Licence Ordinance (Fahrerlaubnis-Verordnung "FeV")

In addition, the Driver's Licence Ordinance (*Fahrerlaubnis-Verordnung "FeV"*) sets a legal framework for obtaining a driving licence which covers taxi transport (see in detail under s. II.5).

II.2 Local/municipal regulations

As mentioned above, according to Sec. 47 para. 3 PBefG, the federal states or – on their behalf – the municipal authorities, are authorised to regulate the specific and detailed conditions in respect to the following aspects of passenger transport by taxi:

1. holding taxis ready in special cases including on-call service;
2. accepting and performing transport orders received by phone;
3. operating driving and radio communication;
4. transportation of disabled people; and
5. medical transportation, insofar as it is not transportation pursuant to Sec. 1 para. 2 no. 2.

In fact, all federal states, except Hamburg and Berlin, have transferred the right to regulate these aspects to the municipal authorities. Therefore, nearly each municipality enacted a specific taxi ordinance ("*Taxenordnung*").

For example, the *Taxenordnung* of the city of Cologne contains provisions concerning the obligation to hold taxis ready, the rank at taxi stands, the work schedules and the operation services. According to the *Taxenordnung* of Cologne, drivers are obliged to display their licence at the right corner of their dashboard in a way it is well visible for passengers, while they are holding the taxi ready and while they are performing the service. The attached annex with a sample licence is an integral part of the *Taxenordnung* of Cologne. The licence must contain:

1. first name or at least the first letter of the first name of the driver;
2. last name of the driver;
3. photo of the licence holder;
4. official badge with validity period.

Similarly, *Taxenordnung* of Munich contains provisions concerning the obligation to hold the taxis ready, the rank at the taxi stand, the working schedules and the operation services. According to special operation conditions, the driver has to wait at least 30 minutes for a passenger, stops during a ride are only permitted upon passengers' requests or if the passenger agrees, the driver must not carry third persons or pets. During the ride, any disturbance of the passenger by music or other noises has to be avoided. Furthermore, the driver shall load and unload the luggage of the passenger and help elderly and people with reduced mobility entering and disembarking the taxi.

Equally, *Taxenordnung* of Berlin contains several provisions concerning operation obligations, radio operation, readiness of taxis etc. Provisions concerning transport operations include, for example, an obligation of drivers to load and unload passengers' luggage and to help elderly and people with reduced mobility. Furthermore, the *Taxenordnung* of Berlin prohibits drivers from directly contacting potential passengers in order to offer rides. Moreover, special characteristics or equipment of individual vehicles (i.e. smoking permit or air-conditioning) shall be marked by unambiguous pictograms, which shall be placed horizontally along the upper edge on both taxi's rear side windows.

According to Sec. 51 para. 1 PBefG, the regional governments or – on their behalf – the municipal authorities are also entitled to adopt regulations on taxi fares. These regulations can lay down rules especially about:

- base fare, fares for distances/time;
- additional charges;
- payments in advance;
- billing;
- method of payment; and
- lawfulness of individual agreements for the mandatory driving area.

All federal states except Hamburg and Berlin have transferred the right to adopt regulations on taxi fares pursuant to Sec. 51 para. 1 BPefG to the municipal authorities. Therefore, nearly every municipality has a specific ordinance on taxi fares ("*Taxitarifordnung*") (s. II.8.).

II.3 Procedures for issuing licences and applicable criteria

Taxi transport requires a licence pursuant to Sec. 2 para. 1 PBefG. Any transport of passengers by taxi without a licence constitutes an offence, which can be punished with a penalty up to EUR 20, 000, see Sec. 61 para. 1 and 2 PBefG. The PBefG also governs the general conditions for the procedures for issuing licences and applicable criteria. Holder of the licence is the "entrepreneur", which can be a self-employed driver with his/her own vehicle or an employed taxi driver. According to Sec. 11 para. 2 no. 2 PBefG, the licence is granted by the authority in whose district the applicant has his head office or branch (Sec. 1 et seq. PBZugV).

To obtain a licence for taxi activity, the entrepreneur has to submit an application according to Sec. 12 PBefG. Sec. 12 para. 1 no. 1 and para. 4 PBefG. The application must contain the name and the place of residence of the applicant, his/her date and place of birth, a description of the measures to enable barrier-free access of the service applied for, the requested start and end of licence validity, type of service applied for (for example "taxi" or "hire cars with drivers"), and information about number, type and capacity (seats) of vehicles used.

Pursuant to Sec. 13 para.1 sentence 1 PBefG, a licence can only be issued, if:

- the security and capacity of the business is guaranteed;
- there are no facts indicating unreliability of the applicant as entrepreneur or of the individuals who are appointed to run the business;
- the applicant or the person appointed to run the business have the requested professional competence;
- the applicant and the entrepreneurs who will to carry out the transportation services have their place of business (or branch) in Germany.

Details are laid down in PBZugV. According to PBZugV, the financial standing shall consist of having capital and reserves of at least EUR 2,250 for the first taxi vehicle and EUR 1,250 for each further taxi. The personal reliability is proven by providing a criminal records certificate, a certificate of good conduct and information from the German Federal Motor Transport Authority. The professional expertise shall be demonstrated by passing a specific exam or, in case of the person appointed to run the business, by previous experience in a senior managing position in a company in charge of passenger transport. The exam consists of two written examinations and, if necessary, an oral examination (see Sec. 4 para. 1 PBZuGV).

The material licensing criteria introduce quantitative restrictions and are regulated in Sec. 13 para. 4 PBefG. The licence has to be denied if public transport is impaired because the applied transportation service threatens the functioning of the local taxi business. In this context, the licensing authority takes into account the following aspects:

1. the demand for transports with taxis within the district for which the licence was applied for;
2. concentration of taxis in the relevant area;

3. the development of the profits and losses' of taxi companies over the concerned period;
4. the number of and reasons for taxis' business closures.

The licensing authority shall respect an observation period before deciding about new applications in order to identify the impacts of previously issued licences upon public transport concerns. The observation period shall not exceed one year from the last issued licence.

The legal background of the concession system needs to be considered when reading Sec. 13 para. 5 sentence 1 and 2 PBefG: new applicants and existing business have to be considered appropriately when issuing licences for taxi transport. Within the group, applicants shall be considered according to the chronological order of the receipt of their applications. Regardless of the time of the receipt of application, an applicant will be treated subordinately, if he:

1. does not intend to run the taxi business as main occupation;
2. has not run his company as main occupation or if he has completely or partially sold or rented his company within the last eight years;
3. has not complied with his operational duties.

An applicant may be granted one licence only, if the number of applicants is larger than the number of the licences. To new applicants, the licence shall be granted for two years. During this time period, rights and duties from the licence may not be transferred. In contrast to many other European countries, licenses are non-transferable. It is only possible to transfer the operation of an entire business with all its rights and duties completely pursuant to Sec. 2 para. 3 PBefG. Alternatively, it is also possible to rent the business to another party for the period of validity of the licence.

In Germany, when issuing licences, the personal conditions pursuant to Sec. 13 para. 1 PBefG will be examined. If these personal requirements are fulfilled, an examination of the material admission criteria pursuant to Sec. 13 para. 4 PBefG will take place. If the licensing authority concludes that the functionality of the taxi business and thus the concerns of public transport are not being impaired by issuing of further concessions, the licence is issued. Otherwise, the applicant will be set on a waiting list. By now, most of the German licensing authorities have imposed a moratorium on the concession due to the quantitative restrictions. There are a few exceptions, for example the cities of Hamburg and Berlin which do not use quantitative limitations.

The application shall be lodged with the competent licensing authority of the concerned municipality. The competent authority for issuing licences pursuant to Sec. 11 para. 2 PBefG is the authority of the taxi operator's place of business.

The licence is restricted to this area. The request for a licence shall include information about the number, the type and the capacity of the vehicles to be used (Sec. 12 para. 1 number 4 PBefG). Furthermore, the applicant must assure that the vehicle respects the imposed fitness standards. According to Sec. 12 para. 2 PBefG, information concerning the guarantees on the company's reliability shall be included in the application.

II.4 Technical requirements applicable to licensed vehicles *(taximeters, vehicles' technical specifications, accessibility, insurance, maintenance)*

Technical requirements applicable to all vehicles operating on the public streets, without regard to the purpose of their operations, are set out by the German Road Traffic Act (*Straßenverkehrsgesetz "StVG"*), the German Road Traffic Regulation (*Straßenverkehrsordnung "StVO"*) and the German Regulation on Licensing Vehicles for the Use in Road Traffic (*Straßenverkehrszulassungsverordnung "StVZO"*). These regulations contain some provisions only applicable to business like passenger transports, as in connection with liability (Sec. 8a StVG), or even only applicable to taxi operations, as inter alia the obligation to provide for security systems for the transport of at least one child (Sec. 21 para. 1a sentence 2 no. 3 StVO).

Moreover, general technical requirements applicable to all licensed vehicles operated on the public roads are contained in the German Compulsory Motor Civil Liability Insurance Law (*Gesetz über die Pflichtversicherung für Kraftfahrzeughalter "PflVG"*). According to Sec. 1 PflVG there is an obligation of all the owners of a motor vehicle to have an insurance for material and physical damages caused by their motor vehicles. Breaches of this obligation may result in criminal proceedings pursuant to Sec. 6 PflVG. If the policyholder wants to operate a vehicle for purposes of commercial passenger transport (like taxi services), he has to inform the insurer that he intends to do so. Otherwise, damages caused in road traffic accidents may not be covered by the insurance. There are no further insurance obligations for taxi service operators or taxi drivers do not exist. However, many insurance companies have created specific insurances for taxi operators.

Special technical requirements applying to vehicles operating in passenger transport according to the PBefG, particularly taxis, are contained in BOKraft as well as in municipal provisions.

According to Sec. 17 BOKraft, all vehicles operated in passenger transport pursuant to PBefG must have two axles and four tyres. The vehicle must constantly be adjusted to current weather and road conditions (Sec. 18 BOKraft).

With specific reference to taxis (and hire cars with drivers), Sec. 25 BOKraft lays down that vehicles must have at least two doors at the right-hand side of the car (Sec. 25 para. 1 BOKraft) as well as a specific alarm system (Sec. 25 para. 2 BOKraft). Additionally, vehicles can be equipped with an anti-riot partition wall (Sec. 25 para. 3 BOKraft). Moreover, Sec. 26 BOKraft determines that each taxi has to be marked as such. In general, a taxi shall be identified based on a special ivory colour and a taxi-light on the roof of the car (Sec. 26 para. 1 BOKraft). The taxi-light has to be switched on if a taxi is not carrying a passenger and has to be switched off if the taxi is occupied (Sec. 39 BOKraft). Advertising may only be displayed on the lateral doors of the vehicle and must not refer to religious or political contents (Sec. 26 para. 2 BOKraft).

Furthermore, the serial number has to be indicated in the lower area of the rear window in a way that it is visible from the inside and the outside of the car; the name and the place of business of the licence holder has to be indicated inside the car in a way that passengers can easily see it (Sec. 27 BOKraft).

Each taxi has to be equipped with a lighted taximeter calibrated in accordance with the German Weights and Measures Act (*Mess- und Eichgesetz "MessEG"*). The taximeter must be easily visible to passengers and must indicate the fares broken down into basic fare and additional fares (Sec. 28 BOKraft).

In the event of full passenger occupation, taxis must be able to transport at least 50 kg of luggage within the limit of the total weight permitted for the vehicle (Sec. 30 BOKraft).

Before a vehicle can operate in taxi services, the vehicle has to pass a general technical inspection according to Sec. 41 BOKraft and a special technical inspection according to Sec. 42 para. 1 BOKraft. The entrepreneur has to submit a report of the inspection to the licensing authority.

Often municipal ordinances on taxis (*Taxenordnungen and Taxitarifordnungen*) include additional technical requirements for taxis. Most municipal ordinances require the taximeter to show the fee during the entire taxi ride including all the applicable surcharges. Additionally, some ordinances contain payment rules. For example, Sec. 7, para. 2, of the Taxi Ordinance Berlin states the electronic payments must be accepted and the taxi operator must ensure the possibility to pay with at least the three different types of cards which are customary in business use. The licence shall be denied if there is no fully functional system for the acceptance of credit cards on board. This provision of the Taxi Ordinance Berlin was challenged before the court. However, with a decision from 18 December 2015 (OVG 1 S 76.15), the Higher Administrative Court of Berlin-Brandenburg (*OVG Brandenburg*) decided that the provision is lawful.

II.5 Qualitative requirements (*fitness of the driver, knowledge and skills required, drivers' training*)

Individuals who want to transport passengers by taxi need to obtain a special driving licence covering passenger transport. This licence as well as a regular driving licence have to be held ready during all transports and has to be presented to public authorities in case of a traffic check.

To obtain a driving licence for passenger transport, the drivers have to demonstrate their professional capabilities and health. Details are regulated in the FeV.

According to Sec. 48, para. 4, FeV a driving licence covering passenger transport may be issued if the applicant:

- holds a regular driving licence according to EU law;
- is at least 21 years old;
- can present a certificate of good conduct (criminal record certificate) which demonstrates the capability of the applicant to fulfil his duties during passenger transport;
- can prove his mental and physical health including, inter alia, the sense of orientation; concentration ability, and response capability attested by a recent medical certificate;
- can prove that he meets special requirements concerning good vision;
- can prove that he holds a driving licence category B or a comparable driving licence issued by a state listed in annex 11 since at least two years or has held it during the previous five years; and
- passed a special exam to prove his knowledge about the local place where he intends to provide transport services.

According to Sec. 48, para. 5, FeV a driving licence covering passenger transport shall not be issued for a period exceeding five years. However, licenses will be prolonged for up to another five years if an applicant can provide an up-to-date medical certificate proving his mental and physical health and vision and no facts suggest that the applicant is not capable of fulfilling his duties in passenger transport.

II.6 Organisational requirements (*dispatch affiliation centre, minimum service*)

According to Sec. 47, para. 4, BPefG the licence's holder has an obligation to transport passengers within the municipal territory or area of authorisation. Pursuant to Sec. 47, para. 2, PBefG, taxis may only be held ready within the municipality in which the entrepreneur has his place of business or residence. However, the Federal Cartel Office (Bundeskartellamt) in its Biennial Report XX "A competitive Order for the Financial Markets" from 9 July 2014 stresses the inefficiency of this system, which leads to a situation where e.g. a taxi in Berlin can transport a passenger to the airport Berlin-Schönefeld but is not allowed to pick up a passenger there, what means that the taxi has to return to Berlin City empty.⁵⁴⁹

In addition, the BOKraft contains several organisational duties of the entrepreneur. In accordance with Sec. 3 BOKraft, the entrepreneur has to take care that the taxi company is properly managed; that all motor vehicles licensed for operating in passenger transport on behalf of the company are fully functional and safe to run; and that driver and vehicles comply with all applicable laws. Depending on the size of the taxi company and some other circumstances, the entrepreneur shall use general service instructions for his personnel in this context. According to Sec. 4 BOKraft, an operator can -- irrespective of his own responsibility and in coordination with the competent authority -- appoint an individual person responsible for the taxi service operation (operating manager). Personal criteria for the reliability of the appointed operating manager as well as organisational standards for the involvement of the individual in business decisions are laid down in Sec. 4 BOKraft. Generally, the authorities require the operator to appoint an operating manager if the company operates more than ten vehicles. Furthermore, the entrepreneur has an obligation to inform the licencing authority in the event of incidents, which could affect public security, or in the event of serious accidents with personal injury (Sec. 6 BOKraft).

In Germany, there is no obligation for taxi operators to be affiliated to a dispatch centre. The extent of the voluntary participation differs significantly between various regions. According to the German Federal Cartel Office (*Bundeskartellamt*), in certain area almost all taxi rides are provided via radio taxis, whereas in the largest cities a considerable number of taxis focus on waiting for passengers at taxi stands or picking up passengers flagging down the taxis on the streets. According to a recent representative poll, approximately 74 % of all taxi rides are ordered via dispatch centre or smartphone applications.⁵⁵⁰

Most of the taxi operators are affiliated to the dispatch centres which operate on regional basis. For example, according to a recent information provided by the regional dispatch centre of Nuremberg (*Taxi-Zentrale Nürnberg e.G.*), only three on overall 500 taxis licensed in Nuremberg are not affiliated to the regional dispatch centre. Comparably, in

⁵⁴⁹ Monopolies Commission, Biennial Report XX, "A competitive Order for the Financial Markets", 9 July 2014, Chapter I, "Current Problems in Competition Policy", page 119, 123 et seq., 127 et seq.

⁵⁵⁰ IFAK Institute, Client satisfaction with taxi-companies in Germany, 2014, 11, <http://www.bzp.org>.

the city of Dresden only four taxi companies are not affiliated with the regional dispatch centre (*Dresdner Taxigenossenschaft e.G.*).

The major advantage of taxi dispatch centres is that they bundle several small and middle-sized taxi companies. However, from a competition policy perspective, it has been acknowledged that there is the dominance of the dispatch centres in the market of taxi agency services. An assessment of the Federal Cartel Office concluded that an oligopoly-like or even monopoly-like structure should be assumed in this market in several German regions. Economically independent taxi companies or self-employed may thus easily become dependent from regional taxi dispatch centres.⁵⁵¹

With regard to taxi agency services, the recent market entry of innovative companies offering taxi agency services via smart-phone apps has, for the first time, generated alternatives to existing dispatch centres for many taxi operators. These new providers (as e.g. Mytaxi) connect passengers and drivers via smartphone bypassing established taxi dispatch centres. Often, traditional dispatch centre services trigger significantly higher costs for taxi drivers than innovative taxi agency services which do not operate on basis of a monthly fixed rate but on a commission basis, or even free of charge. However, these innovative taxi agency services mostly focus on the bigger cities. According to a recent poll, the share of taxi rides mediated via smart-phone apps amounts only to 2 % to 3 % of the entire radio taxi market. Looking at the entire taxi market, the share of taxi rides mediated via innovative services does not even exceed approximately 0,4 % percent.⁵⁵²

Nevertheless, in the largest cities (as i.e. Cologne) traditional and innovative intermediaries as well as taxi drivers associated to the different systems have entered into a tough fight for market shares and access to taxi stands on private ground (as i.e. on property of the German railway company Deutsche Bahn AG which owns several premises in front of train stations). The dispatch centres have reacted to the increasing pressure from the new innovative intermediaries creating a nationwide cooperative (*Taxi Deutschland Servicegesellschaft für Taxizentralen eG*) which developed a smartphone app for taxi agency services themselves, which is available throughout Germany and free of charge to members of affiliated taxi dispatch centres. In addition, they cooperate with a private company (*fms systems GmbH*) which also provides for smartphone app for taxi agency services (Taxi.eu). Some taxi dispatch centres have imposed exclusivity clauses and third-party advertising prohibitions to their members. Such measures constitute significant barriers to market entry and can be an obstacle to the development of competition among taxi agency services. However, these practices have already been subject to several court procedures and they have been prohibited by the courts.⁵⁵³

Another recent development in the context of competition in the market of taxi agency services must be highlighted: in February 2014, a taxi app (Mytaxi) started to procure driving orders to drivers through an auction system. This system allocated taxi orders to taxi drivers according to several factors, such as distance of the vehicle from the client, quality of the taxi company, but also the willingness of the taxi company to pay for the taxi agency service. Taxi driver and taxi entrepreneurs themselves could determine a percentage of the fare to be paid to the provider of the taxi agency service. It had been argued that these auction systems constituted a violation of Sec. 39 PBefG which establishes tariff obligations (see under II.8), whereas the Federal Cartel Office (Bundeskartellamt), however, had always doubted that such violation occurred. Regardless of this legal dispute, on 01 July 2015 Mytaxi switched its business model due

⁵⁵¹ Monopolies Commission, Biennial Report XX, "A competitive Order for the Financial Markets", id.

⁵⁵² c.f. IFAK Institute, Client satisfaction with taxi-companies in Germany, 2014, page 11, <http://www.bzp.org>.

⁵⁵³ e.g. Higher Civil Court (Landgericht "LG") Düsseldorf, decision 19 February 2014, 14c O 238/12; LG Berlin decision 9 July 2013, 16 O 213/12 Kart, LG Nuremberg-Fürth, decision 29 January 2014, 3 O 1195/13.

to protests of taxi drivers as well as of passengers who feared for longer waiting periods. Now, drivers pay a uniform fee of 7 % of the taxi ride price to Mytaxi.

Numerous recent court decisions concerning the market of taxi agency services deal with discount promotions offered by innovative service providers. These discount promotions were based on the idea that the intermediary reimbursed a certain percentage of the transport charge to the passenger if the taxi ride was mediated via the taxi app. This practice has been challenged by some dispatch centres before the competition courts, claiming violations of the fare obligation as well as unlawful obstacles to free market and unfair competition practices. Yet, so far, most German courts considered these promotion activities to be lawful,⁵⁵⁴ except for LG Frankfurt, which, in January 2016, declared such discount promotions' activities unlawful.⁵⁵⁵

II.7 Fares (*criteria for taxi fare setting, authority/body in charge of setting the tariffs, maximum tariffs and/or fixed tariffs, composition of the tariff and tariff adjustment mechanism [minimum charge, additional charge for using the radio taxi or dispatch centre, increase of the tariff during certain hours, such as at night or on certain journeys, such as towards the airport, reductions for certain categories, such as elderly people]*)

The competent authorities in accordance with Sec. 39 para 3, 51 PBefG regulate fares for passenger transport services by taxi. In particular, transport fees must not fall below or exceed these fares set out by the competent authorities (fare obligation). Discounts that are not applied to all passengers under the same circumstances are unlawful and void.

Sec. 51, para. 1, PBefG authorises the federal governments or – on their behalf – the municipal authorities, to adopt detailed rules on fares applicable in their territory (*Pflichtfahrgebiete*). Due to that structure, every regional or municipal territory has its own regulation on taxi fares. These fares are binding for all taxi transports inside the respective territory (*Pflichtfahrgebiet*) by taxis, which are admitted by the regional or municipal authority. The negotiation of a flat fare is forbidden. Taxis operating outside the licensing area (or start in another territory) as well as taxis which are admitted by another regional or municipal authority, are not obliged to adhere to this fare. As a result, there is no price competition regarding taxi fares within the territory of a competent regional or municipal authority.

Normally, the fare includes a basic price and additional graduated prices for the distance travelled, for special destinations (such as the airport) and for waiting time. Moreover, there is often an additional surcharge such as when using a larger taxi or for use of a taxi service at night time.

For example, the Taxi Fare Ordinance Cologne (*Kölner Taxitarifordnung*) establishes a basic price of EUR 3,50 which passengers must pay as soon as the taxi driver waits longer than twelve seconds or as soon as the taxi has travelled a distance of more than 52,63 metres. Additionally, the Taxi Fare Ordinance Cologne demands an additional fare depending on the distance travelled, which is EUR 1,90 for each of the first seven kilometres and EUR 1,70 for each further kilometre. Waiting times of more than twelve seconds will be priced with EUR 0,50 each minute. Furthermore, there is a surcharge of EUR 6,00 for a large-size taxi which is capable for more than five persons or luggage of more than 50 kilos and a surcharge of EUR 1,00 for paying by credit card. The Taxi Fare

⁵⁵⁴ LG Hamburg, decision 15 September 2015, 312 O 225/15; Higher Regional Court (Oberlandesgericht "OLG") Stuttgart, decision 19 November 2015, 2 U 88/15.

⁵⁵⁵ <http://www.spiegel.de/netzwelt/web/mytaxi-landgericht-frankfurt-verbietet-rabatt-aktionen-a-1072804.html>.

Ordinance Berlin (*Berliner Taxitarifordnung*) establishes a basic price of EUR 5,00 which customers have to pay if the travel distance is shorter than five kilometres and of EUR 3,90 for a longer distance, whereas the short distance basic tariff only applies if the passenger flagged down a taxi on the street. In addition to this basic price, passengers have to pay an additional fare depending on the distance travelled. For each of the first seven kilometres, there is a fare of EUR 2,00 and for each further kilometre, there is a fare of EUR 1,50. Waiting time for longer than one minute will cause a fare of EUR 0,50 per minute. Furthermore, there is a surcharge for paying by credit card of EUR 1,50, for starting a ride at Airport Berlin Tegel of EUR 0,50 for the use of a large-size taxi of 5,00 EUR and for bulky luggage which cannot be transported in the trunk of EUR 1,00 per item. The overall amount of surcharges is limited to EUR 13,00.

The Taxi Fare Ordinance Munich (*Münchener Taxitarifordnung*) includes a basic price of EUR 3,30 and an additional fare depending on the distance travelled. For each of the first five kilometres, a fare of EUR 1,80 must be paid, for each of the next five kilometres EUR 1,60 and for each further kilometre EUR 1,50. Furthermore, waiting time will be charged with EUR 26,00 per hour, thus EUR 0,43 per minute. Moreover, there are surcharges in case of crossing a fare zone, for booking via dispatch centre, and for luggage, which is usually accommodated in the trunk, whereas with respect to the latter there are exceptions for wheelchairs, walking aids and buggies. Animals, except for guide dogs, are charged EUR 0,60 per animal and an additional EUR 0,60 for each animal transportation box. A flat fare of EUR 59,00 is introduced for rides between the airport and the exhibition hall.

II.8 Passenger rights

Under German law, the basis of each taxi ride is a service contract between the taxi licence's holder and the passenger who uses his transport services. Therefore, all general principles and rules of German contract law apply, in particular the rules on German service contract law as well as general civil liability.

However, some special rules in the PBefG modify these civil law principles and rights. Sec.22 PBefG lays down an obligation to carry passengers if the conditions of transport are fulfilled (number 1), the transport is possible by the current regular transport means (number 2) and if the transport is not prevented by circumstances the entrepreneur cannot avert and which he cannot remedy (number 3). This rule limits the general freedom of contract and on this basis, the taxi driver cannot reject the passenger for example in cases of a short distance rides. In addition, passengers are not obliged to take the first taxi in line at a taxi stand but they are free to choose the taxi they prefer.

Furthermore, there are special rules about liability in cases of damages in Sec. 23 PBefG. The general principle of freedom of contract allows a contracting party to limit its obligation to compensate damages pursuant to Sec. 823 German Civil Law Code (Bürgerliches Gesetzbuch "BGB") and § 7 StVG. However, according to Sec. 309 no. 7 lit. a and lit. b BGB general terms and conditions cannot limit liability for physical injuries and cannot exclude liability for wilful intent and gross negligence. For business like passenger transport against payment (including taxi transport) Sec. 8a StVG also stipulates a general prohibition of agreements which exclude or limit the right to claim liability for damages caused by physical injuries or homicide according to Sec. 7 StVG. Moreover, Sec. 23 PBefG only allows the exclusion or limitation of liability for material damages if damages exceed EUR 1.000,00 and were not caused by wilful intent or gross negligence.

According to Sec. 29 BOKraft, vehicles used for taxi services must be able to carry luggage up to a weight of 50 kg (s. II.4). According to Sec. 37, para. 1, BOKraft, taxi fares must not exceed the price which is shown on the taximeter and in accordance to Sec. 38 BOKraft taxi drivers are generally obliged to choose the shortest route possible.

Additionally, some municipal taxi ordinances and taxi fare ordinances also regulate specific passenger rights, though they differ considerably in their scope and detail. Some explicitly include the passenger right of a free choice of seats (e.g. Sec. 5 number 1 Taxenordnung Berlin; Sec. 3 para. 2 Taxenordnung Cologne), the right to obtain a detailed invoice (e.g. Sec. 4 para. 7 Taxenordnung Cologne; Sec. 4 para. 4 Taxiordnung Munich) and the obligation of the driver to meet requests of the passenger within reasonable limits (Sec. 5 para. 1 Taxenordnung Berlin; Sec. 4 para. 4 Taxenordnung Cologne). Some additionally refer to the passengers' right to choose any taxi of the passengers' choice (e.g. Sec. 3 para. 2 Taxenordnung Cologne), to achieve assistance by the taxi driver with the luggage or when entering or disembarking the vehicle (Sec. 5 para. 3 Taxenordnung Berlin, Sec. 5 para. 4 and 5 Taxiordnung Munich), to be generally transported the shortest way possible (Sec. 8 para. 1 Taxitarifordnung Munich, see also Sec. 38 BOKraft) or to the right to carry luggage and (small) pets (Sec. 5 para. 2 lit. d Taxi Tarif Ordinance Berlin).

Furthermore, pursuant to municipal regulations, passengers often have a possibility to complain about a taxi ride or a driver at different public bodies (e.g. the trade and crafts associations) and/or the taxi company in charge. Administrative offences of the taxi driver (e.g. traffic and parking offences) and other forms of misconduct can also be brought before special local authorities, for example before the Regional Office for Citizen and Ordinal Affairs Berlin (Landesamt für Bürger- und Ordnungsangelegenheiten) or the Office for Public Order in Cologne (Amt für öffentliche Ordnung).⁵⁵⁶

II.9 Subsidies applicable to taxi sector (including public developed applications for taxi sector, geolocalisation, etc.)

Usually, there are no aids or subsidies granted to taxi transport service providers. Nevertheless, based on Regional Budget Regulation (*Landeshaushaltsordnung*, "LHO"), federal state governments have a general possibility to regulate requirements under which individuals can receive grants for special purposes, as long as there is a substantial interest of the federal state's government in relation to the purpose of which the subsidy is granted and there is no other option to achieve this substantial interest. For example, in 2015 the Ministry of Transport and Infrastructure (*Ministerium für Verkehr und Infrastruktur*) of the regional state Baden-Wuerttemberg awarded financial subsidies up to EUR 15,000 for the purchase of electric or hybrid taxis by taxi companies registered in the state of Baden-Wuerttemberg, aiming at the reduction of CO² emissions.

Beside such financial grants, there are some state incentives aiming at making transport by taxi more attractive, compared to transports by private cars. For example, in various cities taxis have the possibility to use special lanes (*Sonderfahrstreifen*) which are

⁵⁵⁶ <http://www.stadt-koeln.de/service/adressen/strassenverkehrs-undordnungsangelegenheiten>.

<https://www.berlin.de/labo/mobilitaet/fahrerlaubnisse-personen-und-gueterbefoerderung/formular.264669.php>.

marked by a special traffic sign (No. 245 of the second appendix to Sec. 41 StVO). Furthermore, according to No. 224 of the second appendix to Sec. 41 StVO, taxis are allowed to make a quick stop at bus stations in order to drop off passengers or to take passengers on board. Furthermore, there are special parking lots where only taxis are allowed to stop and park while waiting for passengers (No. 229 of the second appendix to Sec. 41 StVO).

II.10 Labour rules

In Germany, there is no single labour law code. Labour law is governed by different codes, e.g. BGB, Working Time Law (*Arbeitszeitgesetz*, "ArbZG"), Labour Court Act (*Arbeitsgerichtsgesetz*, "ArbGG"), Protection Against Dismissal Act (*Kündigungsschutzgesetz*, "KSchG"), Federal Leave Act (*Bundesurlaubsgesetz*, "BUrlG"), Continued Remuneration Act (*Entgeltfortzahlungsgesetz*, "EntgFG") and Protection of Mothers Law (*Mutterschutzgesetz*, "MuSchG").

Labour rules applying to taxi drivers differ considerably depending on the status of the driver. A driver may be self-employed or work as a freelancer or be employed by a taxi company.

The distinction between an employee of a taxi company and a self-employed may be difficult and there have been various court decisions on the issue. In particular, the main difference between an employee and a self-employed is that the employee is in a personal dependence to his employer, what means that:

- to some extent, he/she is integrated in the company;
- he/she can neither decide about his working hours nor the place where the work has to be conducted; and
- he/she is supervised by the employer and subject to his binding directions and instructions.

German labour law courts regularly classify taxi drivers without a self-owned vehicle as an employee.⁵⁵⁷

However, in Germany, many taxi drivers are deemed to be self-employed which also means that there are no binding laws or rules in relation to working time, holiday entitlement, payment, remuneration in the event of illness, protection of expectant mothers and protection against unfair dismissal. However, disguised employment (*Scheinselbstständigkeit*) is a well-known problem in the German taxi sector.

In contrast, employed taxi drivers have several rights. For example, there are rules protecting employees against dismissal in special circumstances (e.g. during child care pursuant to Sec. 18 Parental Benefit and Parent Time Act, *Bundeselternzeit- und Elternzeitgesetz*, "BEEG"), during pregnancy pursuant to Sec. 9 MuSchG), rules about the minimum holiday entitlement (by the BUrlG) and the entitlement to be remunerated also in the event of illness within the first six weeks of their incapacity to work (EntgFG).

⁵⁵⁷ Higher Social Court (*Landesozialgericht* "LSG") Hamburg, decision 4 December 2013, L 2 R 116/12, juris, at 28.

Working time regulations contained in ArbZG are particularly important for employees. Working time of employed taxi drivers must not exceed eight hours of work per day (Sec. 3 ArbZG). However, an extension up to ten hours is possible if the average daily work time does not exceed eight hours respectively the average weekly working time does not exceed 48 hours. The allowable compensation period for this overtime hours is 24 weeks or six consecutive months. For night shift the compensation period shall be reduced to four weeks or a calendar month. Night workers are workers who normally perform their work for more than two hours between 23.00 and 6.00 (Sec. 2 para. 3, 4 ArbZG) whereas night work can also be performed in rotating shifts or during at least 48 days per year (Sec. 6 ArbZG, Sec. 3 para. 3 and Sec. 4 ArbZG). If taxi drivers are employed by different taxi companies simultaneously, all working hours have to be cumulated. After six hours of work, an employed taxi driver is entitled to a rest for at least 30 minutes. After nine hours of work, the minimum resting time is 45 minutes. This time frame can be split, but each resting period must be of at least 15 minutes (Sec. 4 ArbZG). Breaks cannot be taken at the beginning or at the end of a shift. Employees must be informed in which time period they can take their break. The drivers must be free to decide how and where they want to spend their break. Should they be available at this time for rides, this is a violation of the regulation. After one shift, employees should have an uninterrupted rest period of at least 11 hours (Sec. 5 para. 1 ArbZG). If employed drivers have to work on a Sunday or a public holiday, a substitute holiday must be granted. At least 15 Sundays per year must remain free of work (Sec. 9-11 ArbZG). Employers must grant their night workers an appropriate number of paid days off or pay a corresponding surcharge.

Until the beginning of 2015, there was no law about minimum wages in the taxi sector. Consequently, many drivers were paid by a percentage of their realised turnover. Normally, the percentage which drivers can claim counts on 40 to 45 % of the turnover.⁵⁵⁸

Since January 2015, the German Minimum Wage Law (*Mindestlohngesetz*, "MiLoG") regulates a nationwide general statutory minimum wage of EUR 8,50 per hour for employees including taxi drivers. So, if employers and employees want to stick to the traditional payment modus by a percentage of 40 % of the turnover, a driver must earn around EUR 21,00 per hour. While this might be realistic in urban areas and big cities,⁵⁵⁹ it can be hard to achieve in rural areas, particularly at night. Thus, more and more drivers have to be paid by fixed rates (or at least fixed minimum rates) without regard to their turnover.

Therefore, many taxi companies claim that their business is not profitable anymore. They particularly are indicating their operating obligation (Sec. 21 PBefG) according to which an entrepreneur must continue his services even in low turnover periods. Because of these financial difficulties, taxi fares are expected to increase in accordance with the needs of the taxi companies, e.g. according to recent articles in national press, there was a tariff increase of 7,9 % in Hamburg and even an increase of 40 % in Erfurt.⁵⁶⁰ Also, there was an increase of 13,9 % in Berlin and an increase of 7% in Munich.⁵⁶¹

Die Zeit, no. 13/2015, 26 March 2015, available at: <http://www.zeit.de/2015/13/taxi-branche-mindestlohn-finanzierung-hamburg>.

⁵⁵⁹ The Berlin Taxi Drivers' Guild (Taxi Innung Berlin) indicates average hourly earnings of 14 EUR.

⁵⁶⁰ <http://www.n-tv.de/wirtschaft/Mindestlohn-verteuert-Taxifahrten-article14291291.html>.

⁵⁶¹ <https://www.rbb-online.de/wirtschaft/beitrag/2015/06/Taxipreise-Berlin-rund-14-Prozent-erhoeht.html>).
<http://www.sueddeutsche.de/muenchen/anpassung-um-prozent-stadt-erhoeht-die-taxipreise-1.2784157>).

Another consequence is, inter alia, an increase of the number of self-employed taxi drivers.⁵⁶²

Some taxi companies and dispatch centres also claimed that the effect of the fares increase corresponding with the introduction of a minimum wage has brought a decrease of the taxi rides. To address effects of the minimum wage, in 2014 the taxi companies tried to enter into a collective agreement with the German service sector labour union ver.di to use the possibility of Sec. 24 MiloG to establish transitional rules until 1 January 2017. So far, however, this attempt has not succeeded because the parties have not reached a consensus.

II.11 Supervisory enforcement tools

In general, each licensing authority is in charge of ensuring the compliance of the taxi business with legal requirements. For this purpose, the authority may use different enforcement measures that are laid down in PBefG (s. II.1.1 above for details about this act) and PBZugV (s. II.1.3 above for details).

First of all, the licensing authority may withdraw the licence if the requirements are not fulfilled anymore, as provided by Sec. 25 para. 1 PBefG. Furthermore, the licensing authority controls the taxi operator and ensures his compliance with general provisions of PBefG, Sec. 54 para. 1 PBefG, and the requirements of his individual licence. For this purpose, the entrepreneur has to inform the licensing authority about all significant changes in his company, Sec. 54 para. sentence 2 PBefG.

To ensure compliance the licensing authority may initiate all the necessary investigations (see Sec. 54a PBefG). In particular, the licensing authority has the competence to assess all business documents and business records, c.f. Sec. 54a para. 1 No. 1 PBefG. Furthermore, the authority may demand information from the entrepreneur and from the employees, Sec. 54a para. 1 No. 2 sentence 1 PBefG. The entrepreneur or his employees can refuse to provide such information which may result in criminal proceedings against themselves or their relatives, Sec. 54a para. 1 no. 2 sentence 2 PBefG. The licensing authority may also enter the factory premises during the business hours, Sec. 54a para. 1 PBefG. The entrepreneur and his employees are obliged to provide support to the authority, for example to provide the necessary facilities and to provide assistance.

The competent authority controls, at least every five years, the continuous compliance of the taxi company with the licensing requirements regulated in the PBefG and in the PBZugV (Sec. 9 para. 1 sentence 1 PBZugV, see above at s. II.3.1). For this purpose, the authority may gather necessary information, Sec. 9 para. 1 sentence 2 PBZugV. Especially in the taxi and hire cars with drivers, the competent authority controls the requirements for access to profession when it has substantial doubts about compliances. The authority has to inform the company about the review, Sec. 9 para. 2 PBZugV. If the entrepreneur is no longer financially capable (Sec. 2 PBZugV) or his economic situation suggests that this will be the case within a certain period, the competent authority is allowed to set a time limit for the entrepreneur to submit evidence concerning his financial capacity. The time limit cannot be longer than six months, Sec. 9 para. 3

⁵⁶² http://www.deutschlandfunk.de/100-tage-mindestlohn-die-tricks-der-taxi-branche.1766.de.html?dram:article_id=316565.

PBZugV. Furthermore, a new licence procedure replaces the control of the authority, Sec. 9 para. 4 PBZugV.

Finally, the authority which is responsible for issuing the driving licence withdraws the driving licence if the owner is incapable to drive motor vehicles, as provided by Sec. 46 para. 1 sentence 1 FeV (s. II.5). In case of withdrawal, the driving licence expires, Sec. 46 para. 6 sentence 1 FeV.

If the holder of the driving licence is only suitable to a limited degree or not qualified to drive motor vehicles anymore, the authority can restrict the driving licence as far as possible or it may require to the holder to submit all required documents again, Sec. 46 para. 2 sentence 1, para. 4, sentence 1 FeV. In case it is necessary, the authority can also order an expertise, Sec. 46 para. 4 sentence 1 and sentence 2 FeV. The same applies to the holders of foreign driving licenses, Sec. 46 para. 2 sentence 2 FeV.

III. Legal framework applicable to hire cars with driver

In Germany, there are different possibilities of hiring cars with drivers: limousine-service, bus-services, for example school buses, and private ambulance services. Hire cars with drivers' services stand in a close competition with traditional taxi services. Both services are regulated, but there are fewer legal restrictions for hire cars with drivers. Furthermore, hire transport services are often more profitable than taxi transports, since they do not have the obligation to perform the service even if it is unprofitable, such as taxis.

III.1 National/local municipal regulation

For hire cars with drivers there are different legal frameworks at national level. In contrast to taxis, there are no separate legal provisions in relation to hired vehicles with driver on regional or municipal level.

On national level, the following rules are of importance.

III.1.1 PBefG

The main legal provision on national level is the PBefG which governs, as stated above, the professional transport or transport against payment of passengers by cars, busses and trams. It is important to notice in this context that passenger transports are not governed by the PBefG if they are free of charge or if the payment does not exceed the operational costs for the trip, c.f. Sec. 1 para. 2 PBefG. In context with hired vehicles with drivers, this refers especially to free shuttle services of hotels (c.f. Sec. 1 para. 3 Regulation on Exemption of Certain Transports from scope of Carriage of Passengers Act (*Verordnung über die Befreiung bestimmter Beförderungsfälle von den Vorschriften des Personenbeförderungsgesetzes „FVO“*)).

Sec. 49 PBefG defines the hiring of vehicles with driver. Pursuant to this provision, a hire car with driver is a vehicle which can only be hired "on the whole", which means that it is

impossible to hire single seats in such vehicles. Moreover, passengers decide the purpose, destination and procedure of the trip. Differently to passenger transport by taxi, hire car with driver is not deemed to be part of the public transportation system.

A passenger transport service which does neither comply with the definition of taxi traffic nor with the definition of a rented vehicle with driver (or the definition of another form of traffic according to the PBefG) shall be treated in accordance with the provisions for the closest form of transport service.⁵⁶³

Basically, in respect to the legal framework set out by the PBefG the same rules apply for passenger transport by hired vehicles with driver as for passenger transport by taxi. Nevertheless, based on a law of 1983, there are some relevant differences.

In the first place, in contrast to passenger transport by taxi, there is no obligation of the operator who got a licence for passenger transport by hired vehicles with driver to start his business and no obligation to continue his services.

Furthermore, in contrast to taxis, vehicles with drivers are only allowed to receive orders at the operator place of business or residence.⁵⁶⁴

Moreover, according to Sec. 49 para. 4 sentence 3 PBefG, hire cars with drivers have the obligation to return to "garage" (*Rückkehrpflicht*) after finishing the ride. In order to allow the authorities to examine the compliance with the rules any operator is obliged to keep records of incoming orders for one year (Sec. 49 para. 4 sentence 3 PBefG). An exception to the return obligation only exists in the event that the driver obtains a new transport order by phone during his ride. It should be noted that, according to the Federal Cartel Authority (Bundeskartellamt), the return to garage (as well as the empty return for taxis outside their licensing area) is one of the main obstacles to free competition between taxis and hired cars with driver and it should be abolished.

Last, but not least, according to Sec. 49 para. 4 sentence 4 PBefG the advertising, acceptance, intermediation and performance of the hire car with driver service must not be performed in a way that could create confusion with the taxi service. Hire cars are not allowed to use any marks or signs especially designed for taxis in accordance with the BOKraft (e.g. Sec. 49 para. 4 sentence 5 PBefG).

III.1.2 BOKraft

Besides the PBefG, there are different national regulations governing passenger transport by hire cars with driver. The technical requirements applicable to hire cars with driver are governed by BOKraft which contains requirements regarding the behaviour of the driver and the requirements for the hire car, c.f. Sec.8, 9 BOKraft (s. III.3 below for details).

⁵⁶³ Federal Administrative Court (Bundesverwaltungsgericht), decision 27 August 2015, 3 C 14/14, juris, at 13 and at 35 et. seq., concerning an airport shuttle service.

⁵⁶⁴ Sec. 49 para. 4 sentence 2 (PBefG). In contrast to taxis, vehicles with drivers are not allowed to hold themselves in readiness at public areas or to take a transport order from people passing by cf. Sec. 49 para. 4 s. 4 (PBefG).

Also, the BOKraft (implementing Sec. 49 para. 4 sentences 4 and 5 PBefG) states in Sec. 26 para. 2 that advertising is only allowed on the lateral doors of the car and that it is not allowed for the rental cars to have a taxi sign (Sec. 31 para. 1 BOKraft).

III.1.3 FeV

Furthermore, FeV governs requirements for a special driver`s licence on passenger transport (Sec. 48 FeV) which has to be obtained by drivers of taxis as well as by drivers of hired vehicles (s. II.5.).

III.1.4 PBZugV

Finally, PBZugV sets up personal admission criteria which an entrepreneur has to fulfil if he wants to provide passenger transport services as transport services by hired vehicles with driver. For details see s. II.3.1 and s. III.2.

III.2 Procedures for issuing licence and applicable criteria

The procedures for issuing licence and applicable criteria are governed by the PBefG and the PBZugV (s. II.3 above).

Pursuant to Sec. 2 para. 1 no. 4, Sec. 46 para. 2 no. 3, Sec. 49 PBefG operators of hire cars with drivers` service must obtain a licence from the competent public authorities. The competent authority grants the licence if all personal admission criteria set out in Sec. 13 para. 1 PBefG in conjunction with the PBZugV are fulfilled (see s. II.3.1 for details), but the authority is not allowed to examine additional material admission criteria or quantitative restrictions. Instead, the authority must grant the licence if all personal admission criteria are met. There is no margin of appreciation in that decision. Yet, in cities with a population of more than 50,000 as well as in other localities specified by the competent authorities, a licence for hire cars with drivers must not be issued for a vehicle which is already used for passenger transport by taxi (and vice versa).

Some municipalities provide on-line instructions or guidelines on the application procedure and the formal requirements for the application file,⁵⁶⁵ e.g. in Cologne an applicant has i.e. to submit a certificate of good conduct, an extract from the commercial central register and the central traffic register and clearance certificates from the tax authorities of the Member State and the local tax office, from his health insurance, from a professional association for vehicle ownership and from the insolvency court. Furthermore, he/she is required to submit an insurance certificate to prove that the vehicles are covered by a liability insurance covering material and personal damages of passengers and, if the applicant is a legal entity, two copies of the memorandum of association and extracts from the commercial register. Finally, the applicant has to provide for a confirmation that his premises can be used for business purposes and that he has sufficient spaces for parking his vehicles in business use. Other cities like Berlin or Munich have similar regulations.

⁵⁶⁵ <http://www.stadt-koeln.de/service/produkt/mietwagen-genehmigung> or <https://www.berlin.de/labo/mobilitaet/fahrerlaubnisse-personen-und-gueterbefoerderung/personenbefoerderung/artikel.258959.php>.

III.3 Technical requirements applicable to hire cars with driver

As already outlined in s. II.4, StVO and StVZO govern technical requirements applicable to all vehicles operating on public streets, while additional technical requirements applying to vehicles operating in passenger transport according to PBefG are governed by BOKraft as well as by municipal provisions.

Technical requirements for hire cars with driver set out by the BOKraft are comparable to technical requirements for taxis outlined above. There is no need for special visual marks such as for taxis, no obligation to indicate the licence number or the name and place of business of the licence holder and no obligation to provide for a certain luggage transport capacity. In addition, other than taxis, hire cars with driver do not need to be equipped with a taximeter but with an odometer according to Sec. 30 PBefG. The parameters displayed by the odometer have to be taken as basis for the transport fee as long as there is no diverging agreement between passenger and service provider (Sec. 40 BOKraft). The odometer must be calibrated according to the MessEG. In very few cases, the licensing authority can allow the use of a taximeter instead of an odometer. In that case the driver must inform the passenger about the missing odometer (Sec. 31 para. 2 BOKraft).

III.4 Qualitative requirements

Any person who intends to perform passenger transport in a business-like manner must obtain a special driving licence covering this activity (see above under s. II.5). Criteria to obtain such special driving licence to drive hire cars are the same as for passenger transport by taxi. The only relevant difference is the demonstration of the local knowledge which in general, it only covers the local place of business. This requirement shall not apply if the place of business has a population of less than 50,000 inhabitants.

III.5 Organisational requirements

The organisational requirements applicable to companies holding a licence to conduct passenger transport services according to the BOKraft were already outlined s. II.6. These requirements also apply to companies providing for hire car with driver service. There are no further legal organisational requirements to be observed.

III.6 Passenger rights

Under German law, the basis of a ride by hire car with driver is a service contract between the operator who holds the licence for the passenger transport affected and the passenger who uses his transport services. Therefore, in the same way than taxis, all general principles and rules of German contract law, in particular service contract law as well as general civil liability law, apply.

Additionally, Sec. 8a StVG excludes the right of the owner of a vehicle used in business-like passenger transport to exclude or limit liability for damages for personal injuries and

death and Sec. 23 PBefG limits the right of the entrepreneur to exclude or limit liability for material damages to situation where damages exceed EUR 1,000 and were not caused by wilful intent or gross negligence (s. II.8).

III.7 Labour rules

In the context of labour rules, there are no significant differences between taxis and hired cars with driver. In addition, drivers of hired vehicles are mainly self-employed, whereas German competent authorities have doubted this classification in many cases.⁵⁶⁶

III.8 Local incentives, subsidies provided by the administration in order to carry out certain services *(such as minivan services for people with reduced mobility, elderly, schools)*

According to the results of our examination, there is usually, without regard to the legal possibility to do so, no state aids granted to passenger transport service providers.

Anyway, according to Sec. 1 FVO some special forms of passenger transports by hire cars with drivers are exempted from obligations imposed by the PBefG, such as transports to schools and to kindergarten (Sec. 1 no. 4 lit. d and lit. i FVO), medical transports organised by hospitals with their own vehicle for the purposes of treatment (Sec. 1 no. 4 lit. d and lit. e FVO), and the transport disabled persons to care facilities (Sec. 1 no. 4 lit. g FVO). Third parties (such as the school/kindergarten or the health insurance company of the passenger) regularly compensate costs incurred by such kind of passenger transports.

Some municipalities or regional entities (e.g. the state Berlin) additionally provide for special transport services by hired cars with driver for elderly people and people with reduced mobility. These services can only be used for transports in connection with leisure and recreational activities. Individuals who want to use the transport services need a special entitlement. Who has such entitlement can use the service against the payment of a compulsory cost contribution; the remaining costs are covered by the respective municipality/regional entity.⁵⁶⁷

III.9 Supervisory enforcement tools

There are no relevant differences about enforcement instruments for taxi business and for rented vehicle services.

⁵⁶⁶ c.f. <http://www.bcd-ev.de/2015/11/09/hauptzoll%C3%A4mter-und-staatsanwaltschaftenermitteln-bei-chauffeurdienstleistern-wegen-scheinselbst%C3%A4ndigkeit/> and <http://www.bcd-ev.de/2015/04/26/sozialversicherungspflicht-der-eingesetzten-chauffeure/>.

⁵⁶⁷ <https://www.berlin.de/lageso/behinderung/schwerbehinderungversorgungsamts/nachteilsausgleiche/sonderfahrdienst/>.

IV. Legal framework applicable to ridesharing and car sharing

IV.1.1 Regulations on car sharing

Car sharing does not fall under the scope of the PBefG and the BOKraft. The PBefG applies to certain forms of transportation of passengers by cars, busses and trams (see Sec. 1 para. 1 sentence 1 PBefG) while customers using car sharing services are not transported but drive themselves. The BOKraft on the other hand applies only to passenger transport governed by the PBefG.

IV.1.1.2 General Road Traffic Regulations and Road Traffic Insurance Regulation

Car sharing service providers must comply with general road traffic law – in particular with StVG, StVO and the Administrative Guidance to the StVO (*Allgemeine Verwaltungsvorschrift zur Straßenverkehrs-Ordnung*) – and with road traffic insurance law – in particular PflVG – which contain technical requirements applicable to all vehicles operated on public streets and rules of conduct for individuals taking part in traffic on public streets (s. II.4).

Regarding car sharing there are special provisions on parking spots and parking signs. The kind of parking spots that is needed depends on the type of business model used: whereas station-based models need designated, reserved parking spots for their cars, customers of free-floating-business models want to park anywhere they want. Proximity of parking to recharging poles may also be a factor for electric cars.

Inter alia, Sec. 12, 13 StVO regulate where and how cars can be parked. Currently, car sharing vehicles can be parked on private ground as well as in public spaces as long as parking is not restricted or prohibited according to the rules of the StVO. Sec. 46 StVO allows the responsible local authority ("*Straßenverkehrsbehörde*") to exempt from these rules. Local authorities can grant special licences i.e. for the parking of car sharing vehicles and can grant exceptions from parking rules etc. and attribute special signs for electric cars. Municipal authorities have used their discretion in various ways. Therefore, the local law on parking spots varies from municipality to municipality.

IV.1.1.3 Regulations on electric cars

Car sharing service providers often use electric cars which, according to the Law on the Preferential Treatment of Electric Cars/Electric Mobility (*Gesetz zur Bevorrechtigung der Verwendung elektrisch betriebener Fahrzeuge/ Elektromobilitätsgesetz, "EmoG"*) can receive preferential treatment in several ways, see below at s.IV.5. According to Sec. 3 para. 4 EmoG, these privileges concern the parking or use of public streets (no. 1), the usage of designated public roads or parts of them (no.2), privileged access to restricted roads (no. 3) or the fares for public parking spots (no. 4). The official justification and reasoning for the EmoG by the Federal Government clarifies that the reservation of parking spots mainly serves the purpose to recharge. The possibility to exempt cars which are not externally chargeable was discussed but discarded due to the disproportionate administrative effort. However, parking spots shall also be created in desirable spots as city centres or high streets in order to create incentives to use electric cars. no. 2 e.g. is the legal basis for an authorisation to let electric cars use designated bus lanes.⁵⁶⁸

As a further result from the policy to promote the use of electric cars, newly registered electric cars are exempted from vehicle taxes for five years according to the Second Change to the traffic Taxes Law (*Zweites Verkehrsteueränderungsgesetz, BGBl 2012, 2431, "2.VerkehrStÄndG"*) which was passed in 2015. Moreover, another recent legislative proposal concerning standards for charging poles and sockets at electric cars was published by the Federal Ministry for Economic Affairs and Energy (*Bundesministerium für Wirtschaft und Energie, "BMWi"*) in October 2015 (*Draft for a Charging Pole Regulation Entwurf einer Ladesäulenverordnung*).⁵⁶⁹

IV.1.1.4 Legislative proposals on car sharing

However, the German Federal Ministry of Transport and Digital Infrastructure (*Bundesministerium für Verkehr und digitale Infrastruktur "BMVI"*) has recently published a draft of a car sharing law. Its main objective is to make car sharing more competitive and attractive to customers. Station-based as well as free-floating-models shall profit from this legislation. Local government shall be authorised to reserve parking spots for car sharing service providers or to offer them free parking.⁵⁷⁰ The draft is currently in final co-ordinations between the BMUB and BMVI. As the content of some sections is still discussed, it is not yet known when the draft will be finalised.

⁵⁶⁸ Bundesrat, Drucksache 436/14 dated 7 November 2014, p. 13 and 35 et seq.

⁵⁶⁹ The Regulation has been debated in the Federal Cabinet and now needs to be approved by the Federal Council, see BMWI, press release dated 28 October 2015 at <http://www.bmwi.de/DE/Presse/pressemitteilungen,did=736430.html>.

⁵⁷⁰ see press release on car sharing law by BMVI, 2015, <http://www.bmvi.de/SharedDocs/DE/Artikel/LA/Car-sharing-gesetz.html>.

IV.1.2 Regulation on ridesharing

IV.1.2.1 Regulations on passenger transport

PBefG and BOKraft apply to some ridesharing models, whereas other ridesharing models are exempted from the scope of these regulations. As already outlined under Section II.1.1, PBefG governs pursuant to Sec. 1 para. 1 PBefG "*in return for payment or business-like transportation of passengers by tram, trolley bus and motor vehicles*".

However, pursuant to Sec. 1 para. 2 no.1 PBefG, transportation of passengers by motor vehicles is only subject to this act if it is done against payment and if the entire payment exceeds the operating costs of the transport. Hence, the amount of demanded payment for ridesharing services is decisive for the distinction between services falling under the PBefG regime and services which are excluded from the scope of the PBefG. If the required payment does not exceed the operational costs of the transport, also ridesharing platforms can charge an agency/mediation fee without becoming subject to the PBefG.⁵⁷¹

In fact, many ridesharing providers require considerably payment for their services which exceed the operational costs. For example, courts have considered payment for services by UberPop and UberBlack to exceed the operational costs. Courts used information on Uber's website to calculate that UberPop charged a fare of roughly EUR 1,50 per kilometre in Berlin and EUR 1,70 in Hamburg. The OVG Hamburg calculated that for UberBlack, passengers were charged roughly EUR 1,95. This does not even include the so called "initial charge". Thus, the Courts established that these fares exceeded the actual operational costs considerably.⁵⁷² Moreover, it was held that although general terms and conditions included a potential agreement to provide transportation free of charge, such an agreement was only possible after transport had been provided. At this point, a passenger had already been charged by Uber, so that a reimbursement would only be possible with great difficulty. Besides, originally transportation was agreed to be provided against charge.⁵⁷³

IV.1.2.2 General Road Traffic Regulations

Ridesharing service providers must comply with general road traffic law – in particular with StVG, StVO and the Administrative Guidance to the StVO (*Allgemeine Verwaltungsvorschrift zur Straßenverkehrs-Ordnung*) – and with road traffic insurance law – in particular PflVG.

With respect to insurance of ridesharing, it is again important to stress the point that an insurance policy holder who transports passengers on a commercial basis has to inform his insurance about that. Otherwise, damages caused during commercial transportation may not be covered by the insurance. In this context, German courts held that the ridesharing service provider himself is responsible for sufficient insurance of the vehicles used to carry out the services. This shall even be the case if the vehicle is not owned by

⁵⁷¹ German Constitutional Court (Bundesverfassungsgericht), decision 7 April 1964, 1 BvL 12/63, juris, at 24, 29, 32.

⁵⁷² see OVG Hamburg, decision 24 September 2015, 3 Bs 175/14, juris, at 12; OVG Berlin-Brandenburg, decision 10 April 2015, OVG 1 S 96.14, juris, at 26; LG Frankfurt, decision 18 March 2015, 3/8 O 136/14, juris, at 79.

⁵⁷³ See LG Frankfurt, decision 18 March 2015, 3/8 O 136/14, juris, at 86, 90; OVG Berlin Brandenburg, decision 10 April 2015, OVG 1 S 96.14, juris, at 49.

the service provider and if the driver is not employed by the service provider. Inter alia with reference to this fact, several courts held ridesharing services (particularly UberPOP) to be unlawful since the service providers did not have an insurance covering passenger transport on a commercial basis.⁵⁷⁴

IV.1.2.3 Legislative proposals with respect to ridesharing

There is no legislative proposal for a separate German ridesharing law. The Monopolies Commission of the Bundeskartellamt though, in its 2014 monopoly report, favours a deregulation of the taxi market allowing for more competition between taxi and innovative forms of passenger transport by motor vehicles such as ridesharing services but also transports by vehicles with driver (for information on barriers to competition in this market see s. IV.2 and s. V.).

IV.2.1 Rules applicable to on-line ridesharing (carpooling) platforms

Ridesharing intermediaries who merely match drivers and passengers without running the transport business themselves and without entering into a passenger transport contract are not covered by PBefG and BOKraft or by a separate legal framework.

However, there are some general provisions in relation to online platform services which also apply to ridesharing IT providers, such as the Telemedia Act (*Telemediengesetz*, "TMG") which implements Directive 2007/65/EC and establishes requirements for online platforms and service providers, namely regarding information and data protection. IT operators often use general terms and conditions for contracts with customers, also provisions of the German Civil Code BGB governing such general terms and conditions do apply.

IV.2.2 Rules applicable to ridesharing service providers

IV.2.2.1 Regulations on passenger transport

If a ridesharing service falls within the scope of the PBefG (s. IV. 1.2.1), a licence has to be obtained in accordance with the provisions of this Act. In this respect, several questions have arisen. First, it has to be clarified who needs the licence according to the PBefG: the driver (or his employer if there is one) or the ridesharing service provider itself.

According to German jurisdiction, in the event that a ridesharing service provider enters into the contract for transport with the passenger – beyond the mere mediation/facilitation – and influences the price of the transport, he is considered to run a passenger transport business himself and thus has to obtain a licence pursuant to PBefG.⁵⁷⁵ This shall be the case irrespectively of the status of the driver/the company carrying out the transport. Even if a driver/operator holds a licence pursuant to the

⁵⁷⁴ c.f. LG Frankfurt, decision 18 March 2015, 3-8 O 136/14, juris, at 112 et seq.; OVG Berlin Brandenburg, decision 10 April 2015, OVG 1 S 96.14, juris, at 48 et seq.; OVG Hamburg, decision 24 September 2014, 3 Bs 175/14, juris, at 17 et seq.

⁵⁷⁵ OLG Celle, decision 30 July 2015, 13 U 57/15, juris, at 14; LG Hamburg, decision, decision 15 September 2015, 312 O 225/15, juris, at 42; OVG Hamburg, decision 24 September 2015, 3 Bs 175/14, juris, at 14; OVG Berlin-Brandenburg, decision 10 April 2015, OVG 1 S 96.14, juris, at 28.

PBefG, the service-provider shall be obliged to apply for a licence for passenger transport itself.⁵⁷⁶

Hence, for example several companies affiliated to Uber (in particular Uber Technologies, Uber Inc. and Uber B.V.) were required to hold a licence for passenger transport pursuant to the PBefG. Since passengers had to enter into a contract with Uber, terms and conditions like fares were set by Uber and because passengers had to pay the transport fee directly to Uber, Uber was deemed to provide passenger transport against payment itself via its services UberPOP (providing transportation by private cars) and UberBlack (providing transportation by holders of a licence for passenger transport by hired vehicles with driver).⁵⁷⁷

Additionally, courts held that also the respective driver performing the transport service procured via UberPOP needs to obtain a licence under PBefG, otherwise he commits an administrative offence.⁵⁷⁸ Secondly, it has to be clarified which are the licensing criteria that a ride-service provider has to comply with according to PBefG.

Innovative service providers can only claim a right to obtain the necessary licence only if they offer a type of transport service which be categorised as one of the admissible types of occasional passenger transport by motor vehicles which are listed in Sec. 46 para. 2 PBefG and if they can comply with all respective legal requirement for this type of service. The admissible types of occasional passenger transport by motor vehicles listed in Sec. 46 para. 2 PBefG are taxi (no. 1), excursions and long-distance trips (no. 2) and transport by hire cars with drivers and rental buses (no. 3).

However, according to Sec. 2 para. 6 PBefG, competent authorities are allowed to issue authorisation for occasional passenger transport services mixing up several types of admissible forms of occasional passenger transport if public traffic interests do not oppose to such licence. Moreover, according to Sec. 2 para. 7 PBefG, local authorities can grant licence as exception from PBefG for the purpose of testing of new means of transport. However, until now competent authorities have been reluctant to apply these exemption clauses and have regularly (pointing at public interests) refused to issue licences pursuant to Sec. 2 para. 6 and 7 PBefG.⁵⁷⁹

On grounds of Sec. 46 para. 2 PBefG and its categorization of the forms of occasional passenger transport, ridesharing service providers regularly cannot obtain a licence. On the one hand, ridesharing services cannot be licensed as taxi traffic because the requirements of Sec. 47 PBefG are not fulfilled; in particular, service providers do not mark their cars as taxis and do not hold the vehicles ready at publicly registered stations as required in Sec. 47 para. 1 PBefG; moreover, there is no obligation for the driver to carry.⁵⁸⁰

⁵⁷⁶ LG Frankfurt, decision 18 March 2015, 3-8 O 136/14, juris, at 112 et seq.

⁵⁷⁷ OVG Hamburg, decision 24 September 2015, 3 Bs 175/14, juris, at 14; OVG Berlin-Brandenburg, decision 10 April 2015, OVG 1 S 96.14, juris, at 28; see LG Frankfurt, 18 March 2015, 3/8 O 136/14, juris, at 98.

⁵⁷⁸ OVG Hamburg, decision 24 September 2015, 3 Bs 175/14, juris, at 11; OVG Berlin Brandenburg, decision 10 April 2015, OVG 1 S 96.14, juris, at 21; Alexander/Knauff, GewArch 2015, 200 (203).

⁵⁷⁹ OVG Hamburg, decision 24 September 2015, 3 Bs 175/14, juris, at 16.

⁵⁸⁰ OVG Hamburg, decision 24 September 2015, 3 Bs 175/14, juris, at 15; OVG Berlin Brandenburg, decision 10 April 2015, OVG 1 S 96.14, juris, at 42 et seq.; High Court Berlin (*Kammergericht Berlin*, "KG Berlin"), decision 11 December 2015, 5 U 31/15, juris, at 50.

On the other hand, ridesharing services are not allowed as hire car with drivers as well as because drivers regularly do not return to the place of business after transport as set out in Sec. 49 para. 4 sentence 3 PBefG⁵⁸¹. Moreover, as with respect to UberBlack, German courts held that the duty of hire cars with driver to receive transport requests only at their places of business was circumvented if trip requests by passengers were automatically forwarded from the company's place of business to the driver in Germany without an actual person getting involved in the forwarding process at the place of business.⁵⁸²

In this context, courts held that differences between taxi services and hire cars with driver must not be blurred and that exceptions to that principle cannot be interpreted too broadly. Hence, UberBlack's services were not acknowledged as being admissible as hire cars with drivers.⁵⁸³

Because of this decision, Uber and other ridesharing service providers mostly withdrew from passenger transport market in Germany (see also s. IV.3). Anyway, courts have held that current requirements by the PBefG are in conformity with German constitutional law, namely the right of freedom to engage in an occupation laid down in Art.12 German Constitution, because they were necessary to protect higher public interests.⁵⁸⁴

However, it has been questioned and is currently subject to debate in Germany whether all requirements of the PBefG, in particular Sec. 49 PBefG, still adequately reflect technological advances and today's needs for ensuring safe transport of passengers.⁵⁸⁵

IV.2.2.2 Other Regulations applicable to ridesharing services

If a ridesharing service falls within the scope of PBefG (see s. IV.1.2.1), it is not only necessary to obtain a licence in accordance with provisions of PBefG. Moreover, all relevant provisions of BOKraft and general traffic laws must be observed and drivers need a special driving licence covering passenger transport pursuant to Sec. 48 FeV (s. II.7).

Taking these provisions into account, several German courts have already held that certain ridesharing services (UberPOP which acts with private cars and drivers) were unlawful as the service provider did not fulfil the requirements of Sec. 42 para. 1 BOKraft (technical assessment of vehicles) and Sec. 48 FeV.⁵⁸⁶

⁵⁸¹ OVG Berlin-Brandenburg, decision 10 April 2015, OVG 1 S 96.14, juris, at 46; KG Berlin, decision 11 December 2015, 5 U 31/15, juris, at 50 and at 56.

⁵⁸² KG Berlin, decision 11 December 2015, 5 U 31/15, juris, at 63 et seq.; OVG Berlin Brandenburg, decision 10 April 2015, OVG 1 S 96.14, juris, at 45.

⁵⁸³ see Sec. 49 para. 4 sentence 3 PBefG, see above at III.4; see KG Berlin, decision 11 December 2015, 5 U 31/15, juris, at 59 et seq.; LG Berlin, decision 11 April 2014, 15 O 43/14, juris, at 68; OVG Berlin-Brandenburg, decision 10 April 2015, OVG 1 S 96.14, juris, at 39; Wimmer/Weiß, in: MMR 2015, 80 (84 et seq.).

⁵⁸⁴ KG Berlin, decision 11 December 2015, 5 U 31/15, juris, at 99; OVG Berlin-Brandenburg, decision 10 April 2015, OVG 1 S 96.14, juris, at 55; OVG Hamburg, decision 24 September 2015, 3 Bs 175/14, juris, at 17.

⁵⁸⁵ e.g. KG Berlin, decision 11 December 2015, 5 U 31/15, juris, at 110; Ingold, NJW 2014, 3334 (3339); Linke, NVwZ 2015, 476 (479); König, BB 2015, 1095 (1098 et seq.); XXth Main Report by the Monopolies Commission 2014, pages 117, 121, 123, 124, 127.

⁵⁸⁶ LG Frankfurt, decision 18 March 2015, 3/8 O 136/14, juris, at 114; OVG Berlin-Brandenburg, decision 10 April 2015, OVG 1 S 96.14, juris, at 6 et seq.

IV.3 Main operators and their business models

IV.3.1 Ridesharing intermediaries

Examples for ridesharing intermediaries operating in Germany are **BlaBlaCar** (www.blablacar.de, Comuto Société Anonyme), **drive2day** (run by Tassilo Pilati, www.drive2day/mitfahren.de) or **finc** (finc GmbH, www.finc.org). According to their respective terms and conditions, none charge a commission for the use of their platforms. Drivers may only charge passengers a fare to cover operational costs.⁵⁸⁷

The only intermediary which charged commission was the German Carpooling.com GmbH, (www.mitfahrgelegenheit.de), which was acquired by BlaBlaCar.

IV.3.2 Real-time ridesharing

Most prominent examples of real-time ridesharing in Germany are **Uber**, **Wundercar** (WunderCar Mobility Solutions GmbH, www.wunder.org), **myDriver** (MD Digital Mobility GmbH & Co. KG, www.mydriver.com) and **Blacklane** (Blacklane GmbH, www.blacklane.com).

Uber offered several services in some German cities including UberPop (offering transports with private drivers in their private car), UberTaxi (offering taxi agency services), UberX, UberBlack UberSUV, UberLUX (offering commercial transports with different special vehicle types) and UberPool (sharing of transport with UberX). In Germany, Uber services used to be available in Frankfurt, Hamburg, Düsseldorf, Berlin and Munich. However, due to legal disputes Uber withdrew from most areas and, according to their website, currently only offers its services UberX, UberBlack, UberSUV, UberLUX in Berlin and UberX, Van and UberBlack in Munich.

WunderCar had a similar business model to Uber. After administrative orders by local authorities in Hamburg and media pressure WunderCar changed its business model in a way that it only suggested recommendations for transports whose costs did not exceed the operating costs. However, WunderCar currently does no longer operate in Germany but now solely focuses on Eastern Europe.⁵⁸⁸

Blacklane currently operates in several German cities, i.e. Berlin and Cologne. According to the terms and conditions provided on their website, Blacklane operates as intermediary for hire cars with drivers which can be booked for transfers or hourly and a wide range of often very upscale limousines are available. Blacklane cooperates with Daimler Mobility Services GmbH, which is also involved in Car2go Deutschland GmbH.⁵⁸⁹

⁵⁸⁷ <https://www.blablacar.de/news/allgemeine-geschaeftsbedingungen>; <https://finc.org/terms>;
<http://www.drive2day.de/agb>.

⁵⁸⁸ Zeit Online, "Nicht zu bremsen", published 7 May 2015, <http://www.zeit.de/2015/18/start-up-wundercar-erfolg>.

⁵⁸⁹ "Daimler und der Limousinen-Service-Blacklane", published 17 December 2013.
<http://www.sueddeutsche.de/wirtschaft/daimler-und-der-limousinen-service-blacklane-vorbild-maschmeyer-1.1845793>.

IV.3.3 Operators in car sharing

IV.3.3.1 Station-based car sharing

The most important examples for station-based car sharing service providers are **DB Rent GmbH** ("Flinkster"), **Cambio Mobilitätsservice GmbH & Co. KG** ("Cambio"), different companies running the brand "Stadtmobil" and **CC Unirent System GmbH** ("CC Rent a Car").

The DB Rent GmbH, which is part of Deutsche Bahn AG, offers car sharing services under the brand Flinkster. Flinkster is mainly a station-based provider but also provides free-floating services. It also cooperates with other car sharing companies to provide a wider range of services for their customers, for example with multicity, Car2Go and CC Rent a Car. Some of the cars are electric cars ("**e-Flinkster**").⁵⁹⁰

Cambio was founded in 2000 by several local car sharing companies in Aachen, Bremen and Cologne. Today, it operates in 19 German cities. Terms and conditions vary in the different cities, i.e. rates, range of cars or the duration of the rental. Cambio charges a monthly fee as well as an hourly rate for the usage of a car, which depends on the time of day and length. The cars have to be returned to their original parking station. They have to be rented for at least an hour; the maximum rental period is 30 days.⁵⁹¹

Stadtmobil⁵⁹² is a group of local car sharing companies under a common brand. There are independent car sharing companies in different towns, i.e. Stadtmobil Berlin GmbH or Stadtmobil Hannover GmbH. Terms and conditions vary. Some of them have started offering free-floating services.

CC Rent a Car⁵⁹³ is operated by CC Unirent System GmbH. It is a franchise system that initially focused on renting out cars. Currently, it also offers car sharing services. It cooperates with other companies, such as Flinkster.

IV.3.3.2 Free-floating car sharing

The idea behind free-floating car sharing is that customers want one-way car sharing, thus they do not want to return a car to the place where they picked it up.

The conditions of this business model are alike in most companies: a first-time customer who wants to use the services has to register with the company and pick up a customer card at a store. This card or an app functions as a "key" to the cars. Any free car can be used spontaneously. The customer can also use an app or call a hotline to find or reserve a car. The customer can usually finish the car sharing session by parking the car in a free, unlimited public parking spot within the designated area of business and logging out. Most companies are limited in range, so it is not possible to leave a car behind

⁵⁹⁰ <https://www.flinkster.de/>.

⁵⁹¹ <https://www.cambio-car-sharing.de/>.

⁵⁹² <https://www.stadtmobil.de/>.

⁵⁹³ <https://www.cc-rentacar.com/>.

outside of a certain area, usually the outskirts of town. The customer is charged per minute, special rates and deals exist. The customer is insured and usually does not have to pay for parking tickets, fuel or taxes.

Most of car sharing companies cooperate with car manufacturers and cars provided are exclusively by that brand. There are also co-operations with (local) public transport, energy suppliers or both, see below at s. IV.5.1, i.e. the cooperation *ColognE-mobil* between a municipality, university and energy supplier.

DriveNow GmbH & Co. KG ("DriveNow") was founded in 2011 by BMW and Sixt. It provides free-floating car sharing services in five German cities as well as in a couple of cities abroad. Today, it is the biggest provider of car sharing services in Germany. DriveNow offers a range of BMWs, some of them are electric cars. DriveNow also offers special rates and deals, for example the pre-booking of minutes or a skiing deal containing car sharing and skiing-passes. The customer can book special services with an app, some of which cost extra, like the pre-heating of a car.

Car2go Deutschland GmbH ("Car2Go") is a partnership between Daimler AG via their company Daimler Mobility Services GmbH and the car rental company Europcar Autovermietung GmbH. It operates in seven German cities as well as abroad. The concept is similar to the one of DriveNow: the customer has to download an app and register at a shop. The app is used to find, reserve, open, rent and park a car. There are designated Car2Go parking spots, but it is also possible to park in a free public parking spot. Fees for parking have to be paid by the customer. Rates are per minute. Usually, everything is included in that. Special rates and deals are available. It cooperates with Flinkster.

Multicity by Citroen Deutschland GmbH solely operates in Berlin. All cars are electric cars. Multicity cooperates with Flinkster, so that their customers can also use Flinkster cars, e-Flinkster cars and "Call a bike" bikes.

IV.4 Requirements imposed upon non-licensed activities

Passenger transport which falls under the PBefG and is performed without the licence is not permitted and constitutes an administrative offence.⁵⁹⁴

IV.5 Local incentives, subsidies and other forms of promotion for ridesharing and car sharing

IV.5.1 Car sharing

First, local authorities can grant exceptional commercial licences pursuant Sec. 46 para. 1 number 4 a StVO and Sec. 46 para. 2 StVO for areas where a parking fee has to be paid. However, this is only useful for free-floating-business models. For example, Munich practices this system. Moreover, local authorities can grant special usage licence to car sharing service providers in exchange for services of the car sharing service provider (such as maintenance, collection of fares and promotion of parking space) in

⁵⁹⁴ See ss. IV.2 and s. V, i.e. OVG Hamburg, decision 24 September 2015, 3 Bs 175/14, juris, at 38; OVG Berlin-Brandenburg, decision 10 April 2015, OVG 1 S 96.14, juris, at 19.

public contracts. Local authorities can also rent out parking space to car sharing service providers. An example for this is also Munich, City Munich/City Administration of Berlin (*Landeshauptstadt München sowie Senatsverwaltung für Stadtentwicklung und Umwelt Berlin*), which has published a guideline to car sharing and electromobility.⁵⁹⁵ The guideline was published as part of the Wimobil project. The Wimobil project is supported by the Federal Ministry of Environment, Nature Conservation, Building and Nuclear Safety (*Bundesministerium für Umwelt, Naturschutz, Bau und Reaktorsicherheit "BMUB"*). It is a co-operation between the Cities of Munich and Berlin, Bayerische Motoren Werke AG, DB Rent GmbH, the Bundeswehr University Munich and the German Aerospace Center to research the combination of car sharing and electromobility.

Furthermore, an authority can partially withdraw certain parking spaces from public use or designate parking spots for car sharing service providers in development plans.⁵⁹⁶

Bremen, for example, issued a local ordinance governing the creation of parking spots for cars (*Ortsgesetz über die Gestaltung der Stellplätze für Kraftfahrzeuge in der Stadtgemeinde Bremen*) which privileges car sharing and according to which fewer parking spots have to be created if a mobility concept exists which can encompass the establishment or integration of car sharing-stations.

Additionally, there have been several schemes and projects by Federal Ministries to factual facilitate car sharing. For example, BMUB supports several projects concerning car sharing and the research and use of electric cars. One of the projects is WiMobil⁵⁹⁷. WiMobil was a research project which ran from 2012 until 2015 in cooperation with the City of Munich and Berlin, BMW, DB Rent GmbH, the German Bundeswehr, the University of Munich and the German Aerospace Center. It researched the possibilities to combine car sharing and "electric mobility" with a special focus on the current situation in Berlin and Munich.⁵⁹⁸

The WiMobil project also published a guideline for local governments concerning car sharing and electro mobility which stresses that insecurity about the legal background of car sharing is still an obstacle. It concludes that public subsidies for the construction of recharging stations may be necessary, but legally problematic. The guideline demonstrates different pilot models of car sharing in Munich and Berlin. Different systems for creating parking spots and for fares were tried out.⁵⁹⁹

The BMUB has also been running a share project from 2012 until February 2016 in co-operation with the Eco-Institute e.V. for applied ecology (Öko-Institut e. V. für angewandte Ökologie) and the Institute for social-ecological research GmbH (Institut für

⁵⁹⁵ Guideline to Car sharing and Electro Mobility for local authorities, 2015, page 33 et seq.

⁵⁹⁶ for an overview about the different possibilities and current practices, see at IV.5 and City Munich/City Administration of Berlin (Landeshauptstadt München sowie Senatsverwaltung für Stadtentwicklung und Umwelt Berlin), Guideline to Car-sharing and Electro Mobility for local authorities, 2015, p. 24

⁵⁹⁷ <http://www.erneuerbar-mobil.de/de/projekte/foerderung-von-vorhaben-im-bereich-der-elektromobilitaet-ab-2012/ermittlung-der-umwelt-und-klimafaktoren-der-elektromobilitaet/wimobil> as of 11 January 2016.

⁵⁹⁸ Its final conclusion can be found in the report by City Munich/City Administration of Berlin, Guideline to Car-sharing and Electro Mobility for local authorities, 2015, page 26 et seq., available at <http://www.erneuerbar-mobil.de/de/projekte/foerderung-von-vorhaben-im-bereich-der-elektromobilitaet-ab-2012/ermittlung-der-umwelt-und-klimafaktoren-der-elektromobilitaet/dateien-pressematerial-etc/wimobil-leitfaden-kapitel-e-Car-sharing>.

⁵⁹⁹ City Munich/City Administration of Berlin (Landeshauptstadt München sowie Senatsverwaltung für Stadtentwicklung und Umwelt Berlin), Guideline to Car-sharing and Electro Mobility for local authorities, 2015.

sozial-ökologische Forschung GmbH) which monitors and surveys the car sharing business model car2go and their usage of electric cars.⁶⁰⁰

In addition, there are co-operations between car sharing companies and local authorities, especially local public transport, for example, **car sharingansbach by CARINA e.V.**⁶⁰¹ in cooperation with Auto- verleih Manfred Muhr is run by the Town of Ansbach in cooperation with a car rental company

Another example of local incentives promoting car sharing is ColgonE-mobil which is a project by the City of Cologne, public transport of Cologne, the energy supplier RheinEnergie, the car manufacturer Ford, a University, a local taxi company and others. The first phase of the project consisted of research regarding i.e. electric mobility. The second phase consists of the construction of cars and infrastructure. The involvement of E-car sharing is part of the agenda.⁶⁰²

IV.5.2 Electro Mobility

In 2011, the Federal Government started a promotional programme called Electromobility Showcase.⁶⁰³ Around 140 projects are being supported in four showcase regions. Federal Ministries, industry and science cooperate to test out several elements of electric mobility. One aspect is the usage of smart grids, another connection of car sharing and electric cars in the "International Showcase of Electromobility" in Berlin-Brandenburg.⁶⁰⁴

Industry associations promote car sharing and ridesharing, most notably the Bundesverband Car sharing e.V. ("bcs"). Prominent members are some of the car sharing companies of the traditional, station-based business model, i.e. Flinkster. bcs represents the interests of its members on local and national levels.⁶⁰⁵ Bsc lobbies for amendments of the StVO, in particular Sec. 6 of the StVO, which shall facilitate parking spots for station-based car sharing service providers and advocates special car sharing parking signs.

V. Relevant national case law

V.1 Car sharing

German Courts did not often address legal questions on car sharing. Since the PBefG does not apply (see above) and there is no direct competition with taxis, similar

⁶⁰⁰ see Eco-Institute e.V. for applied ecology and the Institute for social – ecological research GmbH, press release dated 31 October 2012, „What do sustainable mobility concepts look like“, <http://www.erneuerbar-mobil.de/de/projekte/foerderung-von-vorhaben-im-bereich-der-elektromobilitaet-ab-2012/begleitforschung/car2go>.

⁶⁰¹ <http://carina-ev.de/> and <http://www.car-sharingansbach.de/>.

⁶⁰² see <http://www.cologne-mobil.de/projekt.html> and http://www.rheinenergie.com/de/unternehmensportal/technik_zukunft/elektromobilitaet_1/index.php. A detailed, non-exhaustive list of more local incentives can be found at <http://www.Car-sharing-news.de>, [http://www.Car-sharing-news.de/CAR-sharing-foerderprogramm/http://www.Car-sharing-news.de/CAR-sharing-foerderprogramm/](http://www.Car-sharing-news.de/CAR-sharing-foerderprogramm/http://www.Car-sharing-news.de/CAR-sharing-foerderprogramm/http://www.Car-sharing-news.de/CAR-sharing-foerderprogramm/).

⁶⁰³ <http://schaufenster-elektromobilitaet.org/en/content/index.html>.

⁶⁰⁴ <http://www.emo-berlin.de/de/schaufenster/ueberblick/>.

⁶⁰⁵ Gruber/Scherer, Expert Review on the possibilities of public institutions to create parking spots, especially for car sharing purposes, 15 November 2013.

problems as in the ridesharing sector have not arisen. Occasionally, courts have had to deal with cases concerning terms and conditions,⁶⁰⁶ or the towing of car sharing vehicles.⁶⁰⁷

V.2 Ridesharing

Several administrative law courts had to deal with bans imposed by local authorities on UberPOP and UberBlack respectively.⁶⁰⁸

Civil law courts had to assess whether services provided by Uber violated provisions of the Act against Unfair Competition (*Gesetz gegen Wettbewerbsbeschränkungen* "UWG").⁶⁰⁹ In most cases, the claimants were consortia of taxi dispatch centres.

According to Sec. 3 para. 1 UWG, unfair business practices shall be illegal if they are suited to tangible impairment of the interests of competitors, consumers or other market participants. Unfairness shall be assumed in particular where a person infringes a statutory provision that it also intends to regulate market behaviour in the interest of market participants (Sec. 4 Nr. 11 UWG).

Whoever uses an illegal business practice pursuant to Sec. 3 UWG can be sued for removal, and in the event of the risk of recurrence, for cease and desist.⁶¹⁰ Moreover, competitors can ask for compensation for the damage arising there from Sec. 8 para. 1 sentence 1 UWG; Sec. 9 para. 1 UWG.

According to German jurisdiction, the licence requirement contained in Sec. 2 para. 1 PBefG constitutes a statutory provision pursuant to Sec. 4 No. 11 UWG because it ensures the reliability and expertise of the service providers and drivers. Moreover, it serves to protect passengers as well as road safety.⁶¹¹

Based on this provision, several civil law courts ordered Uber to refrain from mediating contracts between drivers and passengers via the platform UberPOP. They found that UberPOP was practicing unfair business practices under Sec. 3 and Sec. 4 UWG because, unlike taxi and rental car transport services, UberPOP practices did not comply with the PBefG.⁶¹²

⁶⁰⁶ Bundesgerichtshof (Federal Civil Court), decision 23 February 2011, XII ZR 101/09.

⁶⁰⁷ Verwaltungsgericht (Administrative Court) München, decision 11 March 2015, M 7 K 14.5068.

⁶⁰⁸ see for example OVG Hamburg, decision 24 September 2014, 3 Bs 175/14; OVG Berlin-Brandenburg, decision 10 April 2015, OVG 1 S 96.14 and above at Section IV.1.2.

⁶⁰⁹ LG Frankfurt, decision 18 March 2015, 3-8 O 136/14, juris, at 65 et seq.; KG Berlin, decision 11 December 2015, 5 U 31/15, juris, at 50 et seq. (non-compliance of the service providers and drivers with Sec.49 para. 4 sentence 1, 2 and 5 PBefG); LG Hamburg, decision 15 September 2015, 312 O 225/15; LG Berlin, decision dated 11 April 2014, 15 O 43/14, juris, paragraph 68.

⁶¹⁰ c.f. LG Frankfurt, decision 18 March 2015, 3/8 O 136/14, juris, at 65; KG Berlin, decision 11 December 2015, 5 U 31/15, juris, at 49.

⁶¹¹ LG Frankfurt, decision 18 March 2015, 3/8 O 136/14, juris, at 111 et seq.; OVG Berlin-Brandenburg, decision 10 April 2015, OVG 1 S 96.14, juris, at 50.

⁶¹² LG Frankfurt, 18 March 2015, 3/8 O 136/14, juris, at 79; KG Berlin, decision 11 December 2015, 5 U 31/15, juris, at 50.

Hence, LG Frankfurt imposed a nation-wide ban on UberPOP due to lack of licence pursuant to PBefG in preliminary proceedings in 2014.⁶¹³ However, this preliminary measure was repealed for formal reasons later.⁶¹⁴ LG Frankfurt, decision 16.09.2014, 2-03 O 329/14, juris, at 1. In 2015, LG Frankfurt ordered Uber to refrain from offering its UberPOP services nationwide, because of non-compliance by Uber with Sec. 3 and Sec. 4 UWG.⁶¹⁵ Uber has appealed this decision, the hearings have not commenced yet. Moreover, Uber was also ordered to refrain from using UberBlack by KG Berlin.⁶¹⁶

VI. Country Market

The market for mobility services in Germany can be divided into the following segments:

- scheduled passengers transport services (s. VI.1);
- non-scheduled passengers transport services and auxiliary services (s. VI.2); and
- hire cars with drivers and car sharing (s. VI.3).

VI.1. Scheduled passengers transport services

The Carriage of Passengers Act (*Personenbeförderungsgesetz – „PBefG“*) distinguishes between scheduled passenger transport services on the one hand and non-scheduled passenger transport services on the other hand. Similarly, the German Federal Cartel Office distinguishes between public transportation by bus and train on the one hand and public transportation by taxis and rented vehicles on the other hand, stressing the point that only in the latter cases the customer determines the time, the direction and the destination of the vehicle. Due to this flexibility and higher costs, there is no substitutability⁶¹⁷ and therefore not the same product market for scheduled and non-scheduled passengers transport services according to the Cartel Office.

VI.2 Non-scheduled passengers transport services and auxiliary services

Passenger transport by taxi, hired cars with driver and ridesharing services belong to non-scheduled passenger transport by road, which is governed by PBefG.⁶¹⁸

According to Sec. 8 para. 2 PBefG, taxis and hired cars with driver are part of public transport on roads as long as they satisfy, substitute, supplement or enhance generally accessible scheduled transport services by tram, bus and motor vehicles offered to the general public on a continuing basis and intended to meet the demand for urban, suburban and regional transport.

Non-scheduled passengers transport services and auxiliary services can be subdivided into the following segments:

- passenger transport by taxis and hired vehicles with driver (VI.2.1), containing
 - o taxis and rental cars with driver which are ordered in advance,
 - o taxis which are hailed at the side of the road, and
 - o taxi ranks.⁶¹⁹

⁶¹³ LG Frankfurt, decision 25 August 2014, 2-03 O 329/14, juris, at 3 and 6.

⁶¹⁴ LG Frankfurt, decision 16.09.2014, 2-03 O 329/14, juris, at 1.

⁶¹⁵ LG Frankfurt, decision 18 March 2015, 3/8 O 136/14, juris, at 73.

⁶¹⁶ KG Berlin, decision 11 December 2015, 5 U 31/15, juris, at 34.

⁶¹⁷ German Federal Cartel Office, decision of 15 August 2002, B 9-50/02, paragraph 9.

⁶¹⁸ Higher Regional Court Schleswig, decision of 21 March 1995, 6 U 55/94, NJWE-WettbR 1996, 26 (27).

⁶¹⁹ Twentieth Biennial Report 2012/2013 by the Monopolies Commission, p. 117.

- intermediation of passenger transport by taxi/hired car with driver (s. VI.2.2);
- ride-sharing service providers (s.VI.2.3).

VI.2.1 Passenger transport by taxis and hire cars with drivers

As indicated above, in Germany the market of passenger transport by taxis and hire cars with drivers can be subdivided into three broad segments:

- pre-booked market for taxis and hire cars with drivers;
- taxi hailing and ranks.

According to the Federal Statistical Office (Statistisches Bundesamt) taxis and hire cars with drivers are listed under the same economic sector (Nr. 49.32.0). Anyway, not every sub-segment of passenger transport by taxi and rental car with driver is open to every transport service provider to the same extent as will be shown below.

VI.2.1.1 Passenger transport by taxis hailed at the side of the road and taxi ranks

In the latter two market segments, taxis have a monopoly⁶²⁰: hired vehicles with drivers must not be held in readiness at public areas and taxi ranks and must not accept a transport order from people passing by.

From a geographic point of view, these two submarkets are normally limited to a single municipality because taxis shall only be held ready at taxi ranks or on the streets in the municipality in which the place of business of the licence holder is located (Sec. 47 para. 2 sentence 1 PBefG). However, a licensing authority may – in agreement with other authorities – determine that taxis can be held ready at authorised places outside the municipality in which the place of business is located and may determine a larger district (Sec. 47 para. 2 sentence 3 PBefG). Only if such administrative decisions were taken, the geographic market boundaries may exceed the boundary of a single municipality.

VI.2.1.2 Passenger transport by taxis and hire cars with drivers which are ordered in advance

In contrast to the above-mentioned two submarkets, the pre-booked market is also available for hire cars with drivers. In addition, innovative passenger transport service providers, such as Uber, have tried to enter the market of pre-booked non-scheduled passenger transport services. In this context, they can – theoretically – even apply for a licence for occasional passenger transport services mixing up several types of admissible forms of non-scheduled passenger transport or apply for exceptions from PBefG for testing of new means of transport. However, until now competent authorities have been reluctant to apply these exemption clauses and have regularly (pointing at public interests) refused to issue such licences for innovative service providers.⁶²¹

In the pre-booked segment, transport by taxis as well as by hire cars with drivers is larger than the municipality since the transport may be ordered by prior request from other municipalities. The geographic market is therefore often larger than the

⁶²⁰ According to the Monopolies Commission, car sharing services do not compete with taxis hailed at the side of the road or taxi ranks yet. However, it is predicted that this may change soon, see Twentieth Biennial Report 2012/2013 by the Monopolies Commission, page 122, Footnote 272.

⁶²¹ OVG Hamburg, decision 24 September 2015, 3 Bs 175/14, juris, at 16, declared such administrative decision to be lawful.

municipality in which the taxi or rental car is based and therefore rather a regional market.

However, there are some restrictions to the booking of hire cars with drivers' services: in particular, the entrepreneur of a transport licence by hire cars with drivers must receive transport orders at the operator's place of business or residence. Moreover, hire cars with drivers have the obligation to return to the place of business or residence right after finishing the transport (return obligation "Rückkehrpflicht"). It has been argued that the obligation of hired vehicles with drivers to return to their place of business before accepting another order is an obstacle to free competition between pre-ordered taxis and pre-ordered hired vehicles with driver.

VI.2.2 Intermediaries

Another relevant market related to non-scheduled passenger transport is the intermediation of passenger transport orders. According to German jurisdiction, the distribution of taxi orders is an independent product market.⁶²² The same approach has been followed by the Federal Statistical Office for which dispatch centres are a separate economic sector (No. 52.21.9).

In Germany, taxi companies can join a dispatch centre (colloquially often referred to as taxi central office or taxi cooperative). Most self-employed taxi drivers and independent taxi companies are affiliated to dispatch centres. For example, according to a current information provided by the regional dispatch centre of Nuremberg (*Taxi-Zentrale Nürnberg e.G.*), only three of overall 500 taxis licensed for Nuremberg are not associated with the regional dispatch centre. Similarly, in the City of Dresden, only four taxi companies are not associated with the regional dispatch centre (*Dresdner Taxigenossenschaft e.G.*). According to an assessment of the German Federal Association of Taxi and Hire-Car Companies (*Deutscher Taxi- und Mietwagenverband e. V.*) about 85 % of the 53,554 taxis registered in Germany are members in one of the 500 dispatch centres.⁶²³ In addition, the Monopolies Commission concludes that even if taxi drivers are not obliged to join a dispatch centre in Germany, a membership in such cooperative is often necessary to get access to customers, particularly in rural areas.⁶²⁴

The dispatch centres are traditionally organised regionally. In some cities, there is only a single dispatch centre. Therefore, they have a dominant position or a monopoly, especially in rural areas and small towns. According to the jurisdiction, the dispatch centres are normally considered as having a dominant market position with reference to their market shares.⁶²⁵ In addition, the Monopolies Commission concludes that – from a competition policy perspective – a significant dominance of dispatch centres in the market of taxi agency services has to be acknowledged. An assessment of the Federal Cartel Office concluded that an oligopoly-like or even monopoly-like structure has to be assumed in this market in several German regions. Economically independent taxi companies or self-employed may thus easily become dependent from regional taxi dispatch centres.⁶²⁶

⁶²² Higher Regional Court of Düsseldorf, decision of 20 September 2007, VI-W (Kart) 6/07, juris, para 31.

⁶²³ Special survey of 31 December 2012 by Federal Ministry of Traffic, Construction and City Development, p. 6.

⁶²⁴ Twentieth Biennial Report 2012/2013 by the Monopolies Commission, p. 125.

⁶²⁵ For example: Federal High Court of Justice, decision of 28 June 1977, KVR 2/77, juris, paragraph 10; Higher Regional Court of Düsseldorf, decision of 20 September 2007, VI-W (Kart) 6/07, juris, paragraph 15; district court of Düsseldorf, decision of 19 February 2013, 14c O 238/12, juris, paragraph 23 (81 % market shares); Higher Regional Court of Nuremberg, decision of 22 January 2016, 1 U 907/14, juris parag 75, 76.

⁶²⁶ Monopolies Commission, Biennial Report XX, "A competitive Order for the Financial Markets", 9 July 2014, pages 124 et seq., http://www.monopolkommission.de/images/PDF/HG/HG20/HG_XX_gesamt.pdf.

With regard to taxi agency services, the market entry of innovative companies offering taxi agency services via smart-phone apps has recently generated alternatives to existing dispatch centres for many taxi operators and drivers for the first time. These new providers (as e.g. Mytaxi) enable a client to order a taxi via smart-phone app directly with the taxi driver while bypassing established taxi dispatch centres. The geographic scope of these smartphone apps varies. Whereas some apps can be used in all regions of Germany (sometimes even in other countries), other apps such as Mytaxi only cover some of Germany's bigger cities.

VI.2.3 Ridesharing

Ridesharing intermediaries where drivers only charge a fare to cover the operational costs and agencies only demand a moderate intermediation fee – such as BlaBlaCar – are not subject to the PBefG. Therefore, they must be distinguished from real-time ridesharing service providers such as Uber, Wundercar, myDriver and Blacklane, which are subject to the PBefG.

Courts held that transport by real-time ridesharing service providers could not be permitted as transport by taxi or rental car and administrative authorities have been reluctant to grant exemptions⁶²⁷. Therefore many market players withdrew from the German market.

VI.3 Car sharing

In Germany, car sharing in terms of "short-time-car-rental" is not regarded as an element of public services. Hired cars without drivers are listed under economic sector No. 71.11.0 by the Federal Statistical Office. No special number is allocated for car sharing service providers.

Car sharing services do not fall under the scope of the PBefG. In addition, car sharing contains no passenger transport service, the customer drives the vehicle himself instead. According to our assessment, it is therefore unlikely that car-sharing services fall within the same product market than passenger transport by taxi, hire car with driver or ridesharing services. However, this has not been confirmed in judicial or administrative decisions so far.

The geographic market can be defined as the federal territory of Germany and there is in principle a German-wide competition between car sharing companies. Free-floating services, however, actually concentrate on eight German cities that have more than 750,000 inhabitants.

VII. Market players

VII.1 Taxi and hire car with driver services

- Taxis

According to a report of the Federal Ministry of Traffic, Construction and City Development from 2012 there were 21.751 valid taxi licenses throughout Germany in 2012, which is a decline from 667 licenses compared to 2008:⁶²⁸

⁶²⁷ Higher Regional Court of Celle, decision 30 July 2015, 13 U 57/15; District Court of Hamburg, decision 15 September 2015, 312 O 225/15; Higher Administrative Court Hamburg, decision 24 September 2015, 3 Bs 175/14; Higher Administrative Court Berlin-Brandenburg, decision 10 April 2015, OVG 1 S 96.14.

⁶²⁸ Special survey of 31 December 2012 by Federal Ministry of Traffic, Construction and City Development, p. 6.

Federal state	2008	2012	Change
Baden-Wuerttemberg	1.860	1.746	- 6,1 %
Bavaria	3.906	3.972	+ 1,7 %
Berlin	3.154	3.001	- 4,9 %
Brandenburg	495	383	- 22,6 %
Bremen	328	316	- 3,7 %
Hamburg	2.093	2.150	+ 2,7 %
Hesse	2.044	2.028	- 0,8 %
Mecklenburg-Vorpommern	416	323	- 22,4 %
Lower Saxony	861	1.008	+ 17,1 %
North Rhine-Westphalia	4.432	4.179	- 5,7 %
Rhineland-Palatinate	585	573	- 2,1 %
Saarland	164	153	- 6,7 %
Saxony	1.000	872	- 12,8 %
Saxony-Anhalt	280	225	- 19,6 %
Schleswig-Holstein	600	642	+ 7,0 %
Thuringia	200	180	- 10,0 %
Total	22.418	21.751	- 3,0 %

Most taxi companies were "one vehicle-companies":

	2008	2012	Change
Company without a self-owned vehicle	107	191	+ 78,5 %
Company with one vehicle	16.144	15.685	-2,8 %
Company with two vehicles	3.092	2.702	-12,6 %
Company with three or more vehicles	3.075	3.172	+3,2 %
Vehicles in total	49.992	53.554	+ 7,1 %

Due to this structure, it is unlikely that there are dominating players within a regional market, though, of course, that might be different in special cases (particularly in rural areas). Newcomers who want to enter the taxi market, however, may encounter difficulties because of the possibility of the competent authorities to limit the number of licenses and the "first come first serve" principle applied by the German authorities.

- Hire cars with driver

With reference to companies offering hire car with driver services, the situation is different. According to the above-cited report of the Federal Ministry of Traffic, Construction and City Development the corresponding figures for the issue of licenses for hire car with driver services show an increase from 2008 to 2012 by 667 companies:⁶²⁹

Federal states	2008	2012	Change
Baden-Wuerttemberg	968	1.005	+ 3,8 %
Bavaria	1.267	1.407	+ 11,0 %
Berlin	284	305	+ 7,4 %
Brandenburg	364	400	+ 9,9 %
Bremen	31	33	+ 6,5 %
Hamburg	54	74	+ 37,0 %
Hesse	733	795	+ 8,5 %
Mecklenburg-Vorpommern	214	210	- 1,9 %
Lower Saxony	594	753	+ 26,8 %
North Rhine-Westphalia	1.392	1.526	+ 9,6 %
Rhineland-Palatinate	468	500	+ 6,8 %
Saarland	65	67	+ 3,1 %
Saxony	600	631	+ 5,2 %
Saxony-Anhalt	256	270	+ 5,5 %
Schleswig-Holstein	212	163	- 23,1 %
Thuringia	262	292	+ 11,5 %
Total	7.764	8.431	+ 8,6 %.

Most companies conducting transport services by hired cars with driver were "one vehicle-company" as well:

	2008	2012	Change
Company without a self-owned vehicle	120	191	+59,2 %
Company with one vehicle	3.610	3.532	-2,2 %
Company with two vehicles	1.657	1.793	+8,2 %

⁶²⁹ Special survey of 31 December 2012 by Federal Ministry of Traffic, Construction and City Development, p. 9.

Company with three or more vehicles	2.377	2.915	+22,6 %
Vehicles in total	29.898	35.955	+20,3 %

Finally, it has to be noted that some companies offer taxi services as well as transport services by hire cars with driver (see also Sec. 46 para. 3 PBefG). According to the report of the Federal Ministry of Traffic, Construction and City Development, in 2012 there were 1.293 companies which offered both services throughout Germany (this is a decrease of 8,9 % compared to 2008). Vehicles used for both services only added up to 3,6 % of all licensed vehicles (2012 = 3.291 vehicles from 92.800 vehicles in total).

VII.2 Intermediaries

As already stated above, dispatch centres traditionally work on a regional basis and often there is only one centre per municipality or region. In total, there are about 500 dispatch affiliation centres in Germany. The largest dispatch affiliation centre (*Taxi Berlin TZB GmbH*) offers its services in the German capital Berlin. Taxi Berlin TZB GmbH has more than 15,000 members with approximately 5,500 vehicles.⁶³⁰

In 2009, Mytaxi was the first smart phone-application for establishing a direct connection between drivers and passengers and thus started a competition to traditional dispatch centres. Up to now, the Mytaxi-App was downloaded more than 10 million times; around 45,000 taxis (which represents more than 40 % of all German taxis) are associated with Mytaxi.⁶³¹ Mytaxi now operates in 40 cities (mostly in Germany, some in other European countries).

Often, traditional dispatch centre services trigger significantly higher costs for taxi drivers than innovative taxi agency services which regularly do not operate on basis of a monthly fixed rate but on a commission basis or even free of charge. However, these innovative taxi agency services mostly focus on the bigger cities so far. According to a recent poll, the share of taxi rides mediated via smart-phone apps amounts only to 2 % to 3 % of the entire radio taxi market. Looking at the entire taxi market, the share of taxi rides mediated via innovative taxi agency services does not even exceed approximately 0,4 % percent.⁶³² Nevertheless, in some bigger cities (as i.e. Cologne) traditional and innovative taxi agency service providers as well as taxi drivers associated to the different systems have entered into a tough fight for market shares and access to taxi stands on private ground (as i.e. on property of the German railway company Deutsche Bahn AG which owns several premises in front of train stations).

Apart from Mytaxi, other online taxi agency service providers have entered the market recently. For example, there is a nationwide cooperative (*Taxi Deutschland Servicegesellschaft für Taxizentralen eG*) which developed a smart-phone app for taxi agency services which is by now available throughout Germany and free of charge to members of established taxi dispatch centres. In addition, there is a cooperative of taxi dispatch centres with a private company (*fms systems GmbH*) which also provides a smart phone app for taxi agency services (taxi.eu).

⁶³⁰ According to the City of Berlin: <http://www.berlin.de/special/auto-und-motor/adressen/taxi/taxi-berlin-4f143c20b4fc475f0bdb4a00.html> (last accessed on 29 March 2016).

⁶³¹ <https://de.mytaxi.com/jobs/ueber-mytaxi.html>.

⁶³² C.f. IFAK Institute, Client satisfaction with taxi-companies in Germany, 2014, page 11, <http://www.bzp.org>.

VII.4 Ridesharing

Examples for ridesharing service providers in Germany whose online platforms function as mere mediators between driver and passenger are **BlaBlaCar, drive2day, or flinc**. According to their respective terms and conditions, none charges a commission for the use of their platforms. Drivers may only charge passengers a fare to cover operational costs.

Most prominent examples of real-time ridesharing in Germany are Uber, Wundercar (WunderCar Mobility Solutions GmbH, myDriver and Blacklane.

Uber offered several services in some German cities including UberPop (offering transports with private drivers in their private car), UberTaxi (offering taxi agency services), UberX, UberBlack UberSUV, UberLUX (offering commercial transports with different special vehicle types) and UberPool (sharing of transport with UberX). In Germany, Uber services used to be available in Frankfurt, Hamburg, Düsseldorf, Berlin and Munich. However, due to legal disputes, it withdrew from most areas and, according to their website, currently only offers its services UberX, UberBlack, UberSUV, UberLUX in Berlin and UberX, Van and UberBlack in Munich.

WunderCar had a similar business model to Uber. After administrative orders by local authorities in Hamburg and media pressure WunderCar changed its business model in a way that it only suggested recommendations for transports whose costs did not exceed the operating costs. However, WunderCar currently does no longer operate in Germany but now solely focuses on Eastern Europe.

Blacklane currently operates in several German cities, i.e. Berlin and Cologne. According to the terms and conditions provided on their website, Blacklane operates as a mediator against commission and does not offer transportation services. However, cars with drivers can be booked for transfers or for hours and a wide range of often very upscale limousines are available. Blacklane cooperates with Daimler Mobility Services GmbH, which is also involved in *Car2go Deutschland GmbH*.

VII.5 Car sharing

Providers of car sharing services aim to offer a serious alternative to taxi and hired car services in the future.⁶³³ According to the Federal association Car sharing e. V. (bcs) around 150 car sharing providers offer the service in Germany at the moment.⁶³⁴ With regard to car sharing a distinction can be made between station based car sharing and free-floating car sharing. However, some individual companies, like Stadtteilauto OS GmbH, also offer combined services.

Car sharing is expanding rapidly into major cities and communities, especially in the station based car sharing. Karlsruhe takes first place. There are currently 2,15 vehicles per 1000 inhabitants, followed by Stuttgart 1,44 vehicles per 1000 inhabitants and Frankfurt with 1,21 vehicles. With reference to the major cities Cologne offers the most numbers of station based car sharing service (1,15 vehicles per 1000 inhabitants).⁶³⁵

⁶³³ Annual report of the year 2014/2015 of the German taxi and car rental group e. V. (BZP), p. 45.

⁶³⁴ Press release of the Federal association Car sharing e. V. (bcs) of 29 February 2016, <http://www.car-sharing.de/presse/pressemitteilungen/car-sharing-balance-2015-further-growth-and-adjustment-the-german> (last accessed on 29 March 2016).

⁶³⁵ Press release of the Federal association Car sharing e. V. (bcs) of 10 June 2015 at the following webpage:

In 2015, around 1.26 million customers signed up for a car sharing service, 220,000 more than 2014.⁶³⁶ One third of these customers use station based car sharing services with around 4,600 stations and 9,100 vehicles. Two thirds use the 7,000 cars that belong to free floating systems.

The most important examples for station-based car sharing service providers are *DB Rent GmbH* ("Flinkster"), *Cambio Mobilitätsservice GmbH & Co. KG* ("Cambio"), different companies running the brand "Stadtmobil" and *CC Unirent System GmbH* ("CC Rent a Car").

The *DB Rent GmbH*, which is part of *Deutsche Bahn AG*, offers car sharing services under the brand *Flinkster* with around 250.000 customers (data from June 2014).⁶³⁷ *Flinkster* is mainly a station-based provider but also provides free-floating services. It also cooperates with other car sharing companies to provide a wider range of services for their customers, for example with *multicity*, *Car2Go* and *CC Rent a Car*. Some of the cars are electric cars ("e-Flinkster").

Cambio was founded in 2000 by several local car sharing companies in Aachen, Bremen and Cologne. Today, it operates in 19 German cities. Terms and conditions vary in the different cities, including rates, range of cars or the duration of the rental. *Cambio* charges a monthly fee as well as an hourly rate which vary according to the time of day and length. The cars have to be returned to their original parking station. They have to be rented for at least an hour; the maximum rental period is 30 days.

Stadtmobil is a group of local car sharing companies under a common brand. There are independent car sharing companies in different towns, i.e. *Stadtmobil Berlin GmbH* or *Stadtmobil Hannover GmbH*. Terms and conditions vary. Some of the companies have started offering free-floating services.

CC Rent a Car is operated by *CC Unirent System GmbH*. It is a franchise system which initially focused on renting out cars. Currently, it also offers car sharing services. It cooperates with other companies, i.e. *Flinkster* (see above).

DriveNow has a leading position in the free-floating car sharing market. *DriveNow* is a joint venture between *BMW* and *Sixt* that provides car sharing services in several European cities. The company was founded in Munich in 2011. With reference to the total numbers of customers in 1 January 2016 *DriveNow* holds a market share of approx. 39 % (490.000 costumers):⁶³⁸

	2015	2016	Change	
			Total	%
Customers in total	1.040.000	1.260.000	220.000	+21,2

<http://www.carsharing.de/presse/pressemitteilungen/carsharing-staedteranking-2015-carsharing-versorgung-verbessert-sich> (last accessed on 4 April 2016).

⁶³⁶Press release of the Federal association *CarSharing e. V. (bcs)* of 29 February 2016, at the following webpage:

<http://www.carsharing.de/presse/pressemitteilungen/carsharing-balance-2015-further-growth-and-adjustment-the-german> (last accessed on 29 March 2016).

⁶³⁷Press release of *Deutsche Bahn* of 17 June 2014 at the following webpage:

http://www.deutschebahn.com/de/konzern/im_blickpunkt/3216578/bilanz_flinkster_20130124.html (last accessed on 30 March 2016).

⁶³⁸Press release of *DriveNow* of 29 February 2016: https://prod.drive-now-content.com/stage/fileadmin/user_upload_de/12_Presse/Pressemitteilungen_PDF/Deutsch/2016/2016.02.29_DriveNow_Pressekommentar_Marktf%C3%BCherschaft.pdf (last accessed on 30 March 2016).

Free-floating	660.000	830.000	170.000	+25,8
DriveNow	365.000	490.000	125.000	+34,2
DriveNow market share	53,1 %	38,8 %		

Car2go Deutschland GmbH ("Car2Go") is a joint venture between Daimler AG via their company Daimler Mobility Services GmbH and the car rental company Europcar Autovermietung GmbH. It operates in seven German cities as well as abroad. The concept is similar to the one of DriveNow. The customer has to download an app and register at a shop. The app is used to find, reserve, open, rent and park a car. There are designated Car2Go parking spots, but it is also possible to park in a free public parking spot. Fees for parking have to be paid by the customer. Rates are per minute. Usually, everything is included in that. Special rates and deals are available. It cooperates with Flinkster.

Multicity by Citroen Deutschland GmbH solely operates in Berlin. All cars are electric cars. Multicity cooperates with Flinkster, so that their customers can also use Flinkster cars, e-Flinkster cars and "Call a bike" bikes.

VIII. Barriers, limitation, incentives

Competition in the taxi markets in Germany is rather limited, given the quantitative restrictions to licences and the general prescription of tariffs that exist in many local territories. According to the Monopolies Commission *"The basic objective of this regulation is to ensure the effective operation of the taxi business and the protection of consumers. At the same time, however, this limits the supply of taxi services and prevents to the largest extent the differentiation between services offering varied price-quality combinations"*.

Local and regional governments are responsible for any quotas pertaining to the number of licenses issued. This sharply differs per transport area: in some areas, there is no maximum number; in the majority a cap has been imposed. A new taxi operator must meet certain qualitative requirements including financial standing and expertise to run a company. Within the licensed transport area, the regulated fares apply via the taximeter; the local or regional governments set the fares. Fares for rides outside of the licensed area are unregulated and therefore negotiable. However, when outside the licensed transport area, taxis cannot pick up customers in the street or from taxi stands, but only pre-booked rides may be conducted in other transport areas.

The Monopolies Commission⁶³⁹ advocates the removal of the fixed fares and recommends the introduction of maximum prices for a transitional period of three years at first. Afterwards, free price competition should be possible especially in the area of radio taxis.

⁶³⁹ XXth Main Report under § 44(1) of the Act Against Restraints on Competition (ARC) "A competitive order for the financial markets", 9 June 2014.

The Monopolies Commission, additionally, has investigated the competitive relationship between taxis and hire cars. The provision of hire cars with drivers stands in a close competitive relationship with taxi services and is equally regulated. The market entry of undertakings allowing for the provision of hire cars via smartphone apps has intensified competition between the two mobility carriers, and has aligned taxi and hire car with driver services further. In order to maintain a competitive environment, it recommends the abolition of the duty to return and the provision that the call for transport must be received at the operational seat.

IX. Capacity, growth, impact

The taxi transport in Germany has always been under strict regulation. Market access is severely limited by a licensing system and price competition is prevented by a tariff obligation. Exceptions exist only in a few regions of Germany, especially in Berlin and Hamburg. The legislator has not followed upon previous recommendations for deregulating the sector and no changes are currently planned. The main reason is that taxis are seen as a vital part of the multimodal public transport system operating in urban areas and beyond. Taxis play an important role in complementing public transport, especially in rural areas, or replace other services on non-scheduled transport basis.

The Monopolies Commission considers that the technological evolution and the lack of modernisation have created an obsolete taxi sector and led to the development of alternative mobility concepts.

A licence may be denied if the local taxi industry is threatened by the requested licence; therefore, the public transport interests would also be affected. To assess the functioning of the taxi market, the licensing authority shall evaluate the demand for taxis, the taxi density, the level of revenues and costs as well as other element of the taxi business. Therefore, the maximum number of licences is set according to requirements which are also directed to protect the current employment situation, especially to protect a turnover that may guarantee a minimum wage.

This limitation of quantity and the removal of price competition through fixed fares and fixed price areas (more than 800) has led to an undersupply of taxis and inflated prices. The possibility to provide services with better quality and low fares seemed to be prevented. Recently, the courts' decisions seem to have opened the taxi market to price discounts applied by dispatch centres and by intermediaries, however, previously, discounts were not even possible. Price competition provides different price-quality combinations which bring diversity in the transport market. Quality-conscious passengers will be interested in premium taxis at higher prices, while price-conscious customers will choose effective brands with lower quality vehicles with only the essential facilities. Finally, a free pricing could also benefit the taxi entrepreneurs, since they will be able to include directly the increases of the operational costs in their prices.

According to the Monopolies Commission, the Hamburg and Berlin model, based on the absence of quantitative restrictions and with strict qualitative controls, should be extended to the whole of Germany.

In this overregulated context taxi operators, especially in the largest cities, have started to promote top quality services in order to attract clients, investing on the training of the drivers and on the passengers' attention, using more comfortable vehicles and paying attention also to the environmental impact, with the use of green taxis.

The development of other hire transport service seems difficult and complex. While top tier limousine intermediation services such as Blacklane have developed without particular obstacles, other intermediaries such as Uber, have encountered major resistance especially concerning UberPOP, which was outlawed in 2015. Other services such as UberTaxi, UberX and Uberblack are still active.

Various intermediation services have developed, such as Mytaxi, in competition with traditional dispatch centres, which have tried to keep the pace of the technological developments introducing their own apps. However, fixed fares still seems to be one of the largest obstacles to competition, since certain forms of price rebates or auction may be considered as unfair competition.

Pre-arranged ridesharing is authorised as long as the cost of the ride does not exceed the operational costs, based on the model of the long distance ridesharing Blablacar and Carpoolworld.

With regard to urban transport public investments, especially in the largest cities, seems directed to developing electric cars, which may be rented in one point and returned in a different place or in the same place.

X. Results

According to the data provided by the Ministry, which are referred to the period 2008-2012, the number of taxi licences has registered a decrease of 3% over 4 years while the number of taxis has increased by 7,1% over the same period.

With regard to hire cars with drivers, over the same period, the number of licences has increased by 8,6% while the number of self-employed with no employees has increased by 20,3%.

According to one respondent to the stakeholder consultation, the average gross turnover of a taxi driver is around EUR 66,000. The same turnover is provided for a hire car's driver, and there are no big differences between the income of a taxi driver and of driver of a hired car.

The main annual costs are:

- cars insurance: EUR 3,300;
- car damage waiver: EUR 2,500;
- amortisation costs over 5 years: EUR 6,000;
- maintenance and repair costs: EUR 2,750; and
- owner's car tax: EUR 340.

With regard to the working hours, the majority of the respondents to the stakeholder consultation has declared that the highest ride peaks are:

- Daily peak weekdays 07:00 to 9:00 and 16:30 to 20:00;
- Week peaks Saturday and Sunday 1:00 to 5:00 am;
- Annual peak in December with an average 10% - 15% above the year's lowest peak (August).

According to the respondents to the stakeholder consultation, the market is characterised by a large number of self-employed taxi drivers; the majority is also affiliated to dispatch centres.

According to various respondents to the stakeholder consultation, a particular sector where the number of rides has increased over the years is the medical transport operated by taxis, which is reimbursed by the health service. Due to the fact that this service is funded by the public authority, additional requirements are imposed upon the taxi drivers. In Nuremberg, a local ordinance imposes to the taxi driver to help and accompany people with reduced mobility or elderly to the front door of the hospital or health facility.

XI. Conclusions

The German taxi market presents barriers to entry due to the quantitative restrictions to the number of licences and to fixed fares. The local authorities and the courts support this restricted access and strict regulation for socio-economic reasons, i.e. the need to protect the market players and their revenues, and the fact that the taxi is considered an important part of urban public transport and serve a social purpose (elderly people and people with reduced mobility on non-scheduled public transport). The hire cars with drivers' market is subject to the same qualitative regulation than taxis. In principle, there is no cap to the number of licences for hire cars' service but the licensing authority may refuse the licence with the purpose to protect the taxi sector. Other difficulties to develop intermediary services for hire cars with drivers concern the use of software applications to match demand and offer, which do not comply with the criteria of the reservation at the place of business of the hire cars' operator. It results that the business model of various operators in the hire cars with drivers' segment, but also in the ridesharing, does not properly fit within the legislative requirements.

The Monopolies Commission has considered that the existing barriers have led to an undersupplied taxi market and they have prevented the development of cheaper and better-quality hire transport services. The Commission has recommended a review of the current legislative framework to accommodate the development of new technologies and to promote the competitiveness.

Bibliography

1. Eine Wettbewerbsordnung für die Finanzmärkte Zwanzigstes Hauptgutachten der Monopolkommission gemäß § 44 Abs. 1 Satz 1 GWB – 2012/2013 –

12. GREECE

General Legal Framework

The taxis and hire car with driver services are regulated by Law 4070/2012,⁶⁴⁰ which covers, among others, licensing terms and conditions, vehicles' technical requirements, and qualitative requirements to be met by vehicles' driver and owner. The legislation consolidated and amended previous rules, with the intention of modernising the market. The possibility for private companies, i.e., travel agencies and car rental companies, to hire cars with drivers was only recently introduced, and it is considered as an attempt to liberalise a relatively closed market.

Licenses

There are two types of licences that must be obtained prior to the operation of taxis and hire cars: (1) a registration certificate ("adeia kykloforias"); and (2) a special driving licence ("eidiki adeia odigisis"). In particular, the registration certificate covers the vehicle, whereas the special driving licence must be obtained from and is connected exclusively with the driver. The procedures for the issuance of both licences and the prerequisites that must be fulfilled before anyone applies for the participation in these two licensing procedures are provided in Law 4070/2012. In addition, it is noted that the above provisions apply, without distinction, to taxis as well as to special hire cars. To obtain a registration certificate, the applicant must participate in the licensing procedure conducted exclusively at the regional level in all the prefectures every two years, following the competent head of prefecture of the territory's decision. Each prefecture shall decide the maximum number of licences needed. The tender procedure shall follow the prefecture determination every two years.

Technical requirements

Article 89 of Law 4070/2012 provides for the following technical and equipment specifications that taxis must have, in particular 4 doors, 5 seats including drivers, conditioned air, a specific engine power size. Taxis may remain in circulation for 15 or 18 years in Athens or 20-24 years in other cities. They must be equipped with a taximeter and the taxi sign on the roof.

Organisational and professional requirements

A special driving licence is issued to the applicant who meets the requirements indicated by the legislation. However, it does not require special training or a special exam. Qualitative requirements cover the age, holding a B driving licence, be fluent in Greek, (if not of Greek nationality); having attended compulsory education or equivalent foreign school, being healthy based on medical exams to be defined by ministerial decision; and having paid a fee of fifty (50) euro. The licence is renewed every 5 years. In Greece, there is no obligation for taxis or Special Hire cars to be affiliated to a dispatch centre under the relevant national legislation. The legislation also covers the authorisation of radio taxis and their models. The operation of one radio taxi network is provided for per seat-administrative unit (provided that 50% of the total number of registered taxis in the same administrative unit in which the radio taxi network wishes to operate have joined the network. A second radio taxi network may operate at the same administrative unit provided that 30% of the total number of registered taxis in the administrative unit has joined the network. For the administrative units of Athens and of Thessaloniki at least 150 taxis are required to join the network in order for a second network to operate.

Fares

The criteria for setting taxi fares are determined by Ministerial Decision 54501/5518 of 28 January 2014. The different types of fare determined per kilometre include: Tariff 1: day fare when route is within the administrative boundaries of the taxi's registered seat; and Tariff 2: night fare when route is within the administrative boundaries of taxi's registered seat, or day fare when route is outside the administrative boundaries. There are minimum fares per routes and special fares (waiting times, luggage transport, special fares for airport, port and stations). Special additional increments may be freely negotiated between the taxi driver and passenger, which fluctuate between zero (0) to five (5) euro in the case of pre-hire.

Passenger rights

⁶⁴⁰ Law on Electronic communications, transport, touristic investments and other provisions Official Gazette A' 82/10.04.2012.

Any passenger vehicle (taxi or hire car) used for public transport is obliged to have a message affixed inside the vehicle, which will be easily noticeable and legible by passengers, in both English and in Greek languages and containing the following information: vehicle's data, applicable fares, information on basic routes and estimation of rates. In addition, vehicles should also have a copy of the passengers' charter kept at a special spot but noticeable to passengers, keep a guide and have affixed driver's special driving licence. Drivers cannot refuse to pick up passengers except for specific reasons, and must choose the short route. The passenger is not obliged to choose the first taxi in line.

Labour rules

The labour rules follow the general Greek employment legislation, in case of employed drivers, or the legislation on self-employment. Irrespective of the characterisation of the relationship of the driver with the owner of the vehicle (whether owner, user, lessee or employee), all should register their data in the special book on circulation of taxis which is kept inside the car.

Airports

There are no special rules or licences for taxis to access airports. In Athens, fixed fares have been introduced to and from Eleftherios Venizelos Airport.

Enforcement

Inspection Bodies, the Hellenic Police, the Hellenic Coastguard as well as the Body of Inspectors of the Ministry of Infrastructure, Transport and Networks have been designated as the bodies responsible for the monitoring of compliance with the provisions of the legislation. Disciplinary committees are instituted at each prefecture, in charge of dealing with consumer complaints and imposing fines in case of violations.

Hire cars with driver

Law 4070/2012 has introduced, in paragraph H, subparagraph H2, the possibility for travel agencies and car rental companies to offer the hire car with driver service. Such option has been granted only following prior reservation, by agreement, of a minimum six hours. This means that the service will not be allowed for last minute or real time bookings and requires the service to be planned in advance. The requirements to provide the service are that travel agencies, car rental companies and companies and joint ventures of public use passenger vehicles submit: the supporting documentation to the competent Regional Offices of the National Organization of Tourism, including an application stating the details of the legal entity; a registration certificate and a copy of the vehicle registration certificate per vehicle for which an application has been filed; ownership deed or lease agreement or licensing agreement by way of which it is proven that the entity has parking space for at least 50% of the vehicles, of minimum six sqm per leased vehicle, if the total number of vehicles exceeds ten; and the receipt of the payment of one hundred euro. After the verification of the documentation, the office shall issue a certificate for the duration of 15 years.

Ridesharing

To date, no legislative initiatives have been recorded with respect to the ride-sharing and car sharing practices, thus leaving these two fields unregulated.

Market players

In Athens there are 14,000 licensed taxis, the majority of the market players are self-employed taxi drivers affiliated to a dispatch centre.

Capacity, growth and impact

The OECD has been very critical of the legislation concerning hire cars with drivers, especially the limitation related to the minimum booking hours and to technical specifications of the vehicles. According to the OECD, these requirements prevent competition and the possibility for the consumer to choose the service based on their budget and preference. One of the recommendations to be implemented in the context of the bailout agreement is to remove the barrier for the hire cars with drivers' activity.

Conclusions

The Greek taxi sector has been recently reformed, in order to open the market and to make it more competitive. The reform was also partially linked to the Greek bailout. However, the market remains closed, with a cap on the number of taxi licences, which are allocated every two years through a tender procedure.

Minimum fares are fixed by the State and the market is segmented between the taxi and the hire car with driver sectors and there is no competition between the two.

I. Introduction

Taxi activity with or without a meter (which in the latter case is referred to under the Greek national legislation as public use passenger vehicle of special hire) is heavily regulated by a legislation which is national in scope. Arguably, the national legislation, which is primarily supplemented by ministerial decisions, as well as by operation regulations and the charter of drivers' obligations to consumers, is very strict and detailed. The main national legislation for public use passenger vehicles, including taxis and special hire cars was recently reformed by adoption of Law 4070/2012 on "*Electronic communications, transport, touristic investments and other provisions*",⁶⁴¹ as amended and in force today (hereinafter "**Law 4070/2012**"). All issues connected to the operation of taxis and hire cars with drivers are regulated including licensing terms and conditions, vehicles' technical requirements, qualitative requirements to be met by vehicles' driver and owner. Even though the legislation has not introduced significant amendments, however it has been adopted with the aim to liberalize the specific sector of the market. A representative example of such purpose would arguably be that following the adoption of the said law the number of registration certificates for taxis shall be determined at a regional level and only every two years based on a mathematic formula.

In the Greek market, the owners of taxis or of special hire passenger vehicles are either natural persons or joint ventures. Taxi drivers may own themselves the vehicle they drive, however they may also provide services pursuant to an employment contract with the owner of the vehicle.

In addition, taxis may be active on the streets in the quest for clients or be part of a taxi or radio taxi network. Furthermore, the evolution of technology has allowed the adoption of alternative and faster methods for the real-time booking of a taxi, by the use of GPS system and through an online platform. Indeed, passengers in Greece seem to have largely adopted the use of mobile applications, such as Taxibeat, Taxiplon, SATA-IQ, in order to connect with a taxi driver.

The possibility for private companies, i.e. travel agencies and car rental companies, to hire cars for private use with a driver was only recently introduced and signifies a second attempt to liberalize a relatively closed market.

With respect to the provision of ride-sharing and car sharing services in Greece, it should be noted that these activities have not been regulated to date. The provision of such services in practice, as for example is the Uber mobile application, which was launched in Greece in December 2014, have met fierce opposition by taxi operators.

Finally, for the sake of completeness, we note that, the present report has been prepared mainly based on applicable legislative framework regarding the transport of passengers by different categories of vehicles and the relevant case law. There is no reliable publicly available information accurately reflecting actual market characteristics and market players. It should be also noted that most information used was provided by the Ministry of Infrastructure, Transport and Networks.

⁶⁴¹ Official Gazette A' 82/10.04.2012.

II. Legal framework applicable to taxis
II.2 National/Local/municipal regulations
II.2.1 National Legislation

Legislative provisions governing public use passenger vehicles

The main national legislation governing the public use passenger vehicles has been recently remodelled, by way of introduction of Law 4070/2012, which came to repeal most of the provisions contained in Law 3109/2003 on "Regulation of issues related to public use passenger vehicles and other provisions"⁶⁴², which regulated the sector until then. Law 4070/2012 – which was adopted with a view to liberalize the market and amidst fierce opposition by market players – governs, in detail, various aspects of the sector of the operation of public use passenger vehicles (including taxis), such as licensing conditions, technical and qualitative requirements, drivers' obligations and the imposition of penalties in the event of a breach.

In addition, Law 4070/2012 is supplemented by the following legislative acts:

- (i) Regulations regarding the operation of taxis (hereinafter "**Operation Regulations**") and, namely, Presidential Decrees No. 243/1987 and 244/1987⁶⁴³, which regulates, among others, the external signs of the vehicles, rules regarding parking slots, etc. In particular, Presidential Decree 243/1987 regulates the operation of public use passenger vehicles having their seat in Athens, Piraeus and suburbs; Presidential Decree 244/1987 regulates the operation of public use vehicles having their seat in the territory of Greece, except of the areas regulated by Presidential Decree 243/1987 above. It is noted that, Article 99 of Law 4070/2012, provides that the existing Operation Regulations shall be replaced by a new regulation imposing rules on the operation of public use passenger vehicles, which shall apply to owners and drivers of the vehicles and provide the terms and conditions according to which the taxi drivers shall provide their services to the public, as well as administrative fines in case of non-compliance. However, such regulation has not been adopted as of to date and, therefore, the above-mentioned Operation Regulations are still in force;
- (ii) The Road Traffic Code, Law 2696/1999,, as amended and in force today; and
- (iii) Charter of Obligations towards the Consumers of public use passenger vehicles (hereinafter the "**Charter**"), which has the form of a Ministerial Decision issued by the Ministry of Infrastructure, Transport and Networks and adopted in 07.11. 2000.⁶⁴⁴

Public use passenger vehicles

According to the provisions of Law 4070/2012, the following categories of **public use passenger vehicles** are provided:

- (i) taxis, which are defined as "*public use passenger vehicles of five (5) seats, which are equipped with a meter*", ("**Taxis**"), (Article 82 of Law 4070/2012);
- (ii) public use passenger vehicles of special hire (hereinafter referred to as "**Special Hire cars**"), which are defined as "*public use passenger vehicles of six (6) to nine (9) seats without a meter*", (Article 82 of Law 4070/2012). Special Hire cars intended for the transport of persons with disabilities, shall be specially designed for this purpose and the fare to be received shall be defined in accordance with a decision of the Ministry of Infrastructure,

⁶⁴² Official Gazette A' 38/19.02.2003.

⁶⁴³ Official Gazette A' 104/24.06.1987.

⁶⁴⁴ Official Gazette B' 1349/07.11.2000.

- Transport and Networks, which has not been issued yet. Further, under Law 4070/2012, these vehicles shall be permitted to transport exclusively people with disabilities and the persons accompanying them; and
- (iii) public use passenger vehicles of special transport (hereinafter referred to as "**Special Transport Vehicles**"), which are defined as "*public use passenger vehicles of five (5) to seven (7) seats of special transport without a meter*", the operation of which will be regulated by a Ministerial Decision which has not been issued to date. Therefore, for the purposes of the analysis under part II, we will only refer to the legal framework of Taxis and Special Hire cars.

For completeness purposes, we note that the owner of Taxis or Special Hire cars has the meaning of "*any individual or company and partnership, set up in accordance with Article 87 of the said law, that own or have acquired part of or a full share of a public use passenger vehicle, with a retention of part of the ownership by the seller until the full re-payment of the purchase price*" (hereinafter the "**Owner**"), whereas driver is defined as "*the individual that is responsible for the operation and driving of the vehicle, as well as for providing services, as these are determined from time to time by the relevant operation regulations' applicable to public use passenger vehicles'* (hereinafter the "**driver**"). It is noted, for the sake of clarity, that the driver and the Owner of a Taxi or a Special Hire car may be a different person. Even though it is common practice in Greece for taxi drivers to own the vehicle they drive, often the driver provides services pursuant to an agreement with the Owner.

It is also noted that, as regards Taxis, it is not prohibited for Taxis to provide services based on an agreement concluded before the provision of the services. Such agreement should be evidenced and it should provide the exact time and date of the pre-lease of the taxi as well as the duration and the details related to such lease (Article 88 of Law 4070/2012).

Provisions applying exclusively to Special Hire cars

The agreement for the hire of Special Hire cars is concluded exclusively *either* by written agreement *or* through a call centre *or* through any other means of telecommunication. In this respect, it is provided that, the Special Hire of Vehicles which is not based on former recorded communication, in accordance with the relevant legislation in force, is prohibited. In addition, drivers of the said vehicles may not, through any means, approach clients when Special Hire cars are in traffic or in parking stand/lanes (also known as "*piatsa*"), (Article 91 of Law 4070/2012). Consideration for the provision of services provided by Special Hire cars is determined, *either* by client's accession to a binding and detailed price list which shall be valid for a period of at least one month *or* following freely-made negotiations between the client and the driver. The aforementioned pricelist shall be binding upon the driver and must be posted on the internet. In this respect, it is also prescribed that all providers of services via a Special Hire car must keep a record with all telephone or online calls for a period of at least one hundred eighty (180) days, including a copy of the concluded agreements (Article 91 of Law 4070/2012).

II.2.2 Local regulation

Taking into consideration the fact that the main legislation referred to under s. II.2.1 is national in scope, all rights and obligations applicable to the public use passenger vehicles are laid down at a national level. Therefore, no local rules exist covering the public use passenger vehicles operation, with the exception of Operation Regulations. In particular, Presidential Decree 243/1987 provides the relevant legislation for the regions

of Athens and Piraeus, as in force, and Presidential Decree 244/1987 for all other regions than Athens. Issues related to the application of the above-mentioned Presidential Decrees are determined at local level: for example, the determination of parking spaces for public use passenger vehicles in residential areas which shall be made by the competent Prefecture (Highway Code (Article 34) and Presidential Decree 244/1987 (Article 5). For example, Decision No. 28543, of 26th June 2015, issued by the Head Office of the region of Arkadia, determines a specific number of parking spaces and specific locations which may be used as parking lanes ("*piatsa*") for taxis in the city of Tripoli.

II.3 Procedures for issuing licences and applicable criteria

There are two types of licences that must be obtained prior to starting the operation of Taxis and Special Hire cars and, more precisely: (1) a registration certificate (hereinafter "**Registration**" or "**Registration Certificate**", also referred to in Greek as "*adeia kykloforias*"); and (2) a special driving licence (hereinafter the "**Special Driving Licence**", also referred to in Greek as "*eidiki adeia odigisis*"). In particular, the registration certificate is issued for, and refers to, and it is attached to the vehicle, whereas the Special Driving Licence must be obtained from and is connected exclusively with the driver.

The procedures for the issuance of both licences and of the prerequisites that must be fulfilled before anyone applies for the participation in these two licensing procedures are provided in detail by Law 4070/2012. In addition, it is noted that the above provisions apply, without distinction, to taxis as well as to Special Hire cars. In addition to the above, there are certain rules which are also applicable to the operation of radio taxis, as described below.

II.3.1 Registration Certificate

Any interested party may acquire a Registration Certificate either (a) by transfer of a formerly issued Registration Certificate, following an agreement concluded between a buyer and a seller; or (b) by participation in the licensing procedure as prescribed by Law 4070/2012.

A. Transfer of a formerly issued Registration Certificate

With respect to the transfer of a formerly-issued registration certificate, Article 102 of Law 4070/2012, provides that Registration Certificates may be transferred: (i) as a gift, from a person alive or following his/her death, which should have written form and the date should be confirmed by public means; (ii) as inheritance; or (iii) as a result of an onerous deed. Following the transfer of a formerly-issued registration certificate a new one is being issued, once the buyer submits the required documentation to the competent transport department which have as follows: (i) when the buyer is a natural person, a copy of his/her criminal records, a tax and insurance clearance certificate and a copy of ownership deed or copy of a contract for the lease of parking space, storage and maintenance of the vehicle, in case that buyer holds more than five (5) registration certificates, should be submitted; (ii) when the buyer is a legal entity, a copy of the company's Articles of association, a tax and insurance clearance certificate, a copy of the criminal records of all BoD members, (if company is an SA or of each member

separately, if company is of a different form) and a copy of ownership deed or a copy of a contract for the lease of parking space, storage and maintenance of the vehicle, in the event that the buyer holds more than five (5) registration certificates, should be submitted.

It should be noted that, by the recently introduced paragraph 4 of Article 102 Law 4070/2012, newly issued registration certificates, may not be transferred for a period of two (2) years following the date of issuance by the competent authority, except for the case of parental gifts or inheritance.

B. Licensing procedure

About obtaining a Registration Certificate following participation in the licensing procedure, Article 106 of Law 4070/2012 provides that the said procedure is conducted exclusively at a regional level in all the Prefectures of the Greek State and that Registration Certificates are issued, every two (2) years, following a decision of the competent Head of Prefecture per territory. The competent Head of each Prefecture shall determine the maximum number of Registration Certificates of Taxis and/or Special Hire cars, which shall be based on a mathematical formula. In addition, to participate in the tender procedure, applicants will be required to pay a fee of EUR 1,000, pursuant to the provisions of Joint Ministerial Decision No 51964/4963 of 24th April 2013.⁶⁴⁵

Invitations to tender shall be issued within the course of the month of January (per licensing period, i.e., every two (2) years) and applicants may submit their application to participate in the tender by close of business of the last business day of the month of March. Any interested party shall determine in his/her application (i) the seat of the Prefecture for which the issuance of registration is being requested; (ii) the type of registration; and (iii) the number of registrations per seat, according to Article 106 of Law 4070/2012. The above shall be accompanied by a file of supporting documents (Articles 109 and 110 of Law 4070/2012).

According to Articles 107 and 108 of Law 4070/2012, natural persons and legal entities that wish to participate in the said procedure must cumulatively fulfil the following prerequisites:

- i) be nationals of an EU-Member State or have a registered seat in an EU-Member State;
- ii) must not be convicted for any of the crimes listed in Article 100 of Law 4070/2012 (in the case of legal persons, this applies to BoD members, if company is of an SA form, or to administrators, if form is different, or to general partners, if company is a general partnership);
- iii) must be cleared from a tax and social security perspective;
- iv) must be financially competent to exercise the professional activity of operation of a public use passenger vehicle, depending on the number of registrations for which an application will be filed; and
- v) must have available appropriate premises for the parking of, security and maintenance of their vehicles, in case they hold more than five (5) registrations of public use passenger vehicles (Articles 107 and 108, Law 4070/2012).

In addition to the above, applicants shall also provide supporting documentation which is necessary to prove the fulfilment of the above-mentioned criteria, which have as follows:

- (A) When applicant is a natural person:
 - (a) copy of an identity card;
 - (b) criminal records extract;
 - (c) tax and social security clearance certificate;

⁶⁴⁵ Official Gazette B' 1034/26.04.2016.

- (d) letter of guarantee of EUR 5,000 per registration; and
 - (e) copies of title deeds or of contracts for the lease of premises for the parking, security and maintenance of vehicles when applicant holds in his/her name more than five (5) registrations of public use passenger vehicles.
- (B) When applicant is a legal entity:
- (a) copy of the Official Gazette issue where the company's Articles of association have been published;
 - (b) copy of the Official Gazette issue where the company's BoD composition and of the appointment of the CEO or of the legal representative have been published;
 - (c) certificate that the company has not been dissolved, entered into liquidation, become insolvent or that a petition for bankruptcy has not been filed against it;
 - (d) criminal records extract of the company's BoD members, if company is of an SA form, or of administrators, if form is different, or of general partners, if company is a general partnership;
 - (f) tax and social security clearance certificate;
 - (e) letter of guarantee of five thousand EUR 5,000 per registration; and
 - (f) copies of title deeds or of contract for the lease of premises for the parking, security and maintenance of vehicles when company holds in its name more than five (5) registration certificates of public use passenger vehicles. (Articles 109 and 110, Law 4070/2012).

It should be also noted that, a number of registration certificates shall be issued and granted to families with many children (also referred to in Greek as "*polyteknoi*") or to families with three children (also referred to as "*triteknoi*") that have minor children, or persons with disabilities of a percentage above 67%. The competent authority performs the scrutiny of the submitted documentation and of the fulfilment of all the requirements set by law before the 15th May of each licensing period. Applicants shall be recorded in a list categorized per registration seat, type of vehicle (i.e., either Taxi or Special Hire car), application number, number of registrations for which an application has been submitted. The list must be published on the website (Article 106 (5) Law 4070/2012). Based on the said list, the Head of each Prefecture shall issue the decision determining the maximum number of registrations that will be awarded (Article 106 (6), Law 4070/2012). In case the total number of applicants, that have met the prerequisites set by law exceeds the number of registrations defined in the decision of the Head of the Prefecture, a draw will be carried out. Registrations will be granted to those applicants that will be successfully drawn (Article 106 (7), Law 4070/2012).

The above-mentioned provision of Law 4070/2012, according to which the Head of each Region determines the number of registrations to be awarded based on a mathematical formula but only after the applicants' participation in the tender procedure, has met serious criticism from the taxi community and various stakeholders.

II.3.2 Special Driving Licence

Operation and driving of Taxis and Special Hire cars is allowed only to individuals that hold a valid Special Driving Licence, which is granted, renewed and extended by the relevant department of the Ministry of Infrastructure, Transport and Networks of the concerned Prefecture, as well as by the Citizens Service Centres (also referred to in Greek as "*KEP*"). The said licence allows its holder to drive a public use passenger vehicle, i.e., a Taxi or a Special Hire car, within the administrative boundaries of the regional unit that has issued the licence.

According to Article 95 of Law 4070/2012, the applicant must meet the following requirements in order to obtain or renew a Special Driving Licence:

- (a) must not be occupied in the public sector;
- (b) has not gone into retirement;
- (c) has not been convicted for the crimes referred to in Article 100 of Law 4070/2012;
- (d) must have a valid driving licence;
- (e) must be fluent in Greek, if he/she is a citizen of a foreign country;
- (f) must have attended compulsory education or equivalent foreign school, if he/she is a Greek citizen;
- (g) must be healthy based on medical exams to be defined by ministerial decision;
- (h) must hold a driving licence of at least category B'; and
- (i) must pay a fee of fifty (50) euro.

Apart from the above, the applicant must also (i) submit additional necessary supporting documentation, (provided in Article 95 (3) Law 4070/2012); and (ii) sit for a written exam, the terms and the procedure of which shall be specified by a decision of the Ministry of Infrastructure, Transport and Networks, (Article 95 (4) Law 4070/2012).

The Special Driving Licence may be renewed every five (5) years by the same department that had initially issued the licence (Article 14 of the Presidential Decree 243/1987, as in force). Once the Special Driving Licence has expired and if it has not been renewed, the holder is prohibited from driving any public use passenger vehicle, either a Taxi or a Special Hire car, whereas if the competent Inspection Body (also referred to in Greek as "*Organa Elegxou*"), as established by Article 104 of Law 4070/2012, finds that the Special Driving Licence has expired, then an administrative fine of EUR 300 may be imposed to the driver, following a decision of the competent Head of Prefecture.

In addition, if a driver operates a public use passenger vehicle, without having ever obtained a Special Driving Licence on his/her name, then a fine of EUR 2,000 may be imposed to both the driver and the owner of the vehicle in conjunction with the removal of the vehicle's registration certificate and registration plate (Article 95 (5) Law 4070/2012).

Driver's Special Driving Licence may be withdrawn following a reasoned decision issued by the competent Head of each Prefecture, in the event that one of the following occurs:

- a. If the driver is punished by a Disciplinary Committee for the violation of rules under the Operation Regulations and, in particular, for having committed three (3) disciplinary offences within a period of two (2) years, then Special Driving Licence may be withdrawn for a period between one (1) to three (3) months;
- b. If the driver is punished, in addition to the offences under (a) above, with two (2) other offences within a period of two (2) years, then Special Driving Licence may be withdrawn for a period between three (3) to six (6) months; and
- c. If the driver is punished, in addition to the offences under (a) and (b) above for an additional offence or has been punished in the past for ten (10) disciplinary offences, then Special Driving Licence may be withdrawn for a period between six (6) months to one (1) year.

The Special Driving Licence may be permanently withdrawn in case (i) the driver continues to drive a public use passenger vehicle once his/her Special Driving Licence

has been withdrawn or (ii) has been convicted by a final decision for one of the offences under Article 100 of Law 4070/2012 (Article 101 of Law 4070/2012).

II.3.3 Radio taxi operation

The operation of one (1) radio taxi network is provided for per seat-administrative unit (Article 83 of Law 4070/2012), provided that 50% of the total number of registered taxis in the same administrative unit in which the radio taxi network wishes to operate have joined the network. A second network of radio taxi may operate at the same administrative unit if 30% of the total number of registered taxis in each seat-administrative unit have joined the network. For the administrative units of Athens and of Thessaloniki at least 150 taxis are required to join the network in order for a second network to operate, (Article 83 of Law 4070/2012 and Article 106 of Law 4199/2013).

The radio taxi network wishing to provide its services in a certain prefecture must submit a notification to the competent authorities by means of which it will inform them respectively of the fact that it has started operating along with the following supporting documentation:

- (a) a copy of the articles of association of the legal entity, in which all public use passenger vehicles that have adhered to the radio taxi network are included; and
- (b) a description of the electronic communications system to be operated by radio taxi. (Article 106 (15) of Law 4199/2013).

The abovementioned provisions do not apply to legal entities that apply electronic communications systems of other form than radio frequencies, (Article 106 (18) of Law 4199/2013). However, legal entities that have been granted a licence for the operation of special radio spectrum in public use passenger vehicles or operate under a general authorisation regime according to the electronic communications legislation, fall within the category of radio taxis (Article 106 (19) of Law 4199/2013).

II.4 Technical requirements applicable to licensed vehicles *(taximeters, vehicles' technical specifications, accessibility, insurance, maintenance)*

II.4.1 Technical specifications and equipment

II.4.1.1 Taxis technical specifications and equipment

Article 89 of Law 4070/2012 provides for the following technical and equipment specifications that Taxis must have:

- (a) At least four (4) main doors;
- (b) Five (5) seats, including driver's seat;
- (c) Air conditioning system;
- (d) Specific engine size (i.e., 1,550cc at least for petrol- engine vehicles, 1,450cc at least for diesel vehicles and 1,200cc at least for hybrid, LPG or natural gas vehicles) and may be of any type and any kind of ground; and
- (e) Must ensure luggage portability into a specifically designated for this purpose part of the vehicle, (Article 89 (1) of Law 4070/2012).

It is further provided that taxis shall also have:

- (a) A meter, placed at a visible part of the vehicle;
- (b) A guide of streets and squares and a map of the region in which the vehicle operates;
- (c) A sign posted at a visible part of the vehicle containing vehicle's specifications, driver's data, fares as in force, in both Greek and English, as well as driver's Special Licence; and
- (d) Operation Regulation of taxis, (Article 89 (2) of Law 4070/2012).

Taxis with their registered seat at the regions of Athens or Thessaloniki, shall be withdrawn once they reach fifteen (15) years following their operation, in case of engine capacity of maximum 1,950cc and eighteen (18) years in case of engine capacity of at least 1,950cc (Article 89 (5) of Law 4070/2012). Taxis having their registered seat in any other administrative unit than the above shall be withdrawn once they reach twenty (20) years following their put into operation, unless their registered seat is located at a territory with no more than 3,000 residents, in which case they may withdraw following twenty-four (24) years of operation (Article 89 (5) of Law 4070/2012).

In addition, the taximeter must comply with the requirements provided by Article 90 of Law 4070/2012 and must form part of or must be connected to a special mechanism for issuing receipts and registering revenues. It must be granted a "suitability approval" pursuant to the provisions of Article 90 of Law 4070/2012. The terms, the procedure and the conditions for the granting of suitability approval will be laid down by virtue of a common Ministerial Decision. Furthermore, the taximeters shall be installed inside and at the front part of the taxi, to be visible to the driver and passengers. Taxis with taximeter out of order will not be allowed to neither park in parking lanes/stations nor provide their service. In this respect, once the driver discovers that the taximeter is out of order he/she must cover the sign on the top of the vehicle and withdraw the vehicle for repair. Taximeters may be inspected by competent authorities for their proper operation, (Article 90 of Law 4070/2012).

In accordance with the Operations Regulations, taxis should show the following external signs:

- (a) a roof sign with the indication "TAXI" or "ΤΑΞΙ" (i.e., which stands for taxi in Greek) or "RADIOTAXI" or "ΡΑΔΙΟΤΑΞΙ" (i.e., which stands for radio taxi in Greek) on a permanent basis and must also comply with a number of vehicle's construction characteristics; and
- (b) a sign declaring availability (i.e., "ΕΛΕΥΘΕΡΟ" or "ΕΛΕΥΘΕΡΟΝ" in Greek) placed at the front right part inside the vehicle which must also meet specific vehicle's construction characteristics.

In addition, taxis shall all have at their exterior the same colour which shall be determined following a decision of the Ministry of Infrastructure, Transport and Networks. For example, the colour of taxis in the region of Athens currently is yellow, whereas in Thessaloniki is blue and white. With respect to radio taxis, different requirements regarding vehicle's external characteristics are provided by a decision of the Prefect.

II.4.1.2 Special Hire cars technical specifications and equipment

With respect to the technical requirements which are applicable to Special Hire cars, the following apply:

- Vehicles must have at least three (3) doors for the entrance and exit of passengers and driver;
- Vehicles should be of at least six (6) to nine (9) seats, driver included, and may be of any type;
- Vehicles should have air-conditioning system; and
- Vehicles should be of the same colour within the entire Greek territory, as specified (for the purposes of completeness, we note that grey is the said colour as to date) (Article 92 of Law 4070/2012).

In addition, Special Hire cars shall also have a sign posted at a visible part of the vehicle containing vehicle's specifications, driver's data, as well as driver's Special Licence.

It is permissible to place commercial advertisements on the Special Hire cars. The terms and conditions, the content as well as any other relevant details shall be determined by a common ministerial decision (Article 92 (4) of Law 4070/2012).

It should be noted that, Special Hire cars which have their registered seat at the regions of Athens or Thessaloniki, shall be withdrawn once they reach twelve (12) years following their operation, in case of engine displacement of maximum 1.950cc, and fifteen (15) years in case of engine displacement of 1.950cc. and above. To the contrary, Special Hire cars which do not have their registered seat at the above-mentioned regions shall be withdrawn once they reach seventeen (17) years following their operation, without engine displacement limitations (Article 92 (5) of Law 4070/2012).

Special Hire cars which operate for the first time should be either (i) new and of a EUR 5 class or of a newer technology; or (ii) used of maximum five (5) years from their first registration (Article 92 (5) of Law 4070/2012).

II.4.2 Accessibility

Article 21 paragraph 6 of the Greek Constitution provides that "*persons with disabilities have the right to enjoy measures which guarantee their independence, professional inclusion and participation in the social, economic and political life of the country*". In this respect, Greece has also ratified the United Nations Convention and Protocol on the Rights of Persons with Disabilities by way of Article 1 of Law 4074/2012.⁶⁴⁶

Apart from the above, no specific legislation is provided as regards accessibility with respect to taxis.

II.4.3 Insurance and Maintenance

No specific rules apply with respect to the insurance for public use of passenger vehicles (either taxis or Special Hire cars). However, public use passenger vehicles (in particular, the owner) must purchase an insurance by way of the general rules on insurance, which provide that all vehicles must be insured and allow the owner of the vehicle to choose

⁶⁴⁶ Official Gazette A' 88/11.04.2012.

between insurance programs (offering for example legal coverage or coverage in case of driver's personal injury).

With respect to maintenance obligations, according to Operation Regulations, the owner is under the obligation to maintain the vehicle mechanically in order and, in the event that a damage occurs, which could affect and even more endanger vehicle's safe operation, the vehicle must be withdrawn from the circulation and be immediately repaired. In addition, the taxi owner must ensure that the taximeter is in good order and that it is immediately repaired, if out of order.

II.5 Qualitative requirements *(fitness of the driver, knowledge and skills required, drivers' training)*

As analysed above under s. II.3, for a person to be competent to drive a public use passenger vehicle, he/she must first have obtained a Special Driving Licence.

The obligations of drivers (both taxi drivers and drivers of Special Hire cars) are provided in Article 98 of Law 4070/2012 in which administrative penalties to be imposed in the event of a breach are also provided.

In particular, the following are prohibited to drivers of public use passenger vehicles (either taxis or Special Hire cars):

- (a) choose which passengers to provide their services to and towards which destinations (this obligation applies only to taxi drivers);
- (b) pause the provision of services once vehicle has been hired already;
- (c) receive a different fare than the one prescribed by law or agreed;
- (d) deny a lease when vehicle is free, (this obligation applies only to taxi drivers);
- (e) not to comply to passenger's suggestions regarding destination and route;
- (f) improper conduct towards passengers; and
- (g) smoking inside the vehicle, (Article 98 (1) of Law 4070/2012).

In the event of a breach of the above, an administrative fine of EUR 400 may be imposed to the driver by the Disciplinary Committee for first offence, whereas for second offence the fine is increased to EUR 700 and for third or subsequent offences, it amounts to EUR 1,200 (Article 98 (2) of Law 4070/2012).

In addition, an age restriction applies to drivers of public use passenger vehicles (either taxis or Special Hire cars), which is sixty-nine (69) years. In addition, it is provided that the Special Driving Licence is mandatorily renewed when driver reaches the age of sixty-seven (67) years, (Article 106 of Law 4199/2013).

Further to the above, the driver is not allowed to provide service to different passengers at the same time as per the Operation Regulations. Also, he/she is prohibited from providing service once the vehicle is outside the administrative boundaries of vehicle's registered seat, except in cases of force majeure or for medical purposes or if otherwise provided by the relevant provisions.

As regards the taxis only the driver is obliged, among others, to perform the loading and unloading of passenger's luggage, to remove the sign of taxi availability and place the meter into operation once a passenger enters and sits inside the vehicle, to have the sign of availability and the sign of taxi or radio taxi, the latter being placed at the top of the taxi's roof, off during the night when the taxi is hired and have the above signs on and lighted when taxi is not hired, to be able to give change back to passengers and also give them a receipt, to provide any information requested by passenger and to keep the taxi clean. In addition, drivers must display properly the Special Driving Licence throughout their shift to be easily accessible by passengers. In addition, the driver is obliged to interrupt the vehicle's circulation and park it, if the passenger requests so, for no more than fifteen (15) minutes, unless for a serious cause. In any case, choosing passengers is prohibited and so long as, taxi is stopped at a parking stand/lane for taxis (also referred to in Greek as "*piatsa*"), hiring is obligatory.

II.6 **Organizational requirements** (*dispatch affiliation centre, minimum service*)

II.6.1 **Dispatch Affiliation Centre**

In Greece, there is no obligation for taxis or Special Hire cars to be affiliated to a dispatch centre under the relevant national legislation.

However, in practice, radio taxis are often connected with a dispatch centre, which offers services through telephone or through the internet by becoming the intermediary between the taxi driver and the client. In this respect, specific rules regarding the establishment and operation of radio communication networks apply. Usually, the dispatch centre provides the taxi driver with the required equipment for matching. Vehicles are also under an obligation bring the same logo.

II.6.2 **Minimum Service**

Minimum service provisions apply only to taxis. In particular, under Article 3 of the Charter, the driver of a taxi may stop the vehicle and pick up passengers only from designated taxi stations or from the right side of the road, if permitted under the rules of the Highway Code and are not allowed to stop in intersections or road turns, whereas they may stop only if the stop will not hinder other vehicles' movements or if it does not cause any accident risks.

Pursuant to Article 34 of the Highway Code and Article 5 of the Presidential Decree 243/1987, parking specifications for taxis at residential areas shall be determined by decision of the competent Head of Office in each region. In this respect, for example, decision no. 28543, dated 26th June 2015, and issued by the Head Office of the region of Arkadia, determines a specific number of parking spaces and specific locations in the city of Tripoli, which may be used as parking lanes ("*piatsa*") for taxis.

II.7 **Fares** (*criteria for taxi fare setting, authority/body in charge of setting the tariffs, maximum tariffs and/or fixed tariffs, composition of the tariff and tariffs adjustment mechanism [minimum charge, additional charge for using the radio taxi or dispatch centre, increase of the tariff during certain hours, such as at night or on certain journeys, such as towards the airports, reductions for certain categories, such as elderly people]*)

Taxis

According to Article 105 of Law 4070/2012, a taxi's invoice shall include the following:

- (a) a charge for picking up a passenger (calculated as euro per hire, also referred to in Greek as "*simaia*");
- (b) a fare per route (calculated as euro per kilometre);
- (c) a fare for wait;
- (d) minimum travel fare; and
- (e) special fares (e.g., for carrying out objects or as holidays' gift).

The criteria for setting the taxi fares are determined by Ministerial Decision 54501/5518 of 28th January 2014 issued by the Ministry of Infrastructure, Transport and Networks which determines, in particular, the following:

- (a) Fare for picking up a passenger amounting to 1,05 euro (VAT not included);
- (b) Different types of fare determined per kilometre of route:
 - Tariff 1: day fare when route is within the administrative boundaries of Taxi's registered seat; and
 - Tariff 2: night fare when route is within the administrative boundaries of Taxi's registered seat or day fare when route is outside the administrative boundaries.
- (c) Minimum fare per route determined at:
 - EUR 2,80 (VAT not included) for the regions of Athens and Thessaloniki; and
 - EUR 3,00 (VAT not included) for all other regions of the country.
- (d) Special fares determined at:
 - EUR 9,60 (VAT not included) per hour for the wait;
 - EUR 0,35 (VAT not included) for the transport of luggage when the weight thereof is more than 10 kg; and
 - different charges apply with respect to hire from the airport, the port and the railway station.
- (e) Special additional increments may be freely negotiated between the taxi driver and passenger, up to EUR 5, in the case of pre-hire.

The Ministerial Decision does not expressly provide for any additional charge when a radio taxi is called, whereas former Ministerial Decision 5790/575 of 24th April 2009 expressly provided for additional charges which fluctuated between EUR 1,70 (in the event of a simple call) to EUR 3,00-5,00 (in the event of pre-booking). However, as it has been orally confirmed by officials of the Ministry of Infrastructure, Transport and Networks, additional fares may also apply in the case of radio taxis by their inclusion in the category of special fares (see under (e) above) and, in particular, by interpreting the practice of radio taxis as a pre-hire case. In this respect, an additional increment of maximum EUR 5 may be added for the transport of a passenger.

Special Hire cars

For Special Hire cars, the use of a meter is not allowed. Under Article 91 of Law 4070/2012, consideration for the provision of services may be determined either by passengers' accession to a detailed pricelist or freely following negotiations with the client. The pricelist must be binding for the provider of services and must be posted on the website held by the provider for at least one month prior to the pricelist's publication (see s II.2.1).

II.8 Passenger rights

According to Article 2 of the Charter, it is explicitly stated that public use passenger vehicles have an obligation to provide the public with information concerning the services that they provide.

In particular, any public use passenger vehicle (either taxi or Special Hire car) is obliged to have a message affixed at the inside part of the vehicle, which will be easily traceable and legible by passengers, in both English and in Greek language and containing the following: vehicle's data, applicable fares, information on basic routes and estimation of rates. In addition, vehicles should also have a copy of the Charter kept at a special but traceable by passengers spot, keep a guide and have affixed driver's Special Driving Licence. Further to the above, the driver of the vehicle must be familiar with the key destinations of the vehicle's registered seat and be able to provide passenger with adequate information with respect to all such destinations and should in any case, be able to provide passenger with any requested information regarding offered services (e.g., fare, route etc.).

Apart from the above, the driver must not (a) choose among passengers and destinations, (b) stop the provision of services once vehicle has been already hired, (c) be paid a different fare than the fare prescribed by law, (d) refuse hire, (e) refuse to comply with passenger's suggestions regarding the destination and preferred route, (f) smoke inside the vehicle and in general, (g) behave in a bad manner.

The driver may refuse providing services to a specific passenger, if the latter is being accompanied by an animal which does not fulfil conditions set by law (e.g., animal must be at least quite, clean, healthy etc.). However, if driver refuses for a reason other than the one stated then he/she could be sanctioned.

In addition, passengers are obliged to give priority to persons with disabilities or pregnant women. In any case, although Greek legislation does not provide any obligation for offering fully accessible vehicles, however, special licences may be issued in the context of Special Hire cars.

Operation Regulations provide for certain passengers' obligations such as the obligation not to smoke inside the vehicle, not to, by any means, cause damages to the vehicle, not to speak to the driver for matters outside the scope of hire and to behave decently.

II.9 Subsidies applicable to taxi sector *(including public developed applications for taxi sector, geolocalisation, etc.)*

There are no subsidies applicable to the taxi sector under the Greek legislation. However, it has to be reported that a geolocalisation project for taxis, LIASON taxi on Demand, has been funded by the European Commission under the 6th Framework Programme. It is fully automated taxi booking and dispatching system, featuring an intelligent scheme for automating traditional taxi dispatch functions through the establishment of peer-to-peer location-based ad-hoc grouping (LBAG) of drivers. Ad-hoc groups are created dynamically based on the drivers' locations and other criteria, while their membership is dynamically updated as drivers move in and out of pre-define geographical areas.

When a customer submits a taxi booking request, this is sent to the drivers within a particular LBAG, based on the location of the customer and other customisable criteria (e.g. customer preferences, etc.). Drivers respond affirmatively, and the LBAG mechanism determines the most appropriate taxi for the request, based on proximity, availability and customer preferences. The customer confirms the booking upon provision of route duration and cost estimates, and receives an automated message including estimated time of taxi arrival, vehicle identification (plate numbers) and driver identification data.⁶⁴⁷

II.10 Labour rules

Irrespective of the characterisation of the relationship of the driver with the owner of the vehicle, whether owner, user, lessee or employee, all these individuals should register their data in the special book on circulation of taxis which is kept inside the car. The competent public insurance authority grants this book for freelancers (also referred to as "OAEF"), further to an application of the public use passenger vehicle Owner that should also fulfil certain requirements. In case of violation of this obligation to maintain a book, the legislation provides for sanctions which may be imposed on owners, co-owners, lessees, users or other individuals profiting from the public use passenger vehicle.

These individuals shall be mandatorily insured with OAEF while drivers that are employees shall be mandatorily insured with IKA-ETAM as is also the case for occasional public use passenger vehicle drivers (either taxis or Special Hire cars).

II.11 Supervisory enforcement tools

Under Law 4070/2012, the Inspection Bodies, the Hellenic Police, the Hellenic Coastguard as well as the Body of Inspectors of the Ministry of Infrastructure, Transport and Networks have been designated as the bodies responsible for the monitoring of compliance with the provisions of the aforementioned law and the obligations arising from the respective Operation Regulations and of any other relevant legislation.

The above bodies may, notwithstanding other sanctions contained either in Law 4070/2012 or in other laws, remove on the spot from the driver who committed a violation of the qualitative requirements, the Special Driving Licence for a period of fifteen (15) days. A report with the findings of the infringement shall be transferred to the competent Disciplinary Committee, (Article 98 of Law 4070/2012).

A Disciplinary Committee is established at the seat of each Prefecture, which shall be responsible for the monitoring of compliance and the imposition of fines in the context of Operation Regulations and qualitative requirements under Article 98 of Law 4070/2012. The Disciplinary Committee shall reach a decision and impose sanctions within a deadline of one (1) month from the transmission of the report with the findings of infringement or of passengers' complaints.

⁶⁴⁷ <https://www.iit.demokritos.gr/el/isl/platforms/tod>.

In addition, the monitoring of compliance with the rules under Operation Regulations is conferred on the police authorities and on committees of mixed composition (comprised of a representative from (a) the transport sector, (b) the police authorities, (c) designated Ministries and (d) the drivers'/owners' sector). The competent officer certifies any violation of the said rules and a report is drafted and sent to the competent Disciplinary Committee, as provided for by the Operation Regulations. The alleged infringer has an exclusive deadline of five (5) days to file his/her objections before the Disciplinary Committee, following of which the Disciplinary Committee shall hear the case and impose, if any, administrative sanctions to the infringer. The alleged infringer has an exclusive deadline of five (5) days, from the date he/she is notified of the imposition of sanctions, to submit his/her objections against the issuance of such decision before a Disciplinary Committee of second degree, which, subsequently, either accepts or rejects the request in a reasoned way.

III. Legal framework applicable to hire cars with driver

III.1. National/local municipal regulation

National legislation has only recently introduced the possibility for the hire of **private use passenger vehicles** (also known as '**Chauffeur Service**'), by travel agencies, car rental companies and companies and joint ventures of public use passenger vehicles, by adoption of Law 4093/2012 and Joint Ministerial Decision No. 15732/13.11.2012 (Official Gazette B' 3053/18.11.2012), ("**Ministerial Decision No. 15732/13.11.2012**").

It should be noted that this possibility has been introduced for travel agencies and car rental companies, pursuant to paragraph H, subparagraph H2 of Law 4093/2012, with the aim to improve the offered touristic product to enhance quality tourism in Greece, as well as to compete neighbouring countries that offer same kind of services. In this respect, it should be noted that, even though the possibility of private hiring of vehicles with driver seems to be offered without any time or other restrictions by other EU Member States, however this approach has not been adopted in Greece. In particular, such option has been granted only following pre-reservation, by agreement, of minimum six (6) hours. This means that the said service will not be allowed for last minute transports and requires planning in advance. It has been argued that the competent Ministry adopted such approach in order to allay motorists' reactions that were afraid to be negatively affected by market liberalisation in a period of high uncertainty due to adverse economic situation that the country is undergoing which has seriously affected their sector.

It should be also noted for the sake of completeness that any passengers' transport with the imposition of a fare is prohibited. All terms and conditions for the operation of these vehicles, including vehicles' technical requirements, drivers' fitness as well as any other relevant detail are determined by national in scope legislation, namely common Ministerial Decision No. 15732/13.11.2012.

III.2 Procedures for issuing licenses and applicable criteria

Under paragraph 5 of Ministerial Decision No. 15732/18.11.2012, travel agencies, car rental companies and companies and joint ventures of passenger vehicles for public use, may hire cars with driver pursuant to the provisions of the abovementioned Ministerial Decision and following the submission of the supporting documentation to the competent

Regional Offices of the National Organization of Tourism (hereinafter and also known as 'EOT'), and namely:

- An application stating details of the legal entity;
- Registration certificate (referred to in Greek as "*pistopoihtiko taksinomisis*") and a copy of the vehicle registration certificate (referred to in Greek as "*adeia kykloforias*") for each vehicle for which an application has been filed;
- Ownership deed or lease agreement or licensing agreement by way of which it is proven that the entity has parking space for at least 50% of the vehicles, of minimum six (6) sqm per leased vehicle, if the total number of vehicles exceeds ten (10); and
- Receipt of the payment of EUR 100, stamp fee not included, in favour of the Greek State.

The competent Regional Office of EOT shall issue, within a period of fifteen (15) days, a certificate by way of which it will be verified that the required conditions are met, following the submission of the above-mentioned documentation.

According to paragraph 6 of the same Ministerial Decision, the companies and partnerships of public use passenger vehicles may hire such vehicles only if they submit to the competent Regional Offices of EOT the following documentation:

- An application stating details of the legal entity;
- A copy of the criminal record of the legal representative of the company, by way of which it will be proven that the said person has not been convicted for specific crimes;
- A certificate from the Secretariat of the Court of First Instance according to which the company has not been declared bankrupt;
- Ownership deed or lease agreement or licensing agreement by way of which it is proven that the entity has parking space for at least 50% of the vehicles, of minimum six (6) sqm per leased vehicle, if the total number of vehicles exceeds ten (10);
- Ownership deed or lease agreement or licensing agreement by way of which it is proven that the entity has office space;
- Receipt of the payment of one hundred (100) euro, stamp fee not included, in favour of the Greek state; and
- Registration certificate and a copy of the vehicle registration certificate.

The competent Regional Office of EOT shall issue, within a period of fifteen (15) days, a certificate verifying that the required conditions are met, following the submission of the aforementioned documentation.

With respect to the above, any change on the number of leased vehicles, which are registered to the competent Regional Office of EOT, shall be notified to the same authority.

III.3 Technical requirements applicable to hire cars with driver

Concerning the technical requirements which are applicable to hire cars with drivers, the following conditions apply pursuant to paragraph H, subparagraph H2 of Law 4093/2012, and Ministerial Decision No. 15732/13.11.2012:

- Vehicles' displacement must be above 1,500 cc';

- Vehicles must fall within the category of emission class EURO 5 or V or subsequent; and
- Vehicles must operate for no more than seven (7) years from the date of their first registration and in the case of open-roof type of vehicle no more than nine (9) years.

III.4 Qualitative requirements

The qualitative requirements which must be observed by drivers of private hire passenger vehicles, employed by the above-mentioned companies, pursuant to paragraph H, subparagraph H2 of Law 4093/2012, and Ministerial Decision No. 15732/13.11.2012, are:

- Must not be convicted for a list of specific crimes (such as for example fraud and extortion);
- To be holders of a driving licence type B, still valid and issued twenty four (24) months prior to their occupation as drivers in the said companies;
- To be healthy based on the required medical exams;
- To be fluent in another language other than the Greek language;
- To have at least graduated from high school; and
- To provide a social security certificate.

For the purposes of proof that the above qualitative requirements are being met by employed drivers, the above-mentioned companies are required to keep in their files and shall demonstrate upon inspection by the competent authorities a criminal record certificate, a certified copy of registration certificate, a medical certificate per driver, high school diploma and proof of social security.

III.5 Organisational requirements

There is no obligation for private use passenger vehicles, to be affiliated to a dispatch centre under the relevant national legislation.

III.6 Passenger rights

No specific provisions with respect to the passenger of hired cars are contained in the relevant legislation.

III.7 Labour rules

See s. II.11 above. The same rules apply herein as regards drivers.

III.8 Local incentives, subsidies provided by the administration in order to carry out certain services (such as mini-van service for people with reduced mobility, elderly, schools)

There are no rules regarding local incentives or subsidies provided by the administration in order to carry out certain services.

III.9 Supervisory enforcement tools

The competent Head of the regional offices of EOT may impose administrative fines, following a summons for the provision of explanations and may be appealed by recourse to the Committee consisting of five (5) members which is based on the Ministry of Tourism.

In case of violation of the prescribed **qualitative requirements**, an administrative fine of three hundred (300) euro may be imposed, whereas when violation is repeated, a fine of EUR 600 if violation occurred within a period of three (3) years, or a fine of EUR 900, if violation is repeated for the second time, may be imposed. For any repeated violation, the special operation signal of the company may be removed for a period of two (2) months.

In case of violation of the prescribed **technical requirements** of the private use passenger vehicles with driver, an administrative fine of one thousand five hundred EUR 1,500 may be imposed, whereas when violation is repeated, a fine of three thousand EUR 3,000 if violation occurred within a period of three (3) years may be imposed. In case of a repeated for a third time violation, the Special Operation Signal of the company may be removed for a period of six (6) months.

Further to the above, if the Special Operation Signal of the company has been removed, for any of the above stated reasons, more than twice within a period of two (2) years, it may subsequently be permanently removed.

In addition, in the event of passengers' transport with vehicles which do not bear the prescribed distinctive features and required proof, a fine between EUR 200 and EUR 800 and a removal of vehicle's registration certificate and licence plates for a period from ten (10) to thirty (30) days could be imposed.

As mentioned s. III.1 above, any passengers' transport with the imposition of a fare is prohibited. Thus, if a hire car provides transport services **with a fare**, the imposition of criminal sanctions (such as six (6) months imprisonment and a fine of EUR 3,000 to the company's legal representative as well as to the driver may not be excluded.

IV. Legal framework applicable to ridesharing and car sharing

IV.1 Current regulations and legislative proposals

To date no legislative initiatives have been recorded with respect to the ridesharing and car sharing practices, thus leaving these two fields unregulated. Apart from the regime of public use passenger vehicles (i.e., taxis and public use passenger vehicles of special hire) and of companies offering the possibility to hire cars of private use with drivers, no other rules exist.

IV.2 National rules applicable to on-line platform and rules applicable to service providers

There is no regulation as to the on-line platforms in the ridesharing and car sharing car sharing field. In practice, on-line platforms are largely used in the context of taxis' activity. However, the legal framework does not provide for specific requirements, not even for the operation of such platforms by taxis and excludes them from the conditions set for the use of radio frequencies by radio taxis, under Article 106 of Law 4199/2013.

IV.3 Main operators and their business models

In the Greek market, there are neither ride-sharing nor car sharing registered operators active, mainly due to the absence of regulation in this sector of transportation.

Regarding the ridesharing market, it is worth mentioning that the Uber mobile application was launched for the first time in Greece on December 2014 and has been since available only for passengers in the city of Athens.

For the sake of completeness, we note that not all services offered by the mobile application of Uber are available in the Greek market. In Greece, only UBERX and UBERTAXI are available in Greece.

UberTAXI connects passengers with professional taxi drivers, in the same way as other mobile applications operating in Greece, i.e., Taxibeat, Taxiplon, SATA-IQ. The fares for a journey by the use of UberTAXI platform follow the official standards of fares set for taxis as determined by the national legislation, which is currently set at EUR 3,44 (including VAT).

About UberX, it should be noted that in Greece only licensed companies and licensed drivers may offer transport services through the UberX platform. More precisely, UberX offers the possibility of connecting passengers with drivers of either travel agencies or car rental companies that hire private use passenger vehicles with drivers, according to paragraph H, subparagraph H2 of L. 4093/2012. The minimum fare for UberX is currently at EUR 0.80 and does not provide for an increased tariff for night journeys. Therefore, as it results from information publicly available, Uber in Greece has not offered the possibility until today to connect individual drivers with passengers, since, as referred above, only professional drivers (either taxi drivers, or drivers of travel agencies or car rental companies) may operate under the Uber platform.

IV.4 Requirements imposed upon non-licensed activities *(safety and technical requirements, insurance requirements, obligations relating to licences and on-line platforms)*

There are no requirements imposed upon non-licensed activities under the national legislation.

IV.5 Local incentives, subsidies and other forms of promotion for ridesharing and car sharing *(including, parking spots, use of preferential lanes, etc.)*

There are no rules regarding local incentives, subsidies and other forms of promotion in the ridesharing and car sharing field.

V. Relevant national case law

National case law, which is arguably worth mentioning, refers mainly to cases defining the interplay between the operational regime of taxi drivers and the legal framework for unfair competition.

In this context, Judgment no 25/2014 of the Civil Court of Appeal of Larissa has adjudged that an agency of taxi drivers performing journeys connecting the municipalities of administrative regions with the city of Athens and serving multiple passengers per journey, which applied separate fixed fares per passenger, has breached the monopoly of the "K.T.E.L." (i.e., legal entities exclusively competent to serve the interurban transportation in Greece). According to the aforementioned judgment of the Civil Court of Appeal of Larissa, the above breach constitutes an act of unfair competition, which grants to "K.T.E.L." the right to file an action for damages.

Moreover, the Single Member Court of First Instance of Amaliada, by its decision 130/2014, has declared that the use of the sign "RADIOTAXI" by a legal entity using an electronic communications system by way of which taxi drivers are connected with passengers, as well as the parking of the latter in the parking stations saved exclusively for drivers of radio taxis (i.e., referred to as "*piatsa*") does not constitute an act of unfair competition. In particular, the above practices are not deemed to create an economic advantage to competitors and a special offer to the passengers.

In addition to the above, Judgment no 738/2011 of the Single Member Court of First Instance of Agrinio examined a case which presents similarities with the practice of shuttle services. In particular, the owner of a nightlife club offered transportation services to his customers to and from the club twice a week during the summer months and on a free basis, therefore, causing damages to taxi drivers who were, therefore, deprived from potential clients. This transportation service, despite being free of charge, was found to constitute a business advantage and a form of an imposition of an indirect fare which allegedly led to the creation of unfair competition.

VI. Country Market

There are no official data publicly available, with respect to market characteristics in Greece, and therefore, no safe assumptions may be drawn. Data are mainly available only for Athens and are reported at s. V. III.

However, taking into consideration the fact that under Law 4070/2012, the public use passenger vehicles' Registration Certificates shall be issued at a regional level through a tender, it could be argued that the geographical market is regional in scope. However, there are no competition authorities' or other authorities' decisions on the matter.

VII. Market players

As analysed under the present report, the main national legislation distinguishes into taxis, Special Hire cars and Special Transport Vehicles (i.e., vehicles without a meter). In this respect, owners of taxis or of public use passenger vehicles of Special Hire are either natural persons or joint ventures and other types of commercial entities. It is common practice for drivers to own themselves the vehicle they drive thus being self-employed, however it may not be excluded that they provide transport services pursuant to an employment contract with the owner of the vehicle.

Taxis and radio taxis also offer the possibility of pre-booking usually with on-line platforms and radio communication networks, the latter being used exclusively by radio taxis.

In the context of private use vehicles, travel agencies and car rental companies were only recently granted the right to hire private use vehicles with a driver.

Finally, as regards ridesharing and car sharing activities, as described Section IV.3 above, there are no registered operators due to the absence of any legislative framework applying to the field.

Various taxi companies operate in Athens, which offer rides to and from the airport and to and from Piraeus port, as well as private tours, such as Athens Taxi, **John's Yellow Cab**.⁶⁴⁸

Athens Taxi Tours⁶⁴⁹ provides private hire transportation and private and semi-shared tours in Athens and in the most touristic surroundings areas, as well as private airport transfer.

Some companies, such as **Athens Taxicity**, were founded in 2004 during the Olympic games in order to respond to the increased demand by visitors, and provide taxi drivers which may speak various languages.

AirportsTaxiTransfers⁶⁵⁰ is an EU web site specialized in providing pre-booked airport transfer and private limousine services, and it arranges reliable transportation services from Athens airport at fixed and fully inclusive prices and they are specialised in private Athens airport transfers and Athens tours with professional drivers and luxury vehicles.

As indicated above, **Uber** offers UberTAXI and UberX, intermediating between licensed taxis and special hire vehicles.

VIII. Barriers, limitations, incentives

⁶⁴⁸ <http://www.athens-taxi.net/>.

⁶⁴⁹ <http://www.athenstaxitour.com/>.

⁶⁵⁰ <http://airportstaxitransfers.com/transportation/taxi/Athens-Transfers?gclid=CN2I3OHNzc0CFSQW0wodhv4MDw>.

At the outset, it should be said that insufficient publicly available data do not allow us to draw conclusions on these issues. However, it can be said that the quantitative restrictions to market access, combined with the minimum fares imposed at national level, reduce the competitiveness of the market and the possibility to develop innovative hire transport services. Moreover, the taxi community and various stakeholders have addressed serious criticism to the fact that the number of registrations to be awarded is determined only after the applicants have participated in the tender procedure.

The special hire car service (including limousine) is reserved only to travel agencies and car rentals and the service must be booked for at least six hours. Moreover, the service must be booked with a written contract or by phone through a call centre, which excludes reservations via web applications. Ridesharing intermediaries such as Uber, Mytaxi, Taxi.eu, exist but only for licensed vehicles.

IX. Capacity, growth, impact

Greece has a cap on taxis and prices are regulated. Today, there are only 14,000 taxi licenses in Athens and no new licenses are issued. Taxi drivers can only get a licence on the secondary (i.e. black) market for around EUR 60,000. In most cases, the taxi is sold together with the licence bringing the total price to up to EUR 80,000. Taxi drivers need a special taxi driver's licence. It takes around 30 days to get the licence and the cost is around EUR 150.

Taxi prices in Greece have risen by 222% in the last 15 years (131% in the last 10), while the Consumer Price Index (CPI) has only increased by 42% (16% in the last 10). According to an article by Imerisia newspaper (also validated by the President of the Taxi Owners Union), this has caused many inefficiencies in the taxi business, for instance reducing the trips made by each taxi from 60 down to 10 per day and forcing drivers to wait for up to 5 hours between one customer and the next.

According to the OECD Greece Toolkit I,⁶⁵¹ containing instructions and recommendations following the Greek bailout, the market between taxis and hire car is segmented, and *“the minimum duration of 12 hours (now 6) may represent a barrier to entry into the market of renting a car with a driver for suppliers who may find it profitable to offer the service to customers for fewer than 12 hours (6). In addition, it restricts the services that can be provided by suppliers who are already in the market, thus preventing them from meeting consumers’ needs effectively. Consumers should be given the option to rent a car with a driver without a minimum duration, based on their preferences and budget. Since the market is segmented, the incentives of suppliers to compete effectively are also reduced”*.

In fact, taxis can compete with the services provided by car rentals with a driver. For instance, taxis do not face any time constraints regarding their activities. Moreover, according to OECD, the minimum characteristics for car rental with a driver set by law interfere with a supplier's free choice of business assets, since the requirement of an engine of minimum 1,500 cc assumes that there is only demand for a certain type of car. This prevents suppliers from offering other services or even entering the market.

⁶⁵¹ <http://www.oecd.org/daf/competition/Greece-Competition-Assessment-2013.pdf>.

X. Results

The limited amount of available data did not allow us to draw a complete analysis. However, despite this limitation, it emerges that the market is quite closed, with a cap on the number of taxi licences which are allocated every two years through a tender procedure. Supply of taxis is constrained by quantitative barriers and by minimum regulated fares which have led to inefficiencies as well as to a surge of the taxi fares. The reform of the taxi sector is included among the structural reforms required by the OECD. International players like Uber have entered the Athens market but only with licensed activities. Other intermediaries, such as Taxibeat, Taxiplon, and SATA-IQ, are active on the same market as Uber matching passengers with licensed vehicles applying regulated fares. There is no regulation on ridesharing and no activities seem to have developed.

XI. Conclusions

The Greek taxi sector has been reformed recently, in an effort to make it more modern and more competitive. Partly, the reasons for the reform were linked to the Greek bailout. Nonetheless, the taxi market has remained closed, with quantitative barriers to entry – combined with minimum fares which led to inefficiencies – and without a real alternative to the taxi service, since the hire cars with drivers are subject to stringent qualitative requirements which prevent suppliers from offering other services or from even entering the market.

Bibliography

Online sources

1. Ministry of Infrastructure, Transport and Networks - www.yme.gr
2. Hellenic Competition Commission - www.epant.gr
3. Taxis - www.taxigreece.info
4. Taxis - www.satataxi.gr
5. Website - www.metaforespress.gr
6. Online newspaper - www.imerisia.gr
7. Online taxi platforms: <https://taxibeat.gr/>
8. Uber platforms: <http://ubergreece.com/> and <https://www.uber.com/cities/athens-gr>

13. HUNGARY

General Legal Framework

Taxis are regulated both at the national and municipality level. At the national level, two main acts passed by the Hungarian Parliament form the basis of the regulatory framework, namely Act XLI of 2012 on Passenger Transportation Services and Act I of 1988 on Road Traffic. These acts are supplemented by lower-level legislation containing industry-specific details of the regulations, primarily government decrees and a number of ministerial decrees. Among them, the most important is the Government Decree No. 176/2015⁶⁵² which is the core piece of legislation for taxis and hire cars with driver licensing. In Budapest (where almost 50 % of Hungarian taxi companies operate), the Budapest City Council Decree No. 31/2013 (IV.18.) is applicable for taxis and a single unified official tariff is set out for all Budapest taxis from which no deviation (in either direction) is permitted. In July 2016, the Act LXXV of 2016 was adopted that imposed sanctions on intermediaries offering transport service without a licence.

Licenses

In Hungary, there are no quantitative restrictions for taxi numbers. In order to obtain an operational permit to provide taxi service, the applicant must be registered as a company. The operational permit is issued by the competent body of the National Transportation Authority, upon an application from a company. The transportation authority grants the permit if the statutory conditions are met. The permit is issued for five years (which may be extended for another five-year period if requested).

Technical requirements

Each taxi vehicle is required to meet the statutory technical requirements. However, municipalities may set further and stricter requirements. The transportation authority examines compliance with these requirements. During the test, both the vehicle and its taximeter are certified. The vehicle may either be maximum 7 years old with a minimum Euro IV environmental classification (or min. 150 km possible journeys with one charge in case of electric cars) or maximum 10 years old with a minimum Euro III environmental classification. The vehicle has to be equipped with air conditioning, ABS, and driver and front passenger airbags.

Organisational and professional requirements

Requirements include truthfulness, financial capacity, being 21 years old, having the relevant qualification and fitness conditions, competence and fitness of the vehicle. Competence is proved by taking the appropriate vocational training course and to have successfully passed exams organized by the transportation authority. Concerning the third condition (financial standing): in order to qualify as having appropriate financial standing, an undertaking (i) may not have any public law tax debts, and (ii) is required to have created appropriate financial security for future professional liability (e.g. damage to passengers, other cars, etc. as described below) arising from the taxi service. Dispatch affiliation centres are also required to have a financial security for permits, the amount of which depends on the number of dispatched vehicles. In order to get the renewal of the licence, the driver must go back to vocational training and pass an oral exam to get the licence renewed. There is no obligation to be affiliated to a dispatch centre. Dispatch centres may be authorised and the authorisation is released based on trustworthiness and financial standing. A minimum service obligation requires actively using the licence. Municipalities may set further and stricter requirements.

Fares

The fares have to be determined by using a certified taximeter. National level legislation applies no administrative pricing requirements for taxis. Taxis in Budapest on the other hand are subject to an administrative tariff determined by the municipality of Budapest. There are three types of fares: base fee, distance-based fee (HUF/km) and time-based fee (HUF/min). The base fee is fixed HUF 450 per fare, with a distance-based fee of HUF 280/km and – below 15 km/h – a time-based fee of HUF 70/min instead of the distance-based fee within the borders of Budapest. If the destination is outside the area of Budapest, taxi companies/drivers may apply different prices on the way back (until they reach the area of Budapest). The pertinent decree of the Budapest municipality also mandates a uniform design for displaying the administrative tariff.

Passenger rights

⁶⁵² Government Decree No. 176/2015 (VII. 7.) on Road Transportation of Passengers for Compensation.

The legal framework of the contractual relationship between the taxi drivers (taxi companies) and the passengers is regulated in the Government Decree No. 176/2015. Pursuant to this piece of legislation, the taxi driver is obliged to enter into an agreement (that is, take the order) with the potential passenger except for the cases exhaustively listed in the Decree.

Labour rules

Taxi drivers, who are employed by a taxi company, are subject to the general Hungarian labour law rules. Several associations of individual taxi drivers exist. The majority of taxi drivers perform their activities as self-employed. If the taxi driver is self-employed, the taxi driver has to pay the different social contributions and taxes. Where the driver is an employee of a taxi company, the general provisions of the Hungarian Labour Code apply and the parties have to conclude an employment agreement. For employees, the daily working time may not exceed 12 hours (which includes extraordinary working time, work performed under stand-by duty as well) and the employee is entitled to at least 8 hours of daily rest period.

Airports

For the Budapest airport, an agreement exists between the BKK and the airport management company for providing a taxi stand. In order to select the provider of the service, a tender is published every five years if the contract is not terminated or prolonged before that time. However, while only the operator, which has been adjudicated the tender, may have its taxis stand in the taxi rank, it is possible to order a taxi from another company at the desk inside the airport.

Enforcement

At the capital level, the Budapest City Council Police Directorate, as well as the municipality transport organiser BKK, regularly monitor the compliance with the applicable transportation regulations, and as all enterprises, taxis are also subject to scrutiny by the tax authority. The audits are carried out at the taxi stations or during test drives. Depending on the gravity of the breach, the authorities may initiate misdemeanour⁶⁵³ or public administrative proceedings, suspend the rights to carry out public road transport service activity or initiate the withdrawal of the permit or certificate. The new 2016 law on the consequences of offering transportation service without a licence provides for the power of the authority to shut down the websites and apps for one year and to impose fines on the driver.

Hire cars with driver

Hire car with driver regulation is very similar to taxi regulation when it comes to personal, vehicle, and company requirements. What essentially differentiates PHV from taxis is that the former activity can only be conducted as a supplementary service to a primary activity like tourism, hotels, event organising, if there is contractual relationship between the two activities and clients use the PHV exclusively in relation to the primary activity. The general licensing procedure is similar to the one applicable to taxi services; however, a licence may not be issued to such a vehicle which is already licensed as a taxi. The operational permit may be requested from the respective territorial organ of the transportation authority based on the seat of the undertaking. Once the operational permit has been obtained, the service may be provided throughout Hungary, although it has to remain ancillary to the main service.

Ridesharing

In Hungary, there is no separate regulatory regime which specifically applies to ridesharing services. In case of IT intermediaries facilitating professional passenger transport, they must comply with the rules on dispatch centre and obtain a licence. Ridesharing is currently allowed only to share the costs of the journey.

Market players

Hungarian taxis mainly operate as a single-member company (e.g. self-employment, limited partnership, etc.) using his/her own or hired vehicle, thus performing the passenger transport activity individually. In larger towns, they may also enter into an agreement with a passenger transport organizer and with the help thereof may perform the activity. The largest dispatch centres in Budapest are Főtaxi, City Taxi, 6x6 Taxi, TaxiPlus, Budapest Taxi, Taxi 4, Royal Limousine, MAXTAXI, and Taxi 2000. In Budapest, there are various hire cars with driver operators, which de facto compete with taxis especially on the transfer to and from the

⁶⁵³ Misdemeanours are minor offences that are usually subject to a fine, but for certain misdemeanours, jail of up to 90 days may also be ordered. However, a misdemeanour is not a criminal offence and misdemeanours are not examined in criminal proceedings.

airport. Uber left the Hungarian market in the aftermath of the adoption of the sanctions against the intermediaries without dispatch centre's licence.

Capacity, growth and impact

Beyond the publicly accessible data presented in the general market analysis section of this study, we have no specific data for the Hungarian market since the Ministry of National Development has informed us of not having any data collected at the central level and we did not obtain any replies from the local authorities. According to the press, after Budapest fixed price regulations on 1 September 2013, there was an increase of the prices especially for longer journeys such as to the airport, since discounts or flat fares are not allowed anymore per km price.

According to the Hungarian Competition Authority⁶⁵⁴ and based on the publicly available information, following the introduced rigorous rules for the Budapest taxi market and price increases, between April 2013 and January 2015, the number of taxi service providers in Budapest (where 50% of taxi operators are concentrated) decreased from 5600 to 5079. The average turnover of taxi drivers has increased between 2010 and 2015. New sanctions on intermediaries without a Hungarian dispatch centre licence have prompted the exit of Uber from the Hungarian market. It was reported that Uber had already gained 50% of the rides in Budapest. Wundercar has also recently closed its operations in Hungary due to the difficulties to obtain profitable margins on short distance (cost-sharing) ridesharing (carpooling).

Conclusions

The Hungarian taxi market does not have quantitative limitations and the focus is on the qualitative requirements. Any activity concerning transport of passengers has to be licensed. The regulation introduced in Budapest for the fitness of the taxi vehicle is particularly stringent and has caused the exit of a few operators. These stringent requirements have been combined with fixed fares which have reduced the benefits for passengers since there has been an increase in the prices. However, hire cars with drivers have found a place to compete with taxis especially for airport transfer. In the ridesharing sector, a local operator is in direct competition with the international players.

I. Introduction

The regulation of taxi service has recently been subject to intense public debate in Hungary. The primary reason is the emergence of start-up enterprises offering carpooling or ridesharing services, and the fact that these enterprises are not necessarily complying with the regulatory requirements relating to the "old-fashioned" taxi service (because they claim to offer a different service).

With consumers increasingly interested in the services provided by these new market entrants, taxi drivers and companies perceive the newcomers as a threat to their business, and as having an unfair competitive advantage.

It is therefore not surprising at all that taxi drivers of the capital – similarly to their colleagues in Paris – have organised demonstrations to convince the Government and the lawmakers to uphold the strict regulatory requirements, and make it clear that these apply to taxi's new competitors as well. So far, the taxi drivers' and dispatch affiliation centres wishes have been heard and no alternative regime has been created for the ridesharing service providers. The Government has clearly expressed that it considers the profit-oriented newcomers as being subject to the same licensing regime as taxis, and that the public administration is not willing to ease the administrative burden applicable also to the profit-oriented ridesharing companies.

IT-based ridesharing services started to become more and more popular among Hungarians and foreigners temporarily living or being resident especially in Budapest.

⁶⁵⁴ Reply to stakeholder consultation.

However, the Government has introduced new legislation and stricter sanctions with the aim of forcing these services to comply with the same legal framework as taxi drivers and dispatch affiliation centres. Following the new legislation passed on July 2016 amending the PTS and restricting alternative taxi services, Uber decided to suspend its activity in Hungary. According to the public data available, there were nearly 160,000 people using this service and 1200 Hungarian driving partners in Budapest.

II. Legal framework applicable for taxis

II.1 National/local/municipal regulations

Taxis are regulated on both the national as well as the municipality level.

On the national level, two main acts passed by the Hungarian Parliament form the basis of the regulatory framework, namely Act XLI of 2012 on Passenger Transportation Services ("**Passenger Transportation Services Act**") and Act I of 1988 on Road Traffic ("**Road Traffic Act**"). These acts are supplemented by lower-level legislation containing industry-specific details of the regulations, primarily government decrees and also a number of ministerial decrees. For example and most importantly, the Government Decree No. 176/2015 (VII. 7.) on Road Transportation of Passengers for Compensation ("**Government Decree No. 176/2015**") is the core piece of legislation with respect to taxi and hire vehicles services licensing.

Regulations may also be adopted by municipality. The Passenger Transportation Services Act allows each municipality to introduce certain requirements within the territory of the given municipality (within the limits set by the act). Municipalities are also allowed to determine administrative tariffs for taxis.

In Budapest (where almost 50 % of Hungarian taxi enterprises operate) the Budapest City Council Decree No. 31/2013 (IV.18.) is applicable to taxis and it establishes a single unified official fares. No deviation (above or below the fixed fares) is permitted.

On a national level, the industry-specific regulator is the National Transportation Authority, which has several offices throughout the country.⁶⁵⁵ On the municipality level in Budapest, the regulator is the municipality itself, which acts through a wholly-owned subsidiary called Budapest Transportation Centre Private Limited Company (BKK Zrt.) ("BKK") been transferred from BKK to Budapest Közút Zrt. The qualification of vehicles, taxi permit card and vignette, payments as well as conclusion of agreements are dealt by the Budapest Közút Zrt.

For the Budapest airport, an agreement exists between the BKK and the airport management company for providing a taxi stand. In order to select the provider of the service, a tender is published every five years, if the contract is not terminated or prolonged before.

⁶⁵⁵ In this Study, whenever we refer to the "transportation authority" it is generally to be construed to mean the appropriate territorial organ of the National Transportation Authority.

II.2 Procedure for issuing licences and applicable criteria

The operator must have the legal form of a legal entity/undertaking (including a sole entrepreneur) in order to obtain an operational permit. The National Transportation Authority, upon an application from a company, issues the operational permit. The authority grants the permit if the statutory conditions are met. The permit is issued for five years (which may be extended for another five year periods if requested).

In the operational permit, the exact operational area is defined; hence, an undertaking may only provide service within the given territory. The operational area may be the territory of Budapest, a county, a county except certain municipalities, a city or certain municipality/municipalities. However, the undertaking is entitled to perform activity outside the operational area if it drives back the passenger or if the destination is within its operational area and a pre-order was made.

The operational permit may be granted if the undertaking certifies that

1. its professional manager is trustworthy,
2. its professional manager is professionally competent,
3. its proper financial standing is ensured,
4. its vehicle(s) is/are qualified as appropriate by the transportation authority based on the technical aptitude test (as described in Subsection 2.3),
5. its driver(s) is/are above 21 years old and have the relevant licenses and qualifications (as described in Subsection 2.4) and
6. if the municipality where the enterprise intends to operate prescribes local requirements, the certificate issued by the given municipality that the local requirements are met is also required.

As for the first condition (trustworthiness): the professional manager is not considered trustworthy if the manager has a criminal record, or if the manager has previously been a professional manager of another company, which has been found to have committed certain major breaches of passenger transportation regulations (e.g. the previous company has performed of such activities without the appropriate licence).

Concerning the second condition (competence): in order to qualify as professionally competent, the professional manager is required to possess the professional qualification of "taxi entrepreneur" (with certain other qualifications/certified professional experience also being accepted as equivalent). To obtain such a qualification, the manager-to-be needs to attend the appropriate vocational training course and pass successful exams organized by the transportation authority as set out in Annex I to the Government Decree No 176/2015. The course covers a number of subjects ranging from economics and finance (including tax) to legal regulations.

Concerning the third condition (financial standing): In order to qualify as having appropriate financial standing, an undertaking (i) may not have any public law tax debts, and (ii) is required to have created appropriate financial security for future

professional liability (e.g. damage to passengers, other cars, etc. as described below) arising from the taxi service.

The financial security may either be in the form of (i) actual funds deposited and kept in a separated bank account or (ii) a particular type of liability insurance taken out with an insurer for each vehicle. In both cases, the amount of the security is HUF 50,000 (ca. EUR 309) per passenger seat per operated taxi vehicle. The financial security may only be used to provide cover for liability for valid damage claims which (i) arise as a result of damage caused by the undertaking to its passenger or to the dispatch affiliation centre and (ii) are not covered by any other means (e.g. by other insurance). Any expenditure from the financial security must be approved by the transportation authority and the undertaking is obliged to be replenishing the security to its original level within 30 days.

Dispatch affiliation centres are also required to have a financial security, the amount of which depends on the number of dispatched vehicles to obtain their permits. The amount of the financial security ranges between HUF 1 million (ca. EUR 3,230) and HUF 20 million (ca. EUR 64,720).

The other conditions for issuing the operational permit are described below in greater detail, including the municipality-prescribed requirements. In advance, we do note that the Budapest municipality requirements are the ones that have the greatest noticeable impact on the industry, owing both to the relative size of the Budapest taxi market within the country, as well as the strictness of that particular regime.

Finally, we note that municipalities are entitled to collect an annual "public area usage fee" from taxi drivers for the use of taxi stations and other public infrastructure, which creates a fixed recurring cost after each vehicle.

II.3 Technical requirements applicable for licensed vehicles *(taximeters, vehicles' technical specifications, accessibility, insurance, maintenance)*

Each taxi vehicle is required to meet the statutory technical requirements. Compliance with these requirements is examined by the transportation authority in the technical aptitude test of the vehicle. During the test, both the vehicle and its taximeter are certified. The certification is valid for one year.

Each taxi vehicle is required to:

- be in a serviceable condition (as generally required for the cars in Hungary and examined annually for each car in Hungary);
- be equipped with a taximeter;
- be equipped with a fare chart placed at designated places in/on the vehicle clearly visible to the public;
- indicate the serial number of the operational permit at designated places;
- be equipped with a taxi light; and
- comply with the environmental criteria described below.

As set out in the Annex III to the Government Decree No 176/2015 the vehicle is subject to a number of environmental (technical) regulations and requirements, most importantly:

- The vehicle may either be max. 7 years old with a min. Euro IV environmental classification (or min. 150 km possible journey with one charge in case of electric cars) or max. 10 years old with a min. Euro III environmental classification,
- The vehicle has to be equipped with air conditioning, ABS, airbags defending the driver and the passenger sitting next to him, a seat belt for every seat, 2-2 doors on the left and right sides opening to the car cabin (in case of max. 4 possible passengers), and
- The vehicle has to be equipped with the steering wheel on the left side.

The vehicle also has to be equipped with a yellow – or in case of an environmental-friendly vehicle, a light green – licence plate (as opposed to a white licence plate that is the general norm for vehicles in Hungary).

Taximeters

Every licensed taxi needs to be equipped with a taximeter which is regularly certified and is in compliance with the relevant legal and technical regulations.

In general, a taximeter must be able to determine and display the fare with credibility, as well as to issue a receipt in the form and manner accepted by the Hungarian tax authority (National Tax and Customs Administration of Hungary). The taximeter is closed with a seal to prevent irregular or unauthorised intervention, programming, data deletion or modification.

Taximeters as well as receipts are also subject to very detailed technical regulation that describes the operation of the taximeter and the form and content requirements of the receipt.

Accessibility

There are no industry-specific legal regulations for taxis concerning accessibility. That being said, taxis are under an obligation to accept orders from passengers and may not refuse to take them, unless the law permits them to refuse the fare.

A taxi may refuse to provide service for passengers who qualify as helpless (not necessarily due to a medical condition, excessive intoxication also qualifies as such) or if as passenger is not able to use the service without an accompanying person, as well as for passengers below the age of 6 years (without an accompanying adult).

However, for Budapest, BKK operates a specific on-demand midi-bus service in the taxi system, specifically for helping persons with disabilities or with reduced mobility.⁶⁵⁶ Some taxi companies may also provide these services.

Insurance

Taxi drivers – along with all the operators of cars registered in Hungary - are subject to mandatory motor vehicle insurance, which must be maintained at all times. Based on the increased use of the vehicles and other risk increasing factors, insurance companies may apply a surcharge on the insurance of taxi drivers. This is in addition to the financial security required by industry-specific legislation (see above II.2).

Maintenance

There are no specific legal regulations for taxis. However, the vehicles are required to be properly maintained and are annually inspected in the annual aptitude test for an administrative fees.

Further requirements for Budapest taxis

The municipality of Budapest prescribed further conditions for taxi drivers in Budapest in addition to the national statutory conditions. The main additional conditions for Budapest taxis are (to offer the same level of service):

- a minimum axis distance of 2550mm,
- a functional air conditioner,
- a minimum of 55kW performance and EURO IV qualification (will be increased to EURO V as of 2018), and
- luggage space of 430 litres for sedans, 390 litres for SUVs and 300 litres for hybrids and electric cars,
- ability to accept in-car credit card payments at least for two different types of cards, issued by different financial institutions without any additional fee,
- usage of snow tyre within the period from 1 of December to 15 of March,
- awareness-raising informational note of a non-smoking vehicle.

Moreover, in order to create uniformity and recognisability the cars have to be painted to a certain colour (*Pantone Traffic Yellow*) and need to carry a taxi light corresponding to the design specifications in the municipality decree (unless they carry a taxi light with a trademarked shape).

⁶⁵⁶ <http://www.bkk.hu/en/accessible-public-transport-in-budapest/>.

The design specifications for the taxis operating in Budapest result in the following uniform / general outlook for all Budapest taxis (Annex 2 to the Budapest City Council Decree No. 31/2013):



II.4 Qualitative requirements (*fitness of the driver, knowledge and skills required, drivers' training*)

Under Hungarian national regulations, a taxi driver is required to:

- possess a category "B" driving licence for at least two years;
- possess a medical and psychological certificate of the type "PÁV II." (certificate of professional competence which certifies the driver's proper medical and psychological condition defined in Decree 41/2004 of the Ministry of Economic Affairs and Transportation);
- be at least 21 years old; and
- possess a valid taxi passenger transportation qualification for the appropriate operational area.

In order to obtain the "taxi passenger transportation qualification", the candidate has to attend the appropriate vocational training course organized by the national transportation authority and successfully pass theoretical and practical exams. The course includes a number of subjects (ranging from regulatory requirements to tourism, including local knowledge). After having successfully completed the exams, the competent transportation authority issues an exam certification for the given region (depending on the location of the exam) which is valid for five years.

After the mentioned five-year period has expired, the taxi driver is required to obtain a qualification of further education. In order to obtain it, the taxi driver is required to participate in vocational training again and pass an exam at the end of the training. The exam is solely a theoretical exam. Following the successful exams, the exam certificate is extended valid for the next five years, and further extensions are also possible the same way.

II.5 Organizational requirements (*dispatch affiliation centre, minimum service*)

The use of a dispatch affiliation centre is not mandatory for taxi drivers or taxi companies. However, in order to enhance the quality and quantity of the service, any undertaking providing taxi service may maintain a dispatch affiliation centre (if licensed to do so in its operational permit). A dispatch affiliation centre may be maintained individually or together with other undertakings, and an undertaking may also enter into an agreement with a dispatch affiliation centre operator.

The dispatch affiliation centre also has to be licensed by the transportation authority. The licence may be obtained if the centre also meets the requirements regarding trustworthiness and competence set out for the professional manager of taxi companies (see above), as well as if it complies with the following financial criteria. As for the financial conditions, the dispatch affiliation centre is required to have no public law tax debts and is required to obtain a financial security. The amount of the financial security depends on the number of the operated vehicles and usually varies from HUF 1,000,000 to HUF 20,000,000 (EUR 3,200 to 65,000). The dispatch affiliation centre may only receive and relay travel orders for licensed taxi drivers. The municipality regulations may also set out further requirements.

With respect to a minimum service, it is crucial that the licensed operation has to be actively pursued, that is, if the undertaking does not perform its licensed operational activity for a period of one year or more, then the operational permit may be revoked for a period of two years by the transportation authority. However, the suspension of the activity may be notified to the authority and in that case, lack of actively pursuing the activity will not entail such consequences.

II.6 Fares (*criteria for taxi fare setting, authority/body in charge of setting the tariffs, maximum tariffs and/or fixed tariffs, composition of the tariff and tariffs adjustment mechanism [minimum charge, additional charge for using the radio taxi or dispatch centre, increase of the tariff during certain hours, such as at night or on certain journeys, such as towards the airports, reductions for certain categories, such as elderly people]*)

The fares always have to be determined by using a certified taximeter. Nevertheless, national level legislation applies no administrative pricing requirements for taxis.

Taxis in Budapest are subject to an administrative tariff determined by the municipality of Budapest. There are three types of fares: base fee, distanced-based fee (HUF/km) and time-based fee (HUF/min). The base fee is fixed HUF 450 (EUR 1,5) per fare, with a distance-based fee of HUF 280/km (EUR 0,90) and – below 15 km/h – a time-based fee of HUF 70/min instead of the distance-based fee within the borders of Budapest. If the destination is outside the area of Budapest, taxi companies/drivers may apply different prices on the way back (until they reach the area of Budapest).

The pertinent decree of the Budapest municipality also mandates a uniform design for displaying the administrative tariff, and a table with such design is mandatory

equipment for Budapest taxis (Annex 2 to the Budapest City Council Decree No. 31/2013):

Alapdíj Base fare	Percdíj Minute-based fare
450 Ft	70 Ft/min 
Kilométerdíj Kilometre-based fare	
280 Ft/km	

In cities where municipalities do not regulate the prices, there are several price structures applied in practice. Taxi companies may, among others, determine different prices for certain zones of the city, a more expensive night price, a more expensive price in case of 5 or 6 passengers or a lower price for students or their contractual partners.

II.7 Passenger rights

The legal framework of the contractual relationship between the taxi drivers (taxi companies) and the passengers is regulated in the Government Decree No. 176/2015. Pursuant to this piece of legislation, the taxi driver is obliged to enter into an agreement (that is, take the order) with the potential passenger except for the cases exhaustively listed in the Decree.

Accordingly, the taxi driver (or the taxi company) is entitled to refuse the order with a potential passenger in the following cases:

- the taxi is ordered to a place that lies at more than 30 km away from the administrative boundaries of the municipality where the taxi company is seated;
- the potential passenger is under the influence of alcohol or narcotic drugs or his/her behaviour is scandalous;
- the potential passenger may endanger or violate the security of traffic, his/her own or the fellow passengers' health or safety; the integrity of the taxi car or its equipment;
- the potential passenger's clothing or luggage may soil the vehicle;
- the potential passenger is helpless or incapacitated who cannot receive the service without an accompanying person;
- the potential passenger is minor, 6 years old without an accompanying person.

The potential passengers are entitled to (pre)order the services

- from the taxi company (dispatch affiliation centre) via telephone, telefax, email or online;

- by entering a taxi car that is waiting in the designated taxi station;
- by stopping / entering a taxi car driving / waiting with a "Free" signal;
- by concluding a verbal agreement with the taxi driver.

The agreement on transportation is deemed to be concluded when

- the (pre)order of the potential passenger is accepted by the taxi driver or taxi company;
- the potential passenger (with the intention of travelling) enters the taxi car that waits/ drives with a "Free" signal;
- an agreement is concluded between the potential passenger and the taxi driver.

In Budapest the taxi drivers are obliged to place an information sign on a spot clearly visible for the passenger enlisting the most important passenger rights and the contact details of the customer service.

This information sign states that passengers are entitled to:

- travel in a fully licensed, clean, comfortable and safe vehicle;
- a courteous driver who obeys all the traffic laws;
- travel in an environment free of disturbing noises such as the radio, honking and mobile phone use by the driver;
- travel in a smoke-free vehicle;
- travel without sharing the ride with other passengers unless so desired;
- a qualified taxi-driver whose licence is clearly displayed on the dashboard;
- pay fares generated by a certified taxi-meter and get a receipt after payment at all times;
- air conditioning or heating on request;
- bankcard payment without any surcharge;
- working seatbelts for all passengers;
- transport a guide-dog for the visually impaired.

The design of the mentioned information sign also statutorily prescribed, and forms an annex to the relevant Budapest municipality decree (Annex No 3 to the Budapest City Council Decree No. 31/2013):

<p>BUDAPEST</p> <p>TAXI</p> <p>PASSENGER INFORMATION</p>	<p>Welcome to this taxicab licensed by the Municipality of Budapest to operate on the territory of Budapest</p> <p>As a passenger you are entitled to:</p> <ol style="list-style-type: none"> 1. travel in a fully licensed, clean, comfortable and safe vehicle 2. a courteous driver who obeys all the traffic laws 3. travel in an environment free of disturbing noises such as the radio, honking and mobile phone use by the driver 4. travel in a smoke-free vehicle 5. travel without sharing the ride with other passengers unless so desired 6. a qualified taxi-driver whose licence is clearly displayed on the dashboard 7. pay fares generated by a certified taxi-meter and get a receipt after payment at all times 8. air-conditioning or heating on request 9. bankcard payment without any surcharge 10. working seatbelts for all passengers – please use them! 11. transport a guide-dog for the visually impaired <p>The Municipality of Budapest wishes you a safe and comfortable trip!</p>
<p>Customer service</p> <p>Should you have any complaints about the service please turn to the Customer Service Centre of BKK Centre for Budapest Transport:</p> <p> BUDAPESTI KÖZLEKEDÉSI KÖZPONT</p> <p>www.bkk.hu bkk@bkk.hu +36 1 3 255 255 facebook.com/bkkbudapest</p>	

<p>BUDAPEST</p> <p>TAXI</p> <p>PASSENGER INFORMATION</p>	<p>Welcome to this taxicab licensed by the Municipality of Budapest to operate on the territory of Budapest</p> <p>As a passenger you are entitled to:</p> <ol style="list-style-type: none"> 1. travel in a fully licensed, clean, comfortable and safe vehicle 2. a courteous driver who obeys all the traffic laws 3. travel in an environment free of disturbing noises such as the radio, honking and mobile phone use by the driver 4. travel in a smoke-free vehicle 5. travel without sharing the ride with other passengers unless so desired 6. a qualified taxi-driver whose licence is clearly displayed on the dashboard 7. pay fares generated by a certified taxi-meter and get a receipt after payment at all times 8. air-conditioning or heating on request 9. bankcard payment without any surcharge 10. working seatbelts for all passengers – please use them! 11. transport a guide-dog for the visually impaired <p>The Municipality of Budapest wishes you a safe and comfortable trip!</p>
<p>Customer service</p> <p>Should you have any complaints about the service please turn to the Customer Service Centre of BKK Centre for Budapest Transport:</p> <p> BUDAPESTI KÖZLEKEDÉSI KÖZPONT</p> <p>www.bkk.hu bkk@bkk.hu +36 1 3 255 255 facebook.com/bkkbudapest</p>	

II.8 Subsidies applicable to taxi sector

We have not identified any subsidies expressly targeted for the taxi sector.

II.9 Labour rules

Taxi drivers, who are employed by a taxi company, are subject to the general Hungarian labour law rules. Several taxi trade unions exist and some collective agreements have also been concluded. However, their role is limited since they only represent drivers who are employed by a taxi company. A significant number of taxi drivers are however self-employed who enter into commercial agreements with dispatch companies solely for the sake of brokering orders.

As mentioned above, from a taxation / employment perspective, taxi drivers may perform their activity either in a self-employed manner (i.e. as sole entrepreneurs) or as employees.

- As self-employed /individual company

The majority of taxi drivers perform their activities as self-employed ("*egyéni vállalkozó*" in Hungarian).

Before the commencement of their activity as the taxi drivers, the drivers-to-be has to register themselves as sole entrepreneurs with the respective government agencies. (This is separate from and in addition to the qualitative requirements detailed in s. II.4.) The Central Office for Administrative and Electronic Public Services keep records of the sole entrepreneurs.

If the taxi driver is a sole entrepreneur, he has to pay the different social contributions and taxes to the state. The scope and type of public due payments by sole entrepreneurs depends on several factors, as there are various taxation structures that are or may be available to taxi drivers.

- Taxi drivers as employees

The other potential form is when the taxi driver is an employee of a company. In this case, the general provisions of the Hungarian Labour Code apply and the parties have to conclude an employment agreement. For employees, the daily working time may not exceed 12 hours (which includes extraordinary working time, work performed under stand-by duty as well) and the employee is entitled to at least 8 hours of daily rest period.

To our knowledge, taxi drivers who are in employment with a company usually work in a flexible working arrangement and the employer undertaking only defines performance requirements. In the event that the employee works in a flexible working arrangement, the employer does not have to keep records of working time and the employee is not entitled to the payment of extraordinary working time.

In the event that taxi driver is an employee, it is the employer who is required to pay the public dues after the wage paid to the employee. These public dues include the pension contribution, the health insurance contribution, the labour market contribution, the social contribution tax, the vocational training levy, and the personal income tax.

II.10 Supervisory enforcement tools

Apart from the transportation authority, in accordance with the rules governing their competences, a number of other authorities (such as the Hungarian Authority for Consumer Protection) the Budapest City Council Police Directorate, as well as the municipality transport organiser (in Budapest, this is BKK), regularly monitor the compliance with the applicable transportation regulations informing each other on their intended audits, and taxis are also subject to scrutiny by the tax authority. The audits are carried out at the taxi stations or during test drives. Depending on the gravity of the breach, the authorities may initiate misdemeanour⁶⁵⁷ or public administrative proceedings, suspend the rights to carry out public road transport service activity or initiate the withdrawal of the permit or certificate.

In the event of a breach of transportation regulations, the generally used supervisory enforcement tool is a fine and/or the withdrawal of either the operational permit or the taxi passenger transportation certification, with the withdrawal of the permit (if imposed as a sanction) may result in a ban (through the lack of trustworthiness of the professional manager) from reapplying for the permit. The permit or qualification may only be revoked by the transportation authority; however – in certain cases – other authorities (e.g. the municipality, the consumer production authority, and eventually Hungarian Chamber of Commerce and Industry) may also make a recommendation for the same. The period of withdrawal depends on the exact breach and usually varies from three months to five years.

The operational permit is revoked for a period of 2 years, if:

- the undertaking does not perform this activity for a period of one year at least;
- the professional manager has breached certain legal requirements (up to a period of 3 years) or;
- it is stated during an examination that the undertaking does not comply with the legal regulations regarding the operational permit.

In case the operational permit is withdrawn, the taxi-specific (yellow) number plate of the taxi vehicle is also revoked. During the period of the withdrawal, the undertaking is banned from carry out the taxi service activity.

The taxi passenger transportation certification (i.e. the one that is personal to the driver) may be revoked, if:

- the taxi driver has breached the sector-specific pertinent legal regulations; or if
- the particular regulations regarding taxi service at airports, railways or bus stations or at areas of public transport have been repeatedly breached within one year by the same driver; or
- certain other, specific legal conditions are not met.

⁶⁵⁷ Misdemeanours are minor offences that are usually subject to a fine, but for certain misdemeanours, jail of up to 90 days may also be ordered. However, a misdemeanour is not a criminal offence and misdemeanours are not examined in criminal proceedings.

Unlicensed drivers may be subject to a fine of HUF 600 000 (ca. EUR 1940) per occasion if they are caught to provide taxi services without a licence. Further fines might also apply, as this will constitute a violation of traffic rules and regulations, which qualify as misdemeanours under Hungarian law. Depending on the circumstances of the case, the driver may be subject to further fines in the range of EUR 100-400 for a relating misdemeanour.

It must be noted that unlicensed taxi driving is not a criminal offence per se, but in the event that any criminal offence is committed (e.g. the driver is charged/found guilty of negligently causing an accident, etc.), the lack of a licence may qualify as an aggravating circumstance in an eventual criminal proceedings.

Moreover, the income earned by the driver qualifies as taxable income and hence tax obligations will apply as well, namely to obtain appropriate registration with the tax authority, declare the tax payable, issue receipts, etc. Failure to do so properly would result in additional exposure to tax fines and tax penalties.

In July 2016, further sanctions have been introduced by Act LXXV of 2016, which amends the Passenger Transportation Services Act.⁶⁵⁸

The Act LXXV of 2016 it empowers the National Media and Info communications Authority (*Nemzeti Média- és Hírközlési Hatóság* - NMHH) to block internet access to illegal dispatcher services meaning, i.e. to block their apps and websites as well as impose sanctions on individual drivers. Electronic data (such as websites and smartphone applications) may be made inaccessible temporarily for 365 days if:

- it provides a "businesslike" [i.e. profit-oriented] passenger transportation intermediary or organiser service; or
- directly promotes or facilitates such a service with the presentation of its necessary steps;
- and, in both cases, fails to comply with the regulations applicable for dispatch affiliation centres.

This measure may be taken if the authority has imposed a fine on the provider for unlicensed intermediary/organiser services, but it still continues the unlicensed activity. Furthermore, in case of unlicensed road traffic services (including unlicensed taxi driving), the vehicle used for this service may be extracted from traffic for six months (i.e. its licence plate removed, traffic licence revoked and its usage prohibited). By increasing the measure of some already existing sanctions, unlicensed road traffic service may result in the withdrawal of the driving licence (in the framework of the Hungarian road traffic sanction point system).

Personal drivers' licences and personal vehicles may also be seized. The NMHH shall report to the Parliament on an annual basis. Its task is to ensure the undisturbed operation, in compliance with pertaining legislation in force, of the media and the markets for electronic communications, postal and information technology services. It places a strong emphasis on the protection of the interests of customers and users.

⁶⁵⁸ Act LXXV of 2016 on the Legal Consequences of Unlicensed Passenger Transportation Service with a Vehicle.

Furthermore, it is also entrusted with establishing and maintaining the fair conditions of an effective competitive environment, as well as with supervising the compliant behaviour of service providers.

In the context of the stakeholder consultation, the Ministry of National Development has confirmed that *"The regulatory restrictions in force from 24.07.2016 have the main objectives that unauthorised taxi services performed by car are effectively sanctioned. The law allows the authority to block the internet content that offers a direct access to the unauthorised dispatcher service or directly promotes it with presenting the steps required for usage. Furthermore, the driver, who carries out the unlawful transport service, can be also sanctioned in such a way that he/she receives penalty points. After the driver gathers a quantity of clearly defined penalty points, his/her driving licence is withdrawn maximum for half a year. The vehicle used for carrying out the unlawful transport service, must also be banned from road traffic."*⁶⁵⁹

III. Legal framework applicable to hire cars with driver

III.1 National/local/municipal regulations

The regulations applicable to hire cars with driver are determined on both national, as well as on a municipality level. On the national level, the same two main acts applicable to taxis form the basis of the regulatory framework, namely the Passenger Transportation Services Act and Road Traffic Act as well as Government Decree No. 176/2015. These acts are supplemented by lower-level legislation containing industry-specific details of the regulations.

Regulations may also exist on a municipality level. The Passenger Transportation Services Act allows municipalities to introduce certain requirements in the territory of the municipality within the limits set by the act. However, the main municipal regulation for Budapest taxis (Budapest City Council Decree No. 31/2013 (IV. 18.)) is not applicable to hire vehicles.

On a national level, the industry-specific regulator is the National Transportation Authority and its territorial offices. On a municipality level in Budapest, the regulator is the municipality itself which acts through the already mentioned BKK and the Budapest Közút Zrt.

III.2 Procedures for issuing licences and applicable criteria

Hire vehicles may only be operated and licensed if they are used as an auxiliary service for the transportation of persons by an undertaking in connection with the following (main) activities and services:

- provision of accommodation (e.g. hotel);
- tourism;
- sport;
- cultural activities;

⁶⁵⁹ Reply of the Ministry of National Development to the stakeholder consultation, 5 September 2016.

- educational activities;
- transportation of persons carried out by bus or relating to railway, marine or air transportation; or
- event organization activities.

This activity is defined as passenger transportation service with cars ("As described above, the distinguishing feature of this service is that it may only be carried out as an auxiliary service of a main activity. Therefore, it is an ancillary and not an individual service (e.g. transfer from the hotel to the airport by the hotel operator).

The general licensing procedure is similar to the one applicable to taxi services; however, a licence may not be issued to such a vehicle which is already licensed as a taxi.

In order to deliver a hire car service, an undertaking is required to:

1. obtain an operational permit;
2. have a qualified professional manager;
3. have a financial security for each vehicle in an amount of HUF 50,000 per passenger seat in the vehicle;
4. have qualified hire car drivers, and
5. have licensed vehicles.

These conditions are indeed similar to the ones that apply to the taxi sector permit. Conditions No. 2 - No. 5 are preconditions of the operational permit. The general conditions of the operational permit, as well as the specific criteria regarding the professional manager and the financial security are elaborated in the present subsection whereas the criteria applicable to hire car drivers are specified in s. III.4 and those applicable to vehicles are described in s. III.3.

The operational permit may be requested from the respective territorial organ of the transportation authority based on the registered seat of the undertaking. The authority grants the permit if the undertaking meets set out in the relevant legal regulations (both on national and municipal level). The permit is issued for five years (which may be extended for another five years upon request). Once the operational permit has been obtained, the service may be provided throughout Hungary, although it will, as mentioned, have to remain ancillary to the main service. Upon request of the authority, the hire vehicles driver must be able to show the written agreement concluded in connection with the main service.

The operational permit may only be granted if the undertaking certifies that:

1. its professional manager is trustworthy;
2. its professional manager is competent;
3. its proper financial standing is guaranteed;
4. its vehicle(s) is/are qualified as appropriate by the transportation authority based on the technical aptitude test;
5. its driver(s) is/are above 21 years old and have the different relevant licenses and qualifications (see at s. III.4).

As for the first condition (trustworthiness), the second (competence) and the third (financial standing) the same requirements provided for taxi operators are applied (s. II.2).

III.3 Technical requirements applicable to hire cars with driver

The vehicle is required to meet the technical requirements provided by the legislation and their compliance is examined and certified by the transportation authority during the technical aptitude test. The certification is valid for one year.

The vehicle is subject to many different technical and environmental rules. The vehicle may be either max. 7 years old with a min. Euro IV environmental classification or max. 10 years old with a min. Euro III environmental classification. It is required to be equipped with air conditioning, ABS, airbags defending the driver and the passenger sitting next to him, seat belt for every seat, 2-2 doors on the left and right sides opening to the car cabin (in case of max. 4 possible passengers), steering wheel on the left side, min. Euro IV. internal combustion engine (or min. 150 km possible journey with one charge in case of electric cars) and min. 3 mm pattern depth on the tyres.

The vehicle is also required to be equipped with a white permanent number plate and well as a specific registration sticker. The vehicles are not required to be equipped with a taximeter, fare chart or a taxi light.

III.4 Qualitative requirements

Under Hungarian regulations, a hire vehicle driver is required to have the same qualification of a taxi driver (s. II.4) and to obtain the "vehicle personnel transportation qualification", after having passed a vocational training and an exam. After having successfully completed the exam, the transportation authority issues an exam certification which is valid for five years within the territory of Hungary. Certain grounds for exclusion apply (e.g. if the previous driving licence was revoked for cause). After five years, in order to renew it, another vocational training must be entered and an oral exam must be passed.

III.5 Organisational requirements

The dispatch affiliation centre may only relay and organize travel claims for licensed taxi drivers, thus dispatch service is not available for hire vehicles in Hungary.

With respect to a minimum service, it is crucial that the licensed hire vehicle operation is carried out. If the undertaking does not perform its licensed operational activity for a period of at least a year, the operational permit may be revoked by the transportation authority. However, the suspension of the activity may be notified to the authority and in that case, lack of actively pursuing the activity will not entail such consequences.

III.6 Passenger rights

The legal framework of the contractual relationship between the hire car service provider and the passenger is also regulated in the Government Decree No. 176/2015. As a general rule, it can be stated that the same provisions apply as to the taxi services and hence we will not reiterate the same here. However, there are a number of specific issues that need to be mentioned, namely:

- hire car services can only be provided bundled with a so-called main service (i.e. provision of accommodation (e.g. hotel), tourism, sport, cultural activities, educational activities, transportation of personnel carried out by bus or relating to railway, marine or air transportation or event organization activities) or bundled with bus, railway, maritime or air transport of passengers;
- hire car services can be (pre)ordered by the passenger either from the provider of the hire car service or from the provider of the bundled main service;
- the hire car service provider is required to prepare its Terms and Conditions, which must contain the detailed content of the parties' contractual relationship (including e.g. the provisions on the transport of luggage); the Terms and Conditions must be kept and presented at the registered address of the service provider enterprise, as well as in the hire vehicle itself.

III.7 Labour rules

Generally, the same labour rules apply for hire car drivers as for taxi drivers (please see Section II.9). However, due to its ancillary nature, the number of hire car drivers is rather lower than that of taxi drivers. Accordingly, there is little public information available regarding the actual status and situation of hire car drivers.

III.8 Local incentives, subsidies provided by the administration in order to carry out certain services

We have not identified expressly targeted subsidies for care hire service providers.

III.9 Supervisory enforcement tools

The supervisory enforcement tools are the same than for taxis, since they cover in general the Passenger Transportation Service. The new amendments to PTS entered into force on 24 July 2016 are especially directed to provider for unlicensed intermediary/organiser services. As indicated above, dispatch centres are not available for hire cars with driver since they should only provide an ancillary activity. Those companies that intend to provide exclusively intermediation services must comply with the rules provided by the Government Decree No. 176/2015, in order to avoid sanctions provided by the Act LXXV of 2016. Intermediaries have actively been considered by state officials as being subject to the same licensing regime as taxis and dispatch centres, to the extent that this was clarified in the pertinent regulations.

IV. Legal framework applicable to ridesharing and car sharing

IV.1 Current regulations and legislative proposals

In Hungary, there is no separate regulatory regime which specifically applies to ridesharing and car sharing services.

According to the Hungarian National Competition Authority, a separation should be made between carpooling and ridesharing, whereas in the case of ridesharing the "profit-oriented commercial purpose" is the prevailing element. Ridesharing should be defined "a form of commercial taxi-like service in which vehicles operated by independent contractors are booked over the internet using a third-party matchmaking application. Therefore, by comparison, when it comes to enhancing of capacity utilisation for profit-oriented commercial purpose this should be called ridesharing. Carpooling means the sharing of car journeys so that more than one person travels in a car (Wundercar, Oszkar.com, Blablacar). This is promoted as a way to better utilize the empty seats in most passenger cars, thus lowering fuel usage and transport costs".

Non-commercial carpooling is a not regulated activity in Hungary. If the ridesharing is profit-oriented, this activity becomes unlawful since it cannot be defined as providing taxi or private hire vehicle services.

However, different ridesharing intermediaries (e.g. those that are not directly profit-oriented and provide/facilitate ridesharing between towns as opposed to within towns) are still in somewhat of a grey zone when it comes to local regulatory clarity, but they seem to operate unhindered for the time being.

The reason for lack of clarity is that the act sets out the licensing requirements for all passenger transportation services for consideration (including cost sharing) while the wording of the government decree that actually clarifies and details licensing requirements uses the wording "business-like manner".

The new provisions of the Act LXXV of 2016 introduced legal consequences for the provisions of intermediation of profit oriented activities. While they were directed to Uber and similar passenger transportation intermediaries, they were not applied to Oszkar.com and other similar service providers. It enlightens a potential interpretation of the regulator regarding "business-like" services under which Uber and other unlicensed profit-oriented passenger transportation services are prohibited, whilst Oszkar.com (to the extent of its primary, pure cost-sharing platform) and other pure cost-sharing services may still operate without licences.

Therefore based on the day-to-day application of the regulations, as well as the discernible intent of public administration, we believe that the *ratio legis* is that all personnel transportation services performed for a charge and providing actual profit for the drivers may only be carried out with the respective licences.

Based on the above (including the potential interpretation of the regulator mentioned above), "business-like" passenger transportation services may only be performed in two forms in Hungary:

- either as a taxi service (see s. II); or
- as passenger transportation service by car (hire car service) (see s. III).

Based on the exact wording of Article 19(1) of the Government Decree No. 176/2015, this regulation is "*also applicable to passenger transportation services ordered through an IT device*". As mentioned above, this provision was inserted into the decree to expressly clarify that the licensing requirement and other rules also apply to intermediaries who provide a "taxi"-like service through an IT platform.

As regards online platform providing of "business-like" car- and ridesharing intermediation, they qualify as dispatch affiliation centres based on the mentioned stringent interpretation of the pertinent legislation. As specified in s. II.5, dispatch affiliation centres are required to be licensed and may only relay and organize travel claims for licensed taxi drivers.

It has to be noted, however, that this particular provision of Hungarian legislation rises an interesting, although as of yet unanswered, question from an EU law perspective. Namely, dispatch services provided through an IT platform potentially fall under the scope of Directive 2000/31/EC on electronic commerce⁶⁶⁰, and Article 4 of the Directive expressly prohibits mandating a prior licence for "information society services" (principle excluding prior authorisation). It remains therefore to be seen how the provisions of the Directive and the Hungarian Government Decree interact with each other.

As indicated in s. II, the Act LXXV of 2016 has introduced specific enforcement actions against the electronic platforms, websites and apps. The NMHH is empowered to block internet access to illegal dispatcher services meaning, i.e. to block their apps and websites up to 365 days as well as impose sanctions on individual drivers when they provide transport service without authorisation.

Furthermore, in case of unlicensed road traffic services, the vehicle used for this service may be withdrawal from circulation for six months (i.e. its licence plate removed, traffic licence revoked and its usage prohibited). By increasing the measure of some already existing sanctions, unlicensed road transport may result in the withdrawal of the driving licence in the framework of the Hungarian road traffic sanction point system.

IV.2 National rules applicable to on-line platform and rules applicable to service providers.

As mentioned above in s. IV.1, operators of online platforms of "business-like" car sharing and ridesharing services qualify as dispatch affiliation centres – at least under the "strict" legal point of view. As mentioned in s. II.5, dispatch affiliation centres are required to be licensed, obtain a financial security and may only relay and intermediate between users and licensed taxi drivers.

However, in practice a number of on-line ridesharing providers exist and operate, who primarily claim that they only provide an online platform for people to contact

⁶⁶⁰ [Official Journal L 178, 17/07/2000 P. 0001 – 0016.](#)

and connect, as journeys are relayed and organized by the drivers and passengers themselves.

The National Tax and Customs Authority (NTCA) issued a guidance document on 22 January 2016 and a more detailed information notice on 1 April 2016 on its own official website regarding the tax compliance rules for passenger service provider by means of mobile applications, specifying optional tax schemes. As a result, NTCA applies a "zero tolerance policy" and accordingly drivers not complying with the rules can be fined up to HUF 600,000 (approx. EUR 1,900).

Moreover, the National Transport Authority also provided guidance on its official website for UBER drivers regarding conditions of providing lawful taxi services on 23 February 2016.⁶⁶¹

IV.3 Main operators and their business models

Oszkar.com

Website: <http://www.oszkar.com/>

Oszkar.com Telekocsi Kft. ("**Oszkar.com**") is one of the biggest Hungarian online platforms, which connects drivers with potential passengers for ridesharing services. Oszkar.com is entitled to a "reservation fee" of HUF 200 (c.a. EUR 0.66) after the journeys organized through this platform. Oszkar.com does not own and/or operate cars and does not employ drivers. The cars are owned and/or operated by independent parties. Oszkar.com provides three different "packages" for the drivers.

A driver with the "classic" package is only entitled to offer ridesharing service if: (a) the driver starts his journey also without passengers and it is clear from the offer (b) has at most 20 (or 40 with a premium package) passengers in a month and (c) his purpose is cost sharing instead of profit (this means a price of max. 18 Ft/km). Oszkar.com demands no licences to register on the website and offer journeys.

In contrast, drivers with a "business" package may differ from these conditions, hence, they may offer more journeys, for higher prices etc. However, drivers targeting a business package are required to obtain every licence that is needed for hire vehicle drivers (as set out in s. III.).

Oszkar.com claims to have established these packages to comply with the regulations; however, it is still questionable if this business model meets the regulatory requirements due to the "commercial scale" criterion. As Oszkar.com does not generally provide profit-oriented services for its drivers, the stricter sanctions - including the opportunity to suspend website and application, as well as extract unlicensed cars from the traffic - introduced in July 2016 may not be applicable to it. Furthermore, Oszkar.com is rather focused on longer journeys between towns instead of rides within a city, thus, it does not compete directly with taxi services. However, according to a stakeholder, it might be a competitor within the territory of Budapest when travelling from the Budapest airport to the city.

⁶⁶¹ <http://www.nkh.gov.hu/web/kozuti-gepjarmu-kozlekedesi-hivatal/hir/-/hir/1323721/tajekoztatas-leendo-uber-soforok-reszere-a-szemelytaxi-szolgaltatas-szabalyairol>.

Oszkar.com drivers would travel on the certain journey even without any passengers and only make a minor change to its planned route depending on the exact location or any other wishes of the passengers. Oszkar.com further claims that it does not actually provide any transportation organising services as this activity is solely the task of the passengers before the journeys.

Taxify

<http://taxify.eu/hu/>

Taxify launched its service on 19 August 2016 in Hungary, shortly after Uber had suspended its activity in Hungary. It operates through a smartphone application that connects drivers with potential passengers based on their GPS locations. However, Taxify specifically aims to comply with all relevant legislative obligations applicable for taxi drivers: Taxify applies the obligatory fix rates in Budapest, yellow colour on the cars, taximeters, bills etc. Therefore, Taxify has introduced a more formal approach (including a special uniform for its drivers) in order to specifically point out its distinguishing features against other social ridesharing platforms. In order to operate, Taxify committed to comply with all of the local rules and regulations on taxis previously issued, i.e. the Taxi regulation as of 2013 and the provisions of Government Decree No. 176/2015.

IV.4 Requirements imposed upon non-licensed activities (*safety and technical requirements, insurance requirements, obligations relating to licences and on-line platforms*)

As specified in s. IV.1, "business-like" car and ridesharing service is generally subject to the same requirements as taxi service (see s. II), hence, there is no clear legal possibility to provide "business-like" car- and ridesharing services without an appropriate licence. Thus, the regulator does not appear to allow such unlicensed "business-like" services, whilst unlicensed "non-business-like" car- and ridesharing services are seemingly accepted.

Although a separate matter, we do note that personal data received, forwarded or stored through an IT device is subject to Hungarian data protection regulations in accordance with Article 19(2) of the Government Decree No 176/2015.

IV.5 Local incentives, subsidies and other forms of promotion for ridesharing and car sharing (*including, parking spots, use of preferential lanes, etc.*)

Car sharing and ridesharing services are usually not subject to state subsidies and no promotion with respect to preferential parking spots or lanes is applied.

However, Oszkar.com, a ride-sharing service provider platform, has been awarded with a non-refundable subsidy of HUF 39,307,400 from the Prime Minister's Office in 2014. The subsidy targeted the support of the market entry and the promotion of capital rising in the framework of the start-up ecosystem construction. The awarded project title was "*The assessment and establishment of the international competitiveness of Oszkar.com ridesharing service, the preparation and*

implementation of its international market entry, as well as the preparation for the necessary capital raising".⁶⁶²

V. Relevant national case law

The Constitutional Court of Hungary has assessed the regulation of the passenger transport services several times. Its most important resolutions have heavily influenced the lawmakers both on national and local level.

The Constitutional Court of Hungary did assess some of the restrictions applicable to the taxi business such as the obligatory financial security, the high standards of technical availability, the educational obligations (training and exams) of the taxi drivers as well as the limitation of the number of taxis from a constitutional perspective in 1994. The Decision No. 21/1994 (IV.16.) contains the following assessment on these regulatory tools:

- The requirement of the financial security is a necessary and proportionate restriction of the fundamental right to the freedom to conduct a business as such financial security is able to ultimately cover those damage eventually suffered by the passengers which is not covered by the insurances of the taxi;
- The requirement of the high standards of technical availability is a necessary and proportionate restriction of the fundamental right to the freedom to conduct a business as such requirement of the high standards contribute to the protection of consumers and the securing of the minimum standards of the service, such restriction can also be justified by the nature of the taxi industry;
- The requirement of educational obligations (training and exams) is a necessary and proportionate restriction of the fundamental right to the freedom to conduct a business as long as the educational materials are not unnecessarily difficult compared to the real life requirements of the taxi industry;
- The competence of the municipalities to set an upper limit to the number of taxis by a municipal decree is an unnecessary and disproportionate restriction of the fundamental right to the freedom to conduct a business and therefore, it is unconstitutional. Pursuant to the resolution of the Constitutional Court, the anomalies of the taxi sector (e.g.: undesirable increase of the number of taxi drivers, decrease of the service level, incompliance of the taxi companies with the statutory provisions) must be handled with administrative measures but in no circumstances with such restriction of a fundamental right. Therefore limiting the number of taxi licenses in a given area has been deemed unconstitutional in Hungary.

However, it has to be noted that pursuant to a rather controversial resolution of the Constitutional Court (No. 3050/2016 (III.22)), it is in compliance with the Constitution when a local municipality sets an upper limit to the number and capacity of the taxi stands and together with this sets an upper limit to the number of public area usage licenses to be issued (which could, in turn, indirectly be used to control taxi numbers).

The Constitutional Court of Hungary has also assessed the Budapest City Council Decree No. 31/2013 (IV. 18.) regulating the taxi services in Budapest. The main subject of the assessment was whether the extra requirements prescribed for the taxi vehicles in

⁶⁶² https://www.oszkar.com/letoltesek/Gazella_sajtokozlemenyei.pdf.

Budapest (such as the obligatory yellow colour, the stickers to be installed or the higher technical standards) put an unnecessary burden on the fair economic competition. The resolution of the Constitutional Court (No. 3121/2014 (IV.24.)) declared that those extra requirements prescribed for the taxi vehicles operating in Budapest are necessary and proportionate restrictions of the fundamental right to the freedom to conduct a business.

Regarding another subject, the Constitutional Court of Hungary has also declared in its Decision No. 60/1993 (XI.29.) that it is in compliance with the Constitution that – as an exemption from the general rule - the taxi drivers are not obliged to fasten their seat belts.

VI. Country Market

There are no caps on the number of taxis neither in Hungary nor in Budapest due the Supreme Court decision which has declared the caps unlawful. However, the taxi sector, especially in Budapest, is heavily regulated (unified yellow colour, taxi sign, taxi meter) and there is one single regulated fare set at central level, by the Budapest Transportation Centre Private Limited Company (BKK). Hire car with driver regulation is very similar to taxi regulation when it comes to driver, vehicle, and company requirements. What essentially differentiates hire cars from taxi is that the former activity can only be conducted as a supplementary service to a primary activity like tourism, hotels, event organising, if there is contractual relationship between the two activities and clients use the hired cars exclusively in relation to the primary activity.

As clarified by the Hungarian Competition Authority in its reply to the stakeholder consultation, *“in Hungary, hire care with driver is not regulated activity. In practice, however, vehicles are rented with driver. In the exclusive market segment, especially in the capital this is standard practice in place since many years, in line with the special characteristics of the vehicles. Moreover, the so-called chauffeur or personal drivers’ service is getting more and more popular since they undertake to drive the passengers own vehicle ensuring high quality of customer service. From a legal point of view the above described solutions systematically circumvent the rigorous special rules and the prices are more attractive in the lower market segments compared with the taxis”*.

The activity of facilitating transport of passengers i.e. taxi dispatchers and intermediaries, was not regulated. Firstly, the “new Taxi Regulation” adopted by the Budapest City Council in 2013 and then the Government Decree in 2015 prescribed that taxi dispatcher services are subject to authorisation as well as several operational conditions are defined (e.g. financial security and safeguards, personal reliability, relevant qualification requirements). The new provisions were intended to regulate intermediaries offering professional services such as Uber. Following the adoption of the Act LXXV of 2016, which introduced stringent sanctions, including the shutdown of the websites, Uber stopped its activities in Hungary. However, other players have remained and, as reported above, Taxify, has launched its services in Budapest in August 2016.

Various ridesharing intermediaries are present in the market, including the Hungarian player Oszkar, which provide both cost-sharing ridesharing and professional ridesharing. Wundercar has shut down its ridesharing platform recently, more for the difficulties to develop and make attractive a short distance ridesharing than for the tightening of the legislation applicable to intermediaries.

VII. Main players

- Taxis

As clarified by the Hungarian Competition Authority⁶⁶³, some of the Hungarian taxis operate as a single-member company (e.g. self-employment, limited partnership, etc.) using his/her own or hired vehicle, thus performing the passenger transport activity individually. In larger towns, they may also enter into an agreement with a passenger transport organizer to perform the activity.

There exists many taxi service companies where either with the equipment of the company itself or that of the driver members, the passenger transport service will be carried out by the hired taxi drivers.

Passengers in Budapest, when hailing a cab, can demand to travel by one of the eco-friendly vehicles of the "**Green Lite Taxi Kft.**" which is an electric taxi service. The company, based in Budapest, purchased 65 Nissan LEAFs in a bid to become Hungary's first zero emission fleet and entered the market in September 2015. It owns its fleet and hires its drivers in the framework of an employment contract.

Furthermore, "**City Taxi**" operates in a differing business model which is a cooperative society where the taxi drivers are cooperative members. This can be regarded as an undertaking composed of taxi entrepreneurs.

In the capital, the following dispatcher services operate:

- Főtaxi Autóközlekedési és Szolgáltató Zrt.
- Taxi Plus Europe Kft.
- Maxtaxi Magyarország Zrt.
- Tele 5 Taxi Hungary Kft.
- Taxi 4 Kft.
- City Taxi Fuvarszervező Szövetkezet
- 6X6 Taxi Közlekedési Szolgáltató és Kereskedelmi Kft.
- TOP Taxi-2000000 Kft.
- Centrum Taxi Kft.
- Green Lite Taxi Kft.
- Budapest Taxi Kft.
- MB Elit Luxury Kft.

Főtaxi is the only authorised provider in the Budapest airport as this company won the tender in December 2014 for a five-year period.⁶⁶⁴

⁶⁶³ Reply to the stakeholder consultation.

⁶⁶⁴ http://www.bud.hu/budapest_airport/media/hirek/a-fotaxi-nyerte-a-budapest-airport-tenderet-1200.html.

In February 2016 was announced that the company COinPAY has partnered with one of the city leading taxi providers, Budapest Taxi, to run 580 active cabs with Bitcoin systems.⁶⁶⁵

- *Hire cars with driver*

Among the main players, mainly specialized in airport transfers and corporate service, there are:

- **Metropolis Transfer**⁶⁶⁶ is a company specialized in pre-booked airport transfer with pre-booked hire cars with driver, business service for companies as well as shuttle service between Budapest, Vienna and Bratislava. Hire cars must be pre-booked at least two hours in advance by phone or 4 hours by email. Since the 1st September, with the new regulation, it is not possible anymore to order the service via web application.
- **Suntransfer**,⁶⁶⁷ the Spanish company specialized in private transfer to and from airports is active in Budapest providing private taxi, private cars, minivan.
- **Transfer Budapest**.⁶⁶⁸ In Hungary the company has been active for more than 10 years, with providing activities ranging from private transfer services for smaller events and business travel for business people to the organized trips for tourists on holiday in Central-Eastern Europe. The company offers airport, hotel, port, train station transfers or transfers between two cities (direct and with stop on the way) as well as individual transfers from or to abroad countries.
- **Blacklane** is the German hire car transfer platform for high-end luxury vehicle and it is active in Budapest.
- **Bestroad**⁶⁶⁹ is personal transport provider in Budapest, offering a form of travel in which the customer pays a price fixed at the moment of the order placed without any hidden additional costs. It is done at the designated time and place to the address or addresses recorded in the order.

Other companies are FIXTRANSZFER,⁶⁷⁰ VIPTRANSFER,⁶⁷¹ which are mainly specialised in transfer to the Budapest airport at fixed fares, REPETERI TRANSFER⁶⁷² which provides transfer to the airport and in the rural areas.

The main ride-sharing operators are: OSZKAR and BLABLACAR.

VIII. Barriers, limitations, incentives

There are no quantitative restrictions for the access to the taxi market in Hungary, as they have been removed after the Supreme Court's decision which has declared them unlawful. Market access is based on compliance with strict qualitative requirements. Municipal authorities may regulate fares. The Budapest City Council Decree No. 31/2013 (IV. 18.) sets a single unified official tariff for all Budapest taxis, from which no deviation (in either direction) is permitted.

⁶⁶⁵ <https://www.cryptocoinsnews.com/budapest-take-taxi-pay-bitcoin/>.

⁶⁶⁶ <http://www.volantaxi.eu/hu#>.

⁶⁶⁷ <http://www.suntransfers.com/about-us>.

⁶⁶⁸ <http://transferbudapesthungary.com/>.

⁶⁶⁹ <http://www.budtranszfer.hu/en/>.

⁶⁷⁰ <http://fixtranszfer.hu/>.

⁶⁷¹ <http://viptransfer.hu/>.

⁶⁷² <http://repteritransfer.hu/>.

The Budapest City Council Decree imposed uniform tariffs in a previously segmented market: different tariffs applied to cruising on the street, pre-ordering by phone, or hiring a taxi based on a long-term agreement. The Hungarian Competition Authority (GVH), despite not being required to do so, proactively drew the regulator's attention to the risk that the proposed legislation might have an adverse effect on competition⁶⁷³. In the GVH's view the new rules would distort price competition, hence it opposed in particular the determination of uniform fixed taxi fares in the Hungarian capital. These prices are substantially higher than market prices. However, in accordance with the Act No LXXXVII of 1990 on Price Setting, regulated prices may not significantly differ from established prices due to effective competition.

The GVH found that the determination of fixed regulated prices is unjustified in particular in two market segments – i.e. pre-ordered and hired taxis based on concluded agreements – where competition exists and is able to fulfil its resource allocation function. In these segments, the regulation of the highest possible price would offer sufficient protection for consumers. The GVH also highlighted that taxi regulation in the capital is particularly important as it may set a precedent for local governments and municipalities.

According to the GVH, the new regulation does not protect consumers from overpricing, and the requirements for operating vehicles as taxis are particularly stringent. A uniform regulation may not be supported from a competition viewpoint, resulting in particularly high adjustment and switching costs and, most likely, high taxi fares. The substantial increase of taxi fares would, on the one hand, adversely affect the economic interests of consumers and, on the other hand, restrict market offers which would, in turn, cause a decrease in employment. Concerning the taxi sector, few cases were brought before the Authority. In one competition supervision proceeding (Case No Vj/116/2003.), the GVH established that nine undertakings facilitating transport of passengers concluded an agreement on the use of taxi ranks at Budapest Airport which were capable to restrict competition. In another competition supervision proceeding (Case No Vj/028/2008.), the GVH stated that seven undertakings concluded agreements in November 2006 in order to obtain contracting parties of Radio Taxi which were also capable of appreciably restricting competition.

As clarified by the Ministry of National development, obtaining a licence is subject to the payment of various fees: the cost for issuing the taxi licence and car passenger transport licence is 5591 HUF (ca. 18 EUR) for 5 years. These costs are rather limited. Sub-licences cost 3400 HUF (ca. 11 EUR). Independent dispatcher licence costs 16,200 HUF (ca. 52 EUR). In Budapest and in some bigger cities there is a need to extend the territorial validity of the licence beyond the municipal area of licensing. Such extension, in Budapest, costs 50,800 HUF (cca 165 EUR) for one year.

These licence fees, according to the Hungarian Competition Authority, are high and affect the cost of the activity⁶⁷⁴. As of 1 January 2016, the fee payable for the operation of taxi stands in Budapest was increased to HUF 65.000+VAT (gross HUF 82.550) (approx. EUR 270). This is a large increase compared to previous years. On 28 October 2015, an amendment to the Budapest Taxi Decree was discussed and accepted by the

⁶⁷³ Reply to the stakeholder consultation.

⁶⁷⁴ Reply to the stakeholder consultation.

City Council. The proposal was published on the official website of the Municipality⁶⁷⁵. Based on the new amendments, further restrictions have been introduced. Special taxi ranks have been established not only at the airport but also on railway stations. All cars must be equipped with an alert system which transmits alerts to the dispatch centre in the case of emergency, accident or attack such that the competent authorities are informed without any delay. Several annexes were attached to this proposal including, amongst other things, the economic review of the fee relating to the operation and service of taxi ranks. Annex No 8 (p. 3.) contains information regarding the anticipated decrease of the number of contracting parties using taxi ranks.

The proposal for the 2015 amendment to the Budapest Taxi Decree deals with the economic review of the fee relating to the operation and service of taxi ranks. It includes information on the number of taxi vehicles at the time of adoption of the Taxi Regulation as compared to the current state of play. The document foresees that a public consultation should be carried out in the taxi service sector including opinions, market requirements of service providers, taxi service undertakings as well as passengers. In this context, the BKK recommended to exchange arguments and opinions of the latter groups. In this regard, the document invites to test and take into account the GVH's analysis with regard to the introduction of regulatory prices, in particular: (i) recession and significant market reduction (ii) reduction in the number of services (iii) negative employment impacts (iii) downturn in demand (iv) restriction of market segments (v) decrease in capacity utilisation of taxis (vi) concerns relating to the fee payable for operation of taxi ranks.

With regard to hire cars with drivers, as indicated above, technically they should be provided only as ancillary services to other activities. The purpose of this provision is to keep this service separate from the taxis. However, as also the Hungarian Competition Authority observed, in the biggest cities they are effectively competing with taxis, at least for journeys to/from the Budapest airport. Many of these passenger transport companies are *de facto* providing hire car with driver as primary activity; however they are registered as companies providing passenger transport by bus and tourism services, mainly shuttle services across the border to Vienna, Bratislava and Timișoara.

A ride to the city centre from the airport by taxi should typically cost around 6500 HUF (EUR 21) depending on traffic conditions. With hired cars, basic transfer with a luxury car in Budapest starts from EUR 40.⁶⁷⁶ However, with the introduction of fixed fares, the popularity of the minivan shuttles to and from the airport is increasing.⁶⁷⁷

Intermediaries facilitating transport services are considered dispatch centres; therefore, apps like Taxify are in direct competition with the traditional dispatch centres, both independent and belonging to taxi companies.

Pre-arranged ridesharing is characterized by direct competition from international platforms such as BlaBlaCar and Carpool.com, and local intermediaries such as Oszkar. This latter intermediary facilitates services for cost-sharing of journeys similar to the

⁶⁷⁵ <http://infoszab.budapest.hu:8080/akl/tva/Tir.aspx?scope=kozgyules&sessionid=6724&agendaitemid=89924>

⁶⁷⁶ http://www.fclimo.hu/ar_eng.php.

⁶⁷⁷ https://www.tripadvisor.co.nz/ShowTopic-q274887-i263-k6809315-How_Much_Was_Your_Taxi_Ride_To_or_From-Budapest_Central_Hungary.html. (last access 5 September 2016)

other platforms, but the packages are divided between classic, where non-professional drivers offer seats in their cars to no more than 20 passengers per month, to share the costs, and business, where the drivers are entitled to offer more journeys at higher prices; but in this latter case they need to be licensed.

IX. Growth, capacity, impact

Beyond the publicly accessible data presented in the general market analysis section of this study, we have no specific data for the Hungarian market since the Ministry of national Development has informed us of not having any data collected at central level and we did not obtain any reply from the local authorities.

According to the press, after the fixed price regulation of 1 September 2013 led to an increase of the prices especially for longer journeys such as to the airport, since discounts or fixed fares are not allowed anymore.

According to the Hungarian Competition Authority (GVH)⁶⁷⁸ and based on the publicly available information, following the introduced rigorous rules for the Budapest taxi market and price increase, between April 2013 and January 2015, the number of taxi service providers in Budapest decreased from 5600 by 5079. Approximately a decrease of 600 taxis was foreseen by end of 2016 in the official document published by the Municipality of Budapest. Therefore, around the 10% of the taxi providers left the market. As a comparison, population of Budapest is approximately 1,735,000 which renders the taxis service insufficient for the needs of the city.

As the authority clarified, there is no official information about the number of taxi vehicles. The Hungarian Central Statistical Office does not collect or do not publish statistical data with regard to the number of issued licenses, the number of undertakings facilitating transport of passengers, the number of professional taxi drivers.

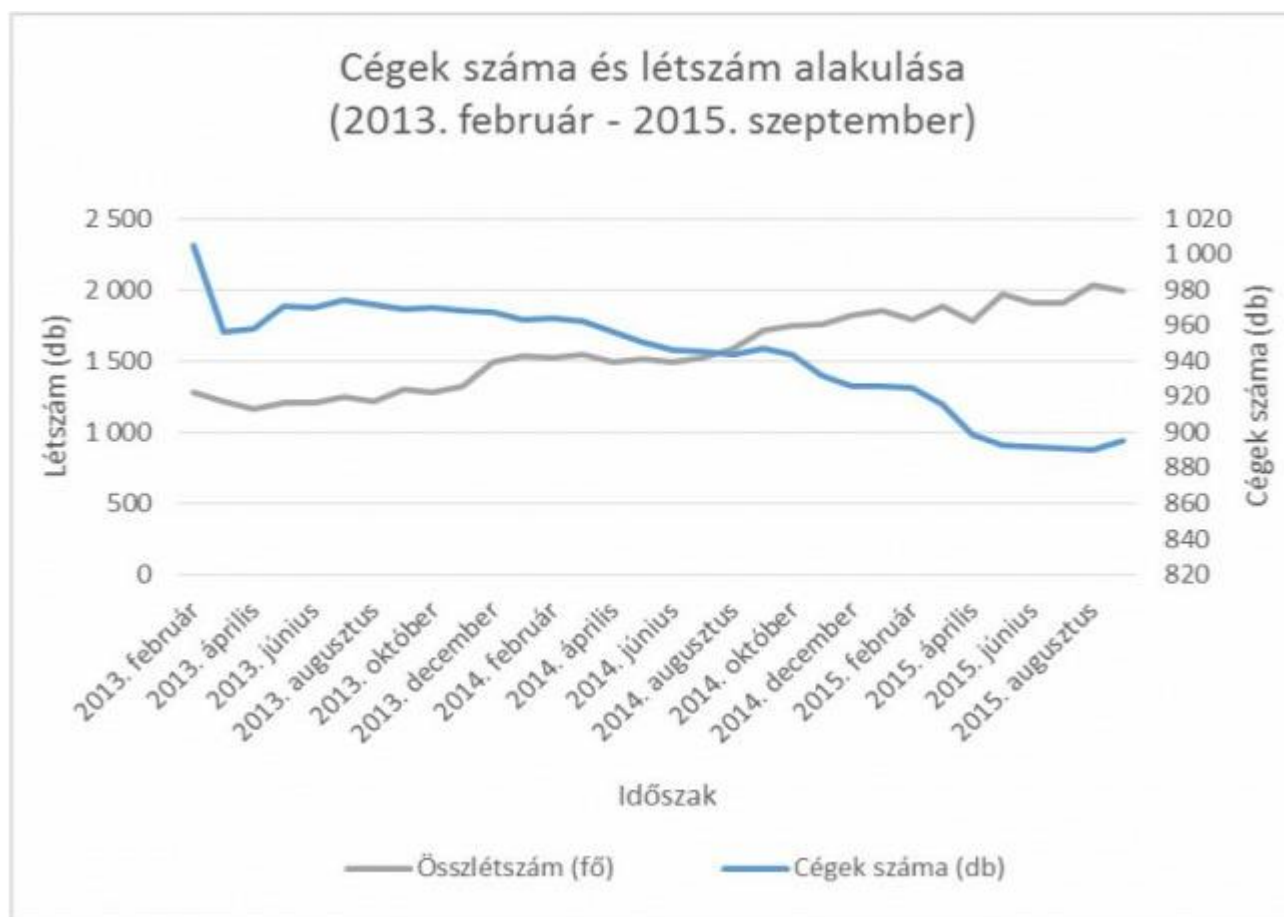
A study published in 2015 by Opten,⁶⁷⁹ after the introduction of the new regulatory requirements for taxis, showed that the number of taxi operators had contracted. The number of companies operating in Hungary in September 2015 fell below 900. The data is in line with the data provided by the GHV for the city of Budapest, where the number of units decreased of around 550 taxi units from 2013 and another decrease is expected for 2016.

According to the research, this may be due to the new rules adopted in 2015, which have been too burdensome for self-employed and small companies.

However, according to the research, the total number of employees between 2013 and 2015 rose from 1200 to 2,000. This may be due to the exit from the market of various self-employed who may have started to work as employees. Large companies which can sustain the costs showed an increase in the number of employees and in the revenues.

⁶⁷⁸ Reply to the stakeholder consultation.

⁶⁷⁹ <http://www.uzletresz.hu/penzugy/20151027-taxipiac-ceg-vallalkozas-uber-szabalyvaltozas-ellenorzes.html>.



The taxi companies' combined revenue grew by more than a hundred per cent in 2012 from 2014. Since it is not realistic to demand increased that much, and that nearly 80 % of the market revenue comes in Budapest, they may be the results of the fixed fares imposed in Budapest.

Év	Árbevétel összesen (eFt)	Adózás előtti eredmény összesen (eFt)	Adózott eredmény összesen (eFt)	Adó összesen (eFt)	Személyi jellegű ráfordítások összesen (eFt)
2010	5 273 633	-573 099	- 597 303	24 204	1 354 898
2011	4 447 623	-405 027	- 424 016	18 989	1 146 273
2012	4 248 072	-303 104	- 331 443	28 339	1 122 785
2013	7 141 793	-159 530	- 198 790	39 260	1 652 533
2014	8 699 148	71 548	29 412	42 136	1 761 330

Cégnév*	Értékesítés nettó árbevétele (eFt, 2014)	Értékesítés nettó árbevétele (eFt, 2013)	Adózás előtti eredmény (eFt, 2014)	Adózás előtti eredmény (eFt, 2013)
Főtaxi Zrt.	1 241 297	1 077 773	57 851	13 387
RT 5 TAXI HOLDING Kft.	981 072	815 233	72 774	9 694
CITY-TAXI Fuvarszervező Szövetkezet	471 366	419 047	1 479	1 415
BUDAPEST TAXI Kft.	280 555	23 609	14 906	2 771
6x6 Taxi Kft.	270 426	271 835	16 486	3 112
SEPFA Hungária Kft	253 492	195 433	2 626	-37
TAXI 4 Kft.	212 312	101 962	2 458	2 018
TOP Taxi-2000000 Kft.	176 984	172 853	9 659	2 859
Royal Limousine Kft.	172 080	123 823	42 345	16 654
Taxi-Flottakezelő Kft.	161 893	111 419	501	310
ÖSSZESEN:	4 221 477	3 312 987	221 085	52 183

From the public available sources,⁶⁸⁰ in 2016, in Budapest the taxi driver gross turnover was in the range of HUF 600 000 - HUF 700 000 per month (ca. EUR 1900-2200). Calculating the average earnings after tax and costs, a figure of HUF 300,000 per month (ca. EUR 950) has been reported this year.⁶⁸¹ Earlier reports (from 2010) indicated earnings after tax and costs as low as HUF 130,000 to HUF 150,000 (ca. EUR 400-425).⁶⁸²

Ridesharing apps like Uber proved to be a disruptive force also in the Hungarian taxi industry as they circumvent the traditional business model which requires professional drivers to pay heavy licensing fees to drive taxis. Uber fares were flexible and cheaper since they did not have to apply the Budapest fixed fares. According to the taxi operators, Uber became so strong on the Budapest market *"that it takes basically 50-55 percent of our rides on the taxi market."*⁶⁸³ However, authorities claimed that the Dutch-registered company is providing its taxi service in Hungary without contributing to the country's tax revenue and lacking appropriate permits.⁶⁸⁴

In comparison, Taxify, which has recently launched in Budapest, applies the city taxi fixed fares.⁶⁸⁵ The attractiveness of the service will mainly rely on the user-friendliness of the platform. According to the spokesperson of Taxify, the company with HUF 50 million subscribed capital is still in a testing phase and 200-300 customers register in their smartphone system each day. In August 2016, 10% of their drivers were ex-UBER drivers.⁶⁸⁶

As noted by the Hungarian Competition Authority, in Budapest, a few taxi service companies (e.g. 6x6 Taxi, Budapest Taxi, Főtaxi, Citi Taxi, Taxi 4) apply mobile-app ordering solutions beyond the offered booking possibilities via telephone and online. *"Services offered by these applications are different by comparison with the Uber app*

⁶⁸⁰ <http://24.hu/fn/penzugy/2016/01/19/enyit-keres-ma-egy-taxisofor-budapesten/>.

⁶⁸¹ <http://www.vg.hu/vallalatok/szolgalatas/havi-300-ezret-konnyen-megkereshet-egy-taxis-464236>.

⁶⁸² <http://www.origo.hu/allas/20100817-mennyit-keres-valojaban-egy-taxis-sorozat-a-kulonbozo-szakmak.html>.

⁶⁸³ <http://www.euronews.com/2016/01/18/budapest-cabbies-protest-and-call-for-ban-on-uber>.

⁶⁸⁴ Reply to the stakeholder consultation.

⁶⁸⁵ <http://taxify.eu/hu/varosok/budapest/>.

⁶⁸⁶ <http://nol.hu/gazdasag/tesztuzemmodra-kapcsolt-budapest-en-a-taxify-1625927>.

*which is more developed. They are neither capable of prior price calculation nor there is another payment option via the application. A clear advantage is however that the arriving taxi vehicle can be seen and the route can be followed as well".*⁶⁸⁷

X. Results

According to publicly available information, before the 2013 reform the taxi market, at least in Budapest, was characterized by strong price competition, with aggressive discounts. Due to an oversupply of the market, economies of scale were obtained through mergers between taxi companies⁶⁸⁸. As clarified by the Hungarian Competition Authority, before 2013 the local authority set the regulated maximum fares. With regard to the Budapest taxi services market, strong competition brought the price well below (approx. 30%) the maximum fares. Different tariffs were applied to cruising on the street, pre-ordering by phone, or hiring a taxi based on a long-term agreement.

Therefore, the Taxi Decree 2013 eliminated or reduced flat fares for airport trips and also lowered fares for contracted partners and pre-booked transport.

The 2013 Budapest Decree had the effect to push various taxi operators out of the market due to the upfront investment needed to comply with the new stringent conditions of fitness of the vehicles. As indicated by the Opten Study, the number of self-employed drivers diminished but, conversely, the number of employees of the largest taxi companies increased. This may explain the switch from self-employed to employees. The Optil study also indicated that the average turnover of the largest taxi companies increased.

The Act LXXV of 2016 on new enforcement measures for intermediaries had the immediate foreclosure effect vis-à-vis Uber, which had in the meantime occupied a large share of the market, at least in Budapest.

Another ridesharing operator, Wundercar, has recently closed its operations in Hungary, due to the lack of profitability of short-distance pre-arranged ridesharing rather than to the new rules on IT intermediaries.

XI. Conclusions

While there are no quantitative restrictions to the taxi service activity, there are stringent qualitative requirements, especially in Budapest. The 2013 rules on the conditions of fitness for the vehicles operated in Budapest have squeezed the market, reducing the number of operators. Intermediaries facilitating transport services via web applications are required to comply with the rules on dispatch centres and to obtain a licence, complying with all the mandatory requirements, including financial guarantees. The heavy sanctions introduced in July 2016 for IT intermediaries who do not comply with those rules on dispatch centres caused Uber to leave the Hungarian market.

⁶⁸⁷ Reply to the stakeholder consultation.

⁶⁸⁸ <http://budapesttimes.hu/2010/10/18/big-merger-on-budapest-taxi-market/>.

Hire car with driver transport activities, despite being allowed only as an ancillary activity of another transport activity, are effectively competing with taxis in the pre-booked market, especially for airport transfers. They offer competitive prices since they are not bound by the fixed fares per km imposed by the Budapest City Council.

No specific regulation exists for ridesharing, except for the provision that any passenger transport for consideration must comply with the taxi rules.⁶⁸⁹

Bibliography

1. <http://dailynewshungary.com/government-supports-taxi-drivers-call-for-fair-market-conditions/>.
2. <http://bbj.hu/business/decreed-only-licensed-taxi-drivers-can-work-with-uber-99932>.
3. <http://www.wsj.com/articles/hungary-tightens-law-on-car-hailing-services-1465828969>.
4. <http://bigstory.ap.org/article/9305046e50a54532abdc1a3271f4be6d/hungary-aiming-drive-uber-ride-hailing-app-out-country>.

⁶⁸⁹ 13 June 2016, WSJ, Hungary Tightens Law on Car-Hailing Services, at the following webpage: <http://www.wsj.com/articles/hungary-tightens-law-on-car-hailing-services-1465828969>.

14. IRELAND

General Legal Framework

The Irish small public service vehicle ("SPSV") industry is regulated by the consolidated Taxi Regulation Acts of 2013 and 2016 (the "Principal Act"). The Principal Act includes a prohibition on the transfer of SPSV licences. The SPSV industry is also regulated by subsidiary legislation made under the Principal Act through the National Transport Authority ("NTA") which is the regulator of the SPSV industry. Subsidiary legislation includes the Taxi Regulation Act 2013 (Maximum Fares) Order 2015 and SPSV regulations that set out, more specifically, the requirements and standards for SPSV vehicles, and SPSV drivers and dispatch operators/booking service providers. The currently applicable NTA SPSV regulations are the Taxi Regulation (Small Public Service Vehicle) Regulations 2015⁶⁹⁰ ("Regulations").

The Irish taxi industry was liberalised in 2000 with the removal of quantitative restrictions on taxi licences issued by local authorities. Following liberalisation, between 2000 and 2008, the number of taxi vehicle licences rose from 3,913 to 21,177 (or 541%). Since 2010, the regulatory framework for SPSVs requires that new taxi and hackney licences be granted only for vehicles that comply with wheelchair accessibility requirements (i.e. they must be wheelchair accessible).

Licences

In Ireland, there is a prohibition on providing SPSV services without a licence. Irish legislation provides for three different types of licences to carry out different SPSV services: one for the driver, one for the vehicle and one for SPSV dispatch operators/booking service providers. In relation to the driver, An Garda Síochána is the licensing authority for both standard and SPSV driver licences. A current SPSV driver's licence permits the holder to drive all categories of SPSVs and is normally valid for five years. The NTA, working closely with An Garda Síochána, administers the application and renewal processes for these licences. Vetting remains the responsibility of An Garda Síochána. New applicants for a SPSV driver's licence must complete the Skills Development Programme and pass the SPSV Driver Entry Test, which is comprised of two modules covering both regulatory industry knowledge and local area knowledge of the county in which the applicant wishes to operate. This system was introduced in 2009. NTA provides the Skills Development Programme for SPSV operators that is designed to assist SPSV operators to develop the range of skills needed to operate in the SPSV industry on a day-to-day basis.

In relation to vehicles, the Regulations provide for six categories of small public service vehicles (SPSVs):

- Standard taxis (on street public hire or pre-booking)
- Wheelchair accessible taxis (on street public hire or pre-booking)
- Standard hackneys (private hire)
- Wheelchair accessible hackneys (private hire)
- Local area hackneys (private hire)
- Limousines (private hire)

The Regulations⁶⁹¹ state that only one SPSV licence shall apply to a vehicle at any time. In general, vehicle licences are issued and renewed only for taxis and hackneys that are less than 10 years old. If a new or renewed licence is granted for a vehicle that is over nine years old, the licence will expire when the vehicle reaches its 10th year. The maximum vehicle age for a new wheelchair accessible taxi licence or new wheelchair accessible hackney is 6 years. Limousines do not have a maximum permissible age limit.

Technical requirements for small public service vehicles

Vehicles able to be licensed as a taxi or hackney are defined as mechanically propelled vehicles with passenger seating not exceeding eight-person capacity (driver excluded) and weighing no more than 3,500 kg. Vehicles must have a minimum of four wheels, four operable doors and a permanent rigid roof. All passenger windows must be readily operable and not tinted. Requirements are set also with regard to the cleanliness of the vehicle, seating quality, size and space, exterior condition, luggage area (availability, minimum 420 litre capacity), and the ability to maintain a passenger compartment temperature of 20 degrees centigrade. A taxi vehicle must be equipped with a taximeter in a manner such that it is: (i) securely attached to the vehicle; (ii) visible from the passenger's perspective; (iii) connected with the wheels or the driving mechanism in an appropriate manner; and (iv) calibrated in accordance with the maximum fares order made by the NTA under section 24 of the Principal Act. A taxi must also have a taxi roof sign mounted on its roof while operating. Limousines, by virtue of their special characteristics and age, must adhere to slightly different

⁶⁹⁰ Taxi Regulation (Small Public Service Vehicle), Regulations 2015 S.I. 33/2015.

⁶⁹¹ Section 12(1), Taxi Regulation ((Small Public Service Vehicle) Regulations 2015, S.I. 33/2015.

vehicle requirements.

Organisational and professional requirements

There is no requirement for a SPSV driver or dispatch operator to be a member of any professional body or organisation. The majority of operators are owner drivers and self-employed. All SPSV services must be licensed and registered with the NTA. The application for the grant of a new SPSV driver's licence shall be accompanied by: (i) evidence that the applicant holds a valid driving licence (on a continuous basis during the 12 months preceding the date of application); (ii) evidence of payment of EUR250 fee⁶⁹²; (iii) evidence of the successful completion of the relevant SPSV Driver Entry Test; (iv) a statement by the applicant promising not to perform the SPSV service for 11 consecutive hours over a period of 3 days; (v) a self-declaration that no health issues affect the applicant's ability to drive; (vi) a declaration confirming that the applicant has not been convicted of any offences specified in section 30(3) or the Principal Act; and (vii) any other document requested by the licensing authority. The applicant/holder of a licence is also required to communicate to the NTA whether he/she is engaged in another occupation at the same time and also its nature.

Fares

In 2006, to assist in the development of taxi services nationally, the whole country was designated as a single taximeter area instead of the 34 separate taximeter area system previously in place. A National Maximum Taxi Fare was also introduced to ensure that fares are transparent and predictable and that customers have clarity and confidence in the maximum fare structure in operation. Maximum taxi fares were unchanged between 2008 and 2015. In 2015, a fare increase of approximately 4% on average was applied based on the 2014 review recommendations, coupled with a further simplification of the fare structure. Private hire vehicles are booked on a pre-agreed fare basis.

Passenger rights

Section 23 of the Principal Act and Part 6 of the Regulations lay down the obligations and duties of drivers towards passengers. Section 23 sets out the conditions under which the driver may refuse to accept a passenger that include: adverse weather or road conditions rendering the route unsafe or impractical, a journey distance of more than 30 km, luggage exceeding the luggage carrying capacity, or a passenger that appears to be aggressive or intoxicated. Complaints from passengers or intending passengers may be submitted by post, email or online form and is investigated by a member of the NTA compliance team.

Labour rules

The SPSV industry is not subject to the same EU regulations on working, rest or break times as other professional driving industries. SPSV legislation requires that a person may not, in any period of three consecutive days, drive or use a SPSV for transport service for more than eleven hours in any one day. In addition, drivers are required to provide details of any other occupation in which they are engaged in and if that other occupation involves driving, evidence that they have informed their employer of their intended SPSV activities. With regard to dispatch operators, the terminology used by the relevant legislation is "affiliated" which does not imply an employer/employee relationship. The majority of SPSV operators are owner-drivers.

Airports

Some national airports, such as Dublin, Ireland West and Shannon require SPSVs to operate under a fee paid permit system, whereas Cork and Kerry Airports do not require any additional licensing to stand for hire.

Enforcement

The NTA has the right to prosecute certain offences, including unlicensed drivers and unlicensed vehicles operating as SPSVs. Compliance officers may issue on-the-spot fixed payment notices for a number of specified fixed payment offences.

Anyone convicted (in Ireland or elsewhere) of any of the serious offences specified in the Taxi Regulation Act 2013 is disqualified from holding an SPSV driver licence – in some cases for life but in other cases, for specified periods of time.

⁶⁹² The current amount of the fee was set in 2009 and it is required also for renewals.

Hire cars with driver

The same driver's licence required to drive a taxi is required for SPSV drivers that operate hackneys or limousines. The holder of a SPSV driver's licence is entitled to drive any category of SPSV except that local area hackney driver's licences are only entitled to drive hackneys. The applicable legislation on the private hire vehicle segment distinguishes between hackneys (standard, wheelchair accessible, or local area ones) and limousines. No SPSV can hold more than one particular licence. The procedure to obtain a private hire vehicle licence is similar to the one required for taxis. Vehicle standards and requirements change according to the vehicle category.

Ridesharing

Commercial ridesharing is not permitted under the existing legislation. The carriage of passengers for a fare in a public place in a mechanically propelled vehicle with nine or less seats (including the driver's) must adhere to the regulatory framework for SPSVs.

Market players

According to the NTA, the majority of SPSV operators are individual owner operators where the driver owns the vehicle and the vehicle licence and drives it himself. There are some Multi Vehicle Licence Operators ("MVLO").

Capacity, growth and impact

The years following the liberalisation of the taxi industry saw an increase in the number of SPSV licences, rising from 13,637 in 2000 to a peak of 27,429 in 2008. Since then the overall fleet size has decreased by 23% to 21,146 as of 31 December 2015. The decrease was primarily due to the economic recession, reduced customer demand and increased vehicle standard requirements. The 2014 OECD ex post assessment of the liberalisation of the Irish taxi market⁶⁹³ provided that once the quantitative restrictions on taxi licences were removed in 2000, the number of hackney (hire vehicle) licences declined both in absolute and relative terms. This decline reflected the advantages of driving a taxi as compared to a hackney in providing SPSV services, rather than a decline in pre-booked hiring which is the hackney's niche market. According to the data in 2014 and also in consumer views, the taxi market resulted in an oversupply. In 2015, according to the 2015 Irish Statistics, 457 new SPSV licences were issued which was the highest annual total since 2008. However, the number of active vehicle licences in the country fell again slightly down to 21,146 – from 21,547 the previous year. Active driver's licence numbers also fell to 27,440 in 2015 from 29,457 the previous year, continuing the decline from the peak of 47,222 in 2009.

Conclusions

The Irish taxi market has experienced various phases from a fully regulated market to a fully liberalised market. With liberalisation of the taxi market, the focus of policy for SPSV regulation has been the implementation of qualitative improvements in taxi services for the benefit of both service providers and the general public, and to respond to the specific requirements of persons with reduced mobility (i.e. persons in wheelchairs). In recent years however, some public authority intervention has been necessary to adjust and redress some problems that emerged following the liberalisation and economic crisis. In particular, it was decided in 2006 to introduce a single fare area to avoid fare differentiation between areas and in 2010, a limitation on new licences only for wheelchair accessible vehicles was introduced. In 2015, a new reform of the licences was introduced covering both taxis and private hire vehicle with drivers. Despite some need of public intervention to correct market imbalances, the Irish taxi liberalisation remains a successful model and Ireland is quickly becoming a technological hub that allows the development of innovative services.

I. Introduction

In Ireland, SPSVs are defined as mechanically propelled vehicles used for the carriage of passengers for reward in a public place with nine or less seats (including the driver's seat). Taxicabs ("taxis") are SPSVs that can ply for trade on-street or at dedicated taxi ranks as well as being hired over the telephone or internet. Hackney cabs ("hackneys") are SPSVs that can be hired over the telephone or internet (private hire) but are not

⁶⁹³ P. K. Gorecky, EX-POST ASSESSMENT OF GOVERNMENT INTERVENTION IN THE TAXI MARKET IN IRELAND: 1978-2014, OECD DAF/COMP/WP2(2014)6.

allowed to ply for trade on-street. Limousines are licensed to operate on a private hire basis for corporate, ceremonial or prestigious use.

Quantitative restrictions on the number of taxi licences in Ireland were in place from 1978 to 2000. In 1978, responsibility was vested in local authorities to decide the number of taxis to be licensed on an annual basis in each taximeter area. In the late 1990s, Ireland began enjoying unprecedented levels of economic growth, a period that became known as the "Celtic Tiger" era. As a result, the value of taxi licences in the secondary market soared. By 2000 Dublin taxi licences could fetch in excess of IR£100,000 (the equivalent of EUR 150,000 when adjusted for inflation⁶⁹⁴).

Despite the existence of hackneys, (there were no quantitative restrictions on hackney licences), it became more and more difficult for consumers to get a taxi in Ireland, particularly in Dublin - the largest taximeter area. At the same time, issuing more licences would reduce the secondary value of all licences and the taxi drivers consistently campaigned against the issuing of additional licences.⁶⁹⁵

In the context of an appeal lodged by taxi companies against the Ministry decision to issue new licences to increase the market supply, the High Court held that the Ministry, in restricting the number in 1978 for reasons unrelated to qualitative standards of the vehicles, had exceeded the powers conferred upon him by Section 82 of the 1961 Road Traffic Act. The Court felt the Ministry's actions "... affects the rights of citizens to work in an industry for which they may be qualified and, further, which affects public access to taxis and restricts the development of the taxi industry".⁶⁹⁶ Accordingly, the Ministry's decision was made void. Following the ruling by the High Court, S.I. No. 3/2000 - Road Traffic (Public Service Vehicles) (Amendment) Regulations, 2000 was revoked and the Ministry promulgated S.I. No. 367/2000 - Road Traffic (Public Service Vehicles) (Amendment) (No. 3) Regulations, 2000,⁶⁹⁷ the primary focus of which was to provide for a liberalisation of the availability of new taxi and wheelchair accessible taxi licenses against the background of the introduction of improved qualitative controls. Almost overnight, the industry went from a state of closed entry to open entry. Between 2000 and 2008, the number of taxi licences rose from 3,913 to 21,177, or 541%. Since 2010, new SPSV licences are only granted for wheelchair accessible taxis, wheelchair accessible Hackneys and limousines, together with a limitation on the trading of licences with transfers prohibited in 2014, except upon the death of a vehicle licence holder.

The two key arguments for the 2010 policy related to: (i) the perception of oversupply of taxis and (ii) concerns that the market was not providing sufficient services to wheelchair customers. For example, in 2013, wheelchair accessible vehicles (WAVs) only accounted for 5% of the total number of taxis (WAT and standard), and accounted for less than 1% of total hackneys (WAH and standard).

In 2006, to assist in the development of taxi services nationally, the whole country was designated as a single taximeter area. A National Maximum Taxi Fare was also introduced to ensure transparent and predictable fares.

⁶⁹⁴ <http://www.irishtimes.com/business/exchange-rates>.

⁶⁹⁵ OECD, Taxi Services: Competition and Regulation 2007, p. 131.

⁶⁹⁶ High Court of Ireland, 13 October 2000, Humphrey v. Minister for Environment and Local Government, [2000] IEHC 149.

⁶⁹⁷ These regulations provided for the full resumption of taxi licensing following the High Court decision [High Court Judicial Review Record No. 38 JR/2000] and provided for the revocation of regulatory provisions involving quantitative restrictions on the licensing of taxis and hackneys.

The Ministry for Transport dissolved the former competent authority, the Commission for Taxi Regulation by order S.I. 614 of 2010 on 1 January 2011. With effect from that dissolution date, the new competent authority, the **National Transport Authority** (*Udaras Naisiunta Lompair*, hereinafter “the NTA or the Authority”) started to carry out the principal functions of the Commission listed under the 2003 Taxi Regulation Act.

The NTA has a wide range of functions including the national provision of public passenger land transport services as well as transportation planning and investment in the Greater Dublin Area. The Board of the NTA now decides the key taxi regulation decisions. A directorate within the NTA called the Taxi Regulation Directorate carries out the management and administration of taxi regulation matters. An Advisory Committee on Small Public Service Vehicles, appointed by the Ministry for Transport, is in place to advise the NTA or the Ministry as appropriate in relation to issues relevant to small public service vehicles, their drivers and dispatch operators.

The current regulations⁶⁹⁸ distinguish six categories of small public service vehicles:

- Standard taxis;
- Wheelchair accessible taxis;
- Standard hackneys;
- Wheelchair accessible hackneys;
- Local area hackneys;
- Limousines.

All SPSVs, irrespective of their licence category, must:

- Have an active vehicle licence (as shown on the tamper-proof licence discs);
- Have the tamper-proof licence discs displayed in the front and rear windows of the vehicle (exception: vintage vehicles in the limousine category that are over 30 years old are exempt from the requirement to display a rear disc.);
- Be fully roadworthy (it is illegal to operate with a faulty vehicle);
- Carry the required safety equipment;
- Not carry more passengers than indicated on the tamper-proof licence discs.

The key differences between taxis and hackneys and limousines is that taxis can ply for hire on the street or stand for hire at taxi ranks (and are entitled to the use of bus lanes while operating) or be pre-booked for call out, whereas hackneys or limousines need to be pre-booked with an agreed fare, cannot stand at taxi ranks or ply for passengers on the street, nor, even when operating as a small public service vehicle, can they use preferential lanes (reserved for the use of buses and taxis).

II. Legal framework applicable to taxis

II.1 National/Local/municipal regulations

II.1.1. National Legislation

The Irish Taxi sector and Private Hire Vehicle sectors are currently regulated by:

⁶⁹⁸ Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. 33/2015.

- Taxi Regulation Acts of 2013 and 2016 (“Principal Act”);
- Taxi Regulation (Small Public Service Vehicle) Regulations 2015 (“Regulations”); Taxi Regulation Act 2013 (Maximum Fares) Order 2015 (S.I. No. 127/2015); and
- Taxi Regulation (Small Public Service Vehicle) Regulations 2016 (S.I. No. 237/2016).

According to the Principal Act, the NTA is competent to issue more detailed regulations with regard to specific issues as well as to act as the licensing authority with regard to operators and vehicle licences, while the competence to issue SPSV driver licences is granted to the *Garda Síochána* (Irish Police Force). The same Act empowers the NTA to make “licensing regulations” that set, more specifically, the requirements for SPSV’s vehicles, drivers and dispatch operators, as well as the information and documentation required to accompany an application.

The currently applicable NTA regulation is the Taxi Regulation (Small Public Service Vehicle) Regulations, S. I. 33/2015 (recently amended⁶⁹⁹). Among SPSVs (up to nine seats including the driver), the Regulations differentiate between:

- **taxis** (wheelchair accessible or standard vehicles for which a taxi licence is granted that allows such vehicles to stand for hire in taxi ranks as well as to ply for hire on the street);
- **hackneys** (wheelchair accessible or standard vehicles for which a hackney licence is granted that allows such private hire vehicles to be hired only through pre-booking; they cannot be hailed on the street);
- **limousines** (for which a limousine licence is granted, subject to the evident suitability of the vehicle’s style and condition for ceremonial/corporate/prestigious occasions, allows such private hire vehicles to be hired only through pre-booking; they cannot be hailed on the street); and
- **local area hackneys** (vehicles for which a local area hackney licence is granted that allows such private hire vehicles to be hired only through pre-booking and normally within a 5-7km radius of the driver’s residence; they cannot be hailed on the street or pick up outside a mapped area associated with each licence).

II.1.2. Local/Municipal Legislation

SPSV services are legislated on a national level, with local authorities empowered to make bylaws regarding appointed stands (taxi ranks) in each of their relevant functional areas under section 25 of the Principal Act. An example of taxi ranks bylaws is the *Dublin City Council Appointed Stands, Street Service Vehicles (Taxi) Bylaws 2015* regulating the location and operation of taxi stands in the Dublin City Area which are effective from 1 November 2015.⁷⁰⁰ There is an effective increase of 30 taxi ranks which give an increase of 195 taxi spaces and revisions have been made in the 2015 bylaws to the text descriptions, maximum number of vehicles and position of vehicles where appropriate to accurately reflect the existing on-street arrangements at each location.

II.2 Procedures for issuing licences and applicable criteria

⁶⁹⁹ Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. 236/2016.

⁷⁰⁰ <http://www.dublincity.ie/main-menu-services-roads-and-traffic-general-traffic-measures/taxi-ranks>.

Irish legislation provides for three different licences in order to perform SPSV services: one for the driver, another one for the vehicle and another licence required for SPSV dispatch operators and booking service providers.

II.2.1. SPSV Driver's Licence

The applicable legislation shows no difference in the procedure for obtaining a SPSV driver's licence with respect to the various categories of vehicle driven, except for the highly specialised local area hackney licence. According to the Principal Act and the Regulations, there are two bodies involved in the SPSV Driver licensing process:

The police force (*Garda Síochána*) is the licensing authority for SPSV driver licences – licence applications are sent to them and are issued by them. In fact, according to section 6(2) of the Principal Act, the competent authority for the issue of licences is the police force (*Garda Síochána*) until decided otherwise by the Ministry for Transport, Tourism and Sport.

NTA is empowered under section 7 of the Principal Act to make "licensing regulations" setting the relevant requirements, fee and documentation for the grant of a licence. Driver licences are granted solely to individuals.⁷⁰¹

The NTA administers the SPSV Skills Development Program, including the Driver Entry Test, processes the licensing fees and issues the SPSV driver identification cards that an SPSV driver must display at all times while operating.

SPSV driver's licences are granted only to people who:

- are confirmed by An Garda Síochána to be suitable persons to hold SPSV driver licences;
- hold an Irish driving licence or a driving licence from another EU, EEA or other recognised state (if the licence is in a language other than English or Irish, and it is either an EU licence issued prior to 19th January 2013 or issued by an EEA Member State or other recognised state outside the EU, the applicant is required to include with their application a certified stamped letter from the relevant Embassy stating that the licence is true and valid);
- remain tax cleared with the Revenue Commissioners;
- pass the SPSV Entry Test (fee EUR 90) and obtain the SPSV Skills Development Certificate. The SPSV Entry Test comprises two modules covering both regulatory industry knowledge and area knowledge for the county in which the entrant wishes to operate. Where a taxi driver wishes to stand or ply for hire in any county other than the one in which he/she was originally licensed, such person would need to pass the Area Knowledge test for each additional county (fee EUR 90). Upon the successful completion of the SPSV Entry Test the NTA issues a Skills Development Certificate to the applicant including confirmation of the relevant operational area.⁷⁰²

The application for the grant of a new SPSV driver's licence shall be accompanied by: (i) evidence that the applicant holds a valid standard driving licence (on a continuous basis

⁷⁰¹ Section 9(8) Taxi Regulation Act 2013, No. 37/2013.

⁷⁰² Section 11, Taxi Regulation (Small Public Service Vehicle), Regulations 2015 S.I. 33/2015.

during the 12 months preceding the date of application); evidence of payment of EUR250 fee⁷⁰³; evidence of the successful completion of the relevant SPSV Driver Entry Test; a statement by the applicant committing not to perform the SPSV service for 11 consecutive hours over a period of 3 days; a self-declaration that no health issues affect the applicant's ability to drive; a declaration confirming that the applicant has not been convicted of any offences specified in section 30(3) or the schedule to the Principal Act; any other document requested by the licensing authority.

Pursuant to section 11 of the Principal Act, the applicant/holder of a licence is required to communicate to the NTA if he/she is engaged in another occupation and its nature.

When an application for a SPSV driver's licence (new or renewal) has been processed and approved, An Garda Síochána issues a SPSV driver's licence and the NTA sends two forms of identification: a large driver display card for display on the dashboard of any SPSV, and a smart card that the drivers are required to keep with them at all times while operating as a SPSV driver. Both forms of identification show the driver's name and licence number, photograph, the licence's expiry date, and the area in which the driver can stand or ply for hire in a taxi.⁷⁰⁴

Identification cards are issued in two different colours:

- Purple identification cards are issued to operators who have passed the SPSV Entry Test that was introduced in 2009. These cards demonstrate to customers that the driver has obtained the National Transport Authority's certification.
- Yellow identification cards are issued to drivers licensed prior to the introduction of the Skills Development Programme in 2009 who hold a current, valid SPSV driver licence.

The SPSV driver's licence has a validity of five years and may be renewed where An Garda Síochána remains satisfied that the applicant remains suitable.

II.2.2. Taxi Vehicle licence

The Regulations state⁷⁰⁵ that only one SPSV licence shall be in force with respect to a vehicle at any time. According to the Principal Act⁷⁰⁶ a taxi vehicle licence may be granted by the NTA to an individual or a company. However, where the applicant is a company, it must provide: (i) the name and address of any director, shadow director, manager, secretary, member entered in the company and any person purporting to act in that capacity and (ii) following the application, if before the application has been determined there is a change in the control of the company, notify the licensing authority of such a change.⁷⁰⁷

According to the Principal Act taxi licences cannot be traded,⁷⁰⁸ however in the event of a licence holder's death, where the holder had previously nominated a representative to

⁷⁰³ The current amount of the fee was set in 2009 and it is required also for renewals.

⁷⁰⁴ NTA website, <https://www.nationaltransport.ie/taxi-and-bus-licensing/taxi/operating-an-spsv/rights-and-responsibilities-of-an-spsv-driver/driver-identification-cards-and-roof-sign-area-sticker/>.

⁷⁰⁵ Section 12(1), Taxi Regulation (Small Public Service Vehicle), Regulations 2015 S.I.33/2015.

⁷⁰⁶ Section 9(9), Taxi Regulation Act 2013, No. 37/2013.

⁷⁰⁷ Section 9(10), Taxi Regulation Act 2013, No. 37/2013.

⁷⁰⁸ Section 14(1), Taxi Regulation Act 2013, No. 37/2013.

the NTA on the applicable form, such person may apply to the NTA to operate that licence in their own name.⁷⁰⁹ An application for the grant/renewal of a new taxi vehicle licence shall be made to the NTA in accordance with the criteria set forth by the Regulations and accompanied by the appropriate fee specified in schedule 1 of the same Regulations.

The applicant for a taxi vehicle licence (be it a standard or wheelchair accessible taxi - WAT) should apply to the NTA with a specific form along with the relevant fee. If the application relates to a WAT, the application should include a copy of a valid technical assessor's report. If the application is approved, the NTA sends a Conditional Offer letter,⁷¹⁰ which specifies a five-digit provisional licence number. This number is required for programming the taximeter and purchasing the matching roof sign and taxi branding. The Conditional Offer is valid for 90 days, during which the other steps in the licensing process must be completed.

The next steps are to:

- Ensure that the vehicle meets all the requirements for operation as an SPSV (roadworthiness, requirements relating to age and size, insurance to be driven for hire or reward, as well as additional requirement according to the specific category of SPSV);
- Provide all the required documentation (ownership of the vehicle or otherwise be legally entitled to the use and possession; tax clearance certificate); and
- Undertake the vehicle's Initial Suitability Inspection.⁷¹¹

The fee required to licence a wheelchair accessible taxi licence is EUR 170 (including a fee of EUR 45 Initial Suitability Inspection).

Application for the renewal of a licence shall be made to the NTA no earlier than 60 days prior the expiry of said licence. According to Regulation 14⁷¹² the NTA shall be provided with documentation attesting that the applicant is the owner or else the legally entitled user of the vehicle for a minimum 12 month period, and that such vehicle complies with the requirements set by Regulation 29.⁷¹³ Where the applicant is a company the information required should comply with the requirements set by section 9(10) of the Principal Act.⁷¹⁴

Licences can be renewed for one year or six months in the case of vehicles older than 10 years.

The renewal fees set by Schedule 1⁷¹⁵ (1 year⁷¹⁶):

- EUR150 Standard Taxi;
- EUR75 Wheelchair Accessible Taxi;

⁷⁰⁹ Section 15(1), Taxi Regulation Act 2013, No. 37/2013. Section 15(2) specifies that such application should be filed within nine months of the death of the holder. This period was originally three months but was extended to nine months by the Taxi Regulation (Small Public Service Vehicle), Regulations 2016 S.I.236/2016.

⁷¹⁰ The Conditional Offer is not a licence to operate the vehicle as an SPSV.

⁷¹¹ NTA website <https://www.nationaltransport.ie/taxi-and-bus-licensing/taxi/>.

⁷¹² Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. No. 33/2015.

⁷¹³ Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. No. 33/2015.

⁷¹⁴ Taxi Regulation Act 2013, No. 37/2013.

⁷¹⁵ Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. No. 33/2015.

⁷¹⁶ The fees for six months are exactly half.

- EUR500 for the renewals of licences after the expiry date, where the NTA shall refund:
 - EUR250 whether the licence is replaced no more than 10 days after the expiry of the licence;
 - EUR150 whether the licence is replaced more than 10 days but no more than 30 days after the expiry of the licence.

In order to rent, lease or undertake a similar arrangement, it is required that the vehicle is insured by a vehicle insurer with respect to passengers carried for reward by the proposed driver of such vehicle. In the case of a taxi, the vehicle should be already fitted with a taximeter as required by the legislation. The owner should also ensure that at the commencement of the rental, leasing or similar arrangement, the vehicle meets any requirements in relation to vehicle standards contemplated by the Regulations. Moreover the vehicle owner should, in such cases, prior to the proposed driving or use of the vehicle by another person pursuant to a rental, leasing or similar arrangement, notify the NTA of: (i) the period of arrangement, and (ii) the identity of the other party or parties to the arrangement.

II.2.3. Dispatch Operator's licence

According to both the Principal Act and the Regulations, dispatch operator licences may be granted to an individual or a company. However, where the applicant is a company it must supply: (i) the name and address of any director, shadow director, manager, secretary, member entered in the company and any person purporting to act in that capacity and (ii) following the application, if before the application has been determined there is a change in the control of the company, notify the licensing authority of such change.⁷¹⁷ The NTA may grant a licence to act as a dispatch operator or to provide booking services in respect of SPSV services provided that the applicant:⁷¹⁸

- Produces a valid tax clearance certificate;
- Provides to the NTA the contact information used for the purposes of making or receiving bookings in relation to affiliated drivers, including details of any trading name being used or proposed to be used by the applicant;
- Pays the NTA a fee of EUR100⁷¹⁹ for either the grant or the renewal.

A dispatch operator's licence has a validity of 12 months and it can be renewed by the same aforementioned procedure. It can also be surrendered by its holder or else revoked by the NTA.⁷²⁰

II.3 Technical requirements applicable to licensed vehicles *(taximeters, vehicles' technical specifications, accessibility, maintenance)*

Standard taxis and WATs are subject to the vehicle standard requirements listed in Schedule 2 and 4 of the Regulations.

⁷¹⁷ Section 9(10), Taxi Regulation Act 2013, No. 37/2013.

⁷¹⁸ Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. No. 33/2015, Regulation 61.

⁷¹⁹ According to Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. No. 33/2015 (Schedule 1).

⁷²⁰ Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. No. 33/2015, Regulation 62.

Standard hackneys and WAHs are subject to the vehicle standard requirements listed in Schedule 3 and 4 of the Regulations.

Limousines are subject to the vehicle standard requirements listed in Schedule 5 of the Regulations.

II.3.1. Vehicles' Technical Specifications

Propelled vehicles with passenger seating not exceeding eight persons' capacity (driver excluded) and weighing no more than 3,500 kg are allowed to be licenced as a taxi or hackney must be mechanically. Vehicles must have a minimum of four wheels, four operable doors and a permanent rigid roof on which is mounted a taxi roof sign when operating. All passenger windows shall be readily operable and not tinted. Requirements are set also with regard to cleanliness of the vehicle, seating quality, size and space, exterior condition, luggage area (availability, minimum 420 litre capacity and cleanliness), capability to maintain a passenger compartment temperature of 20 degrees centigrade. As for safety equipment, the vehicles are required to carry, among other things: (i) a spare wheel system; (ii) a first aid kit; (iii) a fire extinguisher; (iv) a reflective advance warning triangle.⁷²¹ It is required for a taxi to have the prescribed external self-adhesive vinyl signs, affixed (by a supplier authorised by the NTA) to the left and right front doors, in the form and colours specified in part 1 or part 2 of Schedule 6 of the Regulations.⁷²²

In general, licences are issued and renewed only for taxis or hackneys that are less than 10 years old. If a new or renewed licence is granted for a vehicle that is over nine years old, the licence will expire when the vehicle reaches its 10th 'birthday' – that is, on the tenth anniversary of the date of its first registration.

There is a 6 year age limit on a vehicle proposed for licensing as a wheelchair accessible taxi either as a new licence or in a transaction to exchange a standard taxi licence for a wheelchair accessible taxi licence.

There is a 15 year age limit on vehicles associated with certain licences as follows:

- A wheelchair accessible vehicle; and
- A standard taxi with a licence numbered below 45000 with which the vehicle has been continuously associated since 1 January 2013.

There is a no age limit on vehicles associated with certain licences as follows:

- Limousines; and
- A wheelchair accessible vehicle with which the vehicle licence has been continuously associated since before 01 April 2014.

Once a vehicle is over ten years old, the renewed licence will have a maximum validity period of six months, after which a licence renewal assessment must be carried out to renew the licence for a further six months.

⁷²¹ Paragraph 12 Schedule 2, Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. No. 33/2015.

⁷²² Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. No. 33/2015.

II.3.2. Taxi Roof Sign

Each taxi shall have mounted on its roof at all times while operating the service a “taxi roof sign” complying with the following requirements: (i) durable material; (ii) surface capable of being illuminated (between 110 and 120 millimetres high and between 1,020 and 1,030 millimetres long); (iii) front and rear faces divided in 3 sections; (iv) central section shall display the word “TAXI” or else in Irish “TACSAI” in yellow letters on a dark blue background of low light transmittance; (v) the section on the left of the sign as viewed from the rear of the vehicle and on the right as viewed from the front shall have a yellow background and display in black letters or numerals the licence number introduced by the wording “licence number” or else in Irish “*uimhir cheadunais*”; (vi) the last side of the panel shall contain the county identification(s) for those areas for which the vehicle has been authorised, contact details in relation to the Taxi or else the dispatch operator/booking service and, whether available, symbols attesting that it accepts payment by debit or credit card. The taxi sign light shall be capable of being switched on when the vehicle is available for hire.⁷²³

II.3.3. Taximeters

The vehicle shall be equipped with a taximeter in a manner such that it is: (i) securely attached to the vehicle; (ii) visible from the passenger’s perspective; (iii) connected with the wheels or the driving mechanism in an appropriate manner; (iv) calibrated in accordance with the maximum fares order made by the NTA under section 24 of the Principal Act;⁷²⁴ (v) fitted with a device capable of printing a receipt showing details required in accordance with Regulation 56; (vi) be in good order with the official verification mark/seals signifying conformity with the Metrology Act 1996 (No. 27 of 1996) as amended by the Principal Act.

II.3.4 Insurance and Maintenance

The vehicle must be covered by a specific insurance for use as an SPSV and able to provide a certificate of such insurance.⁷²⁵ The insurance must be in the name of the vehicle owner and the licence holder.

II.3.5 Accessibility

The legislation does not impose obligatory requirements of accessibility upon standard taxis. However, a wheelchair accessible vehicle must be constructed or converted specifically to accommodate at least one person sitting in a wheelchair and one other passenger. With no wheelchair passenger, the vehicle should accommodate a minimum of three adult passengers. The taxi roof sign should also specify by means of the display of the appropriate symbol that the vehicle is accessible to wheelchairs.

Wheelchair accessible taxis must give hiring priority to passengers with disabilities.⁷²⁶

⁷²³ Schedule 2 (19), Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. 33/2015.

⁷²⁴ Taxi Regulation Act 2013, No 37/2013.

⁷²⁵ Section 68, Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. 33/2015.

According to the NTA, the number of wheelchair accessible taxis and hackneys has declined from a high of 1,600 vehicles in 2008 to 1028 vehicles as of 31 December 2015. This reduction in the availability of wheelchair accessible vehicles is causing significant challenges in the provision of services to people with mobility impairments. In order to address this issue, amongst other measures, the Authority in 2014 amended the regulations governing wheelchair accessible SPSVs as follows:

- A reduced minimum size standard applies to wheelchair accessible vehicles. Vehicles must be capable of carrying at least one adult passenger plus an occupied wheelchair while in wheelchair mode, and at least three adult passengers in non-wheelchair mode;
- Wheelchair accessible vehicles entering the fleet can operate up to 15 years of age;
- Wheelchair accessible vehicles already in the fleet on 1st April 2014 can operate (on their current licence) without an age limit, subject to passing vehicle licence renewal inspections;
- Holders of a standard taxi licence may exchange that vehicle licence for a wheelchair accessible taxi licence and avail of the higher permissible vehicle age limit for the wheelchair accessible taxi. For such an exchange, the proposed wheelchair accessible taxi must be under six years of age; and
- An operator who exchanges a standard taxi licence for a wheelchair accessible taxi licence may also revert to the standard taxi licence after the Services Period⁷²⁷.

II.3.6. Trading of licences

It has not been possible to transfer vehicle licences since April 2014. According to Section 15 of the Principal Act, it is possible to nominate a person to apply to the NTA to continue to operate a vehicle licence in the event of a current licence holder's death. Such application requires the payment of a fee that amounts to EUR125.

Regulation 50 of the Regulations⁷²⁸ specifies that a holder of a SPSV licence shall not enter any rental, leasing or similar arrangement in respect of the driving or use of the vehicle for the carriage of passengers for reward by another person unless the proposed driver holds a licence to drive small public service vehicles.

II.4 Qualitative requirements (*fitness of the driver, knowledge and skills required, drivers' training*)

According to Section 10 of the Principal Act, the NTA shall not grant a licence to a person unless it is satisfied that he or she is a suitable person to hold a licence.

In assessing the suitability of an applicant, the licensing authority Garda Síochána may, amongst any other matters, consider the following:⁷²⁹(i) whether the applicant is of good

⁷²⁶ Section 37, Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. 33/2015.

⁷²⁷ National Transport Authority August 2016, INFORMATION GUIDE FOR WAV16 GRANT SCHEME APPLICANTS.

⁷²⁸ Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. 33/2015.

⁷²⁹ Section 10(2), Taxi Regulation Act 2013, No. 37/2013.

character; (ii) any concerns raised by the NTA or the Garda Commissioner or other member of the Garda Síochána regarding the applicant's suitability to hold a licence; (iii) any convictions for offences committed by the applicant, and the extent to which those convictions are of relevance to the activities of the person in respect of providing small public vehicle services or driving a small public service vehicle, as the case may be; (iv) the health of the applicant and his or her ability to provide small public vehicle services or drive a small public service vehicle; (v) where the applicant is a company, the suitability or conduct of any director, shadow director, manager, secretary, member entered in the register of the company, other officer or employee of the company any person who has control of the company or any person purporting to act in that capacity regarding the operation of the licence; (vi) where an applicant has previously held a licence, his or her compliance with any obligations applicable to him or her as a licence holder under this Act or regulations.

II.5 Organizational requirements (*dispatch affiliation centre, minimum service*)

II.5.1 Dispatch operator affiliation

There is no obligation for SPSV drivers to be affiliated with a dispatch operator.

II.5.2 Minimum service

A local authority may make bylaws in with respect to any specified area in its functional area for all or any of the following purposes: (i) appointing the places ("appointed stands") at which taxis may stand for hire; (ii) fixing the maximum number of taxis which may stand for hire at the same time at any particular appointed stand; (iii) specifying appointed stands at which taxis may stand for hire at particular times only and specifying those times; (iv) determining the manner in which taxis shall make use of and stand for hire at any particular appointed stand; (v) prohibiting taxis from standing for hire at places in the area that are not appointed stands; (vi) otherwise regulating and controlling the use of appointed stands. In addition, a taxi cannot stand for hire with the taxi at any other place other than at an appointed stand in the area in which it is licensed under section 9. In addition, where an appointed stand is full, the taxi cannot stand on part of the public road adjoining or in the proximity of the stand. Moreover, the taxi cannot not stand or park at an appointed stand unless the vehicle is available for hire. Lastly, taxis may also use with-flow bus lanes when operating as a SPSV.

II.6 Fares (*criteria for taxi fare setting, authority/body in charge of setting the tariffs, maximum tariffs and/or fixed tariffs, composition of the tariff and tariffs adjustment mechanism [minimum charge, additional charge for using the radio taxi or dispatch operator, increase of the tariff during certain hours, such as at night or on certain journeys, such as towards the airports, reductions for certain categories, such as elderly people]*)

In 2006, to assist the development of taxi services nationally, the whole country was designated as a single taximeter area. Prior the introduction of the National Maximum Taxi Fare Area, each municipality had separate maximum fare structures set by the relevant local authorities. As explained by the NTA, the National Maximum Taxi Fare was also introduced to ensure transparent and predictable fares and avoid customers' confusion. Maximum taxi fares had been unchanged between 2008 and 2015. In 2015,

following the 2014 review recommendations, a fare increase of approximately 4% on average was applied, coupled with a simplification of the fare structure.⁷³⁰

The main features of the current national maximum taxi fare are as follows:

Standard rate (applies between 8.00h and 20.00h Monday to Saturday, except public holidays)

- Initial Charge (up to 0.5 km or 85 seconds): EUR 3.60
- Tariff A (next 14.5 km or 41 minutes): EUR 1.10 per km or EUR 0.39 per minute up to a total EUR19.60
- Tariff B (thereafter): EUR 1.45 per km or EUR 0.51 per minute

Premium rate (applies between 20.00h and 8.00h Monday to Saturday, all day on Sunday and public holidays)

- Initial Charge (up to 0.5 km or 85 seconds): EUR 4.00
- Tariff A (next 14.5 km or 41 minutes): EUR 1.40 per km or EUR 0.49 per minute up to total EUR 24.40
- Tariff B (thereafter): EUR 1.75 per km or EUR 0.62 per minute

Special Premium Rate (Applies between Christmas Eve 20:00h and St Stephen's Day 08:00h and between New Year's Eve 20:00h and New Year's Day 08:00h)

- Initial Charge (up to 0.5 km or 85 seconds): EUR 4.00
- Tariff (all distances): EUR 1.75 per km or EUR 0.62 per minute

Apart from the fare calculated on time/distance and rate the driver can choose to charge extra for the following:

- Booking fee of EUR 2 may be charged for any method of engagement other than engaging at a taxi rank (including at an airport or other transport station or terminal) or hailing in the street. Such circumstances include a booking made by telephone, email, smartphone app, fax, text or letter, or a booking made through a telephone call or a personal visit to a dispatch operator's office;
- Extra passengers – taxi drivers may charge a fee EUR1 for each adult passenger after the first. In relation to additional child passengers, one child under 12 years of age is carried at no extra charge; the fee for two or three children under 12 is EUR 1; for four or five children EUR 2; and for six or seven children EUR 3;
- Road tolls – may be charged as incurred for toll schemes adopted by a road authority;
- Soiling – a fee may be charged where a passenger either soils the vehicle or damages it so much that the driver has to take it out of service or has to pay to have it cleaned or repaired. The maximum such fee is EUR 140, but the actual fee charged may be lower – it should reflect the costs reasonably incurred by the operator; and
- Payment by credit or debit card – a fee may be charged for payment by card. This fee must not exceed the actual cost to the operator of accepting card payments and must not be greater than 5% of the fare calculated in accordance with the national maximum taxi fare. No minimum fare may be set for payment by credit or debit card.

⁷³⁰ This was implemented through the Taxi Regulation Act 2013 (Maximum Fares) Order 2015, S.I. 127/2015.

These extra charges are listed on the in-vehicle information card and sticker. They are discretionary – the driver can choose to impose them or not. However, if extra charges are likely to be significant, the driver should make them clear to the customer in advance.

Charges for booking and for extra passengers, where added, are recorded on the taximeter. In addition, although discounts are discretionary, they should however be recorded on the receipt.⁷³¹

It is forbidden to impose an extra charge for assistance dogs.

II.7 Passenger rights

II.7.1 General provisions

Section 23 of the Principal Act lays out the following obligations of SPSV drivers towards passengers:

- i. The driver of a SPSV in respect of which a fare has been agreed in advance of the commencement of the hire, who charges or seeks to charge a fare that is greater than the agreed fare commits an offence and is liable on summary conviction to a class C fine;
- ii. the driver of a taxi who is plying or engaged for hire or standing for hire at an appointed stand, whether or not the taxi is standing for hire at the head of the stand, shall not refuse to carry a person as a passenger in the taxi, save where:
 - (a) to do so would exceed the number of persons permitted to be carried in the taxi under the licence in respect of that vehicle;
 - (b) the person's proposed journey is more than 30 kilometres in distance (or such other distance as stands specified in regulations made by the NTA) from the commencement of the journey;
 - (c) there are adverse weather or road conditions or traffic controls affecting the journey or route such as to render the journey unsafe or impractical;
 - (d) luggage or other articles in the person's possession to be carried in the vehicle are in excess of the luggage carrying capacity of, or could cause damage to, the taxi, or
 - (e) the passenger or intending passenger appears or acts in an aggressive, intoxicated, drunk or disorderly manner, or the driver has reason to believe, will act as such, or is dishevelled to such a degree that in the driver's opinion carriage of such person would affect the sanitation or cleanliness of the taxi.

The driver of a taxi when hired for a journey, shall not complete the journey, unless otherwise requested by the passenger, other than by taking (a) the shortest route, where practicable, or (b) with the consent of the passenger, the most convenient route. The driver of a taxi who fails to comply, without reasonable cause, with such abovementioned obligations commits an offence and is liable on summary conviction to a class C fine.

⁷³¹ NTA website <https://www.nationaltransport.ie/taxi-and-bus-licensing/taxi/> Regulation 56, Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. 33/2015.

II.7.2 Taxi Ranks

Taxis standing at an official taxi rank must be available for hire; therefore, drivers should not leave a taxi unattended at a taxi rank. Customers have the right to choose which taxi they hire – they do not necessarily have to hire the first taxi in the queue and should not be charged extra for hiring a taxi from a rank. A taxi may also be hailed and hired by a customer in close proximity to a taxi rank.

As indicated in Section II.2.2., the local authorities have the powers to adopt bylaws in order to determine the taxi ranks, the allocation/suitability and maximum number of vehicles and position of vehicles where appropriate to reflect the existing on-street arrangements.

II.8 Subsidies applicable to taxi sector (including public developed applications for taxi sector, geolocalisation, etc.)

To support the wider availability of wheelchair accessible vehicles (WAVs) in Ireland's SPSV fleet, a Grant Scheme WAV16 was launched in April 2016, which offers financial grant and training assistance, nationwide, of up to EUR10,000 for the purchase or conversion of a new WAV. There is a sliding scale of grants available with lesser monies being available for older cars. Cars older than 6 years will not qualify for this Scheme.

According to the information provided by NTA, over 300 Provisional Grant Offers of up to EUR10,000 each have issued since the commencement of WAV16 on 01 April 2016.⁷³²

II.9 Labour rules

Section 40 Taxi Regulation 2015 provide that *"A person shall not, in any period of three consecutive days, drive or use a small public service vehicle for the carriage of passengers for reward for more than eleven hours in any one day"*.

According to Section 11 of the Principal Act, the applicant or holder of a SPSV licence has reporting obligations concerning other carried out occupations. The SPSV licence applicant or holder must inform both the licensing authority of any other occupation and any employer. This provision mainly concerns part-time drivers.

For dispatch operators, the terminology used by the relevant legislation is "affiliation" which does not seem to imply an employer/employee relationship. Such assumption was also confirmed by the response to the stakeholder consultation of the NTA that most of taxi operators are individual owner operators where the driver owns the vehicle and drives it himself/herself (self-employed).

⁷³² <https://www.nationaltransport.ie/taxi-and-bus-licensing/wav16-wheelchair-accessible-vehicle-grant-scheme-2016-reopens-today/>.

II.10 Supervisory enforcement tools

The NTA is committed to ensuring compliance with the SPSV regulations in order to ensure that legitimate, professional operators do not have to compete with others operating at lower standards, and in order to ensure the continued public confidence in SPSV services.

Part 6 of the Principal Act regulates the enforcement of SPSV. According to section 40, the NTA may appoint in writing such and so many persons or classes of persons as it may determine to perform any or all the functions conferred on an authorised person under this section as may be specified in the appointment. The NTA has therefore a team of compliance officers who are empowered to investigate complaints or reports of non-compliance in all aspects of the industry, including vehicle standards, driver behaviour, and issues relating to bookings and fares.

The NTA has the right to prosecute certain offences, including unlicensed drivers and unlicensed vehicles operating as SPSVs. Compliance officers may issue on-the-spot fixed payment notices for several specified fixed payment offences.

Under Part 4 of the Principal Act, anyone convicted (in Ireland or elsewhere) of the serious offences that are specified in the Schedule to the Principal Act, is disqualified from holding an SPSV driver licence – in some cases for life but in other cases for specified periods of time. Driver licence applicants are required to notify the licensing authority (An Garda Síochána) of any such conviction. If someone is disqualified for this reason, he/she can apply to the appropriate court to have the disqualification lifted.

Section 41 provides for the prohibition of the use of unlicensed, unroadworthy or defective vehicles. Section 47 provides for the conditions and procedures for the revocation of the licence by the Court.

Section 48(5) of the Principal Act provides that where the NTA prescribes the amount of a fixed payment, the amount shall not exceed, where the fine to which a person would be liable on summary conviction of the alleged offence is:

- i) a class A fine, EUR 500
- ii) a class B fine EUR 400
- iii) a class C fine EUR 250
- iv) a class D fine EUR 100
- v) a class E fine EUR 50

Section 20 of the Principal Act delegates to the NTA the power to issue regulations, such as the Taxi Regulation (Small Public Service Vehicle) Regulations 2015, and also to determine which contraventions of such Regulations should be regarded as a substantial breach of the regulations or not and whether a specific contravention is in regard to a penal provision. Offenders may be liable on summary conviction of a fine of up to a Class A fine under the Fines Act 2010 (currently limited at EUR5,000) if such a contravention accounts as a substantial breach of regulations or up to a Class C fine under the Fines Act 2010 (currently limited at EUR2,500) for any other contravention.

Schedule 8 of the Regulations provide for the following fixed penalties amounts for the following offences:

Section of the Principal Act or Regulation under these Regulations(2)	Description of Offence(3)	Fixed Penalty Amount(4)
Regulation 45(1) of these Regulations	Failure to display the required in-vehicle information.	EUR4
Section 25(9) in so far as it relates to section 25(6) of the Principal Act	Standing at appointed stand while vehicle is not available for hire.	EUR40
Section 25(9) in so far as it relates to section 25(3) of the Principal Act	Standing for hire in a taxi otherwise than at an appointed stand.	EUR40
Regulation 39(1) of these Regulations	Refusal to carry assistance dog or guide dog in all public service vehicles.	EUR40
Regulation 56(1) and 56(2) of these Regulations	Failure to print and offer a receipt in the prescribed form to a passenger upon completion of a journey in a taxi.	EUR40
Regulation 57(1) and 57(2) of these Regulations	Failure to make available a receipt in the prescribed form to a passenger upon completion of a journey in a hackney or limousine.	EUR40
Regulation 58(1) of these Regulations	Standing or plying for hire in a county without a licence to stand or ply for hire in that county.	EUR40
Regulation 24 and 46 of these Regulations	Failure to comply with taxi roof sign requirements.	EUR40
Regulation 48(1) of these Regulations	Displaying on a hackney or limousine a sign or advertisement other than one prescribed by the National Transport Authority	EUR40
Regulation 51(1) of these Regulations	Failure to notify details of small public service vehicle being operated.	EUR40
Regulation 53(3) of these Regulations	Operating taximeter while taxi is standing for hire or plying for hire.	EUR60
Regulation 53(2)(b) of these Regulations	Failure to operate taximeter while taxi is on hire.	EUR60
Regulation 53(2)(a) of these Regulations	Failure to comply with the requirements in relation to the fitting and operation of a taximeter.	EUR60
Regulation 55 of these Regulations	Applying a booking fee in respect of a taxi which is engaged while plying for hire or standing for hire or without having been booked in advance by the consumer.	EUR60
Section 25(9) in so far as it relates to section 25(5) of the Principal Act	Standing with a taxi on part of the public road adjoining or in proximity of an appointed stand when the appointed stand is full.	EUR40
Regulation 47(1) of these Regulations	Failure to display required driver identification.	EUR60
Regulation 24, 25, 26, 27 and 28 of these Regulations, except in so far as they relate to paragraph 21(1) of Schedule 2 of these Regulations	Failure to comply with the vehicle standards and requirements applicable to the licence category	EUR60
Regulation 59(1) of these Regulations	Failure of the driver of a hackney or limousine to carry the required booking record in respect of a hire	EUR60
Regulation 44(3) of these Regulations	Removal or attempted removal of tamper-proof disc from a small public service vehicle.	EUR80
Regulation 44(1) of these Regulations	Failure to display tamper-proof disc.	EUR80
Section 23(2)(b) of the Principal Act	Unreasonable or refusal to carry a passenger where the journey is not more than 30 kilometres.	EUR80

Regulation 53(2)(b) of these Regulations	Failure to comply with the requirements in relation to the calibration of taximeters	EUR250
Paragraph 21(1) of Schedule 2 of these Regulations	Failure to have prescribed signage affixed to the front doors of taxi or wheelchair accessible taxi.	EUR250

According to section 48 (1) of the Principal Act, where an authorised person has reasonable grounds for believing that a person is committing or has committed a “fixed payment offence” he or she may serve to the alleged offender a payment notice that has an overall period of 28 days from the date specified in the notice to make such payment. If the payment is not made within 28 days, the fine shall be increased by 50%. If the payment is not made within 56 in total days, the alleged offender may be prosecuted in the District Court.

Part 10 (PENALTIES) of the Regulations lists the various Regulations that account as penal regulations, or else substantial breach of regulations for the purpose of sections 20 (4) and (3) of the Principal Act.

III. Legal framework applicable to hire cars with driver

In Ireland hire cars with drivers are regulated within the same legislation that applies to taxis.

III.1. National/local municipal regulation

III.1.1 National regulation

- Taxi Regulation Act 2013 (as amended by the Public Transport Act 2016)
- Taxi Regulation (Small Public Service Vehicle) Regulations 2015 (S.I. No. 33/2015)
- Taxi Regulation Act 2013 (Maximum Fares) Order 2015 (S.I. No. 127/2015)
- Taxi Regulation (Small Public Service Vehicle) Regulations 2016 (S.I. No. 237/2016)

III.1.2 Local/municipal regulation

III.2 Procedures for issuing licenses and applicable criteria

In order to be allowed to operate, the hire vehicle operators must have obtained both their SPSV driver’s licences and the vehicle licence corresponding to the vehicle they intend to use as a private hire vehicle. The applicable legislation foresees 4 types of vehicles that can be operated as private hire vehicles: standard hackneys, wheelchair accessible hackneys (WAH), local area hackneys that are licensed for a designated pick up area (usually with a radius of 5-7km from the applicant’s residence) specifically to address transport deficits that would otherwise not be addressed in certain rural areas, particularly where lack of commercial viability for a full time SPSV service means such services are not provided, and limousines (SPSV evidently suited for corporate, ceremonial or other prestige occasions). All licences should be inscribed in the register of licences established and maintained under section 18 of the Act of 2013 and the details in relation to each licence that must be maintained in the register are listed under regulation 18.⁷³³

III.2.1. Driver’s licence

⁷³³ Taxi Regulation (Small Public Service Vehicle) Regulations 2015, (S.I. No. 33/2015).

The same driver's licence as that of taxis is required for drivers that intend to operate hackneys (standard, WAH or local area hackneys) or a limousine.

SPSV driver licences are granted only to people who:

- Hold an Irish driving licence or a driving licence from another EU, EEA or other recognised state;
- Show that their tax affairs are up to date by producing a current tax clearance certificate;
- Pass the SPSV Entry Test and obtain the SPSV Skills Development Certificate (applicants for local area hackney driver licences are not required to take the SPSV Entry Test);
- Are considered by An Garda Síochána to be suitable persons to hold SPSV driver licences;
- Local area hackney driver licences are granted only to persons who already hold a local area hackney vehicle licence.⁷³⁴

Exception: applicants for local area hackney driver licences are not required to pass the SPSV Entry Test although the NTA can require them to pass a relevant Area Knowledge Test.⁷³⁵ In order to apply for a local area hackney driver licence, the applicant must provide evidence that his/her application relates to the area for which the local area hackney vehicle licence was granted.

The private hire vehicle driver's licence has a validity of 5 years and can be renewed. The renewal procedure is the same as that required for taxis. However a Local Area Hackney drivers licence is valid for 3 years (unless it is previously surrendered, revoked, if the holder obtains any category of vehicle licence other than that of a local area hackney or else is disqualified pursuant to section 30 or 38 of the Principal Act.⁷³⁶

III.2.2. Vehicles' licences

The applicable legislation on the private hire vehicle segment distinguishes between hackneys (standard, wheelchair accessible, or local area ones) and limousines. No SPSV can hold more than one particular licence.⁷³⁷

The procedure to attain a private hire vehicle licence is the similar to the one required for taxis. Vehicle requirements change according to the kind of vehicle.⁷³⁸ Also fees for grant and renewal differ from those required for taxi vehicles.⁷³⁹ With regard to local area hackneys, regulation 22⁷⁴⁰ requires that the NTA has to be satisfied of the public transport needs for such a vehicle in the area and for the licence that is sought. The transport needs may also be obtained by means of a confirmation in writing of such need either by local business representatives or community groups.

⁷³⁴ Reg. 9(1)(a) Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. No. 33/2015.

⁷³⁵ Reg. 9(1)(f) Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. No. 33/2015.

⁷³⁶ Reg. 9(3) Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. No. 33/2015.

⁷³⁷ Reg. 12 Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. No. 33/2015.

⁷³⁸ Specified in Schedules 2 to 5, Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. No. 33/2015.

⁷³⁹ Schedule 1, Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. No. 33/2015.

⁷⁴⁰ Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. No. 33/2015.

Licence fees (a EUR 45 inspection fee must also be paid):

- New wheelchair accessible hackney licence EUR125;
- New limousine licence EUR1,000;
- New local area hackney licence EUR50.⁷⁴¹

III.2.2.1 Period of validity of licences

According to Regulation 15⁷⁴² a new small public vehicle licence granted by the NTA shall expire one year after the date it was granted except for those granted to vehicles exceeding their tenth year since their first vehicle registration (six months).

However, the licence may expire also once:

- The vehicle has reached its maximum permissible age; (10 years for standard hackney and local area hackney, 15 years for standard hackney numbered below 45000 and WAH *not* associated prior to 1 April 2014, none for limousines or WAH associated prior to 1 April 2014);
- The licence is revoked, surrendered or else the holder is no longer legally entitled to the use/possession of the vehicle.

Application for the renewal of a licence shall be made to the NTA no earlier than 60 days prior to the expiry of said licence. According to regulation 14,⁷⁴³ the NTA shall be provided with documentation attesting that the applicant is the owner or else the legally entitled user of the vehicle for a minimum period of 12 months, that such vehicle complies with requirements set by regulation 29.⁷⁴⁴ Where the applicant is a company, the information required should comply with the requirements set by art. 9(10) of the Principal Act.⁷⁴⁵ Licences can be renewed for one year or six months.

Renewal fees set by Schedule 1⁷⁴⁶ (1 year⁷⁴⁷):

- EUR150 Standard Hackneys and Limousines;
- EUR75 Wheelchair Accessible Hackneys and Local Area Hackneys;
- EUR500 for the renewals of licences after the expiry date, where The NTA shall refund;
- EUR250 whether the licence is replaced no more than 10 days after the expiry of the licence;
- EUR150 whether the licence is replaced more than 10 days but no more than 30 days after the expiry of the licence.

III.2.3. Dispatch operators

⁷⁴¹ Such fees are those specified in Schedule 1 of Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. No. 33/2015 with the initial suitability inspection fee added.

⁷⁴² Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. No. 33/2015.

⁷⁴³ Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. No. 33/2015.

⁷⁴⁴ Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. No. 33/2015.

⁷⁴⁵ Taxi Regulation Act 2013, No. 37/2013.

⁷⁴⁶ Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. No. 33/2015.

⁷⁴⁷ The fees for six months are exactly half.

There is no legal obligation for a dispatch operator licence with regard to those dispatch operators working only with limousines. All other dispatch operators are required to hold the same licence as required for dispatch operators working with taxis.⁷⁴⁸

III.3 Technical requirements applicable to private hire vehicles

Technical requirements for private hire vehicle distinguishes between hackneys and limousines Regulation 30 provides that neither hackneys nor limousines shall be fitted with a taximeter.⁷⁴⁹

III.3.1 Hackneys

A hackney is SPSV which must be pre-booked (private hire) and cannot ply for hire on the street or stand at taxi ranks. The fare for the journey must be agreed in advance with the customer. Hackneys may not use bus lanes and may not be fitted with a taximeter.

The applicable legislations distinguishes three categories of hackney: (i) Standard Hackneys (for which the issue of new licences is currently prohibited); (ii) WAH (Wheelchair accessible Hackneys) which meet a number of additional vehicle specifications designed to allow use by at least one person seated in their wheelchair with at least one other passenger, and (iii) local area hackneys.

Technical Requirements for Hackneys are listed in the Schedule 4 attached to the Regulations. The vehicle shall be a mechanically propelled vehicle which is designed and constructed for the carriage of passengers with passenger seating accommodation for no more than eight persons (exclusive of the driver) and a maximum design gross vehicle weight not exceeding 3,500 kilogrammes. The vehicle shall have at least four wheels and a minimum of 4 doors operable from inside or outside the vehicle by a passenger provided that a door may be automatically locked while the vehicle is in motion subject to it automatically unlocking once the vehicle becomes stationary. No bull bars shall be fitted to the vehicle, except where they are compliant with Regulation 78/2009/EC as amended and evidence of that compliance, in form and substance satisfactory to the NTA, has been provided. All passenger (side) windows shall be readily operable. All vehicles should comply with the cleanliness and quality standards. The exterior paint of the vehicle shall exhibit good colour consistency without paint or bodywork repairs in progress. Any area within the vehicle which is provided for luggage shall be available for passenger luggage and shall not contain any other unsecured items or be dirty or damp. The vehicle shall have accommodation for safely transporting luggage of minimum total volume of 420 litres (the NTA may reduce the requirements of paragraph (a) where the vehicle concerned is a series production electric vehicle, a series production hybrid electric vehicle, a series production flexible fuel vehicle or a series production plug-in hybrid electric vehicle, or a vehicle adapted for liquefied petroleum gas or compressed natural gas).

As for safety equipment, the vehicles are required to carry, among other things: (i) a spare wheel system; (ii) a first aid kit; (iii) a fire extinguisher; and (iv) a reflective advance warning triangle. The vehicle shall have a permanent, rigid roof (which may contain a properly fitted sunroof) covering the driver and passenger compartments.

⁷⁴⁸ See s. II.2.3.

⁷⁴⁹ Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. 33 of 2015.

In general, licences are issued and renewed only for vehicles that are less than 10 years old. If a new or renewed licence is granted for a vehicle that is over nine years old, the licence will expire when the vehicle reaches its 10th 'birthday' – that is, on the tenth anniversary of the date of its first registration. There is a 6 year age limit on a vehicle proposed for licensing as a new wheelchair accessible hackney.

III.3.2 Limousines

The technical requirements for limousines are listed in schedule 5 attached to the Regulations and correspond to those required for hackneys except for where passengers are carried in a compartmented section of the vehicle (i.e. an area with seats and a permanent rigid roof), there shall be at least two doors that open into or from this compartmented area which provide access to passenger seats. Where there is more than one row of passenger seats to the rear of the driver, at least one of these doors shall be to the rear of the driver. A rear door (vertically hinged) shall constitute a door for the purposes of this paragraph, provided it was clearly designed or constructed for the intended purpose of passenger access.⁷⁵⁰

A limousine vehicle is required to meet, amongst other things, the following definition: be evidently suited by reason of its style and condition for the provision of hire services for ceremonial occasions, or for corporate or other prestige purposes, and be a vehicle of such make and model as the NTA may from time to time specify or such equivalent make and model as the NTA may approve.⁷⁵¹

III.4 Fares

No maximum fares are required for hackneys or limousines and payment for the services must be prearranged between the parties of the transaction. The driver of a hackney or limousine shall in respect of each hire carry a booking record in the vehicle during of such hire and during the journey to the point of commencement of the hire with details of the parties, the agreed fare and of the journey.⁷⁵²

III.5 Qualitative requirements (*fitness of the driver, knowledge and skills required, drivers' training*)

According to Section 10 of the Principal Act, the NTA shall not grant a licence to a person unless it is satisfied that he or she is a suitable person to hold a licence.⁷⁵³

Section 9 of the Principal provides for different requirements in case of Local Area Hackney licences. The applicant must provide evidence that the applicant holds a local area hackney licence; holds a valid driving licence without endorsement; a valid tax clearance certificate; the information required under section 11 of the Principal Act in relation to any other occupation held by the applicant, if required by the Authority; and evidence of the successful completion by the applicant of the Area Knowledge Test for

⁷⁵⁰ Schedule 5, Paragraph 4(1) Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. 33 of 2015

⁷⁵¹ Schedule 5; Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. 33 of 2015.

⁷⁵² Regulation 59, Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. 33/2015.

⁷⁵³ Section 10(2), Taxi Regulation Act 2013, No. 37/2013.

the area to which such application relates. The applicant must meet the health fitness conditions, not having been convicted for any offence indicated in the Schedule of the Principal Act.

III.6 Organisational Requirements (*Dispatch affiliation centre, minimum service*)

III.6.1 Dispatch affiliation services

According to the applicable legislation there is no obligation for SPSVs to be affiliated to dispatch operators. No minimum service provisions are given by the NTA.

III.7 Passenger rights

Same obligations towards passengers are required for all SPSV vehicle drivers.⁷⁵⁴

III.8 Labour rules

Labour rules are the same applicable to taxi sector, including the obligation to inform licensing authority of his or her being engaged in another occupation (Section 11 Principal Act) and the prohibition to not drive more than eleven hours in one day for three consecutive days (Section 40 Taxi Regulation 2015).

III.9 Taxes and Insurance

Tax clearance is closely monitored by the NTA, operators that do not duly tend to their taxation obligations are shortly after notified by the NTA that they can no longer perform their activity until they have proved their tax clearance. All vehicles must have in force for the duration of their licence and insurance policy, in the name of the holder of the vehicle, in respect of the carriage of passengers for reward in the vehicle.⁷⁵⁵

III.10 Local incentives, subsidies provided by the administration in order to carry out certain services (*such as mini-van service for people with reduced mobility, elderly, schools*)

To support the wider availability of wheelchair accessible vehicles (WAVs) in Ireland's SPSV fleet, a Grant Scheme WAV16 was launched in April 2016 which offers financial grant and training assistance, nationwide, of up to EUR10,000 for the purchase or conversion of a new WAV. There is a sliding scale of grants available with lesser monies being available for older cars. Cars older than 6 years will not qualify for this Scheme.

According to the information provided by NTA, over 300 Provisional Grant Offers of up to EUR10,000 each have issued since the commencement of WAV16.⁷⁵⁶

III.11 Supervisory enforcement tools

⁷⁵⁴ See s. II.8.

⁷⁵⁵ Regulation 21, Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. 33 of 2015.

⁷⁵⁶ <https://www.nationaltransport.ie/taxi-and-bus-licensing/wav16-wheelchair-accessible-vehicle-grant-scheme-2016-reopens-today/>.

The enforcement tools are the same for all the SPSVs and reported in s. II.11.

IV. Legal framework applicable to ridesharing and car sharing

Commercial ridesharing is not permitted under the existing legislation. In Ireland, any transportation service provided 'for profit' must adhere to SPSV rules. Non-commercial ridesharing is permitted with the provision that any consideration/money passing between any of the parties involved in the facilitation, provision or receipt of the ridesharing does not exceed the reasonable cost of only the fuel consumed on that journey.⁷⁵⁷

IV.1 Current regulations and legislative proposals

The applicable regulations are those applying to SPSVs. There are no legislative proposals aimed at changing the *status quo* in the near future.

IV.2 National rules applicable to on-line platform and rules applicable to service providers.

On-line platforms that provide SPSV booking services must be licensed as dispatch operators and are compelled to work exclusively with licensed SPSV drivers and vehicles.⁷⁵⁸

IV.3 Main operators and their business models

Long distance pre-arranged ridesharing operators **BlaBlaCar** and **Carpooling.com** are active on the Irish market.

IV.4 Requirements imposed upon non-licensed activities (safety and technical requirements, insurance requirements, obligations relating to licences and on-line platforms)

None

IV.5 Local incentives, subsidies and other forms of promotion for ridesharing and car sharing (including, parking spots, use of preferential lanes, etc.)

There are no incentives for ridesharing.

V. Relevant national case law

In October 2015, the High Court rejected the appeal of three taxi drivers who requested compensation for the losses suffered following the liberalisation of the market. The case was dismissed by Justice Peart, which considered that the plaintiffs had to establish that local authorities had "*clearly failed to prove that councils having the power to issue licences were intended to protect those who bought licences before deregulation*".

⁷⁵⁷ Regulation 23, Taxi Regulation (Small Public Service Vehicle) Regulations 2015 S.I. 33/2015.

⁷⁵⁸ Reply to the stakeholder consultation.

In dealing with the issue of the protection of fundamental rights, Justice Peart considered that *"the obligation on the State not to unjustly attack the plaintiffs' property rights in their licences does not in my view extend to any value that may have existed in the licence at the time the 2000 Regulations were introduced. (.....)It would seem that upon every attempt to bring in some mechanism whereby the public, especially in Dublin, would be better served by a greater number of taxis appearing on the streets he was met with opposition from within some sector of the industry. Ultimately, a Government must govern. A Ministry who has statutory powers to regulate the industry must try to exercise those powers effectively in the public interest and not necessarily in the interests of the taxi owners. Inevitably a Ministry will try to reach a consensus in relation to any proposed changes, particularly with those who may be adversely affected, but if that consensus proves to be elusive, as the evidence has amply demonstrated in the present case if one considers the number of years and attempts to do something constructive in the face of mounting criticism and public discontent, then the Ministry may be forced to act pursuant to the powers which he has, and within the powers and discretion which he has, and do what seems to be in the best interests of the public, regardless of what reaction this may provoke."*⁷⁵⁹

VI. Country Market

In the years following the liberalisation of the taxi sector, the market saw an increase in the number of SPSV vehicle licences, rising from 13,637 in 2000 to a peak of 27,429 in 2008. Since then, with the commencement of the economic recession and reduced customer demand, together with higher vehicle standard requirements, the overall fleet size decreased by 23% to a total of 21,146 active vehicle licences as of 31 December 2015.

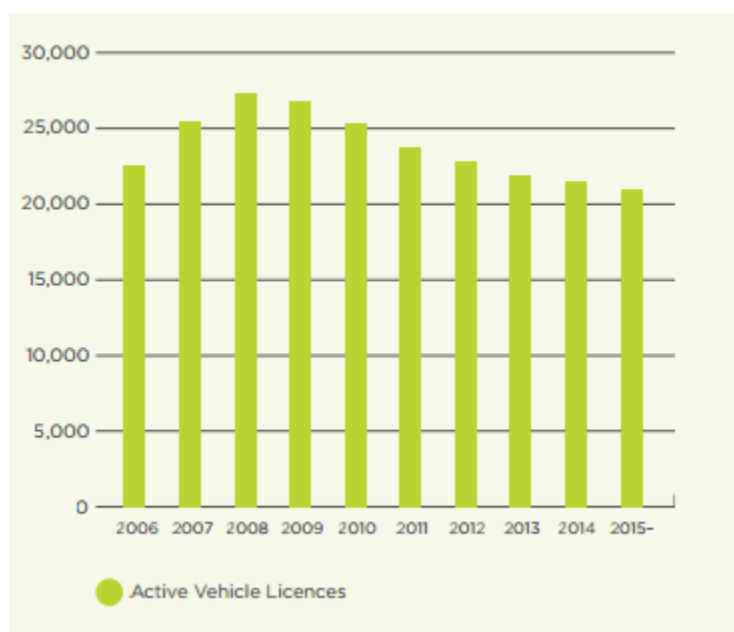
As of February 29th, 2016 the total number of active licences for SPSVs is 20,953 namely: 17,289 taxis (including those accessible to wheelchairs); 2,087 Hackneys (including those accessible to wheelchairs); 1,577 limousines.

Table 1: Active SPSV Licences by Year.

Year	Active SPSV at 31 December
2012	22,964
2013	21,900
2014	21,547
2015	21,146

Chart:

⁷⁵⁹ The High Court, 15 October 2015, Muldoon, Kelly, Malone v. The Minister for the Environment and Local Government, p. 182, not published yet.



From 08 June 2010, standard taxi and hackney licences were no longer issued and the only licence categories available for issue have been limousine, local area hackney and wheelchair accessible vehicle licences. From 2010 to 2015, 1448 new limousine, local area hackney and wheelchair accessible vehicle licences were issued.

Table 2 below gives the yearly issue figures:

New vehicle licences issued							
Year	Taxi	Hackney	Limousine	WAT	WAH	Local Area H	Total
2012	0	0	164	28	11	0	203
2013	0	0	177	16	6	0	199
2014	0	0	190	52	5	7	254
2015	0	0	269	157	18	13	457

Table 3: SPSV Fleet by Vehicle Category by Year

Year	Taxis		Hackneys			Limousines	Total
	Standard	WAT	Standard	WAH	LAH		
2012	17,750	1,077	2,866	14	n/a	1,257	22,964
2013	17,136	898	2,532	18	n/a	1,316	21,900
2014	16,899	889	2,281	34	7	1,437	21,547
2015	16,460	969	2,081	51	14	1,571	21,146

Table 4: Active SPSV Driver Licences by Year

Year	Active Driver Licences

2012	34,679
2013	31,186
2014	29,457
2015	27,440

Table 5: Calls to the SPSV Information Line by Year and Source

Year	Total Calls	Industry members	Consumers
2012	73,527	71,760	1,767
2013	126,659	123,340	3,319
2014	132,561	123,657	8,904
2015	117,401	115,053	2,348

VII. Market players

According to the NTA, the majority of taxi operators are individual owner operators where the driver owns the vehicle and the vehicle licence and drives it himself. There are some Multi Vehicle Licence Operators ("MVLO").

The three largest taxi companies are:

- **NRC National Radio Cabs**, which operates mainly in Dublin and its surroundings, providing various types of services such as regular taxis, 6/7/8 person taxis for large families or groups, airport taxis, wheelchair taxis, and electric taxis under "working electric" taxi schemes in Europe and part of a wider EU research program that includes gathering data on the performance of electric transport in an urban setting. NRC has a fleet of 700 cars and services 4000 rides per day that is dispatched through GPS. Electronic payment is available in 450 taxis and the company services 800 corporate clients.
- **VIP Taxis** has a fleet of 500 vehicles mainly active in Dublin and provides various services, especially in the corporate services sector. It is the results of various mergers in the past years in order to increase their taxi fleet.
- **Xpert taxis** is a relatively recent company that was founded in 2005, and is focused on technological development with a range of services primarily for corporate and top tier services with the intent to be "one stop transport shop". It also has a fleet of limousines available for corporate clients. According to the company "Xpert fleet is graded into various categories, namely, saloon, quality saloon and VIP saloon. The higher the grading allows the driver access to greater work. This is replicated in their MPV fleet also, a practice copied from G7 Taxis in Paris".⁷⁶⁰

From October 2015, these three companies joined the **eCab** platform and now provide 2000 taxis in Dublin.

Uber launched UberBLACK service in Dublin in February 2014. The local entity, Uber Ireland Technologies, is officially licensed by the NTA as a dispatch operator and has

⁷⁶⁰ <http://www.xperttaxis.com/>.

been since its launch. Reaction to UberBLACK from the public and the taxi industry was positive. In January 2016, Uber also opened its first Centre of Excellence outside the US in Limerick. This centre currently employs nearly 100 people fulltime and should reach 300 by the end of this year. In June 2014 Uber launched uberX. The service was rebranded uberTAXI in 2015, since the lack of limousine authorisation rendered it difficult to launch such service.

Hailo is very active and popular in Dublin, the taxi hailing app, with an estimated 50% of licenced taxi drivers using its services. Hailo is available in over 20 locations in Ireland. It applies a 12% charge on affiliated taxi drivers.

GoCar⁷⁶¹ is the leading car sharing operator in Dublin with more than 100 vehicles. The company offers also corporate accounts for SMEs in order to provide a viable a cheaper alternative to taxis and hackneys. The subscription requires the payment of an upfront fee of EUR 49,99 and an hourly fee which is different between instant users and frequent users (who pays lower hourly fees but also fixed monthly fee).

VIII. Barriers, limitations, incentives

In Ireland, quantitative restrictions were removed in 2000. The uptake during 2000 to 2008 was in taxis which can do exactly the same work as hackneys, but have the additional rights of being able to pick up passengers on-street and use bus lanes. The substantial increase in supply of taxis in the aftermath of the 2000 liberalisation of the market lends support to the notion that the market was undersupplied between 1978 and 2000. The liberalisation of entry into the taxi market in 2000 led to a substantial decrease in waiting times for passengers. In Dublin, the average waiting time for a taxi declined from 11.5 minutes in 1997 to 9.2 minutes in 2001, to 8.3 minutes in 2005 and 6.2 minutes in 2008.⁷⁶² There is little evidence on either the extent of discounting and or on waiting times since the moratorium was introduced in 2010.⁷⁶³

One of the main issues was the lack of accessible wheelchair taxis and the availability of SPSVs in the rural areas to cover the lack of public transport. New SPSV licences are being granted where the vehicles meet the requirements for Wheelchair Accessible Vehicles and in 2013, the Local Area Hackney licence, with the purpose of facilitating a low-cost entry to the hackney market in rural areas that would otherwise be unlikely to have such services.

More than two years after local area hackney licences were introduced to help tackle rural isolation, just 14 such licences remain active in the State, with only one licence active in the State's largest county Cork.⁷⁶⁴

The taxi's metered fare is specifically stated to be a "maximum fare" and so lesser fares can be charged. Individual taxi licence holders can charge lower fares below the maximum fare at any time. During the recent economic downturn, dispatch operators continually advertised discounts of 20% to 30% off the taxi's metered fare.

⁷⁶¹ <https://www.gocar.ie/how-it-works/>.

⁷⁶² P. K. Gorecky, id.,14.

⁷⁶³ P. K. Gorecky, id.,11.

⁷⁶⁴ <http://www.irishtimes.com/news/ireland/irish-news/only-14-local-area-hackney-licences-remain-active-1.2722050> (last access 1September 2016).

Under the Taxi Regulation Act 2013, taxi drivers with other jobs – predominantly part-time taxi drivers – have certain additional reporting requirements, including notifying their employer that they perform taxi services. In general, the system seems more favourable to full time taxi drivers.⁷⁶⁵

IX. Capacity, growth, impact

With an estimated 10,000 taxis, Dublin has more taxis per person than any other major European city.

The 2014 OECD ex post assessment of the liberalisation of the Irish taxi market,⁷⁶⁶ reported that once the quantitative restrictions were removed in 2000, the number of hackney licences declined, both in absolute and relative terms, not only due to the increase in taxi licences from entrants from outside the SPSV sector but also a switch by owners of vehicles licenced as hackneys to taxi licences. The OECD ex post assessment reports the results of the Goodbody Study⁷⁶⁷: at the national level, while in 2000 there were 13 hackneys for every 10 taxis, by 2002 there were only 3 hackneys for every 10 taxis. In part this was due to a switch from hackney to taxi licences for existing vehicles. This switch reflected the advantages of a taxi as compared with a hackney in providing SPSV services, rather than a decline in pre-booked hiring, the market niche of hackneys. In Dublin, for example, the share of pre-booked hires for taxis (including WATs) and hackneys was 47.9% in 1997, declining to 37.7% in 2000, before increasing to 52.6% in 2005 and 58.1% in 2008.

The abolition of the entry controls in 2000 did not see an increase in the number of WAT vehicles. According to the OECD ex-post impact assessment, WAT would experience difficulty competing with taxis due to higher fixed and running costs, which are not offset against higher charges. In order to increase the number of WAT and WAH, after 2010, new licences are issued only to wheelchair accessible vehicles. A new grant scheme has been introduced in April 2016 to adapt or buy WAT.

A 2011 study commissioned to Indecon and provided to Grimaldi by the National Transport Authority indicates that the significant fall in demand evident over the period 2007-2010 had not been matched by a corresponding level of exit from the sector. This has led to an oversupply of SPSV vehicles. While sensitive to the methodology used, on a national level oversupply is estimated by Indecon to be in the range of 13-22% of the current SPSV fleet. In Indecon's view, the level of oversupply is influenced by the impact of non-compliant operators in the sector and by the low levels of exit from the industry.

According to the 2015 Irish Statistics, in 2015, 457 new vehicle licences were issued, the highest annual total since 2008. However, the number of active vehicle licences in the country fell again slightly, down to 21,146 – from 21,547 the previous year. Active

⁷⁶⁵ The Minister responsible for the introduction and passage of the Taxi Regulation Act 2013 stated in 2012 "I am very much in favour of full-time taxi drivers. I think that they are the bones of the industry and they must be supported". The comments were made in evidence before the Oireachtas (Parliament) Joint Committee on the Environment, Culture and the Gaeltacht on 29 February 2012, reported by P.K. Gorecki, quoted, p. 16.

⁷⁶⁶ P. K. Gorecky, id.

⁷⁶⁷ Goodbody Economic, Economic Review of the Small Public Service Vehicle Industry, March 2009. See webpage:

<https://www.nationaltransport.ie/downloads/taxi-reg/economic-review-spsv-industry.pdf>.

driver licence numbers as well, fell to 27,440 in 2015, continuing the decline from the peak of 47,222 in 2009.⁷⁶⁸

A survey carried out by the NTA in March 2015, using the data downloaded by taximeter of the surveyed drivers, gave the following results. Data on over 50,000 trips was obtained and analysed, accounting for EUR700,000 in metered revenue for 85 drivers operating in Dublin, Cork and Athlone.

- All taximeters related to an owner / driver vehicle with only one driver associated with the vehicle. All data was anonymised.
- The average hours worked per driver in the sample was 25 hours per week – some drivers worked more hours and others worked less hours.
- The average number of days worked each week was either 5.3 or 5.4 days per week in the three areas.
- The average number of hours worked each day in service was 5.4 hours in Cork, 4.8 hours in Dublin and 3.7 hours in Athlone.
- The average fare recorded was EUR 14.97 in Dublin, EUR 12.96 in Cork and EUR 10.72 in Athlone.
- For the drivers in the sample, the average metered revenue per week was EUR 650 in Cork, EUR 635 in Dublin and EUR 382 in Athlone. Among the sample of drivers, average metered revenue per week ranged between EUR 98 and EUR 1,189.

X. Results

The SPSV market has been liberalised in 2000, after the removal of the quantitative barriers for taxi. Since then, there are no significant barriers to enter the hire transport market. The maximum fares are unified at national level, but lower fares and discounts are possible.

The removal of quantitative barriers has led to an increase in the number of taxis compared to hackneys, since they had the same licensing requirements but taxi may also ply for hire. However, compared to the number of taxis that entered the market after the removal of quantitative restrictions, the number of accessible vehicle remained very low. Therefore, since 2010, the NTA only grants to WAV, both taxis and hackneys. In 2016, a grant Scheme has been launched by NTA for the purchase of adaptation of wheelchair vehicles, available to both taxis and hackneys with the purpose to increase the number of WAVs.

In a similar way, the increase in the number of taxis had not brought benefits to the rural areas which suffer also from the lack of public transport. In 2014, the NTA introduced the Local Area Hackney licence, which was a low cost hackney licence to facilitate the entrance entry to the hackney market in rural areas that would otherwise be unlikely to have such services but very few licence were maintained.

According to the 2015 Irish Statistics, in 2015, 457 new vehicle licences were issued, the highest annual total since 2008. However, the number of active vehicle licences in the country fell again slightly, down to 21,146 – from 21,547 the previous year. Active driver licence numbers as well, fell to 27,440 in 2015, continuing the decline from the peak of 47,222 in 2009.

Intermediaries for hire transport are active in Ireland facilitating the provisions of SPSVs. Intermediation of non-professional transport is possible only for cost sharing journeys.

⁷⁶⁸ Statistical Bulletin Number: 01 / 2016 Taxi Statistics for Ireland April 2016.

XI. Conclusions

The Irish taxi market experienced fundamental regulatory changes from a fully regulated market until 2000 to a deregulated market with no entry barriers. This has led to an increase in the supply, and a switch from hackneys to taxis. However, the public authorities have intervened in some areas including the creation of a single national fare area and the limitation of new licence issuances only for vehicles with wheelchair accessibility. Except for the issue related to WAV and the lack of hire transport in the rural area, the market is characterised by strong competition between operators and the presence of intermediaries, especially for the taxi sector, as an alternative to the traditional dispatch centres.

Bibliography

1. Taxi Regulation (Small Public Service Vehicle) Regulations 2015, S.I. 33 of 2015.
2. Taxi Regulation Act 2013 (Maximum Fares) Order 2015 (S.I. No. 127/2015).
3. Taxi Regulation Act 2013 (as amended by the Public Transport Act 2016).
4. P. K. Gorecky, EX-POST ASSESSMENT OF GOVERNMENT INTERVENTION IN THE TAXI MARKET IN IRELAND: 1978-2014, OECD DAF/COMP/WP2(2014)6.
5. OECD, Taxi Services: Competition and Regulation 2007. See webpage: <http://www.oecd.org/regreform/sectors/41472612.pdf>.

15. ITALY

General legal framework

In Italy, taxi and hire car with drivers services are both non-scheduled public passenger transport services (hereinafter, "non-scheduled PSTs"). Non-scheduled PSTs are complementary to scheduled passenger transport services (such as subways or buses), and are both part of the broader category of public transport services. The Italian Highway Code (*i.e.* the Legislative Decree No 285 of 30 April 1992) and the Italian Framework Law No 21 of 15 January 1992 govern both taxi and HVDSs services.⁷⁶⁹ In accordance with Article 117 of the Italian Constitution, Regions and Municipalities share competence over the public transport sector. More specifically, Regions have general public transport legislative powers which Municipalities are required to implement. In accordance with well-settled case-law, taxi services are "essential public services"⁷⁷⁰. Law No 21/1992 specifically provides that, unlike hire car with driver's services, taxi services have the obligation to perform their services⁷⁷¹ towards undifferentiated customers.⁷⁷² Furthermore, according to Law No 21/1992, taxis are allowed to park in public areas and may circulate freely within the Municipality but can pick up passengers in the area of licensing. The passenger can be taken to any destination, subject to the consent of the driver if the destination is beyond the Municipal or district boundaries.

Licences

Drivers must hold a taxi licence to provide taxi services. According to Law No 21/1992, taxi licences can be obtained: (i) for free but subject to quantitative restrictions, and subject to assignment by the Municipality through a public tendering procedure⁷⁷³ or (ii) purchased from a licence-holder.

Organisational and technical requirements

Law No 21/1992 provides mandatory requirements to operate the service. First, to obtain the taxi licence, individuals need to be registered as drivers of non-scheduled PSTs. To be enrolled on the register, they must provide a certificate of professional competence, which is granted upon the fulfilment of certain age conditions depending on the type of driving licences.⁷⁷⁴ Individuals can operate the taxi service only if they assume one of the legal forms prescribed by Article 7 of Law No 21/1992. Alternatively, pursuant to the provision, taxi drivers can be individual entrepreneurs (and enrolled on the craft industry register), or cooperative workers, or join a consortium. Licences to operate the taxi service are only granted to individuals. According to local regulations, taxi drivers can be Italian or EU citizens; they must hold a high school diploma and hold at least the B driving licence (and the certificate KB), be resident in the territory of the Municipality where the service will be provided, be exempted from a custodial sentence, and must comply with standards of medical fitness.

Fares

According to Article 5 of Law No 21/1992, Municipalities set the taxi service fares and fix the criteria used to calculate tariffs. Furthermore, Article 13(1) of Law No 21/1992 states that a passenger, which decides to use the taxi service, has to pay a fare calculated by a regulated taximeter on the basis of the fares set by the Municipality.

Passenger rights

Law No 21/1992 does not cover passenger rights. Instead, some rights stem from the mandatory nature of the service. The rights are defined and set by regional or local authorities, which adopt Service Charters and Codes of Conduct. The principles include equality between passengers whereby access to the service must be granted to everyone. Operators are also required to comply with the principle of trip continuity, participation,

⁷⁶⁹ Italian OJ No 18 of 23 January 1992. Law No 21/1992 was amended by Decree-Law No 207 of 30 December 2008 (Italian OJ No 304 of 31 December 2008), converted into law, after amendment, by Law No 14 of 27 February 2009 (ordinary supplement to the Italian OJ No 49 of 28 February 2009).

⁷⁷⁰ See Regional Court of Liguria, Second Section, judgement No 117 of 10 January 1993. This means that a taxi service provider has an obligation to deliver the service when asked to do so by a client, failing which a fine may be imposed upon such provider.

⁷⁷¹ This means that a taxi service provider has an obligation to deliver the service when asked to do so by a client, failing which a fine may be imposed upon such provider.

⁷⁷² By contrast, according to a recent opinion of the Italian Administrative Supreme Court, the clientele of Hire cars with drivers is specific. See Opinion 756/2015.

⁷⁷³ In this case, the contractor cannot hold (*i.e.* cannot cumulate) more than one licence.

⁷⁷⁴ In order to be enrolled in the register, Article 6(3) of Law No. 21/1992 obliges individuals to successfully pass an examination before the competent regional board, which has been established by Regions under Article 6(4) of the Law No. 21/1992: such examination aims to prove the driver's competence to provide the taxi service by proving the geographic and toponymical knowledge of the driver. The regional board also verifies the "suitability of the candidate".

quality and efficiency of service.

Labour rules

Article 7 of Law No 21/1992 prescribes that taxi drivers and hire car with driver's operators shall be individual entrepreneurs (therefore enrolled on the official register of craft industry) or else become a member of a cooperative or a consortium of workers. When the operator decides to be self-employed, the driver is qualified as a craft entrepreneur and, therefore, has to file both the VAT record (*i.e. dichiarazione IVA*) and register a value added tax number (*i.e. partita IVA*).

Enforcement

If a driver operates the service without a taxi licence, he is liable to be fined with a pecuniary penalty pursuant to the Highway Code. The sanction can include the confiscation of the vehicle and partial withdrawal of the driving licence.

Airports

As a general rule, licence-holders that obtain the licence from the Municipality where the airport is located are entitled to operate the service to/from that airport according to the Municipality's regulation(s). However, local authorities may impose certain conditions for the exploitation of such licence.

Hire cars with driver

Hire car with driver is not a public service and requires an authorisation. Hire cars with drivers are subject to a public regime of planning, limitation and granting of authorisations. The authorisation is "vehicle-specific" and is issued by a Municipality in a public procedure. Unlike taxis, the hire car with driver's operator may obtain several authorisations for several vehicles and hence cumulate them. Hire cars with drivers cannot park in public spaces, but only in the garage (*rimessa*) situated in the area of the authorising Municipality.. The ride must be booked at the garage, where the vehicle has the obligation to return after each ride.. However, the authorisation is not limited to the territory of the Municipality that issued the authorisation. Fares are set in advance between the user and the carrier. There are however certain criteria as to the definition of fares (minimum and maximum) adopted by a Ministerial decree.

Ridesharing and car sharing

In Italy, ridesharing (carpooling) and car sharing services are not subject to the provisions of Law No 21/1992 or any other law or local regulation, therefore no licences or authorisation is required. However, transport of passengers made for compensation without licenses or authorisations infringes both Law No 21/1992 and the Highway Code. With regard to these services, the State is the sole authority competent to adopt a legal framework applicable to services which connect the demand-side and the supply-side, such as platforms used to provide real-time ridesharing, carpooling and car sharing services.⁷⁷⁵

Country market analysis

The current legislative framework differentiates between taxi and hire car with driver, imposing on the second category stringent requirements which render difficult the development of services which can fully compete with taxis in the pre-booked sector. The current legislative framework seems outdated in light of the technological developments. . The Transport Regulatory Authority suggests adapting the legislation to new technological developments in the framework of Law 21/1992; also the Italian Competition Authority⁷⁷⁶ has highlighted the inappropriateness of the current legislation in light of the emergence of new technologies.⁷⁷⁷

⁷⁷⁵ In this respect, it is worth recalling that on March 16 2016, two Ministries (Italian Ministry of Infrastructure and Transport and Italian Ministry of Technological Development) will propose to the Senate, during the debate on the yearly decree on competition ("*DDL Concorrenza*") to regulate the sector of taxis and hire cars with drivers through a delegated act ("*legge delega*"), taking into account the public service preservation, competition, the need to improve services to citizens, the evolution of the sector, the fight against abusiveness, a better encounter between demand and offer and an improvement of the system of programming and organization on a territorial basis. All interested stakeholders will be consulted. See <http://www.mit.gov.it/comunicazione/news/regolamentazione-taxi-tpl>.

⁷⁷⁶ Carpooling – given its lack of commercial nature – should not be subject to such legislation. See TRA, "*Non-scheduled road transport passenger services: taxi, car and driver hire and technology mobility services*" of 21 May 2015.

⁷⁷⁷ See ICA, Opinion of 29 September 2015 in the case AS1222 – Legge Quadro per il Trasporto di Persone Mediante Autoservizi Pubblici non di Linea.

Relevant market

Concerning the geographical market, although the development of a regional perspective seems to be the objective, at the time of writing the report, the local and urban level are the relevant ones both for taxis and for hire cars with drivers. The product market is segmented into two parts: (i) hailing and ranking, where taxis have a legal monopoly; (ii) pre booked services, where competition between radio taxis and hire cars with drivers is strong. However, the case law is not consistent on the issue whether taxi and hire cars with drivers' services are part of the same relevant market or are two separate markets.⁷⁷⁸

Market players

With regard to the taxi sector, the following categories have been identified: (i) taxi operators (more often self-employed); (ii) radio taxi operators, usually assuming a cooperative form and operating as dispatch centers; and (iii) taxi apps (e.g. MyTaxi, Apptaxi and iTaxi), provided by a range of different subjects.

For the hire car with driver sector, market players are difficult to identify due to the lack of concentration of the sector. Amongst hire cars with drivers, UberBlack can be considered a major player.⁷⁷⁹ Real-time ridesharing providers, within the meaning of the service as defined by the Supreme Court,⁷⁸⁰ include Uber, BlablaCar and Sharethecity. They all have different models: BlablaCar does not operate in the urban segment, but is a significant player for long distance rides. Sharethecity is more active in the urban segment. Car sharing services are provided by various players operating in more than one city such as Enjoy, Car2go, GirACI, Share'ngo (electric).

Barriers, limitations and incentives

For both taxis and hire cars with drivers, market entry is restricted by quantitative thresholds. The cost of licenses and of the vehicle represents additional barriers to entry... In particular, the cost of taxi licenses varies across cities, and the price of a licence transfer can reach up to EUR 160, 000. Authorisations for hire cars may reach the same price in the largest cities. Stakeholders identify the cost of maintenance and depreciation of the vehicle as a market barrier, which is particularly relevant for luxury cars. Hire cars with drivers need to be pre-booked at the office and must return to garage after each ride. A qualitative barrier is represented by the exam required to obtain the certificate of professional ability for the taxi licence and hire cars' authorisation. . Incentives in terms of lower taxation on fuel are applied to both taxis and hire cars with drivers at a national level. Moreover, at the local level, further incentives are foreseen both with respect to certain categories of users and also encourage environmentally friendly behaviour.

Capacity, growth and impact

At the national level, there are around 28,500 licences (4,855 in Milan, 7,705 in Rome). As confirmed by the stakeholder consultation, the number of licenses has remained steady over several years, with the sole exception of Florence. Concerning the transfer of licences, the numbers have not been particularly significant. There are 22,500 authorisations for hire cars with drivers in the whole national territory. . The analysis of taxi fares shows that the main cities, in particular Milan, Rome and Turin, have similar fares. . However in Milan, fares are subject to a more substantial increase according to speed per km/hour increase compared to elsewhere (this is usually relevant for extra-urban rides). There is a positive correlation between the cost of the service and the cost of living in the cities (for example, the cost is lower in the southern and central regions).

Hire cars with drivers' average fares are somewhat higher than taxi fares on the same rides. The demand of hire cars with drivers is increasing, but stronger competition has caused a decrease in individual earnings compared to 2010.

Conclusions

The non scheduled public transport in Italy remains dominated by taxis, especially in the hailing and ranking segments. Quantitative and qualitative barriers have rendered difficult the development of hire transport service alternative to taxis. The arrival of new and innovative service provided has boosted the demand for

⁷⁷⁸ Interview with a stakeholder. From some precedents on the hire car with driver sector, it would appear that a separate market for hire cars with drivers at a local (municipality level) further segmented in the provision of hire car with driver services for peculiar categories of users (such as PRM, school service) could be configured.

⁷⁷⁹ The Supreme Administrative Court, in recently pronouncing itself on the nature of the service provided by this platform considered it more akin to hire cars with drivers than to taxi services: see Opinion No. 757/2105.

⁷⁸⁰ The Supreme Administrative Court has confirmed that real-time ridesharing service is a non-scheduled PST but that users of this type of service are different from users of other non-scheduled PST Services: see Opinion No. 757/2105.

hire cars, however, the quantitative restrictions and the "return to garage" rule make difficult to expand the service. In general, compared to the number of inhabitants with the largest EU Member States, the Italian market seems rather undersupplied. The legal framework does not allow the development of innovative hire transport and, as indicated by the Italian Competition Authority, the legislative framework should be updated to boost the competition in the hire transport sector and to include the ridesharing and the innovative transport services, also taking into consideration the role of intermediaries.

I. Introduction

Italian public transport services⁷⁸¹ can be divided in:

- (i) scheduled local public transport services (i.e. *trasporto pubblico locale di linea*), which consist of collective passengers or goods transport services provided on a regular and undifferentiated basis, for fixed itineraries, fares and duration ("**Scheduled PTs**"); and
- (ii) non-scheduled public road passenger transport services (i.e. *trasporto pubblico non di linea* – "**non-scheduled PTs**"), to which the provisions contained in the the Italian highway code introduced by the Legislative Decree No 285 of 30 April 1992 (the "**Highway Code**")⁷⁸² and by the Italian Framework Law No 21 of 15 January 1992⁷⁸³ ("**Law No 21/1992**") apply.

According to Italian well-settled administrative case-law,⁷⁸⁴ the main difference between such services consists of planning the itinerary and the final destination. In this respect, it must be noted that non-scheduled PTs satisfy needs for travel of a specific customer base (e.g. businessmen, tourists, disabled persons)⁷⁸⁵ in particular circumstances (such as, for instance, when scheduled PTs are not available or involve long travel time).⁷⁸⁶

Non-scheduled PTs are "collective or individual passenger transport services, additional and complementary to scheduled public passenger transport services including railway ferry lines, automotive, maritime, lake and air services, which are provided at passengers' request, on occasional or periodical basis, for a given itinerary and duration set time-by-time" (emphasis added).⁷⁸⁷ Within the scope of non-scheduled PTs, Article 1 of Law No 21/1992 distinguishes between:

- a) Taxi services provided by cars, sidecars, boats and animal-powered vehicles;
- b) Hire car with drivers services (*Noleggjo con conducente* – "NCC").

According to the Lombardia Regional court "*taxi service differs ontologically from the alternative hire car with driver service, which is offered to specific users who file a special request with the garage [...] they differ especially with reference to the nature of the service provided because, in the first case, the main characteristic of the taxi service*

⁷⁸¹ The Italian Constitutional Court, with the judgment No 264 of 13 November 2013, affirmed that the Directive 2006/123/EC of 12 December 2006 on services in the internal market (OJ L 376 of 27 December 2006) does not apply to services in the field of transport.

⁷⁸² Italian OJ No 114 of 18 May 1992.

⁷⁸³ Italian OJ No 18 of 23 January 1992. Law No 21/1992 was amended by Decree-Law No 207 of 30 December 2008 (Italian OJ No 304 of 31 December 2008), converted into law, after amendment, by Law No 14 of 27 February 2009 (ordinary supplement to the Italian OJ No 49 of 28 February 2009).

⁷⁸⁴ See Supreme Administrative Court, Second Section, judgement No 120 of 21 June 1999 ("*In tema di veicoli destinati alla diversificazione od integrazione della rete dei trasporti pubblici locali, ai sensi dell'art. 14 comma 5 D.L. vo 19 novembre 1997 n. 422, l'elemento distintivo tra il servizio di linea da quello non di linea svolto dai taxi è rappresentato dalla predeterminazione non solo della destinazione ma anche dell'itinerario*").

⁷⁸⁵ See in this sense EDWARD WEINER, "*Urban Transportation Planning in the United States: History, Policy, and Practice*", Springer, 2013, p. 98.

⁷⁸⁶ Reply to the stakeholder consultation.

⁷⁸⁷ Article 1 of Law 21/1992.

is the fact that is mandatory [...] whereas hire car with driver service is not subject to public service obligations" (emphasis added). This has also been recently confirmed by the important opinion of N Italian Supreme Administrative Court. In light of the above, an incompatibility between both services exists: Italian case-law considers this as being "confirmed by the prohibition from a accumulation of licences of both services on the same person" (emphasis added).⁷⁸⁸

I.1 The attribution of competence of non-scheduled PTS

The competence in the sector of non-scheduled PTSs is shared amongst Regions and Municipalities. Such competence has been introduced by Article 117(3) of the Constitution of the Italian Republic (the "**Constitution**") which states that "*concurring legislation applies to*" the regulation of "*major transport and navigation networks*".

Because the regulation concerning public transport services is not covered by the exclusive legislative power of the State provided for under Article 117(2)⁷⁸⁹ of the Constitution, Article 117(4) applies. This provision states that "*the Regions have legislative powers in all subject matters that are not expressly covered by State legislation*". As a consequence, public transport services are covered by the legislative power of the Regions.⁷⁹⁰

I.1.1 Regions

In order to ensure the correct application of Article 117(3) and (4) of the Constitution, on 24 July 1977 the Italian legislator adopted the Decree of the Italian President No 616 ("**Presidential Decree No 616/1977**").⁷⁹¹ By means of this Decree, the Regions were delegated administrative functions which also relate to public transport services. Article

⁷⁸⁸ See in this sense, Regional Court of Lombardia (Brescia), judgement No 632 of 8 June 2004, p. 4. The author provides the courtesy translation.

⁷⁸⁹ Article 117(2) of the Constitution states that "*The State has exclusive legislative powers in the following matters: a) foreign policy and international relations of the State; relations between the State and the European Union; right of asylum and legal status of non-EU citizens; b) immigration; c) relations between the Republic and religious denominations; d) defense and armed forces; State security; armaments, ammunition and explosives; e) the currency, savings protection and financial markets; competition protection; foreign exchange system; state taxation and accounting systems; equalization of financial resources; f) state bodies and relevant electoral laws; state referenda; elections to the European Parliament; g) legal and administrative organization of the State and of national public agencies; h) public order and security, with the exception of local administrative police; i) citizenship, civil status and register offices; l) jurisdiction and procedural law; civil and criminal law; administrative judicial system; m) determination of the basic level of benefits relating to civil and social entitlements to be guaranteed throughout the national territory; n) general provisions on education; o) social security; p) electoral legislation, governing bodies and fundamental functions of the Municipalities, Provinces and Metropolitan Cities; q) customs, protection of national borders and international prophylaxis; r) weights and measures; standard time; statistical and computerized coordination of data of state, regional and local administrations; works of the intellect; s) protection of the environment, the ecosystem and cultural heritage*".

⁷⁹⁰ Italian well-settled case-law confirms that local public transport services "*fall within «the scope of residual competence of the Regions according to Article 117(4) of the Constitution»*". See in this sense Court of Cassation, judgements No 452/2007, and case-law quoted therein; No 222 of 8 June 2005. In this respect, close attention should be also paid to the fact that only Scheduled PTSs fall within the category of "major transport networks" (and therefore of public transport services). Nevertheless, non-scheduled PTSs can be traceable to such category in as much as they have been interpreted as public transport services by the Italian case-law quoted above.

⁷⁹¹ Italian OJ No 234 of 29 August 1977.

84(1) of Presidential Decree No 616/1977 relates to transport services of regional interest which are provided by vehicles travelling on tramways and motorways.⁷⁹²

When the services referred to under Article 84(1) of Presidential Decree No 616/1977 are partially provided in neighbouring Regions, Article 84(2) of Presidential Decree No 616/1977 provides “*these Regions establish conditions how the service shall be provided together with those Regions where the service is provided for the lowest part of the journey*”.

Subsequently, Article 85(1) of Presidential Decree No 616/1977 transfers to the Regions “*all administrative functions concerning the approval of Municipalities’ regulations governing hire car with driver and taxi services*”. Presidential Decree No 616/1977 has been referred to in Law No 21/1992 inasmuch as such a decree constitutes the legal framework to be observed by Regions when they adopt regulations governing non-scheduled PTSs. In this respect, Article 4(1) of Law No 21/1992 provides “*Regions exercise their competence in the sector of non-scheduled PTSs according to Decree of the Italian President No 616 of 24 July 1977 and the present law*”.⁷⁹³

In 1997 the regulatory framework of local public transport services changed with the Law No 59 of 15 March 1997 entering into force (“**Law No 59/1997**”).⁷⁹⁴ Law No. 59/2007 provided for a delegation of power to the Council of Ministers to confer duties and functions on Regions and local authorities, to pursue the reform of the public administration, and to simplify administrative procedures.⁷⁹⁵

In order to comply with Article 4(4) of Law No 59/1997, Legislative Decree No 422 of 19 November 1997 (the “**Decree No 422/1997**”) was adopted.⁷⁹⁶ This Decree attributed to Regions and local authorities functions and duties concerning local public transport services.⁷⁹⁷ More specifically, Decree No 422/1997 conferred upon Regions and local authorities all the functions and the duties of administering local public transport

⁷⁹² Specifically, such a disposition states that “administrative functions related to matters concerning tramways and motorways of regional interest refer to public transport services of passengers or goods (excluded postal services) provided by tramways, undergrounds, trolley line, funicular railways of any kind, motorways [...] even though the most prevalent part of the journey is provided in an area of a different Region” (emphasis added). The author provides the courtesy translation.

⁷⁹³ The provision at hand proceeds to explain, under paragraph (2), that Regions “*after establishing the rules to be observed by the Municipalities when drafting their regulations governing the provision of non-scheduled public road passenger transport services, shall delegate to the local authorities the administrative duties relating to the enforcement of those regulations in order to gain an overview of the way in which non-scheduled public transport complements other modes of transport in the context of regional and economic planning*” (emphasis added).

⁷⁹⁴ Italian OJ No 63 of 17 March 1997. See also OECD Reviews of Regulatory Reform, Italy – Ensuring regulatory quality across levels of government, 2007, p. 82.

⁷⁹⁵ Article 4(1) of Law No 59/1997 provides that “*within the scope of Article 117 of the Constitution, Regions grant to municipalities and local authorities, respecting each single regional system, all administrative functions that do not require to be exercised at national level*”. Under Article 4 of Law No 59/1997, the Government was required to adopt legislative decrees which attribute to Regions (i) duties of programming public transport services of regional and local scope and (ii) duties of defining, together with the local authorities the minimum level of services which can be considered sufficient to satisfy the demand of mobility of citizens under both quantitative and qualitative perspective; and services whose costs are paid by Regions, establishing that costs exceeding the minimum level would have been paid by local authorities.

⁷⁹⁶ Italian OJ No 287 of 10 December 1997.

⁷⁹⁷ MARTIN SCHIEFELBUSCH and HANS-LIUDGER DIENEL, “*Public Transport and its Users. The Passenger’s Perspective in Planning and Customer Care*”, Ashgate, 2009, p. 239. The Decree No 422/1997 implements, among other things, the European efforts to liberalize the local public transport services market and the fundamentals are (i) the transference of the funding to the Regions according to their proportion of transport service provision; (ii) the sovereignty of planning and planning; (iii) the separation between the levels of the Region as the purchaser and the transport company as the provider of the service; (iv) the transformation of transport services into private businesses; (v) public tendering of transport services.

services of regional and local scope and established the criteria to organize such services.⁷⁹⁸

I.1.2 Municipalities

In light of above, it is evident that, even if Regions are required to adopt the general criteria that Municipalities have to comply with during the drafting of non-scheduled PTSs regulation, such services have local dimension.⁷⁹⁹ Hence, local authorities adopt the related regulations. In other words, Municipalities are required to comply with Regions' standards and framework rules and, at the same time, they are delegated to adopt specific regulations governing non-scheduled PTSs in details.⁸⁰⁰

Therefore, Municipalities have to adopt the specific regulation concerning the granting of licences / authorisations, the number and type of vehicles able to operate the taxi service, daily shifts, working hours, rules of conduct, general and safety conditions and fares of the taxi service.⁸⁰¹

In this respect, Article 5(1) of Law No 21/1992 states that, when establishing regulations governing the provision of non-scheduled PTSs, Municipalities shall specify:

"(a) the number and type of vehicles [...] to be assigned to each service;

(b) the conditions for providing the service;

(c) the criteria used to calculate fares of the service;

(d) the requirements and the conditions for granting a licence to operate a taxi service or an authorisation to operate a hire car with driver service".

I.1.2.1 The 2006 reform of non-scheduled PTSs: the liberalisation of taxi services

The sector of non-scheduled PTSs radically changed when the Law Decree No 223 of 4 July 2006 (the "**Decree No 223/2006**")⁸⁰² was adopted. Specifically, Decree No 223/2006 abolished the requirement according to which individuals should hold only one

⁷⁹⁸ According to Article 1(2) of Decree No 422/1997, local public individual and goods transport services of regional and local scope are rail, terrestrial, maritime and air services provided continuously or periodically with prefixed journeys, fares, frequencies and duration. Such services do not fall within the scope of Article 3 of Decree No 422/1997 governing public transport services of national scope. Under Article 6 of Decree No 422/1997, Regions are entitled to program and plan all regional and local public transport services which fall within the scope of Article 14 of Decree No 422/1997 (concerning the planning of local transport services) but which are not governed by Article 117 of the Constitution.

⁷⁹⁹ The local dimension of the service is confirmed by Regional Court of Lazio (Rome), Second Section, judgment No 5165 of 8 April 2015.

⁸⁰⁰ Such competence complies with Article 118(1) of the Constitution stating that "administrative functions are attributed to the Municipalities, unless they are attributed to the [...] regions or to the State, pursuant to the principles of subsidiarity, differentiation and proportionality, to ensure their uniform implementation" (emphasis added). The author provides the courtesy translation.

⁸⁰¹ ARISTIDE POLICE, "Prevedibilità delle scelte e certezza dell'azione amministrativa", in *Dir. amm.*, No 2, 1996, p. 697 ff.

⁸⁰² Italian OJ No 153 of 4 July 2006 "Disposizioni urgenti per il rilancio economico e sociale, per il contenimento e la razionalizzazione della spesa pubblica, nonché interventi in materia di entrate e di contrasto all'evasione fiscale."

taxi licence and allowed Municipalities to issue new taxi licences through a bidding procedure, while in the past licences were issued for free.⁸⁰³

According to Article 6 of Decree No 223/2006,⁸⁰⁴ "Municipalities are allowed to:

- a) *organize integrative shifts for taxi carriers in addition to the ordinary ones, adopting systems to control systematically that the service is provided effectively. In order to provide such integrative shifts, licence-holders shall be exempted from the observation of Article 10 of Law No 21/1992 and they shall be released by substitute drivers fulfilling the conditions required by Article 6 of Law No 21/1992. [...];*
- b) *issue new licences [...], for free or in return for payment, that shall be awarded through extraordinary tenders [...] to people who fulfil all requirements provided by Article 6 of Law No 21/1992. When a taxi licence is issued in return for payment, Municipalities may fix the relative amount to be paid [...]. At least 80% of the income from any tender shall be used to compensate the holders of existing licences operating in the territory of the Municipality that issues the new licences [...];*
- c) *issue to individuals fulfilling requirements provided by Articles 6 and 7(1), letters b) and c) of Law No 21/1992 temporary or seasonal licences, which cannot be traded, in order to cope with special circumstances that may occur;*
- d) *provide to individuals fulfilling requirements provided by Article 7(1), letters b) and c) of Law No 21/1992 the possibility to use substitutive and additional vehicles for specific users[...];*
- e) *provide innovative forms of the service with public service obligation and different fares, issuing specific authorisations to taxi licence-holders or to individuals fulfilling requirements provided by Article 7(1), letters b) and c) of Law No 21/1992;*
- f) *regulate fares of taxi services for specific routes;*
- g) *[...]"*⁸⁰⁵

I.1.3 The Italian Transport Regulation Authority

The *Autorità di Regolazione dei Trasporti* – i.e. the Italian Transport Regulation Authority (the "**Italian Transport Regulator**")⁸⁰⁶ was established on 17 September 2013 upon the government's designation of the President and the other two members of the Council, their endorsement by the competent Parliamentary Committees and nomination with a decree of the President of the Republic. The role and functioning of the Italian Transport Regulator is codified in the Decree Law No 201 of 6 December 2011⁸⁰⁷ converted, with amendments, into Law No 214 of 22 December 2011, as later amended. Its main mission is the economic regulation in the area of transport, covering both access to infrastructure and services.⁸⁰⁸

⁸⁰³ OECD, *Taxi Services: Competition and Regulation*, DAF/COMP (2007) 42 of 8 April 2015, available at the following website <http://www.oecd.org/regreform/sectors/41472612.pdf>.

⁸⁰⁴ The purpose of such provision has been upheld by the Italian Constitutional Court. See Italian Constitutional Court, judgment No 452 of 21 December 2007.

⁸⁰⁵ The author provides the courtesy translation.

⁸⁰⁶ <http://www.autorita-trasporti.it/>.

⁸⁰⁷ Italian OJ No 284 6 December 2011.

⁸⁰⁸ In particular, the Italian Transport Regulator's mandate includes: (i) concerning infrastructures, ensuring the equitable and non-discriminatory access of businesses to rail, toll highways, airports, ports as well as local and regional transport; (ii) as concerns services, setting the criteria on which basis to fix tariffs in all transport modes and industries, and both at the national and local levels; (iii) contributing to defining public sector obligations (with reinforced powers in this area concerning rail and road transport); setting quality standards in areas where public sector obligations apply; as far as passengers' rights are concerned, the definition of

Actions and conducts adopted by the Italian Transport Regulator depend on the liberalisation and exposure to public sector obligations of the different sectors falling under its competence.⁸⁰⁹

Concerning taxi services, the Italian Transport Regulator is entitled to control and verify if levels and the quality of the supply of the service and the related fares satisfy the needs of (the demand of) Municipalities and urban areas, according to criteria of rationality and proportionality, in order to guarantee passengers' mobility.⁸¹⁰

According to the Italian Transport Regulator's Opinion, Regions and Municipalities shall comply with and adapt the supply of the taxi service to the provisions set in such opinion and they shall:⁸¹¹

- Increase the number of taxi licenses if it is insufficient, also according to the Italian Transport Regulator's opinion and to a comparative analysis between the national situation and the European one. Such increment may be based on evidence gathered during a proceedings concerning a cost-benefits analysis (also under an environmental perspective);
- Allow carriers operating the taxi service to organize it freely in order to solve particular problems and satisfy special needs of the demand, related to emergencies and contingencies such as during holidays;
- Allow higher freedom in setting fares, which should be published to protect consumers;
- Enhance the quality of the service.

II. Legal framework applicable to taxi services

II.1 National legislation

minimum rights and entitlements (including compensation) that may be claimed by passengers vis-a-vis transport operators. See in this sense, C. CAMBINI and L. PERROTTI, "The New Transport Regulation Authority in Italy: Structure, Competencies, and First Regulatory Decisions", No 54, March 2015, available at the following website <http://www.autorita-trasporti.it/wp-content/uploads/2015/04/Network-March-2015.pdf>.

⁸⁰⁹ Powers conferred upon the Italian Transport Regulator to carry out its responsibilities include the power to impose a sanction when:

- the addressee of a decision adopted by the Italian Transport Regulator does not comply with the implementation / non-implementation of such decision;
- there is a refusal to provide, or the faulty provision of, information requested by the Italian Transport Regulator.

The Italian Transport Regulator has also powers:

- to fine with respect to the violation of the European legislation concerning passengers' rights;
- to signal to the competent authorities the opportunity to terminate contracts, concessions and other forms of agreements;
- to set and demand the application of criteria for the corporate separation and accounting separation of regulated businesses and the power to stimulate and contribute to the definition of public sector obligations and the methods for financing them;
- to carry out investigations and on-site inspections;
- to treat passengers' claims and complaints.

⁸¹⁰ FIORENZO NARDUCCI and RICCARDO NARDUCCI, "Guida normativa per l'amministrazione locale 2015", Maggioli Editore, 2015, 29 ed., p. 2474.

⁸¹¹ Italian Transport Regulator opinion, "Non-scheduled road transport passenger services: taxi, car-and-driver hire and technology mobility services" of 21 May 2015, accessible at the following website <http://www.autorita-trasporti.it/documentazione-per-atto-di-segnalazione-l-n-2192/>.

Article 86 of the Highway Code states that non-scheduled PTSs are governed by laws dealing with this sector. The framework law governing non-scheduled PTSs is the Law No 21/1992. Article 2(1) of Law No 21/1992 points out that "the taxi service aims to satisfy requirements of individual or small groups transport service; it is addressed to an undifferentiated consumers; parking of taxis is located in a public place; fares are fixed by competent administrative authorities that decide also public service conditions; the collection of the user or the beginning of the service takes place within the municipal or district area".

Article 2(2) sets further that "within municipal or district areas [...], the supply of the taxi service is mandatory. Regions impose specific administrative penalties to fine the infringement of such obligation" (emphasis added).

According to these provisions, taxi services are aimed at satisfying the necessary public service requirements and, therefore, they are of a public nature.⁸¹²

Italian administrative case-law upholds the definition of the taxi service as a public service and highlights the differences existing between the taxi and hire car with driver services. According to such case-law, "activities of operating the taxis and hire cars with driver can be distinguished especially on the basis of the nature of the service provided: with reference to the taxi service, it is relevant that such a service is mandatory, that it implies undifferentiated provision to any user, the rigid predetermination of fares and the manner how the service is provided, and also that taxicabs park in a public area".⁸¹³

Since the taxi service is an "essential public service", it is settled case-law that, if the obligations referred to the taxi service are not met, Law No 21/1992 can punish such infringement with administrative fines.⁸¹⁴

The public nature of the taxi service has been recently confirmed by the Opinion No 757/2015, where the Supreme Administrative Court has affirmed that "in consideration of the authoritative elements such as the reduction in the price paid for fuel by taxi drivers, the granting of licences [to provide the service] and the fixing fares, it seems possible to conclude (and to confirm the law)⁸¹⁵ that the taxi service is a public service".⁸¹⁶

Furthermore, such public nature is confirmed by the fact that, according to the *Autorità Garante della Concorrenza e del Mercato* – i.e. the Italian Competition Authority ("ICA"), conditions and fares set for the taxi service are ruled in detail by public authorities that are entitled to impose upon operators "penetrating public service obligations aimed to

⁸¹² The public nature of taxi services was also confirmed by the Italian Constitutional Court, judgment No 452 of 21 December 2007. See also CHRISTIAN IAIONE, "La regolazione del trasporto pubblico locale: bus e taxi alla fermata delle liberalizzazioni", Jovene, 2008, p. 149, according to which the public nature of the taxi service "stiffen the output of the entrepreneurial activity which is carried out [...] without public financial contribution as Scheduled PTSs".

⁸¹³ See in this sense, Regional Court (TAR) of Liguria, Second Section, judgment No 117 of 14 April 1993. See also Regional Court of Liguria, Second Section, judgement No 116 of 10 January 1993; No 115 of 14 April 1993; Supreme Administrative Court, First Section I, opinion (*parere interlocutorio*) No 757 of 23 December 2015. The author provides the courtesy translation.

⁸¹⁴ See Regional Court of Liguria, Second Section, judgment No 117 of 10 January 1993.

⁸¹⁵ I.e. Law No 21/1992.

⁸¹⁶ See Opinion No 757/2015, *cit.*, p. 6.

guarantee a minimum level of the service".⁸¹⁷ Additionally, it must be highlighted that public authorities can impose limits to competition and market when common aims must be pursued.⁸¹⁸

II.1.1 Conditions to be met to in providing taxi services

Article 11(1) of Law No 21/1992 states that taxicabs "*can circulate and park freely according to dispositions provided by Municipalities' regulations*" (emphasis added). More in detail, Law No 21/1992 allows drivers operating the taxi service to park in public spaces that are governed by Article 136 of the Decree of the Italian President No 495 of 16 December 1992 implementing and enforcing the new Highway Code (the "**Presidential Decree No 495/1992**").⁸¹⁹ According to Article 136(18), public areas intended for taxicabs' parking are identified by the horizontal traffic signal "taxi" and are delimited by yellow strips.

Under Article 11(2) of Law No 21/1992 "*users shall be collected, or the service shall begin, in the territory of the Municipality which issued the licence and the service may be provided to any destination, subject to the consent of the driver in the case of destinations beyond the Municipal or district boundaries, except as provided for under Article 4(5)*" (emphasis added). The latter exemption refers to all specific provisions that Regions can adopt when the area under consideration is characterized by a high level of conurbation.⁸²⁰ This provision raised some questions of interpretation that have been solved by the Italian case-law. In this respect, it is useful to recall a judgement adopted in 1996 by the Supreme Administrative Court⁸²¹ interpreting by first the conjunction "or" and the meaning / value it assumes within the period "*users shall be collected or the service shall begin*". The Supreme Administrative Court has pointed out that "*the legislator used it [...] to identify two alternatives: operating the taxi service is lawful if one of these alternative activities [i.e. to pick-up users / the beginning of the service] begins in the area of the Municipality that issued the licence*".

The Supreme Administrative Court has confirmed that the alternativeness between the collection of the user(s) and the beginning of the service is proven by the use of the plural verb "*sono effettuati*" (i.e. are provided), attesting "*the existence of two different concepts*".

The Supreme Administrative Court has also paid a particular attention to the impossibility to consider that the service always begins by way of the collection of the user(s) inasmuch as collecting users cannot precede the beginning of the service. The Supreme Administrative Court has justified such interpretation considering these activities within a relationship of "*genus ad speciem*": collecting users consists of the conduct "*ad speciem*" whereas the beginning of the service is considered as the "*genus*", i.e. the logical precondition of the whole service. To strengthen such interpretation, in a recent judgment, the *Corte di Cassazione* – i.e. Italian Supreme Court of Cassation (the "**Court of Cassation**") has defined the beginning of service as the making available of

⁸¹⁷ ICA, opinion No AS226 of 20 December 2001, p. 3, www.agcm.it. The author provides the courtesy translation.

⁸¹⁸ Regional Court of Lombardia (Brescia), judgement No 632/2004, *cit.*.

⁸¹⁹ Italian OJ No 303 of 28 December 1992.

⁸²⁰ It must be observed that disposition under consideration refers only to the "origin" of the service, i.e. the point where the user is collected by the taxicab within the territory of Municipality. By contrast, Article 5 *bis* (1-*bis*) of Law No 21/1992 allows providing the taxi service outside the territory of Municipality that issued the licence on the basis of agreements concluded by Municipalities concerned.

⁸²¹ Supreme Administrative Court, Second Section, judgement No 1665 of 11 December 1996.

the taxicab in favour of the user.⁸²² The Supreme Administrative Court has also specified that Article 11(2) of Law No 21/1992 is not (and actually it would not be) the disposition able to define the relationship between the collection of the user(s) and the beginning of the service as interpreted above inasmuch as such a definition is provided by Articles 1 and 3 of Law No 21/1992.⁸²³ Finally, the Supreme Administrative Court has pointed out that using the collection of the passenger(s) as an alternative complies with the purpose to match such alternatives with the obligation to initiate one of these activities in the area of the Municipality that issued the licence.

II.1.2 Connection to and from airports

Without prejudice to the competence of airport managing body,⁸²⁴ licence-holders that obtained the licence from the Municipality where the airport is located are entitled to operate the service from / to the airport concerned according to the Municipality's regulation(s). Municipalities interested in authorizing the service from / to airports set together fares, conditions for the transport and the limit of licenses that can be awarded.⁸²⁵

II.2 Local/municipal regulations

As to licences for the taxi service (and authorisations for hire cars with drivers), importantly, Municipalities issue licences (and authorisations) on the basis of provisions set by Regions. According to the Italian Transport Regulator's analysis, which has been based on a sample of 21 Municipalities, national regulation is not uniform and harmonized and, in some cases, such regulation does not exist at all.⁸²⁶

Where such regulation is in place, some of the factors/elements that Municipalities take into consideration to establish the number of licences (and authorisations) to be awarded are the following:

- the resident population;
- the flows of users from / to mobility poles;
- the presence / the absence of Scheduled PTSs;
- the presence / the absence work-poles and hospitals;
- tourism flows;
- the local mobility demand.

According to the data gathered by the Italian Transport Regulator from 2009 to 2014, the number of licences (and authorisations) is set on the basis of the resident population: the higher the number of people living in a territory, the higher the number of licences (and authorisations) awarded to operate non-scheduled PTSs. The other abovementioned factors do not play a relevant role.

⁸²² Court of Cassation, Second Section, judgement No 22296 of 2nd November 2010.

⁸²³ This interpretation has been also upheld by the Court of Cassation, Second Section, judgement No 22296 of 2nd November 2010; Regional Court of Aosta (Valle d'Aosta), First Section, judgement No 18 of 10 April 2014.

⁸²⁴ An example is Aeroporti di Roma, the airport management body of the airport of Fiumicino (Rome). See the website <http://www.adr.it/web/aeroporti-di-roma-en-/pax-fco-taxi>.

⁸²⁵ FIORENZO NARDUCCI and RICCARDO NARDUCCI, "Guida normativa per l'amministrazione locale 2015", quoted, p. 2480.

⁸²⁶ Italian Transport Regulator's report, p. 13.

The following table shows the number of taxi licences issued during the period 2010-2015 that has been calculated by the TRA.

Number of licences issued for taxi services between 2010 and 2015

	2010	2011	2012	2013	2014	2015
n° licenze taxi	19788	19791	19791	19785	19783	19783

Data is relevant because it represents the 70% of the total amount of licences held by taxi drivers. Currently, only the Municipality of Florence is about to launch a public procedure to grant more licences (70 fixed licences and 30 temporary licences).⁸²⁷ With the exception of this peculiar case, other Municipalities show a static situation. The Italian Transport Regulator has pointed out that the number of "active" licences is not the same number of vehicles operating "effectively". The number, in fact, can be lower if we consider shifts.⁸²⁸

II.2.1 Milan

II.2.1.1 The legal framework

The applicable regulatory framework to taxi services in the Region of Lombardy comprises the following pieces of legislation:

- Regional Law No 20 of 15 April 1995 (the "**R.L. No 20/1995**") governing non-scheduled PTSs.⁸²⁹ For the purposes of planning non-scheduled PSTs, the regional territory is divided into 11 catchment traffic areas (corresponding to 11 administrative districts).⁸³⁰ The *Giunta Regionale* – i.e. Regional Governing Board (the "**R.G.B.**"), and the commission provided by Article 4 of Law No 21/1992, is entitled to set the number of licences (and also of authorisations for Hire cars with drivers) to be issued on the basis of the population density, the territory extension and the related characteristics, and on the basis of some other elements such as, for instance, the intensity of the mobility in airports, railway stations, hospitals;
- Regional Law No 6 of 4 April 2012 (the "**R.L. No 6/2012**") governing the transport services sector;⁸³¹ and
- the deliberation of the R.G.B. No X/1602 of 4 April 2014 that has introduced the Regulation of the airport catchment area of the taxi service.⁸³²

II.2.1.2 The main operators

There are many carriers operating the taxi services that are grouped together in cooperatives and trade associations such as Confcommercio or Confartigianato.

⁸²⁷ Italian Transport Regulator's report, p. 15.

⁸²⁸ The *Agenzia per il controllo e la qualità dei servizi pubblici locali di Roma Capitale* (ASPL) has ascertained that in Rome there are vehicles included in the following range: from the minimum level of 385 vehicles (during the night) to the maximum level of 3853 vehicles (during the middle of the day – since 8.00 am to 14.30 pm). See Italian Transport Regulator's report, p. 15.

⁸²⁹ Regional Journal (BURL) No 16 of 20 April 1995.

⁸³⁰ Article 7 of Law No 21/1992.

⁸³¹ Regional Journal (BURL) No 14 of 6 April 2012.

⁸³² Agenzia Mobilità Ambiente e Territorio of Milan, report, 29 January 2016, p. 5.

II.2.1.3 The procedure to award licenses

The Municipality of Milan is the authority entitled to issue licenses to operating taxi services (and the authorisation for operating HVDS). Between 2010 and 2015, the Municipality of Milan has not issued new licences. Currently, the number of licences issued in the city of Milan is 4855 (whereas the number of authorisations to operate an NCC service is 229).⁸³³ The number of licences (or authorisation), their increase and their territorial distribution are set by the R.G.B. pursuant to Article 37(2), letter m) of Law Decree No 201 of 6 December 2011.⁸³⁴ On these grounds, the Municipality of Milan can decide to launch a public procedure⁸³⁵ considering, among others, the following elements⁸³⁶:

- population density;
- territorial extension of Municipalities included in the catchment area;
- intensity of mobility within the area of airports, railway stations, hospitals, etc.;
- settlement of new infrastructures which impact uninterruptedly and relevantly on territory.

II.2.1.4 Transferability of licenses

A licence-holder (*i.e.* a licensee) of a taxi licence may transfer an eligible taxi licence to another carrier in accordance with national provisions in return for payment. In Milan, the price to be paid to purchase a taxi licence varies from EUR 150.000 to EUR 160.000. A taxi licence can be also leased. The licence owner leases the licence to a taxi company or to individual operators who provide the vehicle. Also in this case, the price that the leaseholder has to pay varies from EUR 1500 to EUR 1600 per month. Between 2010 and 2015, licences transferred / leased have been about 1000 as it can be observed in following table.⁸³⁷

Total of taxi licences transferred since 2010 to 2015

⁸³³ See Agenzia Mobilità Ambiente e Territorio of Milan, report, 29 January 2016, p. 10.

⁸³⁴ Italian OJ No 284 of 6 December 2011.

⁸³⁵ The public procedure to issue licences consists of the following: (i) receiving of the operator's request; (ii) registration of such request; (iii) control of the documentation submitted by the operator; (iv) preparation of the decision granting the licence (or the authorization/authorisation) requested; (v) control and confirmation of the case-handler; (vi) submission of the decision referred to in number 4) to obtain the signature; (vii) receiving of the signature of the decision referred to in number 4); (viii) preparation of the communication and (ix) submission of the communication. See Agenzia Mobilità Ambiente e Territorio of Milan, Report, 29 January 2016, p. 7 ff.

⁸³⁶ Agenzia Mobilità Ambiente e Territorio of Milan, report, 29 January 2016, p. 8.

⁸³⁷ Agenzia Mobilità Ambiente e Territorio of Milan, report, quoted, p. 11.

ANNO	tot
2010	191
2011	164
2012	138
2013	165
2014	168
2015	174

II.2.1.5 Fares

The Municipality of Milan differentiates between:

- fares for weekdays rides, where the initial is EUR 3,30;
- fares for rides operated during week-ends and holidays, where the initial cost is EUR 5,40;
- fares for night rides , where the initial cost amounts to EUR 6,50.

The Municipality has established that the basic fares is EUR 1,09 per kilometre and EUR 28,32 per hour.

Such values can vary on the ground of a system of progression working automatically during the operation of the service.

With reference to the service operating from Malpensa, Linate and Orio al Serio airports, the Municipality of Milan has set a minim fare of EUR 13,10.

Licensed taxi carriers operating the taxi service from and to airports located in Lombardy are obliged to request fixed fares, including costs (such as, highway tolls, time for collecting users, night surcharges).

Since 22 December 2015, fixed fares are the following:

- Milano (any road) – Malpensa airports: EUR 95,00;
- Malpensa / Fiera Polo esterno (Rho) airports: EUR 65,00;
- Malpensa / Linate airports: EUR 105,00;
- Varese / Malpensa airports: EUR 65,00;
- Linate / Fiera Milano (Rho) airports: EUR 55,00.

II.2.1.6 Subsidies

The Municipality of Milan has granted subsidies amounting to EUR 10,000 per vehicle to 24 taxi carriers fitted with equipment to transport wheelchair passengers.⁸³⁸

⁸³⁸ Agenzia Mobilità Ambiente e Territorio of Milan, report, quoted, p. 13.

II.2.1.7 Infringements and fines

The Municipality has experienced the following infringements:

- fraudulent continuation of rides;
- no-compliance with fixed fares;
- refusal to operate short rides.

Imposed fines vary on the basis of the gravity of the infringement. Such fines can be the suspension of the licence for a period of one day up ninety days or payments of pecuniary fines.⁸³⁹

II.2.2 Turin

II.2.2.1 The legal framework

On 23 February 1995 the Region of Piedmont adopted the R.L. No 24 ("**R.L. No 24/1995**") governing non-scheduled PTSs.⁸⁴⁰

Later on, the Region adopted R.L. No 1 of 4 January 2000 ("**R.L. No 1/2000**")⁸⁴¹ governing local public transport services operated pursuant to Decree No 422/1997. According to Article 6(2) of R.L. No 1/2000, local authorities, especially of groupings of Municipalities in mountain areas where the demand is weak, may identify particular ways how to operate Scheduled PTSs that can be awarded to carriers meeting requirements prescribed by law to operate non-scheduled PTSs.

II.2.2.2 The main operators

There are two main operators in Turin, Radio Taxi 5730⁸⁴² and Pronto Taxi 5737,⁸⁴³ are cooperatives grouping about 1.400 taxi drivers (equal to 85% of all taxi carriers operating in Turin).

A particular synergy amongst these cooperatives has been recently created by the project "*Rete d'Impresa Taxi Torino*" especially with reference to the airport and subway areas of Turin.⁸⁴⁴

Such project is aimed at exploiting the cooperatives' experience, technologies and know-how. By way of this project, started from June 2015, vehicles owned by partners grouped in these cooperatives are fitted with the new application Smart TD, a software provided by Taxitronic connecting taxi drivers with Taxitronic radio taxi.⁸⁴⁵ With a compatible taximeter, Smart TD has to access to the status of the taximeter (free, occupied, payment) and the amount.

⁸³⁹ Agenzia Mobilità Ambiente e Territorio of Milan, report, quoted, p. 14.

⁸⁴⁰ Regional Journal (BU Piedmont) No 9 of 1st March 1995.

⁸⁴¹ Regional Journal (BU Piedmont) No 2 of 12 January 2000.

⁸⁴² <http://www.radiotaxi.it/default.asp?x=9>.

⁸⁴³ <http://www.prontotaxi5737.it/>.

⁸⁴⁴ Municipality of Turin, report, p. 3.

⁸⁴⁵ <http://www.taxitronic.com/eng/Apps/Smart-TD>.

“Rete d’Impresa Taxi Torino” allows directing all users’ requests to one and unique call centre, sorting automatically the request to the nearest taxi drivers.

II.2.2.3 Apps to book the taxi service

Users book the service calling the dispatch’s call centre or using apps such as Taxiclick, ItTaxi and App Taxi.⁸⁴⁶

II.2.2.4 The procedure to award licenses

According to Article 3 of R.L. No 24/1995, Municipalities of Piedmont are entitled to limit the number of licences to be issued in order to operate the taxi service (and authorisations required to operate Hire cars with drivers). In this respect, Municipalities shall to consider:

- population;
- territorial extension and related characteristics;
- intensity of mobility within touristic areas, airports, railway stations, and hospitals areas;
- the possibility of supply other PTSs;
- other factors that can be relevant for PTSs (such as, for instance, the number of licenses or authorisations already issued).

The Municipality of Turin sets the number of licences to be awarded on the basis of the following formula:⁸⁴⁷

$$N = (Pop./5000) * (Fa * Ka) * Fa1 * Fb * (Fc * Kc) * (Fs * Ks) + Fd$$

where:

N = the theoretical requirement of the supply to carry out the taxi service in the city;

Pop. = population resident in the Municipality (number of people);

Fa = correction factor for the territorial scope;

Fa1 = correction factor for Municipalities grouped in the catchment area of the Turin airport;

Fb = correction factor related to the PTSs supply;

Fc = correction factor related to the existence of hospitals within the Municipality’s area;

Fs = correction factor related to the existence of the railway station within the Municipality’s area;

Fd = additional factor related to the intensity of mobility within touristic areas, hospitals, residence and work areas;

K = amplified factors, applied exclusively to the city of Turin, assuming the following values:

$$K(a) = 1,5$$

⁸⁴⁶ Municipality of Turin, report, p. 4.

⁸⁴⁷ Municipality of Turin, report, p. 6.

$K(c) = 1,4$

$K(s) = 1,4.$

According to such formula, the Municipality of Turin has affirmed that currently it is not possible to issue new licences.

The current total amount of taxi licences (*i.e.* 1570) is showed in the table below.⁸⁴⁸

Total of taxi licences

Municipality	Taxi carriers currently operating
BEINASCO	0
COLLEGNO	9
GRUGLIASCO	5
MONCALIERI	15
NICHELINO	4
ORBASSANO	5
RIVOLI	8
SAN MAURO TORINESE	5
SETTIMO TORINESE	8
TORINO	1505
VENARIA REALE	6

As regards the procedure, the application to obtain a licence (or an authorisation) to operate the service is submitted to the *Sportello Unico Attività Produttive della Città di Torino*. The applicant shall pay a stamp of EUR 16,00 and EUR 50,00 for administrative expenses.⁸⁴⁹

Once the licence is issued by the Municipality of Turin, the driver has to pass a medical exam before the *Motorizzazione Civile* of Turin. The entire procedure (concluding with the issuing of the licence and the beginning of the service) lasts 60 days.

II.2.2.5 Labour regulation

Taxi drivers holding the taxi licence can be substituted by any person meeting professional and personal requirements prescribed by the law.⁸⁵⁰

⁸⁴⁸ Municipality of Turin, report, p. 7.

⁸⁴⁹ Municipality of Turin, report, p. 10.

⁸⁵⁰ Municipality of Turin, report, p. 8.

The employment relationship between the licenced taxi driver and its substitute driver is ruled by a fixed term employment agreement governed by national Law No 230 of 18 April 1962⁸⁵¹, or on the basis of a management contract for maximum 6 months.

The employment of the substitute driver is equivalent to the employment of workers replacing absent workers.

II.2.2.6 Transferability of licences

During 2011-2015, licences transferred in the Municipality of Turin have been as follows⁸⁵²:

Total of taxi licences transferred since 2011 to 2015

Year	No
2011	49
2012	33
2013	39
2014	33
2015	42

II.2.2.7 Fares

The Municipality of Turin adopts different methods to calculate taxi fares:⁸⁵³

1. Progressive fare on a multiple basis: fares calculated through this method allow passengers to pay the compensation set by the taximeter and the eventual surcharges not applicable automatically. According to this method:
 - the initial cost for the journey is increased by the eventual night or holiday surcharge;
 - since the beginning of the service till the cost of the service reach EUR 8,00, the parameter to calculate the fare is based on hourly rate and kilometres covered during the journey (EUR/Km);
 - within the range EUR 8,00-13,00 (*i.e.* first progression), both the hourly rate and the kilometric component (EUR/Km) decrease;
 - when the fare exceed EUR 13,00 (*i.e.* second progression), the kilometric component (EUR/Km) increase whereas the hourly rate is stable;
 - when the cruising speed exceeds 60 kilometres per hour, the kilometric component (EUR/Km) increases till becoming the basic parameter on which calculate the fare;
2. Fixed progression of fares for round-trip journeys: in this case, there is a discounted rate amounting to EUR 1,50 that is applied when the fare exceed

⁸⁵¹ Italian OJ No 125 of 17 May 1962.

⁸⁵² Municipality of Turin, report, p. 8.

⁸⁵³ See Municipality of Turin, report, p. 10.

EUR 13,00 and the journey begins from airport or metropolitan areas of Municipalities and it is direct to destinations outside such areas.

II.2.2.8 Infringements and fines

The licensing Municipality may impose a sanction on taxi operators, including suspending their licences or requiring penalty payments.⁸⁵⁴

According to national law No 241 of 7 August 1990,⁸⁵⁵ administrative disciplinary proceedings may concern facts complained by the police or passengers but, in the latter case, only within 90 days from the event. The commencement of the proceedings is notified directly to the taxi driver/the taxi licence holder by the competent officer within 30 days. If required, the taxi driver/the taxi licence holder shall provide all necessary information within 30 days from the notification of the commencement of the proceedings.

Such proceedings shall be terminated within 105 days starting from the receiving of the aforementioned information or, at latest, within 135 days starting from the notification of the commencement of the proceedings.

Since 2011, the Municipality has experienced the following infringements:

- fraudulent continuation of journeys or covering longer journeys;
- bad allocation of taximeters (passengers cannot see easily the taximeter and the compensation);
- dirty vehicles.

II.3 Procedures for issuing licences and applicable criteria

Holding a licence is a mandatory requirement to operate the taxi service. The importance of holding the taxi licence is demonstrated by the Article 86(2) of the Highway Code stating that “*anyone operating the taxi service without the licence required by Article 8 of Law No 21/1992 will have to pay a fine from EUR 1.775 to EUR 7.101*”. The sanction referred to in paragraph 2 of Article 86 can comprise also the confiscation of the vehicle and the partial withdrawal of the driving licence.

In Italy taxi licences are distributed:

- a) free of charge, but in limited quantities, when the Municipality launches a public tendering procedure (see Article 8 of Law No 21/1992); *or*
- b) in return for payment, when the person interested in operating the taxi service decides to purchase the licence from the licence-holder (see Article 9 of Law No 21/1992).

In both cases, Law No 21/1992 provides for the respect of several disposition concerning requirements to be observed by individuals in order to operate the service.

⁸⁵⁴ Municipality of Turin, report, p. 13.

⁸⁵⁵ Italian OJ No 192 of 18 August 1990.

The reason for which a licence is mandatory was explained by the Supreme Administrative Court's Opinion No 757/2015. The Supreme Administrative Court pointed out that there are safety grounds justifying such condition: driving a car, according to the Opinion No 757/2015, is a dangerous activity but it is authorised for reasons of public utility (*i.e.* speed and efficiency in moving). Moreover, the Italian Transport Regulator affirmed that the obligation of holding a licence (or an authorisation) is justified by the need to monitor and govern the traffic, to protect the environment, to improve competition in the market when it is absent or reduced, to avoid information asymmetry.⁸⁵⁶

II.3.1 Legal requirements

The mandatory legal requirements that individuals have to comply with in order to obtain the licence are governed by Articles 6 to 11-*bis* of Law No 21/1992 and by Municipalities' regulations.

II.3.1.1 The enrolment on the register of drivers of vehicles or boats used to provide non-scheduled PTSs under Article 6 of Law No 21/1992

In order to obtain the taxi licence, individuals are required to be enrolled in the register of drivers of vehicles or boats used to provide non-scheduled PTSs (the "**Register**"), which is governed by Article 6 of Law No 21/1992.⁸⁵⁷

The enrolment in the Register is mandatory for the Municipality in order to so that the issue the licence to provide non-scheduled PTSs.⁸⁵⁸ Moreover, Article 6(6) of Law No 21/1992 forbids the substitution⁸⁵⁹ of the licence-holder in providing the service for a given duration or a given journey by any person who is not enrolled on the Register, it is forbidden for the licence-holder to employ someone not enrolled in the Register.

The Register is established by Regions (obliged to define the criteria for the enrolment on it) and it is managed by provincial Chambers of Commerce. In order to be enrolled on the Register, individuals are required to hold "a certificate of professional competence provided by Article 80(8) and (9) of the Decree of the Italian President No 393 of 15 June 1959 concerning the road traffic regulation,⁸⁶⁰ as replaced by Article 2 of Law No 62 of 14 February 1974⁸⁶¹, and later by Article 2 of Law No 111 of 18 March 1988 and by Article 1 of Law No 112 of 24 March 1988⁸⁶²" (emphasis added).

Currently, the certificate provided by Article 6(2) of Law No 21/1992 is governed by Article 116 of the Highway Code.

⁸⁵⁶ Italian Transport Regulator's report, p. 12.

⁸⁵⁷ According to the Italian Transport Regulator's report (p. 2), the enrolment on the Register consists of one of the barriers to enter the market.

⁸⁵⁸ Article 6(5) of Law No 21/1992.

⁸⁵⁹ Article 10(2) of Law No 21/1992 states that heirs which are not 18 years old can be substitute by persons enrolled on the Register.

⁸⁶⁰ Italian OJ No 147 of 23 June 1959. Such a Decree was repealed by the Legislative Decree No 30/1992 with effect from the 1st January of 1993.

⁸⁶¹ Italian OJ No 74 of 20 March 1974.

⁸⁶² Italian OJ No 84 of 11 April 1988.

More in detail, paragraph 8 of the latter disposition states that, in order to provide the taxi service under Article 86 of the Highway Code, drivers shall be at least 21 years old and they shall hold one of the two types of certificate of professional competence provided by law:

- (i) the certificate KA, if the driving licence belongs to category A1,⁸⁶³ A2⁸⁶⁴ or A,⁸⁶⁵
- (ii) the certificate KB,⁸⁶⁶ if the driving licence belongs to category B1⁸⁶⁷ or B.⁸⁶⁸ The certificate KB entitles individuals holding a licence for category B to drive taxicabs, vehicles and motor vehicles (upper than 1,3 tonnages) used to provide Hire cars with drivers.⁸⁶⁹

Article 116(9) of the Highway Code states also that the certificates provided by paragraph 8 are issued by the competent department of the Ministry of Transport.

Furthermore, to be enrolled on the Register, Article 6(3) of Law No 21/1992 obliges individuals to successfully pass an examination before the competent regional board, which have been established by Regions under Article 6(4) of Law No 21/1992. Such examination aims to prove the competence to provide the taxi service, especially proving the geographic and toponymical knowledge of the driver.

Moreover, Article 6(3) of Law No 21/1992 provides that the regional board verifies "*the requirement of the suitability to pursue the service*".

Even though such provision does not point out the content of the "*suitability*", individuals are required by Regions / Municipalities:

- a) to be at least 21 years old;
- b) to be an Italian or EU citizen;
- c) to hold a high school diploma;
- d) to hold at least the driving licence B and the certificate KB;
- e) to be resident in the territory of the Municipality where the service will be provided;
- f) to not have been sentenced to prison;
- g) to comply with medical fitness standards.⁸⁷⁰

⁸⁶³ According to the Directive 2006/126/EC of 20 December 2006 on driving licences, OJ L 403 of 30 December 2006, p. 18-60, Category A1 refers to "*motorcycles with a cylinder capacity not exceeding 125 cubic centimetres, of a power not exceeding 11 kW and with a power/weight ratio not exceeding 0,1 kW/kg [and to] motor tricycles with a power not exceeding 15 kW*".

⁸⁶⁴ According to the Directive 2006/126/EC, Category A2 refers to "*motorcycles of a power not exceeding 35 kW and with a power/weight ratio not exceeding 0,2 kW/kg and not derived from a vehicle of more than double its power*".

⁸⁶⁵ According to the Directive 2006/126/EC, Category A refers to "*(i) motorcycles [...]; (ii) motor tricycles with a power exceeding 15 kW*".

⁸⁶⁶ Certificates are also governed by Article 310 of Presidential Decree No 495/1992.

⁸⁶⁷ According to the Directive 2006/126/EC, Category B1 refers to quadricycles.

⁸⁶⁸ According to the Directive 2006/126/EC, Category B refers to "*motor vehicles with a maximum authorised mass not exceeding 3 500 kg and designed and constructed for the carriage of no more than eight passengers in addition to the driver; motor vehicles in this category may be combined with a trailer having a maximum authorised mass which does not exceed 750 kg*".

⁸⁶⁹ See: http://www.dgtnordovest.it/joomla/index.php?option=com_content&id=64%3Acap.

⁸⁷⁰ These requirements are required by the Chamber of Commerce of Rome, according to the laws of Region Lazio. See in this sense the following website http://www.rm.camcom.it/pagina209_ruolo-conduttori-dei-servizi-pubblici-non-di-linea.html. Such requirements must be also fulfilled by carriers operating the service in the city of Milan. Moreover, carriers operating in Milan must be not older than 55; they also must own or lease exclusively the vehicle; they must not have cumulated two or more licences. Agenzia Mobilità Ambiente e Territorio of Milan, Report, 29 January 2016, p. 11.

According to the Italian Constitutional Court, imposing additional requirements to the residence are unconstitutional and they may restrict the freedom of establishment..⁸⁷¹

The Italian Constitutional Court affirmed that the requirement of having the residence in the municipality for at least one year, was unconstitutional since it infringed Article 117(1) of Constitution inasmuch as Article 6 of the regional law No 25/2012 was in breach of Article 49 of TFEU prohibiting any restriction to the freedom of establishment.⁸⁷²

II.3.1.2 Personal requirements and legal forms of taxi drivers

The taxi activity may only be performed according to one of the legal forms prescribed by Article 7 of Law No 21/1992, i.e as individual companies and they have to be enrolled on the official register of craft industry) or as workers' cooperative. Self-employed may join a consortium. Other legal entity forms are forbidden due to the condition that the licences to operate the service "*may be granted only to individuals*".⁸⁷³

The Italian Transport Regulator indicated that "*the most widespread legal form assumed by operators is the workers' cooperative that usually provides the service of all users' requests*".⁸⁷⁴ In Rome the most important cooperative is "Radiotaxi 3570"⁸⁷⁵ grouping 3700 partners, whereas the most important cooperative of Milan is the company "Yellow taxi Srl".⁸⁷⁶

Article 6(3) of Law No 21/1992 states that the person must prove to the competent regional board "the existence of the requirement of the suitability to pursue the service".

Even though Article 6(3) of Law No 21/1992 does not point out the content of such *suitability*, this requirement is specified by Regions/Municipalities.

For instance, the Municipality of Rome (by way of the "*Regolamento capitolino*" – i.e. Article 9 of the decision No 68/2011)⁸⁷⁷ obliges individuals to be Italian or EU citizens, to own or lease the use of a vehicle, to have transferred no licence in the previous 5 years and to have obtained no licence by another Municipality and to be compliant with personal and professional requirements.

⁸⁷¹ Italian Constitutional Court, judgment No 264 of 13 November 2013.

⁸⁷² More in detail, the Italian Constitutional Court pointed out that the regional law No 25/2012 introduced a requirement able to discriminate individuals operating non-scheduled PTSs on the basis of "*a mere element of localization*" which is not justified by the need to "*grant and prove, also to protect users, specific professional and personal requirement of individuals operating the service*". In the Opinion of the Italian Constitutional Court, Article 6 of Regional law No 25/2012 was able to "*limit the free entrance of workers or companies within the Region, damaging both citizens of the European Union and Italian citizens living in other Regions of Italy*".

⁸⁷³ Regional Court of Lombardia (Milano), Fourth Section, judgement of 18 February 2005; Italian Court of Auditors, Second Section, judgement No 1665 of 11 December 1996.

⁸⁷⁴ The Italian Transport Regulator's report, p. 5.

⁸⁷⁵ <http://www.3570.it/>.

⁸⁷⁶ <http://www.026969.it/#1>.

⁸⁷⁷ https://www.comune.roma.it/wps/portal/pcr?jp_pagecode=trasp_pub_taxi.wp&ahew=jp_pagecode and https://www.comune.roma.it/PCR/resources/cms/documents/deliberazione_68_2011.pdf.

With reference to personal and professional requirements, particular attention must be paid on how national case-law interprets such requirements. While interpreting these requirements, the Supreme Administrative Court has pointed out that *“in order to grant the licence for operating the taxi service, the public administration cannot evaluate discretionally personal and professional qualities of the applicant, but it can only ascertain the existence of conditions required by law and regulations”* (emphasis added).⁸⁷⁸

Another example concerning the definition of professional and personal requirements refers to the city of Milan. Article 10 of R.L. No 20/1995 prescribes that such requirements⁸⁷⁹ are met when:

- a) drivers have not sentenced once or more than once to the imprisonment for a period upper two years and for crimes against persons, patrimony, public administration, principle of morality;
- b) drivers have not been subject to preventive measures due to crimes referred to in letter a) above.

II.3.2 Procedures for issuing licences: tender procedures and transferability

Licences are awarded for free by the Municipalities after the launch of a public tender procedure. The procedure is governed by Article 8 of Law No 21/1992 (as amended by Decree No 223/2006).⁸⁸⁰ When licences are granted by a transfer in return for payment, the applicable law is Article 9 of Law No 21/1992.

II.3.2.1 Licences granted by Municipalities through a public tender procedure

Article 8 of Law No 21/1992 provides that:

“1. A licence to operate a taxi service or an authorisation to operate a car and driver hire service shall be issued by the municipal authorities, on the basis of a public procurement procedure, to individuals who own or lease the use of a vehicle [...]; such individuals may own or lease that vehicle individually or as members of an association.

2. Each licence or authorisation is issued in respect of one particular vehicle[...] only. Any individual is forbidden to accumulate a number of licences for operating the taxi service. [...] An individual may accumulate a number of licences for operating the taxi service [...] whether provided by boats. [...]

3. In order to obtain and maintain an authorisation for operating a car and driver hire service, it is compulsory to have the use, on the basis of a valid legal title, of a registered office [or] a garage [...] located in the territory of the municipality which issued the authorisation.

⁸⁷⁸ Supreme Administrative Court, Fifth Section, judgement No 1295 of 8 September 1995.

⁸⁷⁹ The relevance of these requirements is also demonstrated by Article 10(1) of Law No 21/1992 stating that a driver meeting professional and personal requirements prescribed by law can substitute the licence-holder during both the integrative shift and the ordinary one.

⁸⁸⁰ Italian OJ No 153 of 4 July 2006. Disposizioni urgenti per il rilancio economico e sociale, per il contenimento e la razionalizzazione della spesa pubblica, nonché interventi in materia di entrate e di contrasto all'evasione fiscale.

4. Having operated the taxi service replacing the licence-holder at least for 6 months[...] will be considered an advantage to obtain the licence to provide the service" (emphasis added).

Italian case-law⁸⁸¹ has recently interpreted Article 8 in the light of Article 41 of the Constitution⁸⁸² affirming that "*private economic enterprise cannot be carried out infringing the principle of social utility. It is commonly accepted that situations of monopoly or oligopoly [...] are contrary to the scope of social utility*".

According to the case-law quoted above, although the number of taxi licences is restricted both in the primary market (where licences are issued for free) and in the secondary market (where they are negotiated in return for payment and their cost is higher), this restriction must not create monopolies / oligopolies to the advantage of one or few individuals/companies. However, it has been held by the Italian (criminal) case-law that such restriction, provided by Law No 21/1992, does not infringe principles referred to in EU Treaties, and the competition rules, since Law No 21/1992 does not limit competition neither it prohibits that EU carriers operate in Italy.

This conclusion is not invalidated by the fact that Article 8(1) of Law No 21/1992 provides that taxi licences (and hire car with driver authorisations) can be issued only through a tendering procedures. Such provision, in fact, does not limit competition nor discriminate carriers that are not Italian. By contrast, Article 8(1) of Law No 21/1992 only requires that the licensing Municipalities launch transparent competitive tendering procedures and respects the general principles of transparency, competition, adequate publicity and non-discrimination, as enshrined in the EU legislation. If a licence is issued without a competitive tendering procedure, the Municipality can be prosecuted for "abuse of office".⁸⁸³

Once an operator has been awarded the licence through a tendering procedure, he/she is forbidden to cumulate more than one licence, according to Article 8(2) of Law No 21/1992. The prohibition also applies to individuals that operate the taxi service both individually or in partnerships as provided by Article 7 of Law No 21/1992.⁸⁸⁴

II.3.2.2 Transferability of licences

As already mentioned, the licence-holder may transfer, in return for payment, an eligible taxi licence to another carrier in accordance with Law No 21/1992.

Article 9 of Law No 21/1992 states that:

"1. Licences to operate the taxi service[...] shall be transferred, on the licence-holder's request, to a person chosen by the licence-holder. Such a person must be enrolled on the register referred to in Article 6 [of Law No 21/1992] and shall fulfil all requirements prescribed by law. The transfer occurs when the licence-holder:

⁸⁸¹ Supreme Administrative Court, Fourth Section, judgment No 4857 of 13 November 2012.

⁸⁸² Article 41 states that "1. Private economic enterprise is free. 2. It may not be carried out against the common good or in such a manner that could damage safety, liberty and human dignity. 3. The law shall provide for appropriate programmes and controls so that public and private-sector economic activity may be oriented and co-ordinated for social purposes".

⁸⁸³ Court of Cassation, Criminal Section, judgment No 44516 of 30 September 2009.

⁸⁸⁴ Regional Court of Trentino-Alto Adige (Bolzano), judgement No 96 of 13 March 2007.

- a) holds the licence [...] since 5 years;
- b) is 60 years old;
- c) is permanently unable to work as the result of an illness or accident or the definitive withdrawal of the driving licence.

2. When the licence-holder dies, the licence [...] can be transferred to one of its heirs if he fulfils the requirements prescribed by law. If authorised by the Mayor, the licence can be transferred within 2 years to another person identified by the heir(s) if he fulfils the requirements prescribed by law.

3. *It is forbidden to grant a new licence by a tendering procedure [...] to the licence-holder who decides to transfer the existing one. It is also forbidden to transfer a licence to the licence-holder who decides to transfer the existing one which does not expire 5 year after the transfer*" (emphasis added).

Upholding a judgement adopted by the Regional Court of Lazio in 2004,⁸⁸⁵ the Supreme Administrative Court has interpreted Article 9(2) of Law No 21/1992 as a provision aimed to facilitate only those heirs belonging to the licence-holder's "household" inasmuch as they are affected by the licence-holder's death and the consequent loss of the largest source of income.⁸⁸⁶

Specifically, case-law mentioned above pointed out that only members of the household can be eligible for the protection provided by Article 9(2) of Law No 21/1992, whereas other heirs such as sisters or brothers of the licence-holder cannot be eligible.

According to Article 9(3) of Law No 21/1992, a licence-holder that has transferred its licence to another person cannot be awarded another licence through a public tendering procedure (*i.e.* for free); by contrast, he can obtain a new licence only purchasing it and after 5 years from the previous licence has been transferred.

The Supreme Administrative Court⁸⁸⁷ has recently considered that the provision is justified by the need to protect the sector from speculative operations: a licence-holder could transfer cyclically its licence in return for payment, only to gain money. Such economic benefit could be higher when a licence is granted through a public tender and therefore when it is obtained for free.

This interpretation and principles behind it are also applicable when the licence-holder is a cooperative. In this respect, the Supreme Administrative Court has affirmed that "*the transfer of an individual licence is equal to that one of a share of numerous licences granted to cooperatives*".⁸⁸⁸

II.3.3 Enforcement

Article 11-*bis* of Law No 21/1992 punishes taxi drivers suspending their enrolment on the Register for having infringed Articles 3 to 11 of Law No 21/1992. Fines are:

- a) suspension for 1 month as a consequence of the first infringement;

⁸⁸⁵ Regional Court of Lazio, Second Section, judgement No 1850 of 1st March 2004.

⁸⁸⁶ Supreme Administrative Court, Fifth Section, judgement No 6400 of 11 December 2007.

⁸⁸⁷ Supreme Administrative Court, Fifth Section, judgement No 325 of 25 January 2012; No 577 of 2nd February 2012.

⁸⁸⁸ Supreme Administrative Court, Fifth Section, judgement No 577 quoted.

- b) suspension for 2 months as a consequence of the second infringement;
- c) suspension for 3 months as a consequence of the third infringement.

If taxi drivers infringe Articles 3 to 11 of Law No 21/19924 times, they will be removed from the Register.

II.4 Technical requirements applicable to licenced vehicles
(taximeters, vehicles' technical specifications, accessibility, insurance, maintenance)

Law No 21/1992 uniformed and harmonized taxi vehicle's characteristics, especially those ones referred to signs and badges increasing taxi's visibility such as colour, lighting or parking position.

Opinion No 757/2015 has affirmed that, since the taxi service is a public service, "taxicabs are characterized [also] by visibility".⁸⁸⁹ In other words, users should be able to easily identify vehicles authorised to provide a non-scheduled PTS and the only way to recognize licenced taxicabs is to uniform their characteristics.

Article 12 (3) of Law No 21/1992 provides that "vehicles used as taxicabs shall have on their roof an illuminated sign bearing the word «taxi»" (emphasis added).

Article 12(4) of Law No 21/1992 provides that "each taxicab shall have a serial number and a registration plate with the words in black «public service» of that kind established by the competent Municipality" (emphasis added).

With regard to the colour, which is considered useful to make taxis recognizable easily from a distance, Article 12(6) of Law No 21/1992 entrusted to the Italian Ministry of Transports (the current *Ministero delle Infrastrutture e dei Trasporti*) the obligation to adopt, "within six months from the date of entering into force of the law, a decree obliging all taxi vehicles registered from the 1st January of the year following the publication of such a decree to be painted with the same colour" (emphasis added).

In accordance with the latter provision, on 19 November 1992 the Italian Ministry of Transports adopted the aforementioned decree concerning "the identification of the uniform colour for all taxi vehicles" (the "**Decree of 19.11.1992**").

Article 1 of the Decree of 19.11.1992 imposes that "the external color of all taxi vehicles registered for the first time since the 1st January of the year following the publication of the decree at hand shall be white, with a minimum luminance factor of 0,34 and trichromatic coordinates within the quadrilateral defined in the table below with the coordinates' indication of vertexes.

Points	1	2	3	4
--------	---	---	---	---

⁸⁸⁹ Opinion No 757/2015, *cit.*, p. 4. The Opinion No 757/2015 has also affirmed that taxicabs are recognizable also because they can be picked up accessing any point in a urban area, the can run on specific lanes which can be recognizable thanks to specific road signs, fares are set by public authorities.

X	0,303	0,298	0,312	0,317
Y	0,308	0,313	0,327	0,322

Trichromatic coordinates are defined by provisions of CIE (International Commission on Illumination), approved in Cambridge (UK) in 1931.

[...]

The duty to paint white all taxicabs does not extend to eventual optional accessories that the manufacturer considered from the beginning, such as bumpers" (emphasis added).

Article 2 of the Decree of 19.11.1992 entitles taxi vehicles, "if allowed by regulations and according to their provisions, to have a monochrome or polychrome strip under the lower side of the trunk of lateral windows, with a maximum height of 6 centimetres.

It will be allowed on taxicabs' sides texts and/or logos of the company managing the taxi services and of the Municipality. On each side, such texts and logos cannot be upper than 875 square centimetres" (emphasis added).

II.4.1 Advertising

Taxi advertising is governed by Article 57⁸⁹⁰ of the Presidential Decree No 495/1992. According to Article 57(3) of Presidential Decree No 495/1992, "no-luminous advertising on a fee or on contract basis is permitted only if it is provided with characters alphanumeric, connected to trademarks and symbols and if the following conditions are observed:

- a) advertising shall be realized through a bifacial rectangular panel, firmly fastened to the top of the car and located parallel to the direction of motion. The panel shall be 75x35 centimetres and the advertising shall not be realized with variable messages;
- b) advertising shall consist of a foil-type of 100x12 centimetres that shall be applied on taxi's rear window;
- c) advertising shall not be realized applying a foil-type on taxi vehicleless surfaces, excluded windows. Advertising referred to in letters a) and c) are alternatives. Taxi vehicles with advertising of letter a) cannot use highways."

II.4.2 Taximeters

Pursuant to Article 12(1) of Law No 21/1992 taxis are fitted with a homologated taximeter,⁸⁹¹ whereby drivers can calculate the total amount of the compensation that users are required to pay for the journey.

⁸⁹⁰ This provision was amended by Article 14(7) of Decree No 422/1997.

⁸⁹¹ The first and complete definition of "taximeter" was provided the Directive No 77/95/EEC of 21 December 1976 "on the approximation of the laws of the Member States relating to taximeters" (published in OJ L 26 of 31 January 1977, p. 59-66). In this respect, Article 1(1) of Annex 1 of the Directive renewed the definition of the existing "time-distance meters" that were called as "taximeters", "instruments which, according to the characteristics of the vehicle in which they are installed and the tariffs for which they have been set, calculate automatically and indicate constantly when in use the amounts to be paid by the users of public vehicles, called taxis, on the basis of the distance covered and, below a certain speed, the time for which the vehicle is occupied, exclusive of various surcharges which may be authorized by local regulations in force in the Member States" (emphasis added).

Currently, a peculiar definition (and the related regulation) of "taximeter" is provided by the Italian Legislative Decree No 22 of 2 February 2007 (the "**L.D. No 22/2007**")⁸⁹² transposing the Directive 2004/22/EC of 31 March 2004 "on measuring instruments".⁸⁹³

According to the Specific Annex MI-007 of L.D. No 22/2007, a taximeter is "a device working with a signal generator in order to produce a measuring instrument. Such a device measures the duration, calculates the distance on the basis of a signal delivered by the distance signal generator. Additionally, it calculates and displays the amount to be paid for a journey (the fare due for the journey) on the basis of the calculated distance and/or the measured duration of the journey".⁸⁹⁴

L.D. No 22/2007 also specifies that the fare due for the journey consists of the total amount of the fare that users are required to pay.⁸⁹⁵ Such a fare can be based on "a fixed initial hire fee and/or the length and/or the duration of the journey", without including a supplement charged for extra services.

II.4.3 Pollution control devices

Article 12(7) of Law No 21/1992 states that since 1992 taxicabs "shall have catalytic converters or other devices to reduce pollution. Such devices will be defined with a decree of the Ministry of Infrastructure and Transport that must be adopted in six months since the date of entering into force of the law."

According to such provision, the Ministry of Infrastructure and Transport adopted the decree No 572 of 15 December 1992 ruling pollution control devices for taxis and vehicles used to provide hire car with driver service. (the "**Decree No 572/1992**").⁸⁹⁶

⁸⁹² Italian OJ No 64 of 17 March 2007.

⁸⁹³ OJ L 135 of 30 April 2004, p. 1-80.

⁸⁹⁴ L.D. No 22/2007 (transposing the Directive 2004/22/EC) provides specific design requirements for taximeters: "1. The taximeter shall be designed to calculate the distance and to measure the duration of a journey.

2. The taximeter shall be designed to calculate and display the fare, incrementing in steps equal to the resolution fixed by the Member State in the operation position 'Hired'. The taximeter shall also be designed to display the final value for the journey in the operating position 'Stopped'.
3. A taximeter shall be able to apply the normal calculation modes S and D (see note [●]). It shall be possible to choose between these calculation modes by a secured setting.
4. A taximeter shall be able to supply the following data through an appropriate secured interface(s):
- operation position: 'For Hire', 'Hired' or 'Stopped';
- totalizer data according to paragraph 15.1;
- general information: constant of the distance signal generator, date of securing, taxi identifier, real time, identification of the tariff;
- fare information for a journey: total charged, fare, calculation of the fare, supplement charge, date, start time, finish time, distance travelled;
- tariff(s) information: parameters of tariff(s).

National legislation may require certain devices to be connected to the interface(s) of a taximeter. Where such a device is required; it shall be possible, by secured setting, to inhibit automatically the operation of the taximeter for reasons of the non-presence or improper functioning of the required device.

5. If necessary, it shall be possible to adjust a taximeter for the constant of the distance signal generator to which it is to be connected and to secure the adjustment".

⁸⁹⁵ According to L.D. No 22/2007 (and the Directive 2004/22/EC), fares can be calculated following two methods: (i) the normal calculation mode S (single application of tariff), whereby fares are calculated applying the time tariff below the cross-over speed (i.e. the speed value found by division of a time tariff value by a distance tariff value) and application of the distance tariff above the cross-over speed; (ii) the normal calculation mode D (double application of tariff), whereby fares calculation is based on simultaneous application of time tariff and distance tariff over the whole journey.

⁸⁹⁶ Italian OJ No 79 of 5 April 1993.

Under Article 1 of Decree No 572/1992, pollution control devices consist of:

- a) catalytic converters or retrofitting for vehicles with spark-ignition engines;
- b) supply systems and exhaust systems for compression ignition engines.

II.4.4 Insurance

Taxi drivers have to insure their vehicles similarly to what they do for other private vehicles. Therefore, there is no specific taxi insurance.

II.4.5 Other requirements and characteristics

According to Article 75(4) of Presidential Decree No 495/1992, taxis operating under Article 86 of the Highway Code are subject to the control of data concerning the identification and the compliance with technical prescriptions and functional and construction characteristics provided by the Highway Code.

II.5 Qualitative requirements (*fitness of the driver, knowledge and skills required, drivers' training*)

S. II.3.1.2.

II.6 Organizational requirements (*dispatch affiliation centre, minimum service*)

Access to the profession is governed by Article 7 of Law No 21/1992: insofar as non-scheduled PTSs are concerned, operators cannot take the legal form of a joint stock company (*società per azioni*), but only those ones provided by Law No 21/1992.

Under Article 7(1) of Law No 21/1992, "holders of a licence to operate a taxi service or an authorisation to operate a hire car with driver service, for the purposes of freely carrying on their own business, may:

- a) *be enrolled as holders of a craft industry providing transport services on the official register of craft industry set under Article 5 of Law No 443 of 5 August 1985;*⁸⁹⁷
- b) *join either a workers' cooperative, such as those with collective property, or a service cooperative, operated in accordance with the current rules governing cooperation;*
- c) *join a consortium of artisan businesses or any other consortium provided for in law;*
- d) *be private companies carrying out exclusively activities mentioned under letter b) of Article 1(2)" (emphasis added).*

Article 7(2) and (3) of Law No 21/1992 provide that :

⁸⁹⁷ Law No 443 of 8 August 1985 (*Italian Framework Law on handicraft*), Italian OJ No 199 of 24 August 1985.

"2. In the situations referred to in paragraph 1 above, the licence or authorisation may be transferred to the bodies referred to therein and the original holder may, in a situation involving withdrawal, forfeiture or exclusion by those bodies, resume possession of a licence or authorisation which has been transferred.

3. In a situation involving the withdrawal of the bodies referred to in paragraph 1 above, the licence or authorisation shall not be transferred again to the member that has transferred to if at least 1 year has not elapsed since the date of the withdrawal" (emphasis added).

The supply of the taxi service consists of an entrepreneurial activity, as confirmed by the legal forms identified by Article 7(1), letters a) to d) and by national case-law which affirmed that "it cannot be doubted that a taxi driver is an entrepreneur".⁸⁹⁸

Jurisprudence interpreted Article 7 (1) as "an anti-avoidance provision and not a merely illustrative one" (emphasis added). In this respect, the Court of Cassation has pointed out that "the verb «may» must not mislead [the interpreter as to the existence of a] mere choice of the operator concerned". By contrast, such a choice exists only with reference to the four legal forms provided by Article 7(1) which can be freely adopted by the operator providing non-scheduled PTSs. In other words, the legal forms referred to in Article 7(1), letters from a) to d), "are mandatory alternatives to the decision of the operator to not be enrolled on the official register of craft industry".

As regards Article 7(2) of Law No 21/1992, it is settled case-law⁸⁹⁹ that such provision must be interpreted as implying that the licence or the authorisation shall be held temporarily and logically before any act shall be adopted by the body referred to in paragraph (2). It follows from the foregoing that "a licence can be held only by individuals".

II.7 Fares (criteria for taxi fare setting, authority/body in charge of setting the tariffs, maximum tariffs and/or fixed tariffs, composition of the tariff and tariffs adjustment mechanism [minimum charge, additional charge for using the radio taxi or dispatch centre, increase of the tariff during certain hours, such as at night or on certain journeys, such as towards the airports, reductions for certain categories, such as elderly people]).

Preliminary, it must be recalled that:

- a) concerning tariffs or fare regulation, the Italian Transport Regulator is not in charge of unilaterally setting price levels. Rather, in all the instances in which this competence occurs, the Italian Transport Regulator identifies the criteria on which basis transport operators can determine, according to procedures which vary from industry to industry, the actual absolute value of the tariffs; and

⁸⁹⁸ Court of Cassation, Civil Sections (Labour), judgment No 15233 of 25 November 2000. According to such case-law, the entrepreneurial activity can be carried out also without a goodwill, but just using one complex and expensive asset (such as a taxicab) that in some cases can replace the workforce, that needs an organization to manage the asset's consumption and the return to any investment used for, as well as the maintenance of the asset.

⁸⁹⁹ Supreme Administrative Court, Fourth Section, judgment No 4857 of 13 November 2012.

- b) fares are set by Municipalities. More in detail, this activity involves some commissions where there are users and other people representing all interested categories.⁹⁰⁰

Articles 5 and 13 of Law No 21/1992 regulate the fares.

Article 13(1) of Law No 21/1992 states that *"the taxi service is provided on request of the user that has to pay a compensation for the journey, which is calculated through a homologated taximeter on the basis of fares set by competent administrative authorities"*. According to Article 5 of Law No 21/1992 the competent authority to calculate fares are Municipalities that shall specify *"(c) criteria used to calculate fares of the service"*.

Article 13(2) of Law No 21/1992 highlights also that *"fares are calculated on multiple basis if services are provided in urban areas, whereas they are determinate on kilometres if the service is provided in extra-urban areas"*. When extra charges (*supplementi*) shall be applied for the journey, Article 12(2) of Law No 21/1992 obliges drivers to inform their customers through posting notices on car dashboard so that customers can easily read them.

Article 13(2) of Law No 21/1992 distinguishes fares with reference to the type of services provided: *"fares are calculated on multiple basis [i.e. the duration and the journey] if services are provided in urban areas, whereas they are determinate on kilometres [i.e. the journey] if the service is provided in extra-urban areas"*.

According to Articles 2(1) and 13(1) of Law No 21/1992, the compensation for journeys is calculated only *"on the basis of fares fixed by competent administrative authorities"*.

Article 5(1) of Law No 21/1992 states that, when establishing the regulations governing the provision of non-scheduled PTSs, while respecting regional regulations, Municipalities shall specify: *"(a) the number and type of vehicles [...] to be assigned to each service; (b) conditions to provide the service; (c) criteria used to calculate fares of the service; (d) requirements and conditions for granting a licence to operate a taxi service or an authorisation to operate a car and driver hire service"*.

On the method used to calculate fares, the Italian Transport Regulator has pointed out that there are differences between Municipalities:

- a) with reference to the method of the multiple basis used for urban services, the modulation of the elements of duration and length of the journey; and
- b) the qualification of conditions governing extra-urban services.

Concerning extra-urban services, Municipalities can set fares taking into account specific geographic limits and when they are passed, as well as when a certain level of cruising speed is reached or passed. In the view of the Italian Transport Regulator, a widespread characteristic of fares set by Municipalities concerns *"progressivity"*, in other words the

⁹⁰⁰ Italian Transport Regulator's report, p. 4.

cost per kilometre and the hourly cost change when specific thresholds of journey or specific amounts calculated by taximeters are reached.

Without prejudice to general aspects of the structure of fees, fares are composed by:

- a) the initial cost for starting the taximeter;
- b) the application of:
 - i. a fare calculated on multiple basis if the service is provided in for urban areas;
or
 - ii. a fare calculated on kilometres covered if the service is provided in extra-urban areas;
- c) the application of:
 - i. reductions (e.g. reductions for journeys towards hospitals, for women during the night or for young people exiting from discos); or
 - ii. extra-charges (which can consist, for example, of midnight surcharges, extra-charges for public holidays, for dogs, for the second or more luggage if unwieldy, more than four passengers).

In some cases, Municipalities can set a minimum fare per journey. Similarly, Municipalities are free to fix specific fares if the journey concerns areas where the demand is particularly concentrated such as, for instance, airports, ports, railway stations, hospitals.

The Italian Transport Regulator has analysed the evolution of fares from 2006 to 2014. With specific reference to this time-period, the Italian Transport Regulator has observed that fares have increased about 16-30% by 7 of the 8 examined Municipalities (*i.e.* Bologna, Rome, Florence, Genoa, Milan, Palermo, Turin and Naples). Such increase was higher than the inflation rate for the same time-period.⁹⁰¹

II.8 Passenger rights

Passenger rights are not regulated by Law No. 21/1992. The right to be transported when requested can be inferred from the public nature of the service. Passenger rights may be regulated by Services Charters and Codes of Conducts adopted by Regional or local authorities.

An example of a minimum set of rights for passengers travelling by taxi can be found in the Services Charter⁹⁰² adopted by the *Giunta del Comune di Roma* – *i.e.* the governing board (the “**G.B.**”) of the Municipality of Rome containing the most relevant principles to be observed for operating non-scheduled PTSs such as:

- i.* Equality: access to transport must be granted to any person. Any passenger has the right not to be discriminated directly or indirectly based on his/her nationality, sex, racial or ethnic origin, religion or belief, politics, language. Particular attention shall be paid to disabled persons and persons with reduced mobility;
- ii.* Continuity: taxi drivers are required to operate the service continuatively without interruptions. In case of particular needs of mobility, taxi drivers are required to operate emergency services.

⁹⁰¹ Italian Transport Regulator’s report, p. 18.

⁹⁰² <https://www.comune.roma.it/PCR/resources/cms/documents/DGCn1405a99.pdf>.

- iii. Participation: citizens can participate to manifestations and access to information concerning non-scheduled PTSs;
- iv. Quality and Efficiency: quality and efficiency of the service must be controlled and increased.

It must be taken into account that also the Code of Conducts adopted by the G.B. of the Municipality of Rome with the decision No 1406 of 9 July 1999 (as amended by decision No 3 of 10 January 2014)⁹⁰³ can be an implicit source of passenger right.

More in detail, Article 1 (*Principles*) of the Code of Conducts provides that “*the taxi driver shall operate efficiently in the interest of the passenger and he is responsible for his conducts. The driver’s behavior is inspired to the care of the public service he is operating*”.

Under Articles 2 (*Obligations of drivers*) and 3 (*Specific obligations of taxi drivers*) of the Code of Conducts, the following rights are foreseen:

- a) to enjoy a clean and efficient vehicle;
- b) to be assisted in loading own luggage(s);
- c) of courtesy;
- d) to be exempted from paying extra charges when wheelchairs for disabled persons or guide dogs must be loaded;
- e) not to be subject to passive smoking;
- f) to be transported towards the exact destination chosen by the passenger.

Another example of standards, values and principles to be observed by taxi drivers in order to grant that passengers enjoy their rights is represented by the “*Taxi Service Charter*” adopted by the Municipality of Milan.⁹⁰⁴ The “*Taxi Service Charter*” is a written agreement, subscribed by the taxi drivers of Milan and the 43 counties of the metropolitan area, which contemplates numerous values (further that those ones included in the “*Taxi Service Charter*” of the Municipality of Rome) such as hospitality, courtesy, care, professionalism, transparency.⁹⁰⁵

II.9 Subsidies applicable to taxi sector (including public developed applications for taxi sector, geolocalisation, etc.)

With the decree No 178 of 29 September 2015 adopted by the President of the Council of Ministers (the “**Decree No 178/2015**”),⁹⁰⁶ tax allowances for taxis and hire cars with drivers have been decreased.⁹⁰⁷

II.9.1 Taxation rules for the taxi service

⁹⁰³ https://www.comune.roma.it/PCR/resources/cms/documents/DGC_3_2014.pdf.

⁹⁰⁴ http://www.mi.camcom.it/c/document_library/get_file?uuid=60f011a0-916f-4568-a105-20fa241d1d8d&groupId=10157.

⁹⁰⁵ Among quality standards included in the “*Taxi Service Charter*” knowledge of territory, the respect for the environment, the capability of interacting and giving information to foreign tourists can be recalled.

⁹⁰⁶ Italian OJ No 263 of 11 November 2015.

⁹⁰⁷ More in detail, the Decree No 178/2015 has prescribed a decrement equal to: 49,41% of the tax credit on excisable products concerning vehicles used to operate both the taxi service and HVDS; and 5,07% of the bonus for purchasing LPG and diesel. See <http://www.ipsoa.it/documents/fisco/crediti-dimposta/quotidiano/2015/12/12/taxi-e-noleggio-con-conducente-bonus-fiscale-ridotto>.

The fiscal regime of the taxi service is more favourable than the regime applicable to hire cars with drivers. Taxi operators are exempted from the obligation to issue the receipt. Additionally, they benefit of a reduction of the tax credit for fuel.

II.9.2 Applications for the taxi service (apps)

Several Municipalities' regulations allow the operation of the so-called "Radio-Taxi" service and the extra charge to be paid by the user. The "Radio-Taxi" service consists of the research and the localization of an available taxi vehicle nearest to the user calling for the taxi service and the consequent collection of such user by the car which the service is entrusted.

On top of the "Radio-Taxi" service, users can benefit from other booking services available. Currently, passengers can download a smartphone apps that allows them to request the nearest available taxicab, such as MyTaxi,⁹⁰⁸ AppTaxi.⁹⁰⁹ and iTaxi.⁹¹⁰

II.10 Labour rules

According to Article 7 of Law No 21/1992, taxi drivers can be alternatively individual entrepreneurs (and they have to be enrolled on the official register of craft industry) or workers' cooperative.

When the operator decides to be self-employed, the taxi driver:

- can be qualified as a craft entrepreneur (which is an individual entrepreneur);
- according to Articles 4 and 5(1) of the Presidential Decree No 633 of 26 October 1972 ("**Presidential Decree No 633/1972**"),⁹¹¹ the taxi driver must file a VAT record to obtain a VAT value number;
- according to Article 10(1), No 14, of Presidential Decree No 633/1972, a VAT deduction is applied to the individual taxi driver when it operates a public service (the operator has the right to deduct VAT in respect of the fuel cost, the price paid for the transfer of the licence, the maintenance of the vehicle, etc.).⁹¹²

Concerning taxi drivers becoming workers' cooperative, it should be noted that, on 14 July 2014, several associations representing cooperatives (*i.e.* Federlavoro e Servizi/Confcooperative, Legacoop Servizi, AGCI Servizi) and trade unions (*i.e.* U.NI.CA TAXI FILT-CGIL, FIT-CISL, UILTRASPORTI) renewed the "National Collective Agreement for workers belonging to cooperatives operating the taxi service".⁹¹³ Even though such agreement expired on February 2015, it will be applied until a new National Collective Agreement will enter into force.

⁹⁰⁸ <https://us.mytaxi.com/index.html>.

⁹⁰⁹ <http://www.apptaxi.com>.

⁹¹⁰ <http://www.ittaxi.it>.

⁹¹¹ Italian OJ No 292 of 11 November 1972.

⁹¹² A. PICCOLO, "Dichiarazione annuale Iva '99. Principali novità e guida alla modulistica", *Il fisco*, No 5 of 1st February 1999, p. 1502.

⁹¹³ <http://www.legacoopservizi.coop/trasporto-persone-sottoscritta-lipotesi-di-accordo-di-rinnovo-del-ccnl-per-il-settore-taxi/>.

II.11 Supervisory enforcement tools

See supra, s. II.3.3

III. Legal framework applicable to hire cars with driver

Hire cars with driver are non-scheduled PTSs governed by Article 85 of the Highway Code and by Law No 21/1992.⁹¹⁴

However, hire car with driver is not a public service *strictu sensu*.⁹¹⁵ While the taxi service has the typical characteristics of the public service, hire car with driver service is subject only to a public regime of planning, limitation and granting of authorisations.⁹¹⁶

Drivers operating hire cars with drivers cannot park in public spaces, but only in the garage. The booking of the journey must take place at the garage where the vehicle must return after the ride has been completed irrespective of the passengers' departure and destination.⁹¹⁷ Hire car fares are set by operators.

Under Law No 21/1992, hire car with driver is subject to an authorisation which is vehicle-specific and which is issued by a Municipality in a public procedure. Unlike the taxi service, where the taxi driver cannot cumulate more than one licence, an hire car with driver operator may obtain several authorisations for several vehicles. The validity of the authorisation is not restricted to the territory of the Municipality that issued the authorisation.

As attested by the Associazione Nazionale Imprese Trasporto Viaggiatori ("**AniTrav**")'s report,⁹¹⁸ "*carriers operating hire cars with drivers prefer to adopt the legal form of workers' cooperative, even if they are not obliged to by the law*".

III.1 National regulation

Article 85(1) of the Highway Code sets out that the hire car with driver is governed by specific law intended for the sector of non-scheduled PTSs. In this way, Article 85(1) implicitly refers to Law No 21/1992.

Under Article 85(2) of the Highway Code, vehicles used for hire car with driver service are motorcycles with or without sidecar, tricycles and four-wheeled motor vehicles, cars, buses, miscellaneous transportation vehicles and animal-powered vehicles.⁹¹⁹

⁹¹⁴ As regards the general description of competence, see para. I above.

⁹¹⁵ Opinion No 757/2015, *cit.*. By contrast, see Regional Court of Lazio (Rome), Second Section, judgment No 5165 of 8 April 2015.

⁹¹⁶ Regional Court of Perugia (Umbria), First Section, judgment No 68 of 16 February 2015.

⁹¹⁷ Opinion of A.G. in joined cases C-162/12 and C-163/12, *Airport Shuttle Express and Others*, of 13 February 2014, para. 5.

⁹¹⁸ AniTrav's reply to the stakeholder consultation.

⁹¹⁹ Article 244 of Presidential Decree No 495/1992 sets that the list of vehicles intended for operating hire cars with drivers prescribed by Article 85(2) of the Highway Code includes the so-called transport ambulances and the emergency ambulances.

When an operator uses a vehicle not among those indicated by Article 85(2) of the Highway Code, or in case the authorisation has been issued but the operator infringes the conditions of the authorisation, such operator is fined by Article 85(3) of the Highway Code.

With specific reference to Law No 21/1992 which is referred to in Article 85(1), it must be examined firstly Article 3 of Law No 21/1992 providing that:

“1. *Hire car with driver shall be a service for specific users who file a special request with the garage, booking that service for a given duration and/or journey.*

2. *The vehicles must be parked in the garages or in a vehicle rank (i.e. pontile di attracco).*

3. *The registered office of the carrier and the garage must be located, exclusively, in the territory of the Municipality which has issued the authorisation” (emphasis added).*

First of all, it must be highlighted that hire cars with driver are not subject to public service obligations. This is confirmed by Article 13(3) of Law No 21/1992 pointing out, among others, that “providing the service is not mandatory” (emphasis added). This is a relevant difference with Article 2(3) of Law No 21/1992.⁹²⁰

In view of the wording of Article 3 of Law No 21/1992, hire car with driver service is provided only for customers requiring this specific service. To provide it, carriers use vehicles that have characteristics different from taxis and that cannot be found on public spaces.⁹²¹ More in detail, this service is operated by carriers leaving from the garage where vehicles are parked in order to reach the destination where the customer has to be picked-up. Moreover, as specified under the second paragraph of Article 3, vehicles operating hire cars with drivers can park only in garages or near ranks, whereas they are forbidden to park in public spaces.

Such prohibition is set in Article 11(3) of Law No 21/1992 stating that “it is forbidden to park in public spaces of Municipalities where the taxi service is provided. In such Municipalities, vehicles intended for hire car with driver service can park exclusively in the garage. Municipalities where the taxi service is not operated can authorise hire car with driver to park in public spaces. Vehicles intended for hire car with driver can use specific driving lanes and other facilities prescribed for taxis and other public services”.⁹²²

In order to operate hire car with driver service, it is necessary the availability of a registered office, garage or a vehicle rank located in the territory of the Municipality which issued the authorisation. This is also confirmed by Article 8(3) of Law No 21/1992 setting that “in order to obtain and maintain an authorisation for operating a car and driver hire service, it is compulsory to have the use, on the basis of a valid legal title, of

⁹²⁰ Such interpretation is upheld by the Opinion No 757/2015, p. 2; see also in this sense Regional Court (TAR) of Liguria, Second Section, and judgement No 117 of 14 April 1993.

⁹²¹ Opinion No 757/2015, *cit.*

⁹²² Civil Court of Rome, Twelfth Section, judgement No 5253 of 10 March 2011. With specific reference to Article 11(3) of Law No 21/1992, the Court has considered that the Italian legislator intended to equalize vehicles used for operating Hire cars with drivers and taxicabs when Article 11(3) states “vehicles intended for hire cars with drivers can use specific driving lanes and other facilities prescribed for taxis and other public services”.

a registered office, garage or a vehicle rank located in the territory of the municipality which issued the authorisation”(emphasis added).

Article 11(4) of Law No 21/1992 proceeds to explain that “*bookings for hire cars with driver shall take place at the garage. Each individual ride must begin and end at a garage located in the Municipality in which the authorisation was issued, returning to that garage, although the pick up of the passenger and the passenger drop-off may also take place in other Municipalities*”. According to Article 11(4), the driver must fill a «service sheet» with certain information such as the number of the registration plate, the name of the driver, the time at which the service begins and it ends, the destination, the passenger’s data.

Unlike the taxi service,⁹²³ Article 11(4) of Law No 21/1992 provides that hire car with driver service does not begin necessary with the pick up of the passenger(s) in the territory of the Municipality which issued the licence. It is settled case-law⁹²⁴ that hire car with driver ride may begin with the simple departure of the vehicle from the garage in order to reach the destination where the passenger must be picked-up. As a consequence, in order to make the HVDS operated compliant with Law No 21/1992, it is sufficient that the garage is located in the territory of the Municipality that issued the authorisation, even if the user is picked-up in a different Municipality.⁹²⁵

Furthermore, it must be observed that both Articles 3 and 11 of Law No 21/1992 have been analysed sever times by the ICA. The ICA has interpreted such dispositions as restricting the supply of hire cars with drivers.⁹²⁶ As a matter of fact, the ICA’s practice has considered that such restriction is the direct effect provided by the obligation (i) to establish the registered office of the carrier and its garage in the territory of the Municipality that issued the authorisation; (ii) to park only in the garage; (iii) to return to that garage in order to provide the service in favour of a different user; (iv) to register the duration and the itinerary of the journey.⁹²⁷

III.2 Local/municipal regulation

III.2.1 Milan

III.2.1.1. The legal framework

⁹²³ Article 11(2) of Law No 21/1992.

⁹²⁴ Italian Court of Auditors, Second Section, judgement No 1665 of 11 December 1996.

⁹²⁵ With reference to the obligation to begin and end the service at hand from / to the garage, recent administrative case-law has affirmed that such obligation confirms the local dimension of HVDS. See Regional Court of Lazio (Rome), Second Section, judgment No 5165 of 8 April 2015. In this respect, this case law considered that “*in this way, it is guaranteed the implementation and the «localization» of the service within the territory of the Municipality, without excluding that the service can be operated in any territory*”.

⁹²⁶ ICA, opinion of 27 April 2010, in the case AS683 – *DISCIPLINA DELL’ATTIVITA’ DI NOLEGGIO CON CONDUCENTE*; opinion of 19 February 2009, in the case AS501 – *DISCIPLINA DELLA ATTIVITÀ DI NOLEGGIO CON CONDUCENTE (DISEGNO DI LEGGE DI CONVERSIONE IN LEGGE, CON MODIFICAZIONI, DEL DECRETO-LEGGE 30 DICEMBRE 2008, N. 207)*.

⁹²⁷ Such assessment has been recently upheld by the ICA that adopted an opinion stating that “*Articles 3 and 11 of Law No 21/1992 restrict competition inasmuch as they are able to limit the competition between operators providing Hire cars with drivers, distinguishing amongst operators holding an authorization and having a garage within the territory of the Municipality where they operate the service and operators that provide the same service in a Municipality different from the Municipality that issued the authorization. Furthermore, such articles do not reach objectives of road or individual safety, but they are only able to limit the number of operators that can provide Hire cars with drivers within the urban areas*” (emphasis added). ICA, opinion of 29 September 2015, in the case AS1222 – *LEGGE QUADRO PER IL TRASPORTO DI PERSONE MEDIANTE AUTOSERVIZI PUBBLICI NON DI LINEA*, p. 2.

The applicable law is the resolution⁹²⁸ "Regulation on hire cars with driver" approved by the deliberation No 133 of 24 November 1997 adopted by the Council of the Municipality (the "**Resolution of 24.11.1997**").

The Resolution of 24.11.1997 sets the operational limits and modes to operate hire cars with drivers. In particular, the Resolution of 24.11.1997 prescribes:

- g) fares must be set in advance and directly between the user and the carrier. The fixing of the fare cannot be a mere estimate;
- h) Hire cars with driver cannot wait for passenger requests parked on public spaces and they are obliged to park in the garage;
- i) in order to grant a better service, operators can have two garages and the second one must be located on the territory of the Municipality.

III.2.1.2 The main operators

There are a lot of hire car with driver operators that are grouped together in cooperatives and trade associations such as Confcommercio or Confartigianato.

III.2.1.3 The procedure to award authorisations

S. II.2.1.3

III.2.2. Turin

The Municipality of Turin set the number of authorisations to be awarded, and therefore, to satisfy the demand of the HVDS, on the basis of the following formula:⁹²⁹

$$N=[(Pop./6000)+(Sup./50)+1]*Fa*Fb*Fc+(Fd*Ft)$$

where:

N = the theoretical requirement of the supply to carry out the taxi service in the city;

Pop. = population resident in the Municipality (number of people);

Sup. = surface of the territory of the Municipality;

Fa = correction factor for the territorial scope;

Fb = correction factor related to the PTSs supply;

Fc = correction factor related to the existence of hospitals within the Municipality's area;

Fd = additional factor related to the intensity of mobility within touristic areas, hospitals, residence and work areas;

Ft = correction factor for Municipalities of particular touristic / sporting interest.

According to such formula, the Municipality of Turin has confirmed that currently the number of hire cars operating is 173.⁹³⁰

⁹²⁸ Under Italian Law, such a resolution is usually referred to as 'determina'.

⁹²⁹ Municipality of Turin, report, p. 6.

⁹³⁰ Municipality of Turin, report, p. 7.

III.2.2.3 Labour regulation

Drivers holding the hire car with driver authorisation can collaborate with their family members who must be enrolled on the Register.

III.2.2.4 Transferability of licences

Over the period 2011-2015, the following hire car with driver authorisations have been transferred:⁹³¹

Total of hire cars with drivers authorisation transferred between 2011 and 2015:

Year	No
2011	18
2012	8
2013	13
2014	14
2015	9

III.3 Procedures for issuing authorisations and applicable criteria

Hire car with driver is subject to the granting of an authorisation that can be issued by the Municipality for free or that can be transferred from the holder in return for payment. The regulation governing authorisations is provided by Articles 6 to 11-*bis* of Law No 21/1992 and it is similar to that one concerning the taxi service.⁹³² In order to obtain the authorisation, operators (which can be individuals or companies according to Article 7 of Law No 21/1992)⁹³³ are required to enrol on the Register established under Article 6 of Law No 21/1992.⁹³⁴

Once carriers are enrolled on the Register, they can participate to the procedure prescribed by Article 8 of Law No 21/1992.⁹³⁵ To obtaining the authorisation, it is necessary that carriers own or lease the use of the vehicles used as hire car.

Unlike taxi services, Article 8(2) of Law No 21/1992 allows hire car with driver operators to cumulate more than one authorisation.

A specific disposition concerning a peculiar requirement to be observed by hire cars with drivers operators is Article 8(3) of Law No 21/1992. Such provision sets that "*in order to obtain and maintain an authorisation for operating a hire car with driver service, it is*

⁹³¹ Municipality of Turin, report, p. 8 ff.

⁹³² For the regulation concerning the substation of drivers holding the authorization set in Article 10 of Law No 21/1992 and the regulation referring to fines,

⁹³³ For the regulation concerning the legal forms of carriers operating hire cars with drivers prescribed by Article 7 of Law No 21/1992.

⁹³⁴ Article 6 of Law No 21/1992.

⁹³⁵ Article 8 of Law No 21/1992.

compulsory to have the use, on the basis of a valid legal title, of a registered office, garage or a vehicle rank located in the territory of the municipality which issued the authorisation”.

Alternatively, as already said, authorisations can be obtained through the transfer governed by Article 9 of Law No 21/1992.⁹³⁶

III.4 Technical requirements applicable to hire cars with driver

Law no 21/1992 does not set any technical requirements for vehicles.⁹³⁷ *“Vehicles intended for hire cars with drivers have a badge with the word «hire» within the front windscreen and applied on the screen. Such vehicles shall have a static registration plate with the word «NCC», the emblem of the Municipality that issued the authorisation and a progressive number”.*

Furthermore, it must be pointed out that, according to Article 75(4) of Presidential Decree No 495/1992, vehicles intended for under Article 85 of the Highway Code are subject to the control of data concerning the identification and the compliance with technical prescriptions and functional and construction characteristics provided by the Highway Code.⁹³⁸

III.5 Fares

Article 13(3) of Law No 21/1992 states that: *“the compensation for hire car with driver is set directly between users and the carrier”.* The absence of regulated fares is one of the major differences with taxi services. This is confirmed by case-law attesting that, even though Law No 21/1992 governs both the taxis and hire cars with drivers, *“the supply of hire cars with drivers is governed by contractors’ freedom to negotiate”.*⁹³⁹

Decree 20 April 1993 adopted by the Ministry of Transports establishes the *“Criteria used for setting the minimum and the maximum fare for hire cars with drivers”* (the **“Decree of 20.4.1993”**).⁹⁴⁰ Without prejudice to that part of the fare that is set directly between the user and the carrier, Article 2 of the Decree of 20.4.1993 prescribes that *“to calculate fares, are not considered turn-around times, tolls highways, transit charge, air-conditioned and particular services offered on board”.*

Article 3 of the Decree of 20.4.1993 sets that hire car with driver’s fares are composed by:

- a) costs proportional to the journey;
- b) cost of drivers;
- c) cost for using the vehicle;
- d) costs for the structure.

⁹³⁶ Article 9 of Law No 21/1992.

⁹³⁷ Article 12(5) of Law 21/1992.

⁹³⁸ Article 85 of the Highway Code.

⁹³⁹ Regional Court of Perugia (Umbria), First Section, judgment No 68 of 16 February 2015; and Court of Cassation, Civil Sections, judgment No 22483 of 19 October 2006.

⁹⁴⁰ Italian OJ No 124 of 29 May 1993.

III.6 Qualitative requirements

See s. II.3.1.2.

III.7 Organizational requirements

See s. II.3.1.2.

III.8 Passenger rights

See s. II.8.

III.9 Labour rules

See s. II.10.

III.10 Local incentives, subsidies provided by the administration in order to carry out certain services (such as mini-van service for people with reduced mobility, elderly, schools)

See s. II.9.⁹⁴¹

III.11 Supervisory enforcement tools

See s. II.11

IV. Legal framework applicable to ridesharing and car sharing

In Italy, ridesharing (including carpooling) and car sharing services are not disciplined by Law No 21/1992 or by any other current law or local regulation. Even though no legislative or regulatory prescription obliges carriers operating such services to hold an authorisation or a licence, and thus they operate in a “grey” legislative area, the Italian case-law shows that providing these services without a licence or authorisation can be in breach of Articles 85 and 86 Highway Code. In other words, if a person decides to

⁹⁴¹ For the sake of completeness, it is of interest to recall some general principles set in a recent judgment of 27 February 2014, adopted by the Court of Justice in joint cases C-454/12 and C-455/12, *Pro Med Logistik and Pongratz*. In such ruling, the Court stated that “EU law (in particular the principle of fiscal neutrality) does not preclude local urban transport carried out, on the one hand, by taxi and, on the other hand, by minicab from being subject to different rates of VAT (one a reduced rate and the other the standard rate), in so far as two conditions are satisfied: (1) by reason of the different statutory requirements to which those two types of transport are subject, transport by taxi must constitute a concrete and specific aspect of the category of services at issue (transport of passengers and their accompanying luggage); and (2) those differences must have a decisive influence on the decision of the average user to use one such type of transport or the other” (see <http://curia.europa.eu/jcms/upload/docs/application/pdf/2014-02/cp140026en.pdf>).

provide one of these services without holding a licence or authorisation, the competent authority (e.g. the police) is entitled to consider this activity as illegal.

The State is the sole authority competent to adopt a specific regulation governing intermediaries that connect the demand-side and the supply-side, such as platforms used to provide real-time ridesharing, carpooling and car sharing service (also known as technology mobility services (“**TMSs**”)).

The Italian Transport Regulator has recently adopted an opinion, addressed to the Italian Parliament and Government, suggesting some amendments and integrations to Law No 21/1992 in order to reduce the barriers to entry for taxis and hire cars with drivers and removing other limits afflicting non-scheduled PTSs (the “**Italian Transport Regulator’s Opinion**”).⁹⁴²

In this Opinion, the Italian Transport Regulator has proposed to insert into Law No 21/1992 a new disposition (i.e. Article 3-*bis*) to govern hire transport which is facilitated by intermediaries and in return for payment.. The Italian Transport Regulator has excluded from such discipline the not for profit carpooling. According to the Italian Transport Regulator, the commercial purpose of the service provided is a core element to establish the scope of such regulation. The Italian Transport Regulator’s Opinion has distinguished between:

- a) Platforms promoting forms of sharing of non-commercial transport services. Such services are provided by drivers sharing a ride decided by the driver with one or more persons, totally or in part.. The person offering the ride and the passenger are matched by intermediary operators;
- b) Platforms providing on demand hire transport with commercial purpose. In this case, even if provided by a non-professional driver, the service is operated in return for payment (including when the price is lower than other services).

Another suggestion in the Italian Transport Regulator’s Opinion regarding the insertion of Article 3-*bis* concerns hire transport requirements that must be fulfilled. In other terms, if the service is provided with a commercial purpose, specific obligations must be observed: (i) the obligation to enrol on the register managed by the Region where the service is provided; (ii) driver can be not professional (i.e. occasional job) but they have to meet some requirements; (iii) obligations concerning insurance, duty of transparency in setting fares and controls, adopting the Charter of Services and the Alternative Dispute Resolution.

IV.1. Ridesharing

Recently, the Italian Competition Authority (ICA) has highlighted the “inappropriateness” of Law No 21/1992, especially considering the existence of new forms of transport services and of new technologies (e.g. digital platforms accessible from tablets and smartphones) that can be used to facilitate them. More in detail, the ICA has firstly recognized that “*in this context, is problematic to qualify these new intermediary services as mere transport service. Conversely, they can better represent an interface application which is not subject to any regulation and, therefore, lawful” (emphasis*

⁹⁴² TRA, “Non-scheduled road transport passenger services: taxi, car-and-driver hire and technology mobility services” of 21 May 2015, accessible at the following website <http://www.autorita-trasporti.it/documentazione-per-atto-di-segnalazione-l-n-2192/>.

added).⁹⁴³ Specifically, the ICA has pointed out that such services, which can be considered as non-scheduled PTSs, are lawful in the absence of an “*ad hoc*” regulation.

Furthermore, the ICA has ascertained that such services “*ensure an easier use of the mobility service, a better response to a public that is often unsatisfied, with the consequent reduction of the costs applied to users and, a decongestion of the urban traffic since it discourages the use of private means of transportation*”.⁹⁴⁴

In this context, the ICA has suggested the adoption of a new “*de minimis*” regulation for this “*tertium genus*” of services providers (in addition to taxis and hire cars with driver) in order to ensure effective competition, road safety and passengers’ safety.

Similar conclusions have been upheld by the Opinion No 757/2015,⁹⁴⁵ where the Supreme Administrative Court has pointed out “*the Authority, with reference to these new types of transport services, does not qualify them as public services, but it defines them as non-scheduled passenger transport services*”. Moreover, the Supreme Administrative Court defined these new types of transport services as new on-line intermediaries able to connect the demand-side and the supply-side of the market, which experienced a surge for the reason that the supply of non-scheduled PTSs is limited.

According to the Opinion No 757/2015, companies offering these services do not only facilitate the transport service connecting users and operators that do not hold any licence or authorisation, but they provide also complementary services such as electronic payments, the geo-localization of the vehicle concerned and the legal assistance.

The Supreme Administrative Court has retraced the legal framework within such services have been fallen. Specifically, intermediaries facilitating the service retain the entire payment for the ride made through the platform and, after having deducted the intermediation fee, they pay the difference to the driver. Any direct link between users and drivers is created because the demand is “mediated” by the intermediaries..

The Supreme Administrative Court has explicitly pointed out that the real-time ridesharing service is non-scheduled PTS. Even though the real-time ridesharing service can belong to such category of services, the Supreme Administrative Court has recognized that customers using the real-time ridesharing service are different from users requiring non-scheduled PTSs. As a matter of fact, such customers are “*qualified individuals that socialize their personal data and needs of mobility*” and they do not have any direct contractual relationships with drivers. Furthermore, it must be also specified that, within the scope of non-scheduled PTS, the Supreme Administrative Court has compared the real-time ridesharing service to the hire cars with drivers . Under the Opinion No 757/2015, this similarity seems to be proven by a recent judgment adopted by the *Giudice di Pace* – *i.e.* the Justice of the peace of Genoa (Civil Jurisdiction)⁹⁴⁶ that applied Article 85 of the Highway Code (concerning hire cars with drivers) to the case of a driver that operated the real-time ridesharing service without authorisation.

⁹⁴³ Italian Competition Authority, opinion of 29 September 2015, in the case AS1222 – LEGGE QUADRO PER IL TRASPORTO DI PERSONE MEDIANTE AUTOSERVIZI PUBBLICI NON DI LINEA, p. 1.

⁹⁴⁴ *Ibidem*, p. 2.

⁹⁴⁵ Opinion No 757/2015 *cit.*, p. 7.

⁹⁴⁶ Justice of peace of Genoa, judgment No 509 of 16 February 2015.

Within the identification of the legal nature of this activity, it must be pointed out that case-law is not well-settled and uniform. As a matter of fact, with a decision completely opposite to that one quoted-above, a recent judgement adopted by the Justice of the peace of Milan (Criminal Jurisdiction)⁹⁴⁷ acquitted a driver operating the real-time ridesharing service without authorisation from having infringed both Articles 85 and 86 of the Highway Code since “*the subjective element of guilt [...] was absent*”.

IV.2 Carpooling

Carpooling is a transport system based on a shared use of private cars, which can be casual or be organized by a service.⁹⁴⁸

Before examining the legal framework pertaining the carpooling service, it must be pointed out that the Regional Court of Lazio⁹⁴⁹ has recently pointed out that the carpooling service,⁹⁵⁰ which can be considered an alternative solution to scheduled PTSs, “*is currently living an experimental phase*”. According to such case-law, using this service is “*physiologically limited by several heterogeneous factors such as economic factors on the one hand, since this service is in return for payment and geographic factors on the other one*”.

In Italy, the carpooling service was promoted by the Ministry of Environment that on 27 March 1998 adopted a decree on sustainable mobility in urban areas (“**Decree on Sustainable Mobility**”).⁹⁵¹ According to Article 4(1) of Decree on Sustainable Mobility, in fact, Municipalities “*shall incentive organizations or companies to organize optimal services based on the collective use of vehicles, as well as they shall promote and sustain forms of shared-ownership of vehicles to be used by several users in return for payment which is proportional to kilometers and to the duration of the use*” (emphasis added). Under the following paragraph (2), such initiatives can be admitted only if “*optimal services based on the collective use of vehicles and shared-ownership use electric vehicles, hybrid vehicles, natural gas-powered vehicles and LPG vehicles holding devices intended for the abatement of pollution emissions*”.

That being so, the objective of such regulation is to rationalize the commuting trips, promote the use of collective public transport and endorse the introduction of innovative transport systems, such as demand responsive services.⁹⁵²

Later, it was adopted the Law No 340 of 24 November 2000⁹⁵³ according to which Municipalities can adopt “urban mobility plans” in order to increase, among others, “*the*

⁹⁴⁷ Justice of peace of Milan, judgment No 4907 of 2nd April 2015.

⁹⁴⁸ MAURIZIO BRUGLIERIA, DIEGO CICCARELLIB, ALBERTO COLORNIA and ALESSANDRO LUÈA, “*PoliUniPool: a carpooling system for universities*”, *Procedia Social and Behavioral Sciences* 20 (2011) 558–567, available at the following site <http://www.sciencedirect.com/science/article/pii/S187704281101442X>.

⁹⁴⁹ Regional Court of Lazio (Rome), judgement No 3666 of 3 March 2015.

⁹⁵⁰ It must be recalled that the judgement refers also to the car sharing and the bike-sharing services.

⁹⁵¹ Italian OJ No 179 of 3 August 1998.

⁹⁵² MAURIZIO BRUGLIERIA, DIEGO CICCARELLIB, ALBERTO COLORNIA and ALESSANDRO LUÈA, “*PoliUniPool: a carpooling system for universities*”, *Procedia Social and Behavioral Sciences* 20 (2011) 558–567, available at the following site <http://www.sciencedirect.com/science/article/pii/S187704281101442X>.

⁹⁵³ Italian OJ No 275 of 24 November 2000.

percentage of citizens which can be transported by collective systems using also alternative solutions such as carpooling and car sharing".⁹⁵⁴

On 3rd August 2007, the Ministry of Environment adopted the decree concerning funding program in order to improve the quality of the air and public transport services in urban areas ("**Decree of 2007**").⁹⁵⁵

Preliminary, it must be pointed out that purposes set in Article 1 of Decree of 2007 (*i.e.* the improvement of the quality of the air and public transport services in the urban areas) can be reached through the use of resources of the Fund for the Sustainable Mobility established by Article 1(1121) of Law No 296 of 27 December 2006.⁹⁵⁶

Among the initiatives that can be sustained by the economic resources of the Fund for the Sustainable Mobility, Article 2 of Decree of 2007 included also "*the improvement of services integrating and complementary to Scheduled PTSs, with particular reference to the development of carpooling systems [...]. Municipalities are entitled to facilitate the management of such service, its deployment within urban and suburban areas, inter-modality among transport services [...]*".

A most recent decree has been adopted on 1st January 2013 by the Ministry of Infrastructure and Transport concerning the deployment of Intelligent Transport Systems ("**ITSs**") in Italy ("**Decree ITSs**").⁹⁵⁷ Under Article 6(1), letter l), of Decree ITSs, actions within the priority areas described by such provision, which can be adopted according to the Directive 2010/40/EU,⁹⁵⁸ are intended to allow "*local bodies to create qualifying conditions for Smart Mobility in the cities developing politics intended for facilitate [...]* sustainable mobility systems such as [...] carpooling".

IV.3 Car sharing

As mentioned above, the car sharing service allows passengers to use a shared vehicle fleet parked on one or more parking areas near to users' point of presence.⁹⁵⁹ Even though such service is not currently governed by any law or regulation, it is of interest to mention the Decree on Sustainable Mobility that was the main and initial means to enhance and spread the car sharing service in Italy. As a matter of fact, according to the Decree on Sustainable Mobility, trade associations and companies are incentivized (also through public funds) to organize and operate the car sharing service.

On 26 January 2000, the Ministry of Environment entered into a Memorandum of Understanding with some of the major Italian Municipalities in order to set general criteria to be adopted during the promotion and the development of the car sharing as

⁹⁵⁴ ENRICA PAPA and ROSARIA BATTARRA, "*Integrazione trasporti territorio nei PUM: esperienze a confronto*", Vol. 3, No 1, March 2010 - pp. 29-36.

⁹⁵⁵ Italian OJ No 255 of 2nd November 2007.

⁹⁵⁶ Italian OJ No 299 of 27 December 2006. This Fund was set up also to support and promote the improvement of inter-modality among transport services.

⁹⁵⁷ Italian OJ No 72 of 26 March 2013.

⁹⁵⁸ Directive 2010/40/EU of 7 July 2010 *on the framework for the deployment of Intelligent Transport Systems in the field of road transport and for interfaces with other modes of transport*, OJ L 207 of 6 August 2010, pp. 1-13.

⁹⁵⁹ http://www.icscarsharing.it/main/doc/ics/libretto_illustrativo.pdf and <http://www.minambiente.it/pagina/il-car-sharing>.

an alternative mobility service. Later, with a public convention adopted in 2000 by several local public bodies⁹⁶⁰ pursuant to Article 30 of the Legislative Decree No 267 of 18 August 2000,⁹⁶¹ the aforementioned Municipalities adopted the “*Iniziativa Car sharing*” (“**ICS**”).⁹⁶²

By way of the ICS, the car sharing service should decrease the number of vehicles circulating in urban areas and relieve congestion in, reducing at the same time the surface occupied by parking areas and protecting the environment.

The ICS aims to facilitate users to access, park and circulate. To do so, local public authorities and bodies entered into the ICS have reserved traffic lines and several public parking areas to vehicles used to operate the car sharing service. In light of above, it must be pointed out that the Ministry of Environment has qualified the car sharing service as a public service.

The public nature of this service would seem to have been confirmed by an opinion adopted by the ICA in 2009.⁹⁶³ In that case, the ICA was required to assess if the Municipality (of Rome) infringed Article 23-bis of Law Decree No 112 of 25 June 2008 (“**D.L. No 112/2008**”)⁹⁶⁴ when it awarded the management of the car sharing service to its in-house’ operator (i.e. ATAC SpA).

It must be preliminary recalled that Article 23-bis of D.L. No 112/2008 set that a public administration may award ordinary the management of local public service to tenderers resulting successful after the launch of a public tender. Furthermore, such general principle can be exempted only because of specific economic, social, environmental and geo-morphologic characteristics of the territory at hand.

Having said that, the ICA affirmed that the Municipality infringed the aforementioned provision inasmuch as it did not prove the existence of such characteristics entailing the Municipality to award the management of the car sharing service to an in-house’ operator, without launching a competitive public bid. In the light of the foregoing, it seems possible to say that, since Article 23-bis of D.L. No 112/2008 concerns public services and the ICA considered such provision as infringed when the Municipality did not carry out a public bid to award the management of car sharing service, the public nature of the service is confirmed.

IV.4 The local regulation

IV.4.1 Milan

IV.4.1.2. The car sharing service regulation

⁹⁶⁰ Among others, it can be mentioned the following cities: Rome, Florence, Genoa, Milan, Turin, Venice and Naples.

⁹⁶¹ Italian OJ No 227 of 28 September 2000, “*Testo unico delle leggi sull'ordinamento degli enti locali*”.

⁹⁶² <http://www.icscarsharing.it/main/>.

⁹⁶³ Italian Competition Authority, opinion No AS603 - *COMUNE DI ROMA - GESTIONE DEL SERVIZIO DI CAR SHARING* of 7 August 2009.

⁹⁶⁴ Italian OJ No 147 of 25 June 2008. For the sake of completeness, it must be underlined that such disposition was repealed by Article 1(1) of Presidential Decree No 113 of 18 July 2011.

R.L. No 6/2012 governs the car sharing service which is identified as a service “complementary” to Scheduled PTSs.⁹⁶⁵ More in detail, Article 10(2), letter g), of R.L. No 6/2012 prescribes that the “Regional Planning for Mobility and Transports,”⁹⁶⁶ in order to identify and manage the mobility on the basis of the demand and the supply, includes the car sharing service into the “sustainable mobility” and identifies it a service complementary to Scheduled-PTSs.

Even though there are no electronic platforms at national level that are able to manage the car sharing service, the Municipality of Milan has adopted the mobility portal “Milano mobilità”⁹⁶⁷ where the main car sharing providers – such as Car2go, Enjoy, Share ‘Ngo, GuidaMi and E-vai – are aggregated.

Inasmuch as national laws or local regulations do not forbid operating the car sharing service even when carriers do not hold a specific licence (or authorisation), such provider can operate the service freely, participating in public tender procedures launched by the Municipality of Milan. Thanks to such procedure, the Municipality of Milan and the provider enter into an agreement whereby the provider is required to pay to the Municipality a flat-rate compensation per year of EUR 1,000 for each vehicle.

IV.4.2 Current regulations and legislative proposals

By way of the Opinion No 757/2015, the Supreme Administrative Court has upheld the “inappropriateness” of Law No 21/1992 that has been contested by the ICA.

On these grounds, the Supreme Administrative Court has sent the Opinion No 757/2015 to the President of Council of Ministers pursuant to Article 58 of the decree No 444 of 21 April 1942 (*i.e.* the regulation implementing the law concerning the Supreme Administrative Court) stating that “*when it appears that the current legislation is unclear, imperfect or incomplete, the Supreme Administrative Court reports to President of Council of Ministers*”. In other words, the Supreme Administrative Court has demanded an upgrading of Law No 21/1992.

In this context, it must be recalled that the real-time ridesharing service would have been regulated (even indirectly) by the Law Decree No 210 of 23 December 2015 (the so-called “**Decree Milleproroghe**”),⁹⁶⁸ but its adoption has been postponed by one year by the Ministry of Transport.⁹⁶⁹ More in detail, the Decree Milleproroghe would have had to adopt “*rules intended for avoiding the abusive exercise of the taxi service, i.e. a law intended for regulating (or limiting) Uber*” (emphasis added).⁹⁷⁰

⁹⁶⁵ Agenzia Mobilità Ambiente e Territorio of Milan, report, 29 January 2016, p. 6 ff.

⁹⁶⁶ http://www.trasporti.regione.lombardia.it/cs/Satellite?c=Redazionale_P&childpagename=DG_Infrastrutture%2FDetail&cid=12_13675975390&pagename=DG_INFWrapper.

⁹⁶⁷ <https://www.muoversi.milano.it/web/portale-mobilita-en/home>. It must be said that the mobility portal offers a service of geomobility that provides information about the real time traffic in the city. Such portal gathers all data concerning Scheduled and non-scheduled PTSs which are communicated by local bodies managing the mobility of the city.

⁹⁶⁸ Italian OJ No 302 of 30 December 2015.

⁹⁶⁹ <http://socialeconomy.mobi/2015/12/28/in-italia-potrebbe-slittare-di-un-anno-la-nuova-normativa-sul-ride-sharing/>;
<http://www.ilsole24ore.com/art/notizie/2015-12-23/in-consiglio-ministri-dl-milleproroghe-nuovo-rinvio-la-riforma-riscossione>
[155148.shtml?uuid=ACTP05yB](http://www.ilsole24ore.com/art/notizie/2015-12-23/in-consiglio-ministri-dl-milleproroghe-nuovo-rinvio-la-riforma-riscossione).

⁹⁷⁰ <http://m.repubblica.it/mobile/r/sezioni/economia/2015/12/24/news/milleproroghe-130094287/?rss>.

IV.5 National rules applicable to on-line platform and rules applicable to service providers

Swm previous paragraphs.

IV.6 Main operators and their business models

IV.6.1 Real-time ridesharing providers

With regard to the **real-time ridesharing providers**, as defined by the national authorities, BlaBlaCar Italia, Share the City Srl and UberPop (suspended) can be mentioned.

BlaBlaCar Italia provides the real-time ridesharing service since September 2012 and it operates in the Northern Italy and in the Middle of Italy. Currently, the cap for the fee that users are required to pay to BlaBlaCar Italia is set at 20%.⁹⁷¹

Uber Italy Srl: until 1 July 2015, Uber Italy Srl offered the service "UberPop". By way of two decisions ruling that UberPop violated the Article 2598, No. 3, of the Italian Civil Code,⁹⁷² and it created "unfair competition" damaging taxi operators, the *Tribunale Ordinario (Sezione specializzata in materia di impresa)* of Milan – i.e. the Commercial Court of Milan⁹⁷³ banned Uber Pop across Italy and, at the same time, prohibited "any service organized, spread and promoted by drivers operating without any licence / authorisation to provide, occasionally or periodically, a transport service in return for payment, with given journeys and duration".⁹⁷⁴ Even though Uber Italy Srl (and other parties)⁹⁷⁵ argued that Uber essentially a technology company and differs from a traditional taxi service provider because it limits its availability to users of its application (i.e. UberPop), and does not pick passengers up off the street, the Court considered Uber Pop illegal inasmuch as such platform allowed its drivers to operate without a licence / authorisation.

⁹⁷¹ According to the Italian Transport Regulator's report (p. 6).

⁹⁷² Article 2598 of the Italian Civil Code (*Acts of unfair competition*) sets that "Without prejudice to provisions concerning the protection of distinctive signs and patent rights, acts of unfair competition are carried out by anyone who: 1) uses names or distinctive signs capable of producing confusion with names or distinctive signs legitimately used by others, or slavishly imitates a competitor's product, or fulfills by any other means acts likely to cause confusion with the products and the activities of a competitor; 2) broadcasts information and evaluation about the products and the activities of a competitor, which may determine its disrepute, or steals the merits of the products or the company of a competitor; 3) directly or indirectly uses any other mean not comply with the principles of professional fairness and able to damage other people's company" (emphasis added).

⁹⁷³ Commercial Court of Milan, order of 25 May 2015 (register number (RG) 16612/2015); decision of 2 July 2015 (register number (RG) 35445/2015 and 36491/2015).

⁹⁷⁴ Commercial Court of Milan, order of 25 May 2015 *cit.* More in detail, both the decisions of the Commercial Court of Milan affirmed that UberPop played an intermediary role between the demand-side and the supply-side. Such role made UberPop similar to the "Radio-Taxi" service. According to the standpoint of the Commercial Court of Milan, the equivalence amongst UberPop and the "Radio-Taxi" service was proven by the aforementioned intermediary role, and it was not relevant that the "Radio-Taxi" service is provided by a call centre whereas Uber uses an application (i.e. UberPop).

Furthermore, the Commercial Court of Milan stated that Uber's conducts – intended to organize and stimulate the presence of abusive drivers – were strictly linked to the drivers' conducts infringing the law that governs the taxi service. In the view of the Commercial Court of Milan, such conducts were able to alter the market.

⁹⁷⁵ Uber International Holding BV, Uber Internationale BV and Uber BV.

IV.6.2 Carpooling/Car sharing providers

As regards **carpooling/car sharing providers**, a distinction must be made among:

- (i) public providers such as *Iniziativa Car sharing – ICS*;
- (ii) private providers such as Autostrade CarPooling, Car2go, Enjoy, Share 'Ngo, Bee and E-vai.

Before analysing some of the aforementioned providers, it seems be useful to recall a survey carried out by the Italian *Istituto nazionale di statistica* in 2012 and mentioned by the Italian Transport Regulator's report (p. 8):

	Disponibilità di autovetture (numero per 10.000 abitanti)	Densità di punti di prelievo e riconsegna (numero per 10 km ²)	Percentuale di abbonati rispetto agli abitanti (%)	Chilometri percorsi per abbonato (km)	Chilometri percorsi per abitante (km)
Torino	13	6,5	0,3	491,8	14
Genova	10	2,2	0,4	365,5	16
Varese	12	2,2	1,1	16,0	0,2
Como	12	2,7	0,3	103,1	0,3
Milano	10	4,4	0,1	127,2	0,1
Monza	0,2	0,6	0,1	155,9	0,2
Brescia	0,3	0,8	0,1	213,4	0,3
Pavia	10	1,6	0,5	61,7	0,3
Lodi	0,9	0,2	-	---	---
Cremona	0,4	0,1	-	---	---
Trento	0,9	0,4	0,1	1461,5	14
Venezia	1,6	0,4	1,4	219,6	3,1
Padova	0,5	0,9	-	409,2	0,2
Parma	0,9	0,5	0,2	587,5	0,9
Reggio nell'Emilia	3,0	-	0,1	2.821,8	17
Bologna	1,1	2,8	0,3	284,2	0,8
Firenze	0,8	2,1	0,2	---	---
Roma	0,4	0,6	0,1	504,3	0,5
Palermo	0,6	2,9	0,1	340,9	0,4

Fonte: Istat, Dati ambientali nelle città

ICS: ICS is a project aimed to introduce and promote the car sharing service in Italy and is financed by the Ministry of Environment in order to support economically and operatively cities and operators intended to implement and spread the car sharing service.⁹⁷⁶

Autostrade CarPooling: Autostrade CarPooling⁹⁷⁷ is an example of an advanced post-it board service, organized by the concessionaire of the highways between Milan, Como and Varese (*i.e. Autostrade per l'Italia S.p.A.*), which proposes a fare discount for carpoolers driving on highways. Such initiative involves customers who use to travel the A8 and A9 highways daily from Como and Varese to Milan and back, both helps to reduce levels of pollution and to improve traffic flow on a particularly busy road affected by construction work. The CarPooling project includes a web platform to facilitate the matching of supply and demand, dedicated track toll and a discount for cars carrying at least four people. More in detail, vehicles carrying at least 4 passengers will have a

⁹⁷⁶ ICS is the manager of funds provided by the Ministry of Environment in order to offer concrete benefits to the cities interesting to develop and spread the car sharing on their territory. In particular, ICS provides to these cities, among others, legal and technical assistance, assistance for car sharing projects and systems, communication and promotion services, call centre services, provides technologies necessary to manage the vehicle fleet and the service.

⁹⁷⁷ www.autostradecarpooling.it; <http://csr-academy.org/en/projects/Implementing-Solutions-to-Optimize-Energy-Consumption-and-Fight-Climate-Change.php>.

reserved lane at the Milano Nord toll station and pay a discounted toll fee from Mondays to Fridays.

EnJoy: EnJoy⁹⁷⁸ is a car sharing service developed by EniS.p.A. ("Eni") in partnership with Fiat,⁹⁷⁹ which provides the fleet of cars destined for the car sharing service in Italy, and Trenitalia.⁹⁸⁰ According to the EnJoy "Car-sharing Terms and Conditions",⁹⁸¹ users are required to register⁹⁸² and enter all the data required in the electronic form available on the website⁹⁸³ and to select the designated key for registering with the service, without the need to physically sign a hard-copy of the proposal.⁹⁸⁴

Once the vehicle has been identified, registered users have the right to book and rent the car through website or the app. The booking lasts no more than 90 minutes - of which the first 15 minutes are free of charge and the following 75 are charged from the sixteenth minute with a per-minute charge. The payment method allowed is the credit card or pre-paid credit card registered by users in their profile during the registration procedure. The amount due for the rental is charged at the end of the service.⁹⁸⁵

Car2go

Car2go⁹⁸⁶ is a subsidiary of Daimler Group⁹⁸⁷ providing [car sharing](#) services in European and North American cities. To use car2go, users are required to register (they are required, for example, to provide name, email address and driver licence data, to choose username and password) and to access the personal account. In order to find a free vehicle, users can access the website, use the smartphone [application](#) (Car2go moovel

⁹⁷⁸ <https://enjoy.eni.com/it/milano/home>.

⁹⁷⁹ According to Eni's press release (http://www.eni.com/en_IT/media/press-releases/2013/12/2013-12-16-enjoy.shtml), "The red 500 and 500L cars chosen for Enjoy belong to the international family of the Fiat brand of cars. With more than 1,200,000 registrations since the launch date, and with more than 80% of sales outside the country, the 500 family has helped export the "made in Italy" concept across the world. These are beautiful cars, which are compact, fun to drive and respectful of the environment and the cities in which they operate. An ideal solution for the Enjoy service, the Fiat 500 and Fiat 500L cars represent an example of the ongoing commitment of the Fiat Group to the production of cars that are increasingly sensitive to environmental issues. Such advancements have been made through research, development and the dissemination of effective and affordable technological solutions. Unsurprisingly, Fiat was confirmed as the brand with the lowest level of CO2 emissions in Europe for the sixth consecutive year in 2012, with an average value of 119.8 g/km. With the 500 and 500L cars, Fiat supports the mobility model proposed by Enjoy for those who need a car in urban centers. The Fiat brand will also offer important co-marketing initiatives to the Enjoy service".

⁹⁸⁰ According to Eni's press release (http://www.eni.com/en_IT/media/press-releases/2013/12/2013-12-16-enjoy.shtml), Trenitalia, with the Frecciarossa logo on the cars, is the main partner of Enjoy and offers the train as a natural complement to move at high speed between one urban center and another, the perfect combination for those who want to travel fast, in comfort, with convenience and the utmost respect for the environment. For Trenitalia the whole "chain of travel" is green, not only the time spent on the "Freccie". By the end of the year passenger numbers will reach 42 million (+5.2% compared to 2012). Ferrovie dello Stato Italiane is working on a new model of efficient and integrated mobility to turn more and more individual transport methods into a collective and shared mobility, similar to the example of car sharing".

⁹⁸¹ <https://enjoy.eni.com/en/milano/downloads>.

⁹⁸² EnJoy's Car Sharing Regulations at the following website <https://enjoy.eni.com/en/milano/downloads>.

⁹⁸³ <https://enjoy.eni.com/en/milano/signup/intro>.

⁹⁸⁴ The registration procedure establishes that users provide some compulsory information such as, for instance, driving licence country of issue, data to access the reserved area on the website and the app (email and password); personal details, billing information. Registered users can find a vehicle using the website or the app. All vehicles are geo-localized through GPS signal and are traced by Eni, even when are in use. Free and bookable vehicles are located in permitted car parks on public land or in car parks made available by Eni within the service coverage area where the car sharing service is active. See the EnJoy's Car Sharing Regulations at the following website <https://enjoy.eni.com/en/milano/downloads>.

⁹⁸⁵ EnJoy's Car Sharing Regulations at the following website <https://enjoy.eni.com/en/milano/downloads>.

⁹⁸⁶ <https://www.car2go.com/it/milano/>.

⁹⁸⁷ <https://www.daimler.com/>.

GmbH) or simply find a car parked on the street. The reservation of a vehicle can be made up to 30 minutes before in advance. Car2go allows unlimited flexibility to get around the city, with no monthly fees. Users pay only the registration fee of EUR 19.00 to activate the personal account. The rates are: EUR 0.29 per minute, EUR 14.90 per hour, EUR 29 for 3 hours (until 31.3.2016) and EUR 59.00 per day, fuel, insurance, and parking.

IV.7 Requirements imposed upon non-licensed activities (safety and technical requirements, insurance requirements, obligations relating to licences and on-line platforms)

There are no specific requirements imposed by the legislation on the non licensed activities.

IV.8 Local incentives, subsidies and other forms of promotion for ridesharing and car sharing (including, parking spots, use of preferential lanes, etc.)

See s. IV.3.1

V. Relevant national case law

Please see the previous paragraphs.

VI. Country Market

➤ *Taxi services: relevant product market*

In Italy, there are no decisions explicitly defining the relevant markets. This may confirm that taxis and hire cars with drivers belong to separate product markets or, in case of pre-booked rides, the same product market.

A recent report from the Italian Competition Authority, adopted in 2014, advocates the need to promote competition between taxis and hire cars with drivers.⁹⁸⁸ The Authority highlights “the need to abolish the anti-competitive elements that discriminate between taxi and hire car with driver’s services with the prospect of a full substitutability between the taxis and hire cars with drivers”. In addition, it underlines “the desirability of further convergence and interchangeability of the two services”. This appears to indicate, albeit implicitly, that there is, at present, a limited interchangeability between the two. In its report, the Authority does not explicitly define the relevant product and geographic markets. The Italian Competition Authority’s view is also shared by the Italian Transport Regulator. In an opinion to the Italian Government and Parliament, the Italian regulator *inter alia* stresses need for more competition between taxis and hire cars with

⁹⁸⁸ ICA AS1137 - PROPOSTE DI RIFORMA CONCORRENZIALE AI FINI DELLA LEGGE ANNUALE PER IL MERCATO E LA CONCORRENZA ANNO 2014, 4 July 2014, p. 45.

drivers,⁹⁸⁹ without, however, confirming or rejecting the view that taxi and hire car with driver belong to the same product market.⁹⁹⁰

Some clarifications emerge from the Italian Courts' case-law. A judgment of the Genoa Tribunal made a distinction between the taxi and hire car with driver services. This distinction was made in the context of a petition to remove a fine imposed to an Uber driver by the municipal police for having provided the service in violation of Article 86 of the Italian *Codice di Strada*, which provides sanctions for the offence of carrying out an abusive taxi service in the absence of a licence to do so.⁹⁹¹ In this judgment, the judge refers to the transport service facilitated by the Uber platform as a hire car with driver service and the Uber activity was considered in direct competition with the radio-taxis.⁹⁹²

➤ *Taxis: relevant geographic market*

On the geographic dimension of the market, the Italian Transport Authority switches the focus from municipal areas to regional areas, considering inter-regional agreements focused on the operability of taxi and on an inter-regional basis.⁹⁹³ However, the taxi market still has a local dimension (municipal or broader in the greater areas).⁹⁹⁴

➤ *Hire cars with driver: relevant product market*

In its decision N. 19863 I717, *Transcoop – Servizio Trasporto Disabili*, defines the market for the provision of NCC services for persons with reduced mobility as in principle a separate market from the relevant product market for the provision of the hire cars with drivers.⁹⁹⁵ In that same decision, ICA identifies a broader market for "transport of persons through a private hire car with driver in the province at stake."⁹⁹⁶

The above is also confirmed in ICA's decision no. 21162 to close the investigation concerning the same case I717, *Transcoop – Servizio Trasporto Disabili*. In that decision, ICA rejects the argument that the relevant product market could be broadly defined as comprising the offer of services of public transport of passengers. Therefore, ICA delimits

⁹⁸⁹ Italian Transport Regulator, "Atto di segnalazione al governo e parlamento sull'autotrasporto di persone non di linea: taxi, noleggio con conducente e servizi tecnologici per la mobilità", 21 May 2015, p. 5.

⁹⁹⁰ "Concerning NCC, the Authority shares the need – already pointed out by the ICA – to reduce the differences between the various areas of urban transport in order to increase the competition between taxi and NCC services and to reduce some costs, including environmental costs". *Id.*, at p. 5.

⁹⁹¹ Justice of peace of Genoa, judgment Nos 8135 of 16 February 2015; 509 of 2 February 2015. The relevant service provided was UberPOP. In that judgment, the Genoa Giudice di Pace cancelled the fine given to a driver registered in the Uber portal who had been fined by the municipal police of Genoa, because he was allegedly working as a taxi driver without having the necessary license, thus committing the offense under Article 86, paragraph 2, of the Italian *Codice della Strada*.

⁹⁹² Justice of peace of Genoa, judgment of 16 February 2015, I 1845, p. 3. The judge additionally considers that Article 86 of the *Codice di Strada*, while relates to taxis, is not applicable. The same Genoa judge also explains that the clientele for taxi services is casual since these taxis do not accept pre-booking, but only on the spot calls. It contrasts the NCC service which is directed at satisfying the needs of a specific clientele, unlike the taxi service, directed at an undifferentiated clientele.⁹⁹² In addition, according to the Genoa judge, similarly to the NCC service, where the tariff is agreed upon between the consumer and the service provider, the platform app allows the rental of a car with driver and the agreement on the tariff before the trip is carried out.

⁹⁹³ Atto di segnalazione al governo e parlamento sull'autotrasporto di persone non di linea: taxi, noleggio con conducente e servizi tecnologici per la mobilità, 21 May 2015, p. 5.

⁹⁹⁴ Reply to the stakeholder consultation, 29 January 2016.

⁹⁹⁵ Italian Competition Authority decision to open an investigation adopted on 14/05/2009. *Id.*, at paras. 23 to 29.

⁹⁹⁶ *Id.*, para. 28.

the relevant product market at stake to the “offer of services of transport to disabled and persons with reduced mobility”.⁹⁹⁷

The service of school transport through has been considered by the ICA as a distinct market from the general market of public urban transport.⁹⁹⁸ More specifically, the ICA, in a case concerning some anticompetitive practices carried out by some operators in the Rome Municipality, defined the market as narrowly as “*servizio di trasporto scolastico nell'ambito del Comune di Roma*” (service of school transport in the Rome Commune).

➤ *Hire cars with driver: geographical market*

The scope of the service is local (and can extend as far as the whole province): In the abovementioned decision N. 19863 the ICA observed, on the relevant geographical market for hire transport for people with reduced mobility, that “*from the geographical standpoint, considering the characteristics of the demand and supply, and, more specifically, the costs that the operators must bear to perform their activity in an area far from where they are allowed to stand when not providing the service, suggests the market at stake has a local dimension, and it tends to be limited to the territory of the relevant province.*” This was also confirmed in the subsequent decision N. 21162.⁹⁹⁹

A report was recently adopted by the ICA concerning the Rome Municipality’s anticompetitive behaviour in restricting hire car with driver access to Rome metropolitan area through a burdensome (and discriminatory) information process imposed to operators which have obtained their authorisations from other municipalities of the Lazio Region. It appears from this Report (“Segnalazione”) that:

- a) From the restrictions imposed by the Rome Municipality, which were considered as anticompetitive territorial restrictions, it can be inferred that hire cars with drivers’ from different municipalities compete among themselves. (which in turn may indicate they would be part of the same market, albeit this is not confirmed explicitly by the ICA);¹⁰⁰⁰
- b) Hence, the geographical dimension of the market is local, perhaps larger than municipal.

In a similar fashion, Regional Court of Lazio (Roma) talks about the local dimension of the hire car with driver service in the context of a recent judgment on the restrictions for the service of a hire cars with drivers provider in the Grottaferrata Municipality . More specifically, the judge observes: “*The NCC service is a local public service, aimed at first satisfying the needs of the local community and those who find themselves in the territory of the commune, despite this is not to be carried out in an exclusive fashion. The service can indeed be provided without territorial limitations. The local dimension of the service, therefore, needs to be preserved; and this is done by a national and a regional law which require that the obligation of departure and return after the ride within the place where the NCC can stand, located within the commune, which grants the authorisation, and the obligation to use such stand*” (emphasis added).¹⁰⁰¹

⁹⁹⁷ *Id.*, para. 84

⁹⁹⁸ Decision to close an investigation n. 4304 (I 196) NOLEGGIO AUTOBUS SCOLASTICI, adopted on 10/10/1996, para. 15.

⁹⁹⁹ See para. 84. Also see paras. 93-95: the evidence pointed out at the majority of the activity in economic terms as being carried out inside the relevant municipality.

¹⁰⁰⁰ AS – Comune di Roma – Accesso nel territorio comunale dei veicoli NCC autorizzati da altri comuni, Roma of 22 April 2015

¹⁰⁰¹ Regional Court of Lazio (Roma), Section Second *ter*, judgement No 5165 of 8 April 2015.

The administrative judge rejected the plaintiff's argument, an hire car operator, that the obligation to depart and return, after the ride, to the garage located within the municipality granting the authorisation, was anti-constitutional. Yet another administrative judge, the Regional Court of Lombardia (Milan) session, in a previous judgment considered, however, that the obligation to "return to garage" in the municipality municipality where the authorisation has been granted, was unlawful.¹⁰⁰²

Regardless of the fact that the authorisations are municipal, hire car with driver authorisations can be cumulated, and in this way, an operator can provide the service in the national territory.¹⁰⁰³ Notwithstanding the possibility to cumulate the authorisation, however, the abovementioned decisions appear to suggest that the hire car with driver service cannot be reconstructed as presenting a national dimension.

From the demand-side, if users are mostly local, as emerged from the abovementioned decisions, the marginal consumer (whose behaviour is to be taken into account for the purpose of market definition) could find hire car with driver services provided by operators from other regions as non-substitutable. An opinion of the Supreme Administrative Court, considers the users of hire car with driver services (as clients asking specifically for this type of service) separate from the users of taxi services.¹⁰⁰⁴ From the supply standpoint, the costs mentioned in the abovementioned decision show that, albeit it is theoretically possible to provide the hire car with driver service also in another municipality than the one which has granted the authorisation, the costs borne by the operators were they to offer long distance rides may point at the market having a local, provincial, dimension.

➤ *Services provided by digital platforms: relevant considerations*

In a recent opinion adopted on 23.09.2015, ICA has qualified "UberBlack a digital platform which puts into contact the demand, on the one hand, and the drivers having an NCC authorisation, on the other hand"¹⁰⁰⁵. In the same opinion it considers, however, that for hire cars with drivers' operators offering their services through the digital platform, the obligations on the hire cars with drivers operators in the light of the Law 21/92 are ill-fitting Uber's situation.¹⁰⁰⁶ In that opinion, ICA suggests "an interpretation of the laws regulating limo service in Italy, according to the general principle of freedom of economic activity (Article 41 of Italian Constitution)."¹⁰⁰⁷ In addition, it considers that "New legislation is required in order to (lightly) regulate the non-scheduled transport services offered by digital platform".¹⁰⁰⁸

On the contrary, a judgment of the Genoa Tribunal adopted in February 2015, militates in favour of the argument that the service offered by Uber is akin to a hire car with driver service and that the hire car with driver discipline applies. In that judgment, the Genoa *Giudice di Pace* has observed that "the transport of a passenger obtained through

¹⁰⁰² Decision of the Regional Court of Lombardia (Milan) session, adopted by the president on 10 October 2013, and confirmed by the College with Order n. 1131 of 23 October 2013.

¹⁰⁰³ In addition, see Law No 21/1992, Article 11(4) which provides that "the pick-up and arrival destination of the customer also occur in other communes". Also see judgment of the Italian Supreme Court, N. 22296/10, where an NCC driver can lawfully pick up a customer calling from another Comune.

¹⁰⁰⁴ Opinion No 757/2015 and published with No 03586/2015 on 23 December 2015, pp. 7 and 8.

¹⁰⁰⁵ These are called by the Italian Transport Regulator "Servizi digitali per la Mobilità".

¹⁰⁰⁶ AS122, Legge Quadro Per il Trasporto di Persone Mediante Autoservizi Pubblici non di Linea, 29 September 2015.

¹⁰⁰⁷ A. Noce, The Impact of competition law on e-commerce and the sharing economy, 20 November 2015, <http://www.aedc.es/wp-content/uploads/2016/01/Panel-5-A-Noce-madrid-20th-november-20151.pdf>.

¹⁰⁰⁸ AS122, Legge Quadro Per il Trasporto di Persone Mediante Autoservizi Pubblici non di Linea, 29 September 2015, p. 3.

*the phone contact of a customer with the Uber platform constitutes a hire car with driver service provided (upon a fee agreed upon between the customer and the provider), which is described under Articles 3 and 13 of Law L.21/92".*¹⁰⁰⁹

Another interesting qualification of the peer-to-peer ridesharing service as akin to a hire car with driver is found in the abovementioned 2015 opinion of the Supreme Administrative Court, according to which¹⁰¹⁰ this type of service is demanded by a specific clientele, which is qualified and decides to share its data and needs with the platform, which benefits from the service given by individuals (drivers) who do not have a contractual relationship with the clients.¹⁰¹¹ Therefore, the judge qualifies this service, similarly to the hire car with driver service, as private non-scheduled transportation ("trasporto privato non di linea"), which is separate from taxi services.

➤ *Conclusions*

As to the taxi services,¹⁰¹² they have the legal monopoly concerning rides through hailing. From a geographic standpoint the market dimension of the hailing is limited to the municipal territory.¹⁰¹³ As to hire cars with drivers, they are in competition with radio taxi¹⁰¹⁴ and they present a local dimension (however potentially broader than municipal).¹⁰¹⁵

VII. Market players

With regard to the taxis and hire cars with drivers, the majorities of the taxi operator are self-employed persons operating individually or organized in cooperative companies. This is also due to the Italian legislation which allow the issue of the licence to an individual person and which prohibits to issue more than one licence per person. This requirement does not apply to hire car authorisations; therefore a single company may have more than one licence and employs drivers.

➤ *Taxi intermediaries*

Radio taxi: the majority of the radio taxi/dispatch enters belongs to the cooperatives companies founded by the holder of the licence which may also operate the dispatch centre service. In Rome, the most important cooperative is Radiotaxi 3570, which counts 3700 affiliates, whereas in Milan it is the company Yellow Taxi Srl, which coordinates the

¹⁰⁰⁹Justice of Peace of Genoa, judgment of 16 February 2015, I 1845.

¹⁰¹⁰Opinion No 757/2015, adopted on 25 November 2015, and published with No 03586/2015 on 23 December 2015, pp. 15 ff.

¹⁰¹¹*Id.*, p. 17.

¹⁰¹²According to the Milan Civil Tribunal judge (Tribunale di Milano, Sez. Specializzata in materia d'impresa, Ord. 25 maggio 2015 – Giud. Marangoni – Taxiblu S.C. e altri c. Uber International B.V., Uber Italy S.r.l. e altri), in an order rendered in May 2015, the "taxi service is addressed at an undifferentiated clientele, foresees stationing in a public area, tariffs and service shifts which are determined by administrative provisions. In addition, for taxis, the provision of the service is compulsory (see Art. 2 of Law No 21/1992)". Also see Council of State Opinion, Sect. 1, n. 03586/2015.

¹⁰¹³For taxi services in general, the Italian transport regulator has acknowledged that the market can be broader than the commune. Reply to the stakeholder consultation, 29 January 2016.

¹⁰¹⁴In this sense, also see 2015 Report of ASPL Roma Capitale, p. 227: "Regardless of the differences in the regulation applicable, the NCC *de facto* play a role which at least in part is substitutable or interchangeable with the role of taxis."

¹⁰¹⁵According to the Italian Transport Regulator, they encompass a market of local dimensions, typically coinciding with the commune territory or broader than the commune. Reply to the stakeholder consultation, 29 January 2016.

services provided by 1500 taxi drivers and operates through the radiotaxi service 026969.¹⁰¹⁶ According to one stakeholder in, 90% of the Milan taxis use a radio taxi to connect with clients seeking the service.

Taxi apps: There are several apps, such as Digitaxi, Taxiclick, Cabeo, EZTaxi, itTaxi.¹⁰¹⁷ There is also Mytaxi, of the Daimler Group, which has recently penetrated the Italian market in late fall 2015, and is active in the Milan area: this is a service which is complementary to the radio-taxi, similarly to the apps recalled above. According to one stakeholder in the taxi sector, the apps are increasingly used for bookings both in the national territory and in Milan.

➤ *Hire cars with driver*

There is no concentration on the supply side. Hence, it is difficult to identify prominent players. According to the Italian Transport Regulator, UberBlack falls within the hire car with driver category. AniTrav is the major association representing the interests of the hire car with driver operators.

➤ *Intermediaries*

Uber Black is present in Italy in Rome and Milan. UberBlack drivers hold an hire cars with drivers authorisation.

UberPOP was active until July 2015 (in Rome, Milan, Genoa and Padua), but in 2015 an Italian Milanese judge banned this service throughout the whole Italian territory.

eZdriver (in collaboration with the Milan Politecnico) is an app whose drivers also hold an NNC authorisation.

➤ *Carpooling*

There are several players:¹⁰¹⁸ (i) BlaBlacar, which is active in Italy since 2012 and is mainly present in the North and Center regions. Blablacar is present on long distance and only for some traits, a 20% commission is applied (source: BlaBlacar Italy, 2015); (ii) Share the City srl, which manages the Zego Platform, a form of urban carpooling. Zego puts together the drivers who wish to cover their costs and the passengers and withholds a 20% commission fee. It is currently present in Milan, Genoa, Padua and Turin.

➤ *Car sharing*

Typically, the operators have a public nature and have been developed by public territorial organs.¹⁰¹⁹ There are however car sharing operators of a private nature, too.

¹⁰¹⁶ Reply of Italian Transport Regulator to the stakeholder consultation, 29 January 2016.

¹⁰¹⁷ Reply of Italian Transport Regulator to the stakeholder consultation, quoted.

¹⁰¹⁸ Reply of Italian Transport Regulator to the stakeholder consultation, quoted.

¹⁰¹⁹ Reply of Italian Transport Regulator to the stakeholder consultation, quoted.

The main ones at a national level are EnJoy (of the ENI Group, in collaboration with Trenitalia and Fiat), Car2go (of the Daimler Group) and Car Pooling (of the Autostrade Group).¹⁰²⁰ Other players are Share 'NGO (of the CS Group), Bee (Bee-Green mobility sharing, of the society NHP), E-vai (SEMS Srl, *Servizi Mobilità sostenibile*).

In Rome, the major operators are Car2Go and Enjoy and there are 1200 vehicles (Smart and Fiat 500).¹⁰²¹ It is possible to park in another spot than the one where the vehicle was taken thanks to the geo-localization (in Italian, "car sharing a flusso libero").

This can be distinguished from the traditional car sharing, which is aimed at reaching a specific, more regular clientele which chooses to use the car for an entire day.¹⁰²²

VIII. Barriers, limitations, incentives

In Italy, barriers are mainly due to:

- (i) The cost of the licence and/or technical requirements of the vehicle;
- (ii) The exam to obtain the certificate of professional ability required for the licence (and the consequent subscription in a register of the Chambers of Commerce and Industry).

The licenses are tradeable under certain conditions. According to the Italian Transport Regulator, the value of the licence varies according to the city. In Milan and Rome their value is higher compared to other cities; however, the Italian Transport Regulator does not have historical data. The primary market also shows that licenses are traded at a price, such as in Bologna, where in 2008 the Municipality recorded the transfer of 23 licenses for accessible taxis at a cost of EUR 150,000 and 18 special residential licenses for a cost of EUR 125,000.¹⁰²³

In Turin, the value of the licence transferred amounts to EUR 100,000/160,000.¹⁰²⁴ In Milan, the indicative value of a licence ranges between EUR 150,000 and 160.000.¹⁰²⁵

One respondent to the stakeholder consultation in the hire car with driver sector has confirmed that the costs of acquiring an authorisation are very high, amounting to several hundred of thousand euros. According to this participant, the costs vary depending on the municipality in which the authorisation was granted. For hire cars with drivers the maintenance of the vehicle and depreciation must be factored in: according to one participant to the consultation, for a vehicle that travels 30,000 km per year this cost is around EUR 18,000.

➤ *Incentives*

¹⁰²⁰ Reply of Italian Transport Regulator to the stakeholder consultation, quoted.

¹⁰²¹ Reply of Italian Transport Regulator to the stakeholders consultation, quoted, and 2015 Annual Report on the state of the local public services and the carried out activities, Chapter VIII, Transport and Mobility, available at: <http://www.agenzia.roma.it/home.cfm?nomepagina=relazione> (hereinafter, 2015 Report of ASPL Roma Capitale), p. 221

¹⁰²² *Id*, p. 221

¹⁰²³ www.assotaxi.it/sistema/bacheca_form.php.

¹⁰²⁴ Reply of the Turin administration to the stakeholder consultation.

¹⁰²⁵ Reply of the Milan administration to the stakeholder consultation.

The Italian Transport Regulator has indicated that both taxi and hire cars with drivers' categories benefit from a reduction of the fiscal obligation due on the fuel consumed to provide the service. This benefit is granted by the Italian State. In addition, Share 'Ngo, a service of electric car sharing, benefits from lower tariffs. This service is personalized, and includes free tariffs for women traveling between 1 and 6 am. It is present in Milan and Florence.¹⁰²⁶

Further incentives are foreseen at a local level and are applied by the municipalities; they include reductions on tariffs for certain specific categories of users.¹⁰²⁷ In Rome, a 10% on the applicable tariff is applied with respect to the rides to the hospitals,¹⁰²⁸ and reductions are foreseen for ladies travelling alone during night hours or for young people over the weekends at night, subject to agreement with the concessionaires of public transport.

The Agency for the control of the quality of public services of the Rome Capital has also specified in its 2015 report that incentives are granted to whoever wishes to use less polluting cars. These are granted at a local level.¹⁰²⁹ In Rome specific incentives are granted with respect to car sharing.¹⁰³⁰

The Milan administration granted incentives to 24 taxis specialized in the transport of disabled persons (EUR 10,000 per each vehicle), in addition to 20 vehicles expressly aimed at transporting PRM.¹⁰³¹ No incentives are granted to the various types of service (taxi, hire cars with drivers, car sharing) at a local level in Milan.¹⁰³² The *Direzione Mobilità* is competent for the possible incentives granted at a local level.¹⁰³³

In general, the 2015 Report confirms that, in order to foster the use of car sharing, many Italian cities (e.g. Milan, Palermo) have lowered the subscription fees to use the service. By contrast, in Rome the subscription fee has increased by 20%.¹⁰³⁴

X. Capacity, growth, impact

➤ Taxi

The total number of taxi operators in Italy is **28.500**.¹⁰³⁵ According to the Italian Transport Regulator, the local markets which are most prominent are Rome Capital City (**7705** Licences for taxi services, data from 2015) and Milan (**4855** licences for taxis, data from 2015).¹⁰³⁶ The Italian Transport Regulator has carried out a research gathering the municipalities' data on the number of licences granted for a significant number of Italian cities.¹⁰³⁷ These are the aggregate values:

¹⁰²⁶ <http://support.sharengo.it/>.

¹⁰²⁷ Reply of Italian Transport Regulator to the stakeholder consultation.

¹⁰²⁸ 2015 Report of ASPL Roma Capitale, p. 230.

¹⁰²⁹ DGCA 269/2012.

¹⁰³⁰ These comprise: free parking in areas where they can be exchanged and also in paying parking areas, free access and circulations in areas of the city where the traffic is limited, as well as circulation in preferential lanes, lanes where it is not possible to circulate and in the days where the circulation is limited.

¹⁰³¹ Reply of the Milan administration to the stakeholder consultation.

¹⁰³² 2015 Report of ASPL Roma Capitale, p. 224, which confirms that Milan has in the last year reduced the subscription fee to use the service by 50%.

¹⁰³³ Reply of the Turin administration to the stakeholder consultation.

¹⁰³⁴ 2015 Report of ASPL Roma Capitale, p. 224.

¹⁰³⁵ Source: Motorizzazione Civile, MIT, 2015.

¹⁰³⁶ Reply to the stakeholder consultation, quoted. In Milan there are currently 24 taxis for PRM transport and additional 20 taxi vehicles for PRM transport will be put in circulation soon.

¹⁰³⁷ Reply to the stakeholder consultation.

- 2010: 19788;
- 2011: 19791;
- 2012: 19791;
- 2013: 19785;
- 2014: 19783;
- 2015: 19783.

The number of licences in the cities covered by the Italian Transport Regulator study remained steady over the last six years.¹⁰³⁸ Between 2014 and 2015 there was no variation for the cities part of the sample, with the exception of **Florence**, where there is a procedure for the number of licences to be increased.¹⁰³⁹

In **Rome**, at the end of 2014, there were 7705 valid, currently operating taxi licences. This number is 40% higher than in Milan. However, according to the Agency for the Control and Quality of local public services of the Rome Capital, most of the taxis work outside the communal area, especially in the presence of airports which are far from the city, as is the case for Malpensa.¹⁰⁴⁰ From the replies obtained from the Italian Transport Authority it is estimated that no new licences were granted in 2015 in Rome: indeed in 2015, this number was also 7705.¹⁰⁴¹ For Rome, some data are publicly available in the 2015 annual Report of the Agency for the Control and Quality of local public services of the Rome Capital.

The Agency has elaborated the number of licences for taxis available in 2015 (in Milan and Turin the numbers coincide with those that were communicated to us by the responsible administrations):¹⁰⁴²

- Naples: 2376;
- Palermo: 320;
- Genoa: 868;
- Bologna: 640;
- Firenze: 654 and other 22 supplementary licences used when the demand is extraordinarily high or as substitutes if the vehicles having a regular licence cannot circulate;
- Bari:¹⁰⁴³ 153.

In Turin, there are currently 1505 taxi licences.¹⁰⁴⁴ The Turin administration has confirmed to us that no new licences have been issued. In Turin, the taxi licences transferred between 2011 and 2015 were: 2011 (49); 2012 (33); 2013 (39); 2014 (33); 2015 (42).¹⁰⁴⁵

In **Milan**, no new licences were issued in the years 2010-2015. The number of taxi licences transferred between 2010 and 2015 has been as follows: 2010 (191);

¹⁰³⁸ Reply of Italian Transport Regulator to the stakeholder consultation.

¹⁰³⁹ 70 taxi licences and 30 temporary licences for Florence. However, the number of taxis circulating does not appear to match the number in relation to which licences are currently available. For example, in the peak hours, from 8.00 to 14.30 there were 3853 taxis circulating. See 2015 Report of ASPL Roma Capitale, p. 229.

¹⁰⁴⁰ 2015 Report of ASPL Roma Capitale, p. 227.

¹⁰⁴¹ Reply to the stakeholder consultation, quoted.

¹⁰⁴² *Id.*, at p. 232

¹⁰⁴³ Data from 2014.

¹⁰⁴⁴ Reply of the Turin administration to the stakeholder consultation. In the 2015 Annual Report on the state of the local public services and the carried out activities it is mentioned that this is a data from 2014.

¹⁰⁴⁵ Reply of the Turin administration to the stakeholder consultation.

2011(164); 2012 (13); 2013 (165); 2014(168); 2015 (174). Additionally, the Milan administration has clarified that the licence can also be leased and the cost is around EUR1,500/1,600.¹⁰⁴⁶ The cost of management of a second licence is around EUR1,000/2,000 on a monthly basis. According to one stakeholder, the price of transferring a licence in Milan against consideration amounts to an average of EUR 150,000.¹⁰⁴⁷

Statistics on fares

At a national level, there are usually fixed fares to and from the airports. The fares to and from the Milan airports are fixed on the basis of an agreement between the Lombardia Region, the Local administrations of the municipalities in the airport areas and the representatives of taxi companies.¹⁰⁴⁸ As of 22/12/2015, they are as follows:

- Milan (any departure) / Malpensa: EUR 95,00¹⁰⁴⁹
- Malpensa / Fiera Polo esterno (Rho) EUR 65,00
- Malpensa / Linate EUR 105,00
- Varese / Malpensa EUR 65,00
- Linate / Fiera Milano (Rho) EUR 55,00.

Therefore, there are fixed tariffs to and from the city to Fiera Milano (where Expo was held in 2015). Whether the Milan airport taxi services are a separate market needs to be corroborated by the stakeholders to the consultation. In Milan, according to one stakeholder to the consultation, it is possible to use collective taxis with a tariff which is 30% lower, but this service is not particularly popular among clients.

Rome has predetermined tariffs to the Rome airports.¹⁰⁵⁰ These are set in a regional Decree adopted in 2012.¹⁰⁵¹ Further information on the legislative framework will be asked to the Municipality of Rome in the follow up to the consultation.

Tariffs are set by municipalities, and are usually progressive.¹⁰⁵² The tables below, taken from the 2015 Report of the Agency for the Control and Quality of local public services of the Rome Capital, show the cost of the taxi services in major Italian cities in 2015, and also compare tariffs between certain European capitals.

Table 1 Cost of taxi in the major Italian cities (2015)

City	Fixed tariff at departure (EUR)	Tariff for initial ride time (EUR/h)	Initial tariff per km (EUR/h)	Extraurban tariff for km (EUR/km)	Supplements (EUR)	Cost of a Radio Taxi call (EUR and/or at the start of the

¹⁰⁴⁶ Reply of the Milan administration to the stakeholder consultation.

¹⁰⁴⁷ Reply of a stakeholder to the stakeholder consultation.

¹⁰⁴⁸ Deliberation of Milan Region N. X/710 of 20/09/2013 and, more recently, Deliberation of Milan Region N X/2030 of 01/07/2014.

¹⁰⁴⁹ See most recently, Deliberation of Milan Region N. X/4591 of 17/12/2015:

<http://www.trasporti.regione.lombardia.it/shared/ccurl/753/918/dgr%20taxi%202015%20.pdf>.

¹⁰⁵⁰ See <http://www.agenziamobilita.roma.it/it/servizi/muoversi-in-taxi/tariffe-aeroporti.html>.

¹⁰⁵¹ DGCA 161/2012. See 2015 Report of ASPL Roma Capitale, p. 230.

¹⁰⁵² Reply of Italian Transport Regulator to the stakeholder consultation, quoted.

					Holidays Night		taximeter)
Rome	3,00	27,00	1,10	-	1,50	3,50	1,00 e tassametro avviato con 3 min
Milano (a)	3,30	28,32	1,09	1,85	2,10	3,20	Tassametro avviato alla chiamata
Napoli	3,50	18,00	0,77	1,54	2,50	2,50	1,96
Torino (a)	3,50	32,70	1,44	1,43	1,50	2,50	Tassametro avviato con 10 min
Palermo	2,54	16,90	0,84	1,49	1,58	1,91	3,50
Genova	5,00	24,00	0,90	1,50	2,00	2,50	Tassametro avviato alla chiamata
Bologna (b)	3,00	24,00	1,13 - 1,15	1,40	1,70	2,60	1,00
Firenze (a)	3,30	24,00	0,91	1,64	2,00	3,30	Tassametro avviato alla chiamata
Bari (a)	3,00	20,00	0,80	1,40	2,00	2,00	0,64

(a) Progressive fare depending on the km travelled; the extra urban cost (except for Florence) corresponds to the tariff applied when the vehicle travels for more than 1 minute above 50 km/h.

(b) Progressive fare according to the km travelled; the tariff for km is EUR 1,15 for the first 2 km e 1,13 for the additional 2.

Source: elaborated by the ASPL Rome Capital on Internet sites and those of the taxi offices for the Italian Communes (updated on September 2015).

Generally, it could be observed that in the South of Italy tariffs are lower both by km and by hour. In Rome, tariffs are similar to tariffs in Milan and in Turin. In these two latter cities, the tariffs are higher. Conversely, the initial tariff and the supplement tariff for the weekend are lower in Rome than in Milan or Turin.¹⁰⁵³

Table 2 Progressive fares in the major Italian cities (2014)

City	Range of tariff	Km tariff (EUR/km)	Hourly tariff (EUR/h)
Roma (a)	Up to 11,00 EUR	1,10	27,00
	11,00 – 24,00 EUR	1,30	27,00

¹⁰⁵³ 2015 Report of ASPL Roma Capitale, p. 232

	Above 24,00 EUR	1,60	27,00
Milano	Up to 14,26 EUR	1,09	28,32
	Above 14,26 EUR	1,64	42,48
	Speed > 50 EURkm/h	1,85	-
Torino	Up to 8 EUR	1,44	32,70
	8,00 – 13,00 EUR	1,05	25,70
	Above 13,00 EUR	1,27	25,70
Bologna	Up to 2 km EUR	1,15	24,00
	Between 2 e 4 km EUR	1,13	24,00
	Above 4 km EUR	1,05	24,00
Firenze	Up to 6,40 EUR	0,91	24,00
	6,40 – 7,40 EUR	0,91	30,00
	Above 7,40 EUR	1,64	30,00
Bari	Up to 7,00 EUR	0,80	20,00
	Above 7,00 EUR	1,10	24,00
	Speed > 50 EUR km/h	1,40	-

(a) This range does not comprise the initial fixed price.

Source: elaborated by the ASPL Rome Capital on Internet sites and those of the taxi offices for the Italian Communes (updated on September 2015).

The table above confirms that in Milan progressive tariffs increase together with speed per km/hour; this is usually relevant for extra-urban rides, and tariffs are higher than elsewhere). In addition, as explained by the ASPL Rome Capital in its study, the progressive tariffs diminish the further South of Italy the service is rendered: for instance, in Bari, progressive tariffs appear to be cheaper.

In Milan, Turin and Bari, the initial kilometer tariff applies: when the taximeter is on, it starts applying the progressive tariff, meaning that the tariff increases when the ride is longer (except for Turin). The third range is usually used for extra-urban rides, where the speed per km/hour is usually above 50 km. In Rome and Florence the progressive fares (three ranges) increase depending on the amount shown in the taximeter. In Rome, however, the initial fixed tariff is not increased. In Bologna, the tariffs change depending on the kilometer run and not on the price shown in the taximeter.

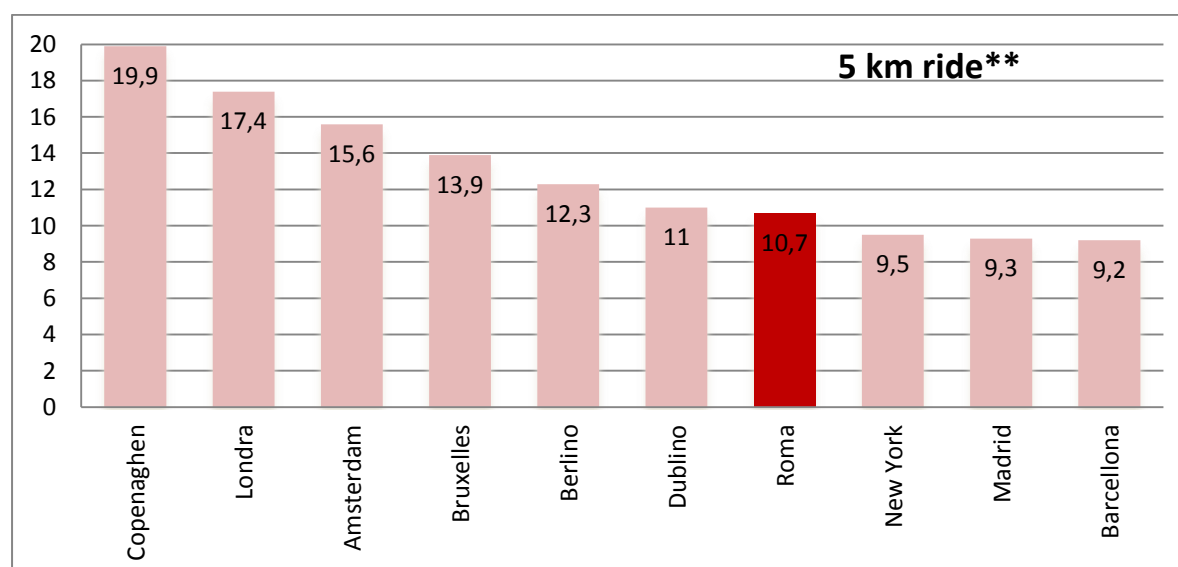
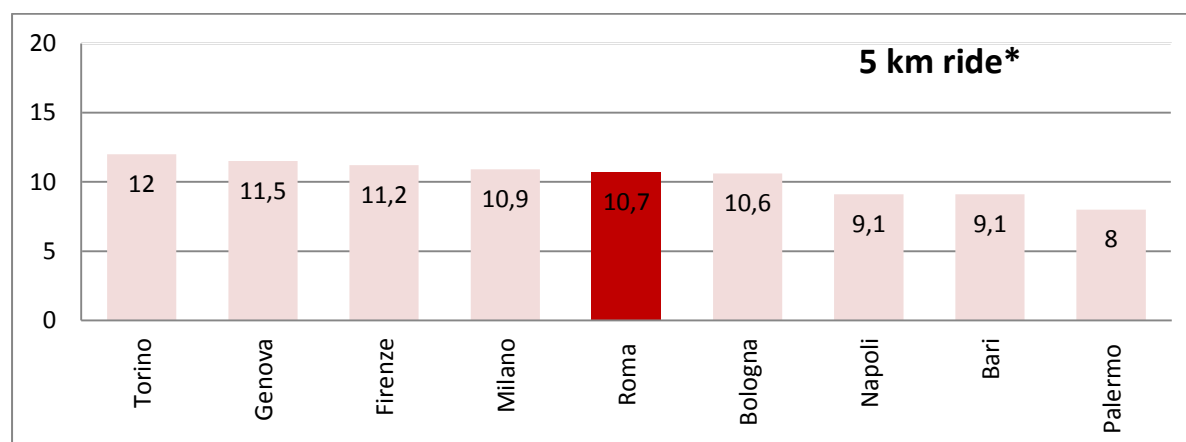
The Italian Transport Regulator has carried out an analysis on the variation of taxi fares between 2006 and 2014 in eight Italian cities: Bologna, Florence, Genoa, Milan, Naples, Palermo, Rome and Turin.¹⁰⁵⁴ This analysis showed that, except for one case, the increase in the tariffs observed during this period of time varied between 16% and 30%. This was higher than the inflation rate recorded during the same period of time (according to the ISTAT index FOI 15%). Taxi tariffs are maximum prices, even if no changes from these tariffs can be observed in most places.

Table 3 below, which was also extrapolated from the 2015 Report of the ASPL Rome Capital, shows a comparative cost of a standard taxi ride in major Italian and foreign cities in 2015. It emerges that in the North of Italy, where the GDP *pro-capite* is higher,

¹⁰⁵⁴ Reply of Italian Transport Regulator to the stakeholder consultation, quoted.

the costs are high, . Turin has the higher prices whereas Palermo, in the South of Italy, has the lowest prices.

Table 3 Cost of a standard taxi ride in major Italian and foreign cities (euro, 2015)



(*) The example ride is simulated calculating the increase per every 5 km of trip and 5 of time waiting or in traffic, with a hailing taxi and a urban weekday daily tariff, taking into account the progressive tariff and hypothesizing that the minutes of the waiting time are half of the ride time in the initial part of the trip and the final part of the trip.

(**)The example ride is simulated calculating the increase per every 5 km of trip and 5 of time waiting or in traffic, with a hailing taxi and an urban weekday daily tariff.

Source: elaborated by the ASPL Rome Capital on Internet sites and those of the taxi offices for the Italian Communes (updated on September 2015).

Employment issues

According to one stakeholder, in Milan a taxi service provider earns on average EUR 35,000 per year, before taxes. According to the same respondent, the yearly (net) earnings are around EUR 15,000. This number has progressively fallen between 2010 and 2015, according to the same stakeholder.

Demand for the service

According to one stakeholder to the consultation, between 2010 and 2015 the demand for the taxi service in Milan has not increased except for some time during the period of the EXPO (August/October 2015).¹⁰⁵⁵

➤ *Hire car with driver*

Authorisations

As it was indicated in the country report, and as it was clarified by one stakeholder in the consultation, the owners of the vehicle can be a physical person holding the authorisation, or a company.

In total, there are 25.200 hire car with driver authorisations in Italy.¹⁰⁵⁶ In Milan, there are currently 229 hire cars with driver authorisations.¹⁰⁵⁷ No new authorisations were granted between 2010 and 2015.

In Turin, the hire car with driver authorisations transferred between 2011 and 2015 were as follows:¹⁰⁵⁸ 2011: (18); 2012 (8); 2013 (13); 2014 (14); 2015 (9).

Fares

According to the Italian Transport Regulator, the fares are agreed upon between the user and the service provider, between a maximum and a minimum range. The Transport Ministry is competent to establish the criteria to set the tariffs but not to set the figures itself.

The tariffs are therefore freely set.¹⁰⁵⁹ According to the Italian Transport Regulator, these tariffs cannot be easily compared to the taxi tariffs, given the variables at play, but they are generally higher.

Employment issues

Drivers can work both as employed and self-employed. When they are self-employed, the drivers have to pay for their own social contributions, while these are shared with the company when they are employed.

According to one participant to the consultation, the owner of a hire car with driver authorisation earns on average around EUR 2,500 per month; however the earnings during the period 2010-2015 have significantly decreased.

Demand for the service

¹⁰⁵⁵ Reply of a stakeholder to the stakeholder consultation.

¹⁰⁵⁶ Reply of Italian Transport Regulator to the stakeholder consultation, quoted.

¹⁰⁵⁷ Reply of the Milan administration to the stakeholder consultation.

¹⁰⁵⁸ Reply of the Turin administration to the stakeholder consultation.

¹⁰⁵⁹ Reply of Italian Transport Regulator to the stakeholder consultation. Source: Civil Motorisation, MIT, 2015

According to one participant to the consultation, the demand for NCC services has not increased between 2010 and 2015.

➤ *Car sharing*

According to the Italian Transport Regulator, there is currently no regulation in place, neither at the national nor at the local level.¹⁰⁶⁰

It is unclear whether the Competition Decree, concerning proposed legislation through delegated laws, will regulate the sector as it was announced by the Italian Ministry for Transport and Infrastructure and the Ministry of Economic Development.¹⁰⁶¹ The Competition Decree is still under discussion before the Italian Parliament.

Data showing a time series about demand and supply with respect to Rome and Italy in general, can be extrapolated from the 2015 Report of the ASPL for Rome Capital. The following table shows the supply and demand of the car sharing service in Rome (2005-2014):

Supply and demand of car sharing service in Rome (2005-2014)¹⁰⁶²

Year	Subscribed individuals	Vehicles	Parking	Average ride (km)	Average duration of the ride (hour)	Number of rides per subscription
2005	201	9	5	49,8	7,6	9,6
2006	318	9	5	60,0	10,4	9,3
2007	704	33	21	53,3	8,5	10,0
2008	817	36	22	52,7	8,1	12,7
2009	1.365	104	61	45,6	7,2	11,4
2010	1.945	107	61	26,3	6,4	17,1
2011	2.174	104	66	26,5	6,2	17,9
2012	2.906	110	80	32,9	5,8	14,1
2013	3.261	117	81	38,9	5,9	14,6
2014	3.387	119	88	33,2	5,9	13,1

N.B.: for subscribed individuals, vehicles and parkings the data concern the 31 December of each year, whereas the rides and the average duration refer to the whole year.

Source: ASPL Roma Capitale concerning data in car sharing initiative.

Source: ASPL Roma Capitale concerning data in car sharing initiative

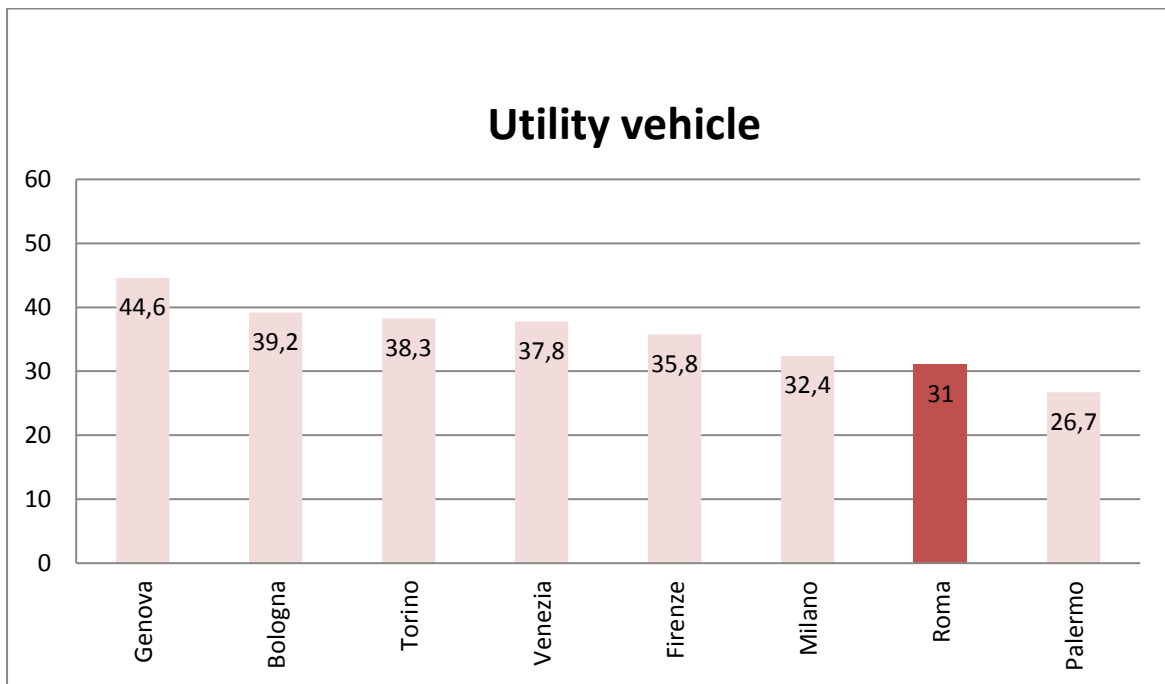
Additionally, the following table shows the average costs for car sharing in Italy in 2015:

¹⁰⁶⁰ Reply of Italian Transport Regulator to the stakeholder consultation, quoted.

¹⁰⁶¹ See Ministry of Economic Development press release of 16 March 2013: <http://www.regioni.it/news/2016/03/16/mise-regolamentazione-taxi-e-ncc-mit-e-mise-proporranno-legge-delega-16-03-2016-449316/>.

¹⁰⁶² 2015 Report of ASPL Roma Capitale, p. 222

Table 6 Cost for the average use of the car sharing service in Italy (euro, 2015)



X. Results

The current legislative framework is outdated, although there have been some court cases and policymakers seem to be oriented towards eliminating the discrimination between taxis and hire cars with driver through new regulation.

Concerning the geographic market for taxi and for hire cars with drivers, the local and urban levels are the relevant ones, although the ultimate scope seems to be the development of a regional market.

There are two main market segments:

- Hailing, where taxis have a legal monopoly;
- Pre-booked services, where competition between radio taxis and hire cars with driver is relevant.

Concerning **market players**, as the taxi sector is characterized to a large extent by the presence of self-employed drivers, the role of services “on top” of taxi operators is particularly interesting. These services are divided between the **radio taxi** operators, who usually operate in a cooperative form and as dispatch centers, and the **taxi apps**, which are provided by a range of different subjects.

Market players in the hire car with driver sector are difficult to identify due to the lack of concentration of the sector; however Uber Black can be considered as a major player according to the legislation.

Uber is also present, with its services Black and Pop (banned in 2015), also in another category of market players i.e. the **intermediaries (or digital services)**.

Furthermore, **car sharing** services are provided by a number of other relevant players such as Enjoy, Car2go, GirACI, Share’ngo (electric), etc. operating in more than one city; with regard to **ridesharing** Blablacar is by far the major player.

The main **barrier** to the taxi activity is represented by quantitative restrictions, followed by the very high prices of the licences. The cost of licenses varies among cities, and can be up to EUR 160.000, according to the stakeholders interviewed. Another relevant issue is represented by the exam to obtain the certificate of professional ability required for the licence. According to a hire car with driver’s stakeholder, the cost of a hire car with driver’s licence is higher than the licence for taxi. Moreover, one hire car with driver’s authorisation holder identifies as a market barrier the cost of maintenance and depreciations, which are particularly relevant for high segment cars as the one used.

Incentives in terms of lower taxation on fuel are applied to both taxis and hire cars with driver: therefore, they have little incidence on the competitive dynamics. Moreover, further incentives can be set at local level for specific services, as well as for virtuous behaviours such as using environmentally friendly vehicles.

Looking at **capacity, growth and impact** figures, there are around 28.500 taxi licenses in Italy (4.855 in Milan, 7.705 in Rome); licence numbers remain steady over the years; a small exception is represented by the new licenses that are being issued in Florence. Between 2% and 4% of the overall number of licences are reported to be transferred each year. Authorizations for hire car with driver services are 22,500 in Italy, with no relevant changes over the period 2010-2015.

The analysis of taxi tariffs shows that Milan, Rome and Turin have similar rates. In Milan, progressive tariffs are higher than elsewhere when speed per km hour increases (this is usually relevant for extra-urban rides). At the same time, there is a substantial disparity between northern and central cities and southern ones, where costs are cheaper. NCC tariffs are set freely; on average, they are slightly higher than the taxi tariffs as reported by one stakeholder, while demand seemed to be increasing, it has not changed the competition dynamics; instead, fierce competition has been reported as being the cause of a decrease in earnings from 2010.

XI. Conclusions

The current legislative framework restricts competition in the pre-booked services segment. Taxis have the monopoly in the hailing and ranking segments but the restrictions to the hire car with driver activity make it difficult to compete also in the pre-booked segment. The legislation does not seem to take into consideration any distinction between the providers of the service and the intermediaries and the different interpretation from the courts have added layers of complexity to the applicable rules. The 2006 Bersani decree which intended to introduce a certain degree of liberalisation in the taxi sector provoked instead strong reactions from the categories concerned. Since then, no other reforms of the taxi or hire car with driver sectors have been introduced in Italy. Discussions are ongoing with regard to the possibility to introduce some regulation; however, ridesharing and the innovative service providers were excluded by the new collaborative economy legislation. The taxi and hire car with driver market presents relevant barriers to entry, including quantitative barriers (cap to the number of licences, high prices for trading licences and hire cars with drivers' authorisations), and the development of new transport services are not incentivised.

As the market largely relies on small enterprises and self-employed drivers, the main actors are cooperatives providing dispatch services. Their main competitors are the intermediaries providing online booking and via apps, both for taxis and hire cars with driver. Ridesharing is only allowed in the form of genuine ridesharing and provided by long distance operators such as BlaBlacar. However, local and urban ridesharing services are trying to enter the market even if they are encountering strong resistance.

Bibliography

National legislation

Law No 230 of 18 April 1962, OJ No 125 of 17 May 1962.

Law No 62 of 14 February 1974, OJ No 74 of 20 March 1974.

Law No 111 of 18 March 1988, OJ No 84 of 11 April 1988.

Law No 241 of 7 August 1990, OJ No 192 of 18 August 1990.

Law Decree No 443 of 8 August 1985, OJ No 199 of 24 August 1985.

Law Decree No 572 of 15 December 1992, OJ No 79 of 5 April 1993.

Law No 59 of 15 March 1997, OJ No 63 of 17 March 1997.

Law No 340 of 24 November 2000, OJ No 275 of 24 November 2000.

Law No 296 of 27 December 2006, OJ No 299 of 27 December 2006.

Law Decree No 223 of 4 July 2006, OJ No 153 of 4 July 2006.

Law Decree No 207 of 30 December 2008, OJ No 304 of 31 December 2008, converted into law, after amendment, by Law No 14 of 27 February 2009, OJ No 49 of 28 February 2009.

Law Decree No 112 of 25 June 2008, OJ No 147 of 25 June 2008.

Law Decree No 201 of 6 December 2011, OJ No 284 of 6 December 2011.

Law Decree No 210 of 23 December 2015 OJ No 302 of 30 December 2015.

Legislative Decree No 285 of 30 April 1992, OJ No 114 of 18 May 1992.

Legislative Decree No 422 of 19 November 1997, OJ No 287 of 10 December 1997.

Legislative Decree No 267 of 18 August 2000, OJ No 227 of 28 September 2000.

Legislative Decree No 22 of 2 February 2007, OJ No 64 of 17 March 2007.

Decree of the Italian President No 393 of 15 June 1959, OJ No 147 of 23 June 1959.

Decree of the Italian President No 633 of 26 October 1972, OJ No 292 of 11 November 1972.

Decree of the Italian President No 616, OJ No 234 of 29 August 1977.

Decree of the Italian President No 495 of 16 December 1992, OJ No 303 of 28 December 1992.

Italian Framework Law No 21 of 15 January 1992, OJ No 18 of 23 January 1992.

Regional Law of Piedmont, No 24 of 23 February 1995, OJ No 9 of 1st March 1995.

Regional Law No 20 of 15 April 1995, Regional Journal (BURL) No 16 of 20 April 1995.

Regional Law of Piedmont, No 1 of 4 January 2000, OJ No 2 of 12 January 2000.

Regional Law No 6 of 4 April 2012 Regional Journal (BURL) No 14 of 6 April 2012.

Ministry of Transport, Decree of 20 April 1993, OJ No 124 of 29 May 1993.

Ministry of Environment, Decree of 3th August 2007, OJ No 255 of 2nd November 2007.

Ministry of Infrastructure and Transport, Decree of 1st January, OJ No 72 of 26 March 2013.

Ministry of Environment, Decree of 27 March 1998, OJ No 263 of 11 November 2015.

Doctrine (books and journals)

Raghu KOWSHIK et al., "Evaluation of the Sacramento-Area Real-Time Rideshare Matching Field Operational Test Final Report. Institute of Transportation Studies", University of California, in Davis: Research Report UCD-ITS-RR-96-02, 1996.

Aristide POLICE, "Prevedibilità delle scelte e certezza dell'azione amministrativa", in *Dir. amm.*, No 2, 1996, p. 697.

Daniel J. DAILEY et al., "Seattle Smart Traveler: Final Research Report. Washington State 645 Transportation Center", University of Washington, Seattle, in WA. Report No. WA-RD 444.1 / TNW 97-08, 1997.

Susan A. SHAHSEE, Darnel SPERLING and Conrad WAGNER, "Carsharing in Europe and North America: Past, Present, and Future", in *Transportation Quarterly*, 1998, Vol. 52, No 3, pp. 35 -52, accessible at the following website <http://76.12.4.249/artman2/uploads/1/UCD-ITS-RP-98-14.pdf>.

Antonio Piccolo, "Dichiarazione annuale Iva '99. Principali novità e guida alla modulistica", in *Il fisco*, No 2, February 1999, p. 1502 (www.sistemailfisco.it).

Christian IAIONE, "La regolazione del trasporto pubblico locale: bus e taxi alla fermata delle liberalizzazioni", Jovene, 2008, p. 149

João FERREIRA, Paulo TRIGO and Porfírio FILIPE, "Collaborative Car Pooling System", in *World Academy of Science, Engineering and Technology International Journal of Social, Behavioral, Educational, Economic, Business and Industrial Engineering* Vol. 3, No 6, 2009, available at <http://www.waset.org/publications/6700>.

Martin SCHIEFELBUSCH and Hans-Liudger DIENEL, "Public Transport and its Users. The Passenger's Perspective in Planning and Customer Care", Ashgate, 2009, p. 239.

Maurizio BRUGLIERIA, Diego CICCARELLI, Alberto COLORNIA and Alessandro LUÈA, "PoliUniPool: a carpooling system for universities", *Procedia Social and Behavioral Sciences* 20, 2011, available at the following site <http://www.sciencedirect.com/science/article/pii/S187704281101442X>.

Edward WEINER, "Urban Transportation Planning in the United States: History, Policy, and Practice", Springer, 2013, p. 98.

C. CAMBINI and L. PERROTTI, "The New Transport Regulation Authority", in *Italy: Structure, Competencies, and First Regulatory Decisions*", No 54, March 2015, available at the following website <http://www.autorita-trasporti.it/wp-content/uploads/2015/04/Network-March-2015.pdf>.

Italian Transport Regulator opinion, "Non-scheduled road transport passenger services: taxi, car-and-driver hire and technology mobility services" of 21 May 2015, available at the following website <http://www.autorita-trasporti.it/documentazione-per-atto-di-segnalazione-l-n-2192/>.

A. Noce, "The Impact of competition law on e-commerce and the sharing economy", 20 November 2015, available at the following website <http://www.aedc.es/wp-content/uploads/2016/01/Panel-5-A-Noce-madrid-20th-november-20151.pdf>.

Fiorenzo NARDUCCI and Riccardo NARDUCCI, "Guida normativa per l'amministrazione locale 2015", Maggioli Editore, 29 ed., 2015, p. 2474.

16.LATVIA

General Legal Framework

The main legal act regulating carriage of passengers by transport is the Law on Carriage by Road,¹⁰⁶³ which provides for the following types of transport of passengers: regular carriage of passengers (by a bus), occasional carriage of passengers (by a bus), special regular carriage of passengers (by a bus) and carriage of passengers by taxi. All these types of passengers' transport require a licence. However, the Law on Carriage by Road does not cover hire cars with drivers, car sharing and ridesharing services which remain unregulated. These services are subject to contractual arrangements between the involved parties. On 30 November 2015, the Ministry of Transport prepared a report on the "Legal regulation in the area of passenger transport by taxis and proposals for its development", where it addressed several issues, including the effectiveness of the procedure for obtaining licences for transport of passengers by taxis, qualification of taxi drivers, payment of taxes and also the unregulated field of ridesharing services.

Licences

Local governments establish conditions for licensing, the location of passenger taxi stops, and provide instructions for distinguishing taxi signs and their location on the taxis. Additionally, local governments determine the maximum fare (tariffs) for transport of passengers and baggage requirements. No quantitative restrictions have been introduced. Licences for taxi transport are issued by the carrier's local governments according to the procedure established in the local government's regulations. In addition to the licence, the carrier must also obtain a licence card for each vehicle that will operate as a taxi. The applications for the passenger transport licence and the vehicle licence card may be submitted together. The licences are valid for three years and must be renewed before their expiration. Conditions include that the applicant is solvent and has no tax debts. In Riga, there must not be a previous annulment decision for an issued licence, and the carrier must have paid the local government's duty for receiving the licence. According to existing regulation, one carrier may obtain only one special permit (licence) because the licence is issued individually to the corresponding person. At the same time, every carrier is allowed to obtain more than one licence plate which means that every carrier may use an unlimited number of vehicles providing taxi services under the condition that each vehicle receives a licence plate.

Technical requirements

A vehicle licence card is issued if: the vehicle has undergone technical inspection for passenger taxis, and the vehicle is equipped with the legal requirements including the Riga City distinguishing signs.

There must be no unpaid fines in the Vehicles and Drivers Register, or unpaid fines for violating the rules on carriage by road. The vehicle must be owned or leased with a contract agreement, and must have a taximeter, which complies with the technical and conformity requirements, and distinctive signs: taxi number plates; a lit up taxi identification sign placed on the roof of the vehicle; a light control signal attached behind the windshield.

Organisational and professional requirements

There are no specific professional requirements that are applicable to drivers except holding a B licence and having three years of driving experience. There is no legal obligation to affiliate to a dispatch centre or to provide a minimum service.

Fares

Local governments that issue licences for taxis determine the maximum fare (tariffs). Article 8.6. of the Taxi Rules allows distinguishing the following fare types: fare for hiring a taxi, distance fare per 1 kilometre and time fare (waiting and driving) per 1 minute. Furthermore, the carrier may apply different fares at night and during the day. Local governments usually regulate the maximum fare for hiring a taxi, distance fare per 1 kilometre and time fare for 1 minute. Certain local governments issuing licences may ask the applicant to submit a business plan indicating the applicable fares.

Passenger rights

Passenger rights stem from the driver's and carrier's obligations, for example, the passenger may request the driver to turn on the taximeter, not to smoke in the taxi cab, to provide information regarding the driver and

¹⁰⁶³ Law on Carriage by Road (dated 23.08.1995). Available: <http://likumi.lv/doc.php?id=36720> [last accessed on 11 April 2016].

the carrier. In other words, passengers have rights to request the driver to comply with mandatory requirements and obligations arising from the applicable regulations.

Labour rules

There are no specific labour rules for taxi drivers. Taxi drivers may also register as individual merchants and obtain the licence for passenger carriage by taxis. If a taxi driver operates as an individual merchant, the labour rules do not apply.

Airports

No specific rules are provided for airports.

Enforcement

The "control bodies of local governments" and the Municipal Police within their respective administrative territories enforce the rules on taxis passenger transport. However, other bodies, for example the State Police, may enforce the rules according to their competence. Controls carried out by the control bodies of local governments and/or by Municipal Police include supervising the fulfilment of legal obligations, compliance with the taxi equipment requirements, and validity of licences.

Hire cars with driver

There are no specific regulations applicable to hire cars with driver in Latvia. It is an unregulated field which is subject to general Civil Law provisions. In practice, hire car with driver services are governed by two contracts: a car rental contract and a driver service contract. This has created a confusing environment concerning whether the service requires a licence or not. The current enforcement activities against drivers affiliated to Taxify operating without licence and the position of the Ministry during the consultation, seems to be leaning towards the licence's requirement.

Ridesharing

There is no specific regulation regarding ridesharing and car sharing services either at the national or at the regional level.

Market players

The major players in the taxi market in Riga city are: JSC "Rīgas Taksometru parks" with 219 vehicles, LLC "TOMMOT" with 80 vehicles, LLC "GF Taxi" with 47 vehicles, LLC "NikoMaro" and LLC "Cabby" with 40 vehicles. Taxify (Estonia) and Uber (USA) are entering the taxi service market in Latvia. In accordance with existing legislation, they can provide only licensed taxi services. Uber has registered the company but has not yet started to provide its services.

Capacity, growth and impact

On 1 January 2015, a total of 2888 vehicles had received licence cards for providing taxi services, out of which 2218 vehicles had received their licence cards in Riga City. According to the Competition Council's report, the number of small carriers has been increasing and the number of large carriers decreasing because drivers themselves often register as carriers and conclude partnership agreements with one company to work under this company's trademark, and in some cases use this company's dispatch services.

Conclusions

It does not seem too burdensome to access the taxi market in Latvia mainly because access is based on the satisfaction of qualitative requirements. No quantitative thresholds are imposed and the data show a continuous increase in the number of issued licences. Hire car is not a defined sector and this has created some confusion in relation to licensing requirements to perform the service. While ridesharing is not currently regulated, intermediaries are entering the market to connect passengers with licensed carriers or with other non-licensed drivers.

I. Introduction

The main legal act regulating transport of passengers is the Law on Carriage by Road,¹⁰⁶⁴ which provides for the following types of passengers' transport: regular carriage of passengers (by a bus), occasional carriage of passengers (by a bus), special regular carriage of passengers (by a bus) and carriage of passengers by a passenger taxi. All these types of carriage of passengers require a previous licence.

Hire cars with drivers, car sharing and ridesharing services are not covered by the Law on Carriage by Road and remain unregulated. These services are subject to contractual arrangements between the involved parties. Due to the legal uncertainty and depending on the circumstances under which each services is provided, the authorities could consider such activities as infringing the obligation to have a prior licence for passengers' transport. Depending on the number of seats in the vehicle it may either be regarded as unlicensed occasional carriage of passengers or unlicensed carriage by taxi. If the vehicle used in these services has nine or more seats (excluding the driver), it will be considered as unlicensed occasional carriage of passengers. If the vehicle has less than nine seats (passenger vehicle), it will be considered as unlicensed passenger carriage by taxi.

On 30 November 2015 the Ministry of Transport prepared a report on "*Legal regulation in the area of passenger carriage by taxis and proposals for its development*", where it addressed several issues, including the effectiveness of the procedure for obtaining licences for transport of passengers by taxis, qualification of taxi drivers, payment of taxes and also the unregulated field of ridesharing services. In order to solve problems and issues in the passengers' transport, the Ministry of Transport has made several proposals to improve the existing legal regulation. The main proposals are to establish certification requirements for taxi drivers and transfer the competence of issuing licences for taxis from local governments to broader administrative areas.¹⁰⁶⁵

Therefore, it may be concluded that Latvian government at this point in time is not planning to implement any specific regulation addressing the hire transport services and ridesharing. However, according to the media information, Taxify, the owner of a ridesharing platform operating in Latvia, submitted proposals for legislative changes to the Ministry of Transport, and called for cooperation between the Riga City Council to discuss possible legislative solution for private drivers.¹⁰⁶⁶ After a meeting with Taxify representatives, the Ministry of Transport is now waiting for official legislative proposals from Taxify for changes in the existing regulation.¹⁰⁶⁷ Until this issue is resolved, hire transport without a licence is considered either illegal or somewhere in the gray area of being "unregulated" (e.g., as it is in the case of leasing vehicles with drivers).

In Latvia operation of taxis is regulated by:

¹⁰⁶⁴ Law on Carriage by Road (dated 23.08.1995). Available: <http://likumi.lv/doc.php?id=36720> [last accessed on 11 April 2016].

¹⁰⁶⁵ Informative report of the Ministry of Transport of 30 November 2015 "Legal regulation in the area of passenger carriage by taxis and proposals for its development". Available: <http://tap.mk.gov.lv/lv/mk/tap/?pid=40376165> [last accessed on 12 April 2016].

¹⁰⁶⁶ "Latvian authorities declare war on ridesharing app Taxify — as private driver's vehicle is impounded". Available: <http://rigatalk.com/2016/01/latvian-authorities-declare-war-ridesharing-app-taxify/> [last accessed on 13 April 2016].

¹⁰⁶⁷ "Policija apkaro Taxify, firma pārtrauc sadarbību ar privātajiem šoferiem". Available: <http://skaties.lv/latvija/policija-apkaro-taxify-firma-partrauc-sadarbibu-ar-privatajiem-soferiem/> [last accessed on 13 April 2016].

1. The Law on Carriage by Road;¹⁰⁶⁸
2. Rules of Cabinet of Ministers of 3 July 2012 No 468 "Regulations on the carriage of passengers with passenger taxis" (**Taxi Rules**);¹⁰⁶⁹
3. Various regulations of local governments.

II. National/Local/Municipal regulations

The Law on Carriage by Road provides the general requirements for the provision of taxi services. First, it defines "passenger taxi" as "car intended for the carriage of passengers upon an individual order and equipped with a device which indicates the service fee and results of which are used in registration of income" (Section 29 (2)). Second, it stipulates that carriage of passengers by a passenger taxi is allowed only if the carrier of the passenger taxi has received a special authorisation (licence) issued by the relevant local government (Section 35 (1)). Finally, the Law on Carriage by Road authorises the Cabinet of Ministers and the local governments to issue more detailed regulations in relation taxi services.

Taxi Rules provide for the procedure for carriage of passengers with passenger taxis (including payment procedure, rights and obligations of the driver and the passenger) and technical requirements as well as conformity procedures for taximeters to be distributed or already installed in a taxi.

Local governments establish conditions for licensing, the location of passenger taxi stops, as well as they provide instructions for local government's distinguishing signs for the taxis and location for placement of these signs on the taxis. Additionally local governments regulate the maximum fare (tariffs) for carriage of passengers and baggage by a passenger taxi. The Law on Carriage by Road also authorises local governments to require carriers to ensure that bank cards are accepted for the payment of taxi services.

II.1 Procedures for issuing licences and applicable criteria

The licence for passenger carriage by taxis is issued by local governments and such licence grants the right to perform carriage by passenger taxis only in the relevant administrative territory or to transport a passenger to any place from this administrative territory (Section 35(2) of the Law on Carriage by Road). The licence grants the right to perform passenger carriage with a vehicle owned by carrier. Passenger carriage may be carried out by a third party owned vehicle only in specific cases and pursuant to the requirements established by the Cabinet of Ministers (s. II.2 below).

The licences for passenger carriage by taxis are issued to "carriers", i.e., merchants or farmer or fisherman holdings, which assume the carriage obligation on the basis of an order or contract with a consignor, passenger or on another lawful basis (as the case may be) (Section 1, point 28 of the Law on Carriage by Road).

¹⁰⁶⁸ Law on Carriage by Road (dated 23.08.1995).. Available: <http://likumi.lv/doc.php?id=36720> [last accessed on 11 April 2016].

¹⁰⁶⁹ Rules of Cabinet of Ministers of 3 July 2012 No 468 "Regulations on the carriage of passengers with passenger taxis". Available: <http://likumi.lv/doc.php?id=249996> [last accessed on 11 April 2016].

In addition to the licence, the carrier must also obtain a licence card for each vehicle, which will be operated as a taxi. The licence card certifies that a carrier, as the owner or holder of the vehicle, has received a special authorisation (licence) in accordance with the procedures specified in regulations for the performance of commercial carriage (Section 1, point 18¹ of the Law on Carriage by Road). For example, merchants that operate in the form of companies usually have one licence and several licence cards for each passenger taxi and the drivers of the passenger taxis are their employees. Alternatively, it is possible for a person to register as an individual merchant and then obtain a licence for passenger carriage by taxis for its own vehicle.

As mentioned above licences for passenger carriage by taxis are issued by the relevant local governments to the carrier according to the procedure established in the regulations of the issuing local government. All in all, there are 42 local governments, which have established regulations for issuing taxi licences, including, Riga City Council, Rezekne City Council, Valmiera City Council, Jelgava City Council, Liepaja City Council, Ventspils City Council, Carnikava County Council, Jurmala City Council and Daugavpils City Council, Ogre County Council and other.¹⁰⁷⁰

For example, the regulations of 13 October 2015 No 171 issued by Riga City Council "Regulations on licensing of carriage of passengers with passenger taxis and local government duties on taxi entry in a special regime zone"¹⁰⁷¹ (**Riga Regulation on Taxi Licences**) establish the following procedure and criteria for receiving the licence for passenger carriage by taxis in Riga City administrative territory:

Procedure

The licences for passenger carriage by taxis in Riga City administrative territory are issued, suspended or annulled by a special commission established by the Riga City Council (the **Commission**). This Commission also approves the tariff schedules for each carrier for carriage of passengers by taxi (Articles 2 of the Riga Regulation on Taxi Licences).

In order to receive a licence the carrier must submit to the Commission an application for licence (the application template is provided in the Riga Regulation on Taxi Licences), a power of attorney authorising the relevant person to sign the application for licence and receive the licence, and "other documents addressed to the Commission", for example, documents supporting the compliance of the carrier with the set requirements (Articles 8 – 9 of the Riga Regulation on Taxi Licences). Within one month after the receipt of the application and supporting documents, the Commission adopts a decision issuing or refusing to issue the licence, if all the necessary documents are not submitted or if the carrier does not comply with the set requirements (Article 10 of the Riga Regulation on Taxi Licences). The licence is valid for 3 years and the carrier may apply for a new licence not earlier than two months before the expiry of the existing licence.

After the Commission issues the licence, the carrier must apply to the Riga City Council Department of Transport (**Department**) for receiving the licence card for each vehicle that is used for passenger carriage by taxi (Articles 18 - 24 of the Riga Regulation on

¹⁰⁷⁰ Informative report of the Ministry of Transport of 30 November 2015 "Legal regulation in the area of passenger carriage by taxis and proposals for its development". Available: <http://tap.mk.gov.lv/lv/mk/tap/?pid=40376165> [last accessed on 12 April 2016].

¹⁰⁷¹ Regulations of 13 October 2015 No 171 of Riga City Council "Regulations on licensing of carriage of passengers with passenger taxis and local government duties on taxi entry in a special regime zone." Available: <http://m.likumi.lv/doc.php?id=278459> [last accessed on 11 April 2016].

Taxi Licences). The carrier may apply for the licence and the licence card simultaneously. In order to receive the licence card, the carrier must submit an application for issuing licence card (the application template is provided in the Riga Regulation on Taxi Licences) and, if the carrier is not the owner of the vehicle or is not yet registered as the owner - documents certifying carrier's rights to use the vehicle. The Department then evaluates vehicle registration data and its compliance with general requirements (e.g., the vehicle has undergone technical inspection in accordance with the legal requirements that are set for passenger taxis). If the vehicle complies with these requirements, the Department adopts a decision on issuing the licence card. Within one month after this decision, the carrier must equip the vehicle pursuant to the specific requirements under applicable law (e.g., adding the distinguishing sign for the taxis' of Riga City is on the vehicle) and submit an application for receiving the licence card. Before issuing the licence card, the Department will verify whether the vehicle complies with the technical requirements and whether other requirements, such as payment of local government's duty, are met.

Criteria

The licence is issued for 3 years, if the carrier complies with the following requirements (Articles 6 and 7 of the Riga Regulation on Taxi Licences):

1. The carrier has no tax debts, which exceed the amount of EUR 150.
2. The carrier or its legal representatives do not have any unpaid administrative fines in the carriage by road sector.
3. There are no insolvency proceedings initiated against the carrier, the carrier is not in the process of liquidation, its economic activities are not suspended or terminated.
4. During the previous year Riga City has not adopted any decision against the carrier on annulment of licence for passenger carriage by taxis (with an exception in situations, where licence has been annulled, because the carrier itself has required it or has failed to go and receive an already granted licence within 6 months).
5. The carrier has paid the local government's duty for receiving the licence.

The licence card is issued, if the following requirements are met (Articles 22 and 25 of the Riga Regulation on Taxi Licences):

1. The vehicle has undergone technical inspection in accordance with the legal requirements are set for passenger taxis.
2. The vehicle is equipped pursuant to the legal requirements, including, the vehicle uses Riga City distinguishing sign pursuant to the instructions set out in the Riga Regulation on Taxi Licences.
3. There are no unpaid fines registered in the Vehicles and Drivers Register regarding the vehicle or unpaid fines for violating the rules on carriage by road.
4. During the last year, Riga City has not adopted a decision on annulment of licence card due to the breach of the Riga Regulation on Taxi Licences.
5. The carrier has submitted the application for receiving the licence card and the copy (upon showing the original) of the taximeter passport with a valid verification mark and a mark on registration of the taximeter with the State Revenue Service.
6. The carrier has paid the relevant local government's duties for receiving the licence card.

The licence cards are issued up to 1 year, if the vehicle is older than 3 years, or up to 3 years, if the vehicle is newer. However, the licence cards are issued no longer than for

the validity period of the licence and/or the end period of use of the vehicle, if the carrier is not its owner (Article 19 of the Riga Regulation on Taxi Licences).

In general the regulations of other local governments on issuing the licences for passenger carriage by taxis and licence cards for each vehicle are quite similar, i.e., there must be no tax debts or unpaid fines, the vehicle must comply with the set technical requirements for taxis (see s. II.4 below), the carrier must own the vehicle or provide documents, which support the use of the vehicle, and there is a valid vehicle owner's compulsory third party liability insurance, and the carrier must have paid the relevant state fees for issuing the licence and the licence card. However, the term of validity of licences and licence cards, the amount of state fees, maximum tariffs and the specific documents, which need to be submitted, may differ from local government to local government.

II.2 Technical requirements applicable to licensed vehicles *(taximeters, vehicles' technical specifications, accessibility, insurance, maintenance)*

The following requirements are applicable to licenced vehicles:

1. The vehicle must be owned by the carrier (Section 30(2) of the Law on Carriage by Road).
However, rules of Cabinet of Ministers¹⁰⁷² provide for exceptions, i.e., passenger carriage may be carried out by a third party owned vehicle, if there is a lending agreement or a written lease agreement concluded for use of such vehicle and which stipulates that during the term of this agreement the passenger carriage with the leased vehicle can be carried out only by the lessee. The lessee is forbidden to conclude a sub-lease agreement (Article 3). The leased vehicle must be registered in Latvia pursuant to the legal regulation on vehicle registration (Article 4). The lease agreement relates only to the lease of the vehicle and it may not include a service agreement on driving the vehicle by the lessor (Article 5). The carrier remains liable for compliance with technical requirements of such vehicle (Article 6). When driving a third party owned vehicle in addition to other documents the lease agreement or its certified copy must be present at the vehicle (unless the carrier is indicated as the holder in the vehicle's registration certificate) (Article 7).
2. The carrier, who performs carriage by road in the territory of Latvia must have a valid vehicle owner's compulsory third party liability insurance. (Section 48(1) of the Law on Carriage by Road).
3. Additionally to the general requirements for equipment of vehicles, the vehicle for passenger carriage must be equipped with (Article 8 of the Taxi Rules):
 - a. a taximeter, which complies with the technical and conformity requirements set out in the Taxi Rules and elsewhere;
 - b. distinctive signs: taxi number plates; a lit up taxi identification sign placed on the roof of the vehicle; a light control signal attached behind the windshield; a business card with a photo, name, surname and other information regarding the driver, the vehicle and the carrier placed on the front panel inside the vehicle; information regarding the carrier (name of the carrier, a local government's distinguishing sign for the taxis', if such is approved, the names of the local governments, where the carrier is licensed to provide services) placed outside on both front doors of the

¹⁰⁷² Rules of Cabinet of Ministers of 17 May 2005 No 339 "Procedure authorising to carry passengers and cargo for hire with third party owned vehicles". Available: <http://likumi.lv/doc.php?id=108617> [last accessed on 11 April 2016].

vehicle; information regarding day and night tariffs (hiring tariff, driving tariff per one kilometre and time tariff for waiting and driving per one minute) placed outside on the right side of the vehicle on the back door (or if there is no back door, then on the back part);

- c. a copy of the Taxi Rules.
4. Local governments are also entitled to impose a requirement that carriers ensure that it is possible to pay for taxi services with bank payment cards, therefore taxis operating in such territories should also have POS terminals for making payments (for example, this is the case for Riga City administrative territory).

II.3 Qualitative requirements (*fitness of the driver, knowledge and skills required, drivers' training*)

According to Section 35(5) of the Law on Carriage by Road only a person, who has experience in driving a category B vehicle for at least 3 years, may drive a category B vehicle for carriage of passengers by taxi. The law does not provide any other requirements regarding competence of passenger taxi drivers.

However, Article 28 of the Taxi Rules lists the duties of the passenger taxi driver, for example, the driver must:

- introduce the passenger with a copy of the Taxi Rules, if the passenger requires;
- follow the taxi queue in the taxi parking lots and not to exceed the allowable parked taxi number;
- turn on the taximeter upon commencing carriage of the passenger;
- to issue a receipt upon settling payments with passengers;
- know the city street layout and drive to the place designated by the passenger via the shortest route possible or a route chosen by the passenger;
- ensure tidiness in the cabin and the luggage compartment of the vehicle;
- show the necessary documents upon the request of an official of the authorised control institution (e.g., the licence card, employment agreement with the carrier, unless the driver itself is also a licenced carrier).

Additionally Article 29 of the Taxi Rules prohibits the driver to carry out certain actions, for example, it is prohibited to:

- carry passengers, if the taximeter is not turned on;
- smoke in the taxi cabin;
- use the taxi vehicle outside the driver's working hours;
- invite passengers by itself or with the help of other persons indicating the direction of the travel or destination.

II.4 Organizational requirements (*dispatch affiliation centre, minimum service*)

There is no legal obligation to have a dispatch affiliation centre or to provide a certain amount of service as a compulsory minimum. According to Article 13 of the Taxi Rules the passenger may hire a taxi:

- at the taxi parking lot; or

- by stopping the taxi outside the taxi parking lot; or
- by using means of communication.

Whereas Article 14 of the Taxi Rules provides that it is up to the carrier to determine procedure in which it is possible for passengers to hire a taxi by using means of communication. In practice the carriers conclude agreements with merchants, which provide dispatcher services according to the agreement.

II.5 **Fares** (*criteria for taxi fare setting, authority/body in charge of setting the tariffs, maximum tariffs and/or fixed tariffs, composition of the tariff and tariffs adjustment mechanism [minimum charge, additional charge for using the radio taxi or dispatch centre, increase of the tariff during certain hours, such as at night or on certain journeys, such as towards the airports, reductions for certain categories, such as elderly people]*)

According to Section 39(5) of the Law on Carriage by Road, local governments that issue licences for passenger carriage by taxis, determine the maximum fare (tariffs) for such carriage. Article 8.6. of the Taxi Rules allows to distinguish following tariff types: tariff for hiring a taxi, distance tariff per 1 kilometer and time tariff (waiting and driving) per 1 minute. Furthermore, the carrier may apply different tariffs at night and during day. Usually local governments provide the maximum tariff for hiring a taxi, distance tariff per 1 kilometer and a time tariff for 1 minute.¹⁰⁷³ However, local governments may also distinguish other types of tariffs, for example, some local governments have determined maximum night and day distance tariffs.¹⁰⁷⁴

Additionally, some local governments with their rules on issuing licences for passenger carriage by taxis require carrier's to submit their tariff plans, i.e., information on tariffs, which the carrier will use for carriage of passengers by taxi. The tariffs in these plans may not exceed the maximum tariffs established by the local government in its administrative territory. These tariff plans of the carrier become the conditions of its licence for passenger carriage by taxis and may be amended upon submitting a new tariff plan to the relevant local government's institution responsible for taxi licensing (for example, Article 2 of the Riga Regulation on Taxi Licences). There are also local governments that do not have a requirement to submit a tariff plan.¹⁰⁷⁵ In any case the carrier must indicate its tariffs on the taxi vehicle (see s. II.4 above) and they may not exceed the maximum tariffs approved by the relevant local government.

II.6 **Passenger rights**

There are two different sources of passenger rights. Firstly, passenger' rights stem from the driver's and the carrier's obligations, for example, the passenger may request the

¹⁰⁷³ For example, regulations of 29 March 2011 No 118 of Riga City Council "Regulations on the maximum fares (tariffs) for passenger and baggage carriage with taxis in Riga". Available: <http://likumi.lv/doc.php?id=229993> [last accessed on 12 April 2016]; Regulations of 31 October 2013 of Valmiera City Council No 176 "On maximum taxi carriage tariffs in Valmiera". Available: <http://likumi.lv/ta/id/262698-par-maksimalajiem-vieglo-taksometru-parvadajumu-tarifiem-valmieras-pilseta> [last accessed on 12 April 2016].

¹⁰⁷⁴ For example, regulations of 11 February 2011 No 3 of Ventspils City Council "On maximum taxi carriage tariffs in Ventspils". Available: <http://likumi.lv/ta/id/230314-par-maksimalajiem-vieglo-taksometru-parvadajumu-tarifiem-ventspils-pilseta> [last accessed on 12 April 2016].

¹⁰⁷⁵ For example, the regulations of Jelgava City Council regarding issuing special licences in the administrative territory of Jelgava City do not have such a requirement.. Available: <http://likumi.lv/ta/id/254316> [last accessed on 12 April 2016].

driver to turn on the taximeter, not to smoke in the taxi cab, to provide information regarding the driver and the carrier. In other words, passengers have rights to request the driver to comply with mandatory requirements and obligations arising from the applicable regulations.

Secondly, taxi passenger rights (and also obligations) are listed in the Taxi Rules. According to Section 31 of these rules, the passenger has the right to:

- choose any taxi at the taxi parking lot regardless of the taxi order in the taxi parking lot;
- choose the route of its trip;
- to stop the carriage upon its own initiative;
- require the driver to show the Taxi Rules in order to read them;
- carry baggage with him or her if the sizes and characteristics thereof comply with the provisions for carriage (this particular right derives from Section 43 of the Law on Carriage by Road).

II.7 Subsidies applicable to taxi sector *(including public developed applications for taxi sector, geolocalisation, etc.)*

There are no specific subsidies applicable to taxi sector in Latvia.

II.8 Labour rules

There are no specific labour rules for taxi drivers. Taxi drivers may also register as individual merchants and obtain themselves the licence for passenger carriage by taxis. If taxi driver operates as individual merchant labour rules are not applicable.

II.9 Supervisory enforcement tools

According to Section 4(3) of the Law on Carriage by Road, the carriage by road is controlled by the Ministry of the Interior, Ministry of Finance, local governments and institutions subordinate to these ministries and local governments, pursuant to their competence, as well as the carriers themselves and other persons and institutions specified in law.

The following types of institutions/ persons, exercise the control over carriage by road:¹⁰⁷⁶

- control institutions of local governments;
- carrier control institutions;
- State Border Guard;
- State Revenue Service;

¹⁰⁷⁶ Rules of Cabinet of Ministers of 24 May 2011 No 411 "Procedure for organisation and implementation of control on carriage by road". Available: <http://likumi.lv/ta/id/231347-autoparvadajumu-kontroles-organizanas-un-istenosanas-kartiba> [last accessed on 12 April 2016]; Section 214.1 of the Latvian Administrative Violations Code (dated 07.12.1984). Available: <http://likumi.lv/doc.php?id=89648> [last accessed on 13 April 2016].

- State Police;
- Municipal Police.

Each of these institutions has its own competence, jurisdiction and powers to exercise supervision of carriage by road, including passenger carriage by passenger taxis.

Mostly supervision of compliance with the rules on the carriage of passengers with passenger taxis is done by the "control institutions of local governments" and the Municipal Police within their administrative territory. However, it does not preclude other institutions, for example the State Police, also to control carriage of passengers pursuant to their competence.

"Control institutions of local governments" are approved by each local government and they are regulated by the specific rules issued by local governments. For example, in the Riga City, the control institution is the Control Service of the Riga City Council Department of Transport.¹⁰⁷⁷ Upon determining non-compliance with rules on the carriage of passengers the Control Service of the Riga City Council Department of Transport may impose fines for such non-compliance pursuant to the Riga Regulation on Taxi Licences and the Latvian Administrative Violations Code. Some governments have not established specific control institutions and in those municipalities the control of passenger taxis is carried out only by the Municipal Police.¹⁰⁷⁸ Control of passenger taxis carried out by the control institutions of local governments and/or Municipal Police includes supervision of fulfilment of legal obligations towards passenger carriage, compliance with the taxi equipment requirements, existence of licences and licence cards for carrying passengers by taxis.

III. Legal framework applicable to hire cars with driver

III.1 National/local municipal regulation

There are no specific regulations applicable to hire cars with driver in Latvia. It is an unregulated field which is subjected to general Civil Law provisions. In practice, services of hire cars with drivers are provided by two contracts: a car rental contract and a driver service contract.

Section 29(1) of the Law on Carriage by Road stipulates that carriage of passengers by road shall be carried out by road transport vehicles, including cars, designated for such purpose. However, further specification and set of requirements is applicable only to taxis. It could be argued that some of the general provisions of the Law on Carriage by Road are also applicable to hire cars with drivers, for example, the provisions regarding the written form of the agreement between the passenger and the carrier, the procedure for handling complaints of the passenger. However, in practice, the Law on Carriage by Road is not applied to services of hire cars with drivers.

¹⁰⁷⁷ Regulations of 27 April 1999 No 33 of Riga City Council on control of commercial passenger carriage procedures in Riga. Available: <http://likumi.lv/doc.php?id=24289> [last accessed on 12 April 2016], Articles 1.4, 2.1.2.

¹⁰⁷⁸ Informative report of the Ministry of Transport of 30 November 2015 "Legal regulation in the area of passenger carriage by taxis and proposals for its development". Available: <http://tap.mk.gov.lv/lv/mk/tap/?pid=40376165> [last accessed on 12 April 2016].

Depending on how the service of the hire car with driver is effectively provided, institutions, which carry out the control of carriage by road, are entitled to impose fines for the provision of unlicensed taxi services (Sections 149³²(7) and 162² of the Latvian Administrative Violations Code), if it seems that the drivers are providing taxi services without a licence. Recently, the media covered a case where authorities had started proceedings to impose a fine for provision of services without mandatory licence. According to the media, in January 2016 the police impounded a driver's vehicle for sharing ride costs by means of the 'Taxify' application and initiated proceedings on carrying out commercial activities without a licence. The police had made a so called "mystery shopping" and established that the private driver using the 'Taxify' application was in fact providing services similar to taxi without a licence.¹⁰⁷⁹ The end result of these proceedings for the moment is unknown.

The issue in these situations is that the Law on Carriage by Road does not expressly prohibit carrying passengers for payment without a licence in all possible cases, for example, in case of hiring a vehicle with driver. The Law on Carriage by Road defines a "passenger taxi" as "car intended for the carriage of passengers upon an individual order and equipped with a device which indicates the service fee and results of which are used in registration of income" (Section 29 (2)). Further it stipulates that "carriage of passengers by a passenger taxi" is allowed only if the carrier of the passenger taxi has received a special authorisation (licence) issued by the relevant local government (Section 35 (1)). Therefore, it may be concluded that if a vehicle is not equipped with a device which indicates the service fee and results of which are used in registration of income, then it is not a "passenger taxi" according to the definition of the law and no licence is needed. However, this interpretation is not confirmed by court practice or government and does not exclude that a different interpretation of the Law on Carriage by Road is possible by the authorities and therefore provision of services for hire cars with drivers (and also ridesharing services) remain in the gray area.

III.2 Procedures for issuing licenses and applicable criteria

N/A

III.3 Technical requirements applicable to hire cars with driver

There are no specific technical requirements for hire cars with driver except those applicable under mandatory law to any vehicles, which allow them to participate in road traffic. Specific technical requirements may be set in the car rental contract.

III.4 Qualitative requirements

There are no specific qualitative requirements for drivers of hired cars except those under mandatory law, i.e., having a valid driver's permit. Specific qualitative requirements may be set in the driver's service contract.

¹⁰⁷⁹ Latvian authorities declare war on ridesharing app Taxify — as private driver's vehicle is impounded.. Available: <http://rigatalk.com/2016/01/latvian-authorities-declare-war-ridesharing-app-taxify/> [last accessed on 13 April 2016]; "Policija apkaro Taxify, firma pārtrauc sadarbību ar privātajiem šoferiem". Available: <http://skaties.lv/latvija/policija-apkaro-taxify-firma-partrauc-sadarbibu-ar-privatajiem-soferiem/> [last accessed on 13 April 2016].

III.5 Organisational requirements

N/A

III.6 Passenger rights

Passenger rights are set out in the contractual relationship between the passenger and the hire company. If the contract for carriage is concluded with a natural person who is the passenger, consumer protection rules may apply.

III.7 Labour rules

There are no specific labour rules applicable for hire car's drivers. Hire car's drivers may also register as individual merchants, and in such case labour rules are not applicable.

III.8 Local incentives, subsidies provided by the administration in order to carry out certain services (such as mini-van service for people with reduced mobility, elderly, schools)

There are no known local incentives or subsidies regarding private hire cars.

III.9 Supervisory enforcement tools

There are no specific supervisory enforcement tools for hire cars with drivers (except the regular supervision carried out by state institutions to make sure that the vehicle complies with the technical requirements and the service provider carries out its commercial activity in line with the legal requirements).

IV. Legal framework applicable to ridesharing and car sharing

There are no specific regulations applicable to ridesharing or car sharing services.

Car sharing is not considered as carriage of passengers because the shared vehicles are driven by the end-users themselves and not by a professional (hired) driver. This makes car sharing different from carriage of passengers by taxis or hire cars with drivers. Therefore, car sharing services could be considered as a specific form of the car rental, which are thus subject to general Civil Law provisions.

Ridesharing, where there is one driver and several passengers, is more similar to hire cars with drivers and it is generally subject to Civil Law provisions. However, depending on how exactly ridesharing is carried out in practice, institutions, which carry out the control of carriage by road, could qualify this as unlicensed taxi services (see s. III.1 above).

IV.1 Current regulations and legislative proposals

There are no specific regulations applicable to car sharing or ridesharing. As mentioned previously, there is one official legislative proposal in the passenger taxi sector (see s. I above), but there are no legislative proposals regarding providing car sharing or ridesharing services. According to the media, Taxify, the owner of a ridesharing platform operating in Latvia, has submitted proposals for legislative changes to the Ministry of Transport, and called for cooperation between the Riga City Council to discuss possible legislative solution for private drivers.¹⁰⁸⁰ Whereas the Ministry of Transport supports the use of such applications as 'Taxify' or 'Uber', only if licensed passenger taxis are involved instead of occasional private drivers.¹⁰⁸¹ Also Riga City Council agrees with the operation of 'Taxify', if the drivers settle their obligations under the law related to carrying out commercial activity.¹⁰⁸²

IV.2 National rules applicable to on-line platform and rules applicable to service providers

Currently there is no specific regulation applicable to on-line platforms acting as intermediaries between private hire car drivers/ licensed passenger taxi drivers and customers. According to Article 13 of the Taxi Rules this would be just a specific mean of communication allowing the passenger to hire a taxi. At the same time depending on the scope of the services provided by the on-line platform, their providers must comply with the general provisions under Latvian law applicable to the particular services.

IV.3 Main operators and their business models

Currently there are no operators in car sharing business. The main operator for ridesharing business is Taxify and, according to the information available from the media, Uber is also considering to start providing its ridesharing services in Latvia.

Uber

Although SIA Uber Latvia has been registered in Latvia since 2013, Uber application services are still not available in Latvia.¹⁰⁸³

Taxify

Taxify is a taxi apps and, in Latvia, it already has 60,000 users.¹⁰⁸⁴ The company started out as an intermediary between professional taxi service providers and clients and then

¹⁰⁸⁰ "Latvian authorities declare war on ridesharing app Taxify — as private driver's vehicle is impounded". Available: <http://rigatalk.com/2016/01/latvian-authorities-declare-war-ridesharing-app-taxify/> [last accessed on 13 April 2016].

¹⁰⁸¹ "SM atbalsta "Taxify", tomēr iebilst pret nelicenzētu šoferu iesaisti biznesā" Available: <http://nra.lv/latvija/165042-sm-atbalsta-taxify-tomer-iebilst-pret-nelicenzetu-soferu-iesaisti-biznesa.htm> [last accessed on 13 April 2016].

¹⁰⁸² "RD gatava piekrist 'Taxify' darbībai, ja šoferi ievēros normatīvos aktus". Available: <http://www.delfi.lv/business/transports-logistika/rd-gatava-piekrist-taxify-darbibai-ja-soferi-ieveros-normativos-aktus.d?id=47052129> [last accessed on 13 April 2016].

¹⁰⁸³ "Ietekmīgs ASV tehnoloģiju uzņēmējs var satricināt Latvijas taksometru tirgu". Available: http://www.tvnet.lv/tehnologijas/nozares_jaunumi/482729-ietekmigs-asv-tehnologiju-uznemejs-var-satricinat-latvijas-taksometru-tirgu [last accessed on 13 April 2016].

¹⁰⁸⁴ "SM atbalsta "Taxify", tomēr iebilst pret nelicenzētu šoferu iesaisti biznesā". Available: <http://nra.lv/latvija/165042-sm-atbalsta-taxify-tomer-iebilst-pret-nelicenzetu-soferu-iesaisti-biznesa.htm> [last accessed on 13 April 2016].

it started also involving private drivers. After the police impounded the vehicle of a private Taxify driver (see s.III.1 above), it was reported that Taxify, for the time being, would have cooperated only with licensed passenger taxis.¹⁰⁸⁵

ClickTaxi LV

ClickTaxi LV is an application developed for Latvian market, which provides similar intermediary services as Uber and Taxify. ClickTaxi LV allows ordering a taxi, learning the fee for the ride, and monitor, how close the taxi is to the location. The companies, which use ClickTaxi LV application, include well known taxi service providers operating under trademarks Alviksa, Avoiss Taxi, Baltic Taxi, Free Taxi, Red Cab, Smile Taxi and Trio Pluss.

IV.4 Requirements imposed upon non-licensed activities (*safety and technical requirements, insurance requirements, obligations relating to licences and on-line platforms*)

Carriage of passengers with a passenger taxi without a licence is prohibited. So far as the non-licensed activities do not qualify as carriage of passengers with a passenger taxi, there are no specific requirements imposed.

IV.5 Local incentives, subsidies and other forms of promotion for ridesharing and car sharing (*including, parking spots, use of preferential lanes, etc*)

There are no current or proposed forms of promotion for ridesharing or car sharing services.

V. Relevant national case law

National case law (court practice) mostly relates to fines imposed by the institutions that carry out the control of carriage by road. There is no relevant case law (court practice), which would clarify the regulation and rules or requirements applicable to hire cars with drivers and ridesharing.

VI. Country Market

There are 119 local governments in Latvia out of which 42 local governments have established regulations for issuing licences for passenger carriage by taxi and out of these 36 local governments have actually issued licences. On 1 January 2015, **2888** vehicles had received licence cards for providing taxi services out of which 2218 vehicles had received their licence cards in Riga City.¹⁰⁸⁶

¹⁰⁸⁵ "Policija apkaro Taxify, firma pārtrauc sadarbību ar privātajiem šoferiem". Available: <http://skaties.lv/latvija/policija-apkaro-taxify-firma-partrauc-sadarbibu-ar-privatajiem-soferiem/> [last accessed on 13 April 2016].

¹⁰⁸⁶ Informative report of the Ministry of Transport of 30 November 2015 "Legal regulation in the area of passenger carriage by taxis and proposals for its development". Available: <http://tap.mk.gov.lv/lv/mk/tap/?pid=40376165> [last accessed on 12 April 2016]

Recently the Competition Council has analysed the taxi market in Riga (which by far is the largest in the whole country) and concluded that carriers in Riga may be divided into three groups:

1. Large carriers (some of them have their own fleet) – they operate above 50 passenger taxis;
2. Average carriers – they operate 11 – 50 passenger taxis;
3. Small carriers – they operate or 1 – 10 passenger taxis.

According to the report of the Competition Council, the number of small carriers has been increasing and the number of large carriers decreasing. This is mainly due to the fact that often drivers themselves register as carriers and then they conclude partnership agreements with one company in order to work under this company's trademark and in some cases also to use the company's dispatcher services.¹⁰⁸⁷

VII. Market players

Carriers, which have the largest amount of licence cards issued in Riga are AS Rīgas Taksometru parks and SIA Baltic Taxi. Other significant market players are SIA Rīgas privātie taksometri, SIA Delivery24.LV, SIA AUTO SOS, SIA TAXI 4 YOU.¹⁰⁸⁸

If taxis marked with one trademark are considered, then the largest taxi service providers are SIA Zvanu Centrs-lowcost.lv and their cooperation partners ("PANDA taxi" trademark), AS „Rīgas Taksometru parks" („Red Cab" and „Rīgas Taksometru parks" trademark), SIA Baltic Taxi and cooperation partners ("Baltic Taxi" trademark), SIA UDI TAXI and cooperation partners („Alviksa" trademark) and SIA Rīgas privātie taksometri, SIA RĪGAS MOTORS, SIA RĪGAS MOTORS TAXI (all three companies jointly using "Rīgas Motors" trademark).¹⁰⁸⁹

VIII. Barriers, limitations, incentives

In general, barriers to entry are low, however there are some inconvenients. For instance, the driver must apply to multiple municipalities in order to broaden the territory where he wishes to provide its services and, if he wishes to provide them with the same vehicle, he must subject to to different maximum tariff rates covering those administrative territories, which are established by the local governments. As mentioned earlier (see s. I), the Ministry of Transport has made several proposals to tackle some of these issues. Discussions on these proposals are ongoing.

Regarding the administrative territory of Riga City, the Competition Council of Latvia found that the recent amendments to the Riga Regulation on Taxi Licences, which require carriers to obtain an additional licence for providing taxi services in the territory of Old Town in Riga, are a trade barrier and an unfair measure vis-à-vis local carriers. That finding is mainly based on the high fees required for obtaining the additional

¹⁰⁸⁷ Competition Council of Latvia. Final report on "Market surveillance on provision of passenger taxi services in Riga". Available: <http://www.kp.gov.lv/documents/ea825addb2a415139e7bd0d87a22e21b824c2dbf> [last accessed on 13 April 2016], pp 18-19.

¹⁰⁸⁸ Ibid, pp 19 – 20.

¹⁰⁸⁹ Ibid, pp 22 – 24.

licence, which are significantly higher than the fee for obtaining the regular licence, and on the lack of substantiation for its introduction.¹⁰⁹⁰

IX. Capacity, growth, impact

Taxi sector

On 1 January 2015, 2888 vehicles had received licence cards for providing taxi services; out of these, 2218 vehicles had received their licence cards in Riga City.¹⁰⁹¹ This points to the large majority of taxi services being provided in Riga City.

Taxi services are offered mainly in Riga and around Riga. The following table shows the number of issued licences and licence plates during the period from 2010 to 2015 in Riga:

Period	Issued special permits (licences) (Total amount of carriers)	Issued licence plates (total amount of vehicles)
January 2010	80	1489
January 2011	84	1276
January 2012	120	1422
January 2013	258	1598
January 2014	395	1794
January 2015	592	2167
January 2016	608	2235

Data gathered by the Competition Council regarding taxi services in Riga shows that from 2009 to 2015 the amount of licences for passenger carriage by taxis has grown from 75 to 617, whereas the amount of licence cards has grown from 1650 to 2197.¹⁰⁹²

Since 2009, the proportion of large carriers (that is, more than 50 taxis) and average carriers (that is 11 – 50 taxis) has decreased, while the proportion of small carriers (that is 1 – 10 taxis) has increased in Riga City market. In 2009 57.33% of all passenger carriers by taxi were small carriers, 28% were average carriers and 14.67% were large carriers. Whereas in 2015 94.32% of all passenger carriers by taxi were small carriers, 5.03% were average carriers and 0.65% were large carriers.¹⁰⁹³

¹⁰⁹⁰ Id., page 36.

¹⁰⁹¹ Informative report of the Ministry of Transport of 30 November 2015 "Legal regulation in the area of passenger carriage by taxis and proposals for its development". Available: <http://tap.mk.gov.lv/lv/mk/tap/?pid=40376165> [last accessed on 12 April 2016].

¹⁰⁹² Competition Council of Latvia. Final report on "Market surveillance on provision of passenger taxi services in Riga". Available: <http://www.kp.gov.lv/documents/ea825addb2a415139e7bd0d87a22e21b824c2dbf> [last accessed on 13 April 2016], p. 18.

¹⁰⁹³ Id.

Currently, the most notable active intermediary in taxi sector in Latvia is Taxify, with already 60 000 users.¹⁰⁹⁴

X. Results

Data gathered by the Competition Council regarding taxi services in Riga shows that from 2009 to 2015 the amount of licences for passenger carriage by taxis has grown from 75 to 617, whereas the amount of licence cards has grown from 1650 to 2197. The increase in the licence numbers seems also to be linked to the increase in self-employment, since the number of large operators have decreased while the number of small operators have increased.

XI. Conclusions

In Latvia, only registered merchants having the necessary passenger transport licence and the licence card for each taxi vehicle can transport passengers by taxi. Carriers that have obtained the licence must comply with the legal rules regarding the carriage of passengers with passenger taxis.

There is no specific regulation applicable to intermediary services that bring together the carrier and the customer (regardless of whether the intermediary services are provided by phone applications or by a call centre).

There is no specific regulation applicable for hire cars with drivers, car sharing or ridesharing services. In general, these services are not subject to licensing and are governed by Civil Law. However, the lack of clear regulation and case-law concerning them may result in the authorities considering these services as unlicensed commercial activity if they resemble carriage of passengers by taxis.

Currently, the Ministry of Transport has made several proposals to improve the existing regulation in the area of taxi services. These proposals aim at improving the qualification of drivers and reducing the administrative barriers for taxi services by the same carrier across several administrative territories. Additionally, there have also been initiatives from the private sector to regulate the ridesharing services in Latvia. Until specific regulation addressing hire cars with drivers or ridesharing services is adopted, legal uncertainty will persist with regard to these services.

Bibliography

National legislation

1. Law on Carriage by Road (dated 23.08.1995). Available: <http://likumi.lv/doc.php?id=36720> [last accessed on 11 April 2016].
2. Latvian Administrative Violations Code (dated 07.12.1984). Available: <http://likumi.lv/doc.php?id=89648> [last accessed on 13 April 2016].

¹⁰⁹⁴ "SM atbalsta "Taxify", tomēr iebilst pret nelicenzētu šoferu iesaisti biznesā". Available: <http://nra.lv/latvija/165042-sm-atbalsta-taxify-tomer-iebilst-pret-nelicenzetu-soferu-iesaisti-biznesa.htm> [last accessed on 13 April 2016].

3. Rules of Cabinet of Ministers of 3 July 2012 No 468 "Regulations on the carriage of passengers with passenger taxis". Available: <http://likumi.lv/doc.php?id=249996> [last accessed on 11 April 2016].
4. Rules of Cabinet of Ministers of 17 May 2005 No 339 "Procedure authorising to carry passengers and cargo for hire with third party owned vehicles" Available: <http://likumi.lv/doc.php?id=108617> [last accessed on 11 April 2016].
5. Rules of Cabinet of Ministers of 24 May 2011 No 411 "Procedure for organisation and implementation of control on carriage by road". Available: <http://likumi.lv/ta/id/231347-autoparvadajumu-kontroles-organizesanas-un-istenosanas-kartiba> [last accessed on 12 April 2016].
6. Regulations of 13 October 2015 No 171 of Riga City Council "Regulations on licensing of carriage of passengers with passenger taxis and local government duties on taxi entry in a special regime zone". Available: <http://m.likumi.lv/doc.php?id=278459> [last accessed on 11 April 2016].
7. Regulations of 29 March 2011 No 118 of Riga City Council "Regulations on the maximum fares (tariffs) for passenger and baggage carriage with taxis in Riga" Available: <http://likumi.lv/doc.php?id=229993> [last accessed on 12 April 2016].
8. Regulations of 27 April 1999 No 33 of Riga City Council on control of commercial passenger carriage procedures in Riga. Available: <http://likumi.lv/doc.php?id=24289> [last accessed on 12 April 2016].
9. Regulations of 31 October 2013 of Valmiera City Council No 176 "On maximum taxi carriage tariffs in Valmiera". Available: <http://likumi.lv/ta/id/262698-par-maksimalajiem-vieglo-taksometru-parvadajumu-tarifiem-valmieras-pilseta> [last accessed on 12 April 2016].
10. Regulations of 11 February 2011 No 3 of Ventspils City Council "On maximum taxi carriage tariffs in Ventspils". Available: <http://likumi.lv/ta/id/230314-par-maksimalajiem-vieglo-taksometru-parvadajumu-tarifiem-ventspils-pilseta> [last accessed on 12 April 2016].
11. Regulations of Jelgava City Council regarding issuing special licences in the administrative territory of Jelgava City. Available: <http://likumi.lv/ta/id/254316> [last accessed on 12 April 2016].

Reports of state institutions

12. Informative report of the Ministry of Transport of 30 November 2015 "Legal regulation in the area of passenger carriage by taxis and proposals for its development". Available: <http://tap.mk.gov.lv/lv/mk/tap/?pid=40376165> [last accessed on 12 April 2016].
13. Competition Council of Latvia. Final report on "Market surveillance on provision of passenger taxi services in Riga". Available: <http://www.kp.gov.lv/documents/ea825addb2a415139e7bd0d87a22e21b824c2dbf> [last accessed on 13 April 2016].

News articles

14. "Ietekmīgs ASV tehnoloģiju uzņēmējs var satricināt Latvijas taksometru tirgu". Available: http://www.tvnet.lv/tehnologijas/nozares_jaunumi/482729-ietekmigs_asv_tehnologiju_uznemejs_var_satricinat_latvijas_taksometru_tirgu [last accessed on 13 April 2016].
15. "Latvian authorities declare war on ridesharing app Taxify — as private driver's vehicle is impounded". Available: <http://rigatalk.com/2016/01/latvian-authorities-declare-war-ridesharing-app-taxify/> [last accessed on 13 April 2016].
16. "Policija apkaro Taxify, firma pārtrauc sadarbību ar privātajiem šoferiem". Available: <http://skaties.lv/latvija/policija-apkaro-taxify-firma-partrauc-sadarbibu-ar-privatajiem-soferiem/> [last accessed on 13 April 2016].

17. "RD gatava piekrist 'Taxify' darbībai, ja šoferi ievēros normatīvos aktus". Available: <http://www.delfi.lv/business/transports-logistika/rd-gatava-piekrist-taxify-darbibai-ja-soferi-ieveros-normativos-aktus.d?id=47052129> [last accessed on 13 April 2016].
18. "Rīgas ielās parādīsies taksometri ar Taxify zīmolu". Available: <http://www.db.lv/tirdznieciba/pakalpojumi/rigas-ielas-paradisies-taksometri-ar-taxify-zimolu-442178/> [last accessed on 13 April 2016].
19. "SM atbalsta "Taxify", tomēr iebilst pret nelicenzētu šoferu iesaisti biznesā". Available: <http://nra.lv/latvija/165042-sm-atbalsta-taxify-tomer-iebilst-pret-nelicenzetu-soferu-iesaisti-biznesa.htm> [last accessed on 13 April 2016].

17. LITHUANIA

General Legal Framework

Lithuanian legislation requires licensing for commercial activities of carriage of passengers by buses and taxis. The private hire car with a driver service is not subject to regulatory requirements in Lithuania.

Licenses

Taxi services are governed by the public law at both the state and municipal levels. According to the Road Transport Code, a licence to engage in carriage by taxi cars shall be issued by municipal institutions in whose territory the taxi activity will be performed. A carrier may transport passengers only when having a licence and a separate permit is issued for every taxi vehicle. There are no quantitative restrictions, even if the legislation allows the municipality to set such thresholds.

Technical requirements

A taxi car is defined in the Road Transport Code as a motor vehicle intended for carrying passengers and their luggage, having not more than 7 seats including driver, fitted with a taximeter and a taxi sign (plafond) and meeting the technical requirements set for taxi passenger cars. A taxi must be equipped by a technically fit taximeter and a plafond and shall be styled according to the set rules; moreover, taxi cars have different yellow number plates.

Organisational and professional requirements

Municipalities may establish compulsory certificates for taxi drivers. In Vilnius, the certificate is issued if the applicant demonstrates the general knowledge of laws on carriage of passengers, taxi services regulation, traffic rules, employment matters, safety at work, insurance issues and actions to be undertaken in case of an accident, communication with the clients, and basic knowledge of foreign languages (English).

Fares

In Lithuania, there are no fares imposed by the public authorities. General rules entailed in the Road Transport Code provides that tariffs for taxi services have to be established by the taxi companies, communicated to the relevant municipality authorities and published in the prescribed order.

Passenger rights

A general rule is that the taxi companies and drivers must ensure the taxi passengers' safety and culture services. According to the Rules on Carriage of Passengers by Taxi, a taxi driver must carry the passenger to the designated place on the shortest route unless the passenger requests a specific route. The taxi driver is prohibited to accept fellow-passengers in the occupied taxi car unless explicitly requested by the first passenger.

Labour rules

The Labour Code of the Republic of Lithuania has general labour rules that apply to taxi drivers: standard working day is 8 hours per day and the standard working week is 40 hours per week. The maximum working week allowed is 48 hours and the maximum single working day (including overtime) is 12 hours. These rules do not apply to self-employed persons.

Airports

No particular rules are provided for the airports.

Enforcement

Municipal controlling agencies, police and other controlling bodies with special certificates, as well as taxi company controlling employees perform taxi control/enforcement. Controlling officers inspect the following: the application of the Rules on Carriage of Passengers by taxi Cars; if a driver has a permit to conduct taxi activities and other mandatory documents; if the taxi vehicles conform to the established requirements; if the drivers follow the fares established by taxi companies and do not apply higher rates than indicated by taximeter; if the taxi companies and drivers follow the working time rules.

Hire cars with driver

Hire car with driver service under Lithuanian law is exclusively governed by private contractual law with no intervention of public law except for enforcement and inspections. A particular contract exists for the service called "contract for rental of vehicles with services relating to driving and technical maintenance". The contract establishes the duty and obligations of both parties. The administrative courts formed notable precedents in a number of cases on illegal taxi services which establish a distinction between taxi and private hire cars services.

Ridesharing

Ridesharing is an unregulated field under Lithuanian legislation and therefore, there are no requirements that drivers must be travelling from point A to point B themselves or that the ridesharing activity cannot be carried out for a profit.

Market players

According to the Competition Council of the Republic of Lithuania, the main players operating in the Vilnius taxi market are: UAB „FSOFT“, UAB „Romerta plius“, UAB „KABLASTA“, UAB „EKIPAŽAS“, UAB „REMCAR“, UAB „SIMTAKSA IR KO“, UAB Taksona. The best known taxi dispatch apps are etaksi, Taxify, etransport.lt etc. With regard to ridesharing service platforms, the best known are etransport.lt, Taxify, and Uber. As for hire car with driver services, due to contractual nature of such services, the number of service providers is not publicly available.

Capacity, growth and impact

According to the Competition Council of the Republic of Lithuania,¹⁰⁹⁵ 1,516 taxi permits were issued in Vilnius as of October 2013. No official statistics on the number of taxi service providers are available in different cities. Based on information obtained from the national authority responsible for registration of vehicles State Enterprise Regitra, in April 2016, 4,212 taxi number plates were issued. The number of players in the Vilnius taxi market is the highest because of the number of passengers.

Conclusions

In the Lithuanian taxi market, there are no particular barriers to entry or competitive obstacles. No particular competitive concerns have arisen. The only grey area seems related to the ridesharing services but a legislative reform has been proposed (see below).

I. Introduction

Lithuanian legislation foresees licensing for commercial activities of carriage of passengers by busses and taxi services. The contractual relationships whereby a private hire car rental services together with a driver are provided to the client are not subject to the regulatory requirements in Lithuania. A contract for such services is exclusively governed by the private contractual law and no interventions of public law like prior authorisation, licensing or similar are found. Freedom of contract applies and there is no regulatory authority or any entity that formally supervises this field at any level (national, regional, municipal). Likewise, car sharing models are considered to fall under regulation of car rental agreements.

In October 2016, the Lithuanian Parliament passed the amendment to the Road Transport Code which regulated the ridesharing service and introduce a fast track procedure to obtain a licence as hire car with driver transport operator. The licence is issued within 24 hours from the application with the right of the local authority to withdraw it in case the requirements imposed by the Road transport code are not fulfilled. The reform has also introduce the definition of passenger transport organizer, which is the legal or natural person that arranges for the carriage of passengers also by means of technical and organizational conditions which facilitate the matching of the offer and demand. The organizer must ensure that the transport carrier complies with the legislative requirements for hire transport.

¹⁰⁹⁵ Decision of the Competition Council of the Republic of Lithuania No. 2S-10/2014 as of 22 October 2014.

II. Legal framework applicable to taxis

Taxi services are governed by the public law at a state and municipal level. Legal framework for carriage of passengers by taxi cars as well as main conditions for conducting taxi activities are defined by the Road Transport Code of the Republic of Lithuania (hereinafter – “**Road Transport Code**”). The Rules on Carriage of Passengers by Taxi Cars approved by the decree of the Ministry of Transport and Communications (hereinafter – “**Rules on Carriage of Passengers by Taxi Cars**”) serve as a secondary legal act where the more detailed implementing provisions are set.

II.1 National/Local / Municipal regulations

Taxi services are governed by the public law at a state and municipal level. According to the Road Transport Code, a licence to engage in carriage by taxi cars shall be issued by municipal institutions in whose territory the carriage of passengers by taxis will be performed. A carrier may transport passengers only when having a permit to carry passengers by taxi cars and a separate permit is issued for every taxi car. According to the Rules on Carriage of Passengers by Taxi Cars, the taxi services may be rendered only in the territory of municipality which issued a licence.

The Rules on Carriage of Passengers by Taxi Cars further elaborate on requirements applicable to taxis, taxi stops, and conditions for performing activity, payment for taxi services, controlling authorities and functions thereof and liability for infringement of the said rules.

Separate set of rules govern the taxi styling rules and use of special number plates. National legislation delegates authority to municipalities to set specific rules for taxis operating within its territory.

II.2 Procedures for issuing licences and applicable criteria

A permit (licence) shall be issued for a carrier: having the registered its office (branch) or the residence, if a carrier is a natural person, in the territory of the respective municipality; legally possessing a vehicle meeting the technical requirements; and upon the condition that a permit was not annulled within the past year. The licence is non-transferable.

Taxi licence is issued by an administration of a municipality where the taxi passenger services are to be provided. In case of taxi services provision in the capital, the competent authority would be Vilnius city municipality administration and the procedure of issuing licence in Vilnius would be as it follows:

1. An applicant submits to the municipality the following documentation:
 - 1) filled-in application;
 - 2) personal identity document;

- 3) certificate of individual activity;
 - 4) declaration of the place of residence within the same municipality where services are to be provided;
 - 5) registration certificate of the vehicle;
 - 6) documents on the vehicle's roadworthiness;
 - 7) driver's civil liability insurance documents;
 - 8) documents proving legal basis for possession of the vehicle.
2. An applicant pays the administrative fee;
 3. The competent authority checks the documentation and indicates shortcomings (if any);
 4. The licence is being issued.

II.3 Technical requirements applicable to licensed vehicles *(taximeters, vehicles' technical specifications, accessibility, insurance, maintenance)*

Technical specifications. A taxi car is defined in the Road Transport Code as a motor vehicle intended for carrying passengers and their luggage, having no more than 7 seats including the driver, fitted with a taximeter and a taxi sign (plafond) and meeting the technical requirements set for taxi passenger cars.

Technical requirements. A taxi must be equipped by a technically fit taximeter and a plafond and shall be styled according to the set rules; moreover taxi cars have different yellow number plates.

Roadworthiness. Taxi cars and M1 class vehicles intended for commercial carriage of passengers must undergo roadworthiness attestation more frequently when compared with non-taxi vehicles: taxis are subject to inspection every 12 months (vehicles with exploitation period of less than 5 years) and every 6 months afterwards.

Insurance. Taxis as all other vehicles must have the Compulsory Civil Liability Insurance of Motor Vehicle (MTPL), however the insurance premium is calculated by the insurer. The insurance risk is one of the factors having impact to the size of an insurance premium. If insurance risks provided for in the insurance contract increase or is likely to increase during the period of validity of the insurance contract, the policyholder (or insured person) must notify the insurer about increased insurance risk. In practice, insurance companies consider taxi cars as well as other vehicles used for commercial activities of passenger carriage as of increased insurance risk and therefore the higher insurance premium is usually quoted for MTPL. Such additional risks usually increase the insurance price approximately by 2-4 times.

Accessibility. No particular requirements for taxi card are established, however a general rule entailed in the Rules on Carriage of Passengers by Taxi Cars state that a person with reduced mobility, persons seeking for immediate medical assistance, injured persons, persons accompanying minors as well as pregnant women shall have a priority right to use taxi.

II.4 Qualitative requirements (*fitness of the driver, knowledge and skills required, drivers' training*)

Municipalities may establish compulsory attestation for taxi drivers. For example, questions of attestation of taxi drivers in Vilnius cover general knowledge of laws on carriage of passengers, taxi services regulation, traffic rules, employment matters, safety at work, insurance issues and actions to be undertaken in case of an accident, communication with the clients, basic knowledge of foreign language (English), etc. A driver must wear appropriate clothing.

II.5 Organizational requirements (*dispatch affiliation centre, minimum service*)

Dispatch service is defined by the Rules on Carriage of Passengers by Taxi Cars: "a taxi dispatcher office is a taxi order management centre of taxi carrier or other person contracted by him where orders of the passengers are received by the means of telecommunications". Dispatch service is not a licensed activity in Lithuania. Growing popularity of e-services changes the clients' attitude to the traditional taxi dispatching and some Lithuanian taxi companies have introduced, over the past years, possibilities of taxi dispatch via web or mobile applications (e.g. Taxify app, <http://www.smarttaxi.lt>, etaksi.lt).

A driver must have at least 3 years driving experience. Municipalities have a right to limit the maximum number of taxis operating within their territory, however no such limitations are being imposed.

II.6 Fares (*criteria for taxi fare setting, authority/body in charge of setting the tariffs, maximum tariffs and/or fixed tariffs, composition of the tariff and tariffs adjustment mechanism [minimum charge, additional charge for using the radio taxi or dispatch centre, increase of the tariff during certain hours, such as at night or on certain journeys, such as towards the airports, reductions for certain categories, such as elderly people]*)

General rule entailed in the Road Transport Code is that tariffs for taxi services have to be established by the taxi companies, communicated to the relevant municipality authorities and published in the prescribed order. The applicable tariffs pre-notified 5 business days in advance shall be placed on driver's card and made visible inside of a vehicle (front panel) in order to provide passengers with accurate and effective information of the applicable fares.

The taxi carriers shall establish tariffs for the following:

1. onetime boarding fee;
2. fee per 1 kilometer driven;
3. downtime while waiting for and servicing the passenger;
4. for calling a taxi.

Drivers are bound by the tariffs established by the taxi company and charge the passenger according to taximeter only. The fares may be differentiated for daytime and

night-time, non-business days and holidays as well as for trips outside the town. Payments for entering specific paid areas or roads shall be borne by passengers.

II.7 Passenger rights

A general rule is that the taxi companies and drivers must ensure the taxi passengers' safety and culture services. According to the Rules on Carriage of Passengers by Taxi a taxi driver must carry the passenger to the designated place on the shortest route unless the passenger requests specific route. Taxi driver is prohibited to accept fellow-passengers to the occupied taxi car unless explicitly requested by the first passenger. A passenger may carry inside the taxi vehicle luggage, packages, household appliances and also pets.

II.8 Subsidies applicable to taxi sector (including public developed applications for taxi sector, geolocalisation, etc.)

No subsidies are granted to the taxi sector.

II.9 Labour rules

General labour rules established by the Labour Code of the Republic of Lithuania also apply to the taxi drivers: standard working day is 8 hours per day and the standard working week is 40 hours per week. The maximum working week allowed by the constitute 48 hours and the maximum single working day (including overtime) is 12 hours. Due to the nature of the sector, different rules may be applicable.

Taxi drivers are deemed to be the mobile workers and therefore special labour rules may apply. Summary working time regime is a special method of managing the working time in shifts on the basis of a record period but not on the basis of a single week. In transportation sector, the summary working time regime should be recorded on the basis of a record period, which in transportation must not exceed 1 year. The summary working time allows having a single working week of maximum 48 hours (with possible extension up to 60 hours) and a single working shift (day) of maximum 12 hours whereas the minimum rest periods have to be respected. Accordingly, the taxi companies are capable to stipulate the shift of 12 hours for its drivers.

On the other hand, taxi drivers may also be self-employed persons and therefore the rules of Labour Code do not apply and such person may conduct commercial activity for the time chosen at its own discretion. Self-employed persons may conduct the services if no labour relations are present. The laws do not provide any certain attributes which would separate employment and self-employed relations, but the list of main features distinguishing those relations has been approved by court practice and includes the following elements:

1. Subordination. Under employment relations there is an element of subordination, i.e. an employee has to comply with the decisions and instructions of the company's management or his/her supervisor, follow the company's policies and guidelines, the established work procedures and etc. In case of civil agreement, the service provider acts independently from the company, has no subordination to the company's

management, does not have to comply with the company's internal policies and regulations, independently decides on work procedure, is not subject to supervision by the company and etc.

2. Working time. Employees are subject to the working time rules established by the company, i.e. they have to work during and/or to be available at certain hours set by the company (unless the employee is subject to a more flexible working time regime). Self – employed persons, on the other hand, choose their own working hours and do not have to account for them to the company.
3. Remuneration. Remuneration for employees is usually dependent on the working time (e.g. fixed monthly, weekly or hourly salary plus (sometimes) variable remuneration) for performance of his/her working functions. Remuneration of self – employed persons is usually agreed for the particular work result but not a fixed amount for working time.
4. Work tools/equipment. Under employment relations the employer provides the employee with working equipment or compensates the employee for using his/her own property for work purposes. On the other hand, self – employed persons use their own working tools and bear all costs related to them (i.e. the company does not reimburse the consultant for the equipment, software etc.).
5. Place of work. Under employment relations, an employee works at the premises provided by the employer (unless the employee works remotely), and the company is responsible for ensuring safe work conditions. Under a civil agreement, the service provider works from his/her work premises, and the company has no control or responsibility over them.
6. Exclusivity. In case of employment relations, usually an employee works exclusively for his/her employer and devotes all his/her working time for the company. In case of self – employment a service provider usually sells his/her services to many clients.

II.10 Supervisory enforcement tools

Taxi control is performed by officers of municipal controlling agencies, police and other controlling bodies having special certificates, as well as controlling employees of taxi companies.

Controlling officers inspect the following:

1. how the taxi carriers, drivers and passengers adhere to the Rules on Carriage of Passengers by Taxi Cars;
2. if a driver has a permit to conduct taxi activities and other mandatory documents;
3. if the taxi vehicles conform to the established requirements;
4. if the drivers follow the fares established by taxi companies and do not apply higher rates than indicated by taximeter;
5. if the taxi companies and drivers follow the working time rules.

Violations of taxi activities (save from gross wrongdoing invoking criminal liability under the Penal Code) fall under the Administrative Infringement Code of the Republic of Lithuania. Generally, regulator (i.e. municipal authorities) act as an enforcement body in the event of administrative violations, however in most cases the administrative offence report of the respective institution is being contested in court.

III. Legal framework applicable to hire cars with driver

Hire cars with drivers under Lithuanian law is exclusively governed by the private contractual law with no interventions of public law save from enforcement and inspections are found.

III.1. National/local municipal regulation

Hire cars with drivers are governed by the Civil Code of the Republic of Lithuania, which regulates a specific type of contract called "contract for rental of vehicles with services relating to driving and technical maintenance". The concept of the hire car with driver is that the lessor undertakes to grant means of transport to the lessee for his temporary use in exchange for payment. The lessor performs the service of driving and the technical maintenance, while the lessee undertakes an obligation to pay for the leasing.

Articles 6.514-6.517 of the Civil Code distribute obligations between the parties in respect of vehicle and contract on hire cars with drivers: the lessor bears the obligation to ensure the proper technical status of the leased vehicle and its normal and safe exploitation as well as that the skills of drivers and other established requirements are met; to insure the vehicle and the civil liability of its operator, whereas the lessee shall pay expenses related to the use of vehicle.

The law requires the written form for the hire car with driver's contract, irrespective of its duration. Non-observance of the prescribed written form deprives the parties to the transaction, in case of dispute, from the right to use testimony of witnesses as evidence to prove the facts indicated above.

III.2 Procedures for issuing licenses and applicable criteria

Hire car with driver is unlicensed activity. When hire car with driver is performed as an economic activity, general registration for tax purposes and income taxation principles apply.

III.3 Technical requirements applicable to hire cars with driver

General roadworthiness requirements apply: technical inspection must be within 3 years after the date of first registration whereas subsequent inspections carried out every 24 months thereafter.

III.4 Qualitative requirements

No specific requirements are established by the law as it depends on the contractual arrangement and the lessee's needs.

III.5 Organisational requirements

No specific requirements are established by the law as it depends on the contractual arrangement.

III.6 Passenger rights

In the view of systematic and linguistic interpretation of the applicable law, hire car with driver services are not considered carriage in its strict sense and therefore legislation on carriage of passengers is applicable only in the explicitly said cases.

III.7 Labour rules

Hire cars with drivers is a civil contractual relationship and there are no employment relations between the service provider and the service recipient.

III.8 Local incentives, subsidies provided by the administration in order to carry out certain services *(such as mini-van service for people with reduced mobility, elderly, schools)*

As the hire cars with drivers fall under contractual relationship, there are no interventions from administration whereby any incentives, subsidies or similar tools are granted.

Transportation pupils by school buses and other carriage of passengers of social nature falls outside of the scope of hire cars with drivers as defined above.

A project called Social taxi (<http://socialinistaksi.lt/page/apie>) was launched by the national Institute for Social Integration where volunteers facilitate the transportation of persons with reduced mobility. The aim of such service is the free-and-easy mobility to persons' work, studies, everyday interactions and involvement into the active social and cultural life. Destinations where this project is launched are the following cities: Vilnius, Kaunas, Klaipėda, Zarasai and Visaginas.

III.9 Supervisory enforcement tools

Hire cars with drivers are subject to the general road transport control performed by the State Road Transport Inspectorate and police.

Even though hire cars with drivers is an unlicensed economic activity, authorities keep an eye on it seeking to prevent circumvention of the regulatory elements of transportation business and namely the licensed taxi services. There was a wave of inspections in 2013 to this regard and they were particularly related to the dispatcher offices that formally acted as intermediaries between so called private hire cars, which actually were rendering taxi services, and the clients.

IV. Legal framework applicable to ridesharing and car sharing

Car sharing is an unregulated field under the Lithuanian legislation and therefore no requirements that drivers must be traveling from point A to point B themselves, and that the car sharing activity cannot be carried out for a profit are set. Being somewhat grey zone, car sharing is unregulated until performed seldom. It is understood as service under the Lithuanian law and in case it turns to be a continuous economic activity, the service provider should register with the authorities for tax purposes. This means that car sharing does not differ from other activities of economic nature and general registration, taxation principles shall apply.

IV.1 Current regulations and legislative proposals

From regulatory perspective remunerated activity of ridesharing may be considered as private hire cars with or without drivers governed by the Civil Code: "Under a contract of lease of means of transport without provision of services relating to driving and technical maintenance, the lessor shall take an obligation to grant means of transport to the lessee in temporary possession and use for payment, while the lessee undertakes an obligation to pay the payment of lease". The contract shall be in written form irrespective of its duration.

No specific regulation has been adopted yet. However due to the considerable raise of ridesharing services and extensive shift from traditional taxi services to the private hire or operating unregulated model, a proposal for necessary amendments to existing legislation (and namely the road Transport Code) were registered at the Parliament.

IV.2 National rules applicable to on-line platform and rules applicable to service providers

The proposal on amendments to the Road Transport Code seek to introduce the notion ridesharing services operator, however given the initial stage of legislative process it is unknown whether this concept will be accepted by the lawmakers.

Currently no specific legislation applicable to on-line platforms and service providers apply and therefore general principles of service provision apply.

IV.3 Main operators and their business models

The most advanced and organised and car sharing company acting under name of CityBee (www.citybee.lt) has gained its popularity in Vilnius, further increases the number of vehicles and expands to Kaunas this year.

Uber has launched its activities in Vilnius in late 2015 and introducing their services as ridesharing. The ridesharing model is also used by other notable market players, e.g. Taxify, etranspot.lt, etc.

On the other hand, carpooling activities also take its place in the field of transportation of passengers by cars. Car-pooling services are rather popular between students as an alternative for discounted domestic bus and/or train routes. Currently car-pooling activity or other kindred activities are gaining in popularity – Facebook pages on journey sharing "travelling from point A to point B and can give a ride", "travelling from city A to

city B, can give a ride” etc. has a community of over 60,000 members (according to information based on Facebook “like” buttons) and these are just a few examples.

IV.4 Requirements imposed upon non-licensed activities (*safety and technical requirements, insurance requirements, obligations relating to licences and on-line platforms*)

No specific requirements are established and general principles for provision of services and general requirements related to vehicle roadworthiness and insurance apply.

IV.5 Local incentives, subsidies and other forms of promotion for ridesharing and car sharing (*including, parking spots, use of preferential lanes, etc.*)

No local incentives except for general support for sharing economy based business models may be identified. The designated parking spaces and/other forms of promotion for ridesharing and car sharing are based on contractual arrangements and no policy-wise incentives, subsidies or other forms of promotion for ridesharing and car sharing are present.

V. Relevant national case law

The relevant case-law relates to the fact that Lithuanian law does not provide for a clear distinction between taxi and private hire cars services. In other words, there is certain grey zone between the two activities. Though, the administrative courts formed notable precedents in number of cases on illegal taxi services which allow identifying the criteria for distinction between the taxi and private hire cars services:

- In order to determine what kind of business – private hire cars or taxi services were actually carried out, it is necessary to assess the facts of the case giving priority to the content over the form of the services rendered. The carriage is also qualified by the nature and duration of the services. Where the short-term services are rendered, i.e. a single client is being driven from point A to point B, it characterises taxi operations;
- Attributes related to the taxi services are: receiving orders from the clients and transmission of such information to the driver via radio devices by using services of dispatcher office, riding on call, transportation of a passenger on indicated route;
- One of the criteria distinguishing the taxi services from the hire cars with drivers is that taxi fares are distance-based, i.e. calculated per kilometres ridden, whereas remuneration for private hire cars is time-based, i.e. calculated on the basis of the duration of the rental of the vehicle with driver;
- Features of the taxi services: the carriage of passengers is performed by a vehicle (car) the need for which was immediate and instantaneous, mostly for a short-term journey from one place of the town to another, i.e. the need for a vehicle not for specific period, but for particular route, the passengers lodge their requests via telephone to the dispatcher office, the orders are immediately transmitted not to only one but several drivers having radio connection, the intermediation of the dispatcher office was used between the client and the driver.

VI. Country Market

The market is segmented between taxis and hire car with drivers. The geographical scope of the taxi market is local, since taxi services are licensed at municipal level and a licence entails a taxi to operate within the territory of the licensing municipality, while the hire car may be considered national in scope since it relies on a contractual agreement between the carrier and the passenger. Raids of transport control institutions in 2013 revealed a thin line between taxi services and hire cars with drivers where the passenger transportation service providers sought to circumvent the regulatory elements of transportation business.

VII. Market players

Due to the number of taxi service providers and without official statistics, it would be subjective to distinguish the most notable taxi service providers. The main players operating in Vilnius taxi market distinguished by the Competition Council of the Republic of Lithuania are as follows: UAB „FSOFT“, UAB „Romerta plius“, UAB „KABLASTA“, UAB „EKIPAŽAS“, UAB „REMCAR“, UAB „SIMTAKSA IR KO“, UAB Taksona, UAB „TAKSODROMAS“, UAB Dallis, UAB „SDKE“, UAB „ERELIO AKIS“, UAB „Greitvila plius“, UAB „KORTESA“, UAB „Eurotaksi“, UAB „Vakim“, UAB „KOBLA plius“, UAB „Sidabrinis ratas“, UAB „ARTAKSA“, UAB „TAKSUVA“, UAB TAXILITA, UAB „EDANGĖ“, UAB Passenger Ground Services, UAB „MŪSŲ TAKSI“, UAB „VIP TAK“, UAB „Avenlita“, UAB „SAUDA“, IĮ „JULDINA“, STANDART TAKSI, UAB. The best known taxi dispatch apps are etaksi, Taxify, etransport.lt etc.

With regard to ridesharing service platforms, best-known are etransport.lt, Taxify, Uber, etc.

As for hire car with driver services, due to contractual nature of such services, the number of service providers is not publicly available.

VIII. Barriers, limitations, incentives

In Lithuania, there are no barriers to the activity of passenger transport by taxis, hire cars with drivers and ridesharing. Administrative requirements for conducting business apply; however all the listed types of passenger transportation fall under the freedom to provide services and no restrictions are imposed in this regard.

IX. Capacity, growth, impact

There are no publicly available official statistics about the overall number of licensed taxi vehicles. According to information from the Competition Council of the Republic of Lithuania,¹⁰⁹⁶ **1,516** taxi permits were issued in Vilnius in October 2013.

Likewise, we were not able to find any official statistics about the number of taxi service providers in different cities. Based on information obtained from the national authority

1096 Decision of the Competition Council of the Republic of Lithuania No. 2S-10/2014 as of 22 October 2014.

responsible for registration of vehicles, the State Enterprise REGISTRA, in April 2016 there were **4,212 taxi number plates**. The market is currently changing its traditional business model to the hire car with driver's model, as the administrative requirements of the latter model are less burdensome. There is a large number of players in Vilnius taxi market compared to other major cities in Lithuania; the size of the Vilnius taxi market is large having regard to number of passengers concerned.

X. Results

The limited amount of available data did not allow a complete analysis. A more general analysis based on Eurostat data is included in Chapter III of the main report. Due to the low market entry barriers and the upcoming reform, the market for hire transport and ridesharing has a big potential for development.

XI. Conclusions

1. The different models of passenger transport (by taxi, hire car with driver and car sharing) fall under different legislation: whereas taxi services are mostly regulated by administrative law, hire car with driver and car sharing are governed by contract law.
2. Some amendments to the existing legal framework were proposed. Consultations which aim at bringing some clarity to the grey area between traditional taxi services and hire car services are ongoing at the governmental level.
3. Hire car with driver service is an unlicensed activity governed by private contractual law. There are no administrative interventions except from controlling functions and general preconditions for conducting economic activity.
4. Inspections by transport control institutions carried out in 2013, revealed that the service providers sought to circumvent the regulatory elements of the transportation business by exploiting the thin line between taxi services and private hire services. Court practice defined the criteria distinguishing taxi and hire car with driver services. Nevertheless, these criteria are of evaluative nature and therefore a grey area between the two exists.
5. Ridesharing becomes more and more popular; however, the business model still lacks a comprehensive legal framework. The proposed amendments to the Road Transport Code seek to fill-in this gap; however it is not yet clear what model the legislator will follow when regulating ridesharing: either to make a parallel with the taxi services, define ridesharing as a distinct economic activity or verify its private-hire character.

Bibliography

Legislation

1. Civil Code of the Republic of Lithuania, Official Gazette of Lithuania (*Valstybės žinios*), 2000, No. 74-2262,
2. Code on Administrative Violations of the Republic of Lithuania, Official Gazette of Lithuania (*Valstybės žinios*), 1985, No. 1-1;
3. Road Transport Code of the Republic of Lithuania, Official Gazette of Lithuania (*Valstybės žinios*), 1996, No. 119-2772;
4. Law on Compulsory Insurance against Civil Liability in Respect of the Use of Motor Vehicles of the Republic of Lithuania, Official Gazette of Lithuania (*Valstybės žinios*), 2001, No. 56-1977; 2007, No. 61-2340;
5. Rules on Licencing the Road Transport Activity, Official Gazette of Lithuania (*Valstybės žinios*) 2011, No. 152-7150;

6. Rules on Carriage of Passengers by Taxi Cars approved by the decree of the Ministry of Transport and Communications No. 3-80 dated 27 January 2012, Official Gazette of Lithuania (*Valstybės žinios*) 2012, No. 16-707;
7. Rules on Styling the Road Transportation Means approved by the decree of the Ministry of Transport and Communications No. 55 as of 12 February 1998, Official Gazette of Lithuania (*Valstybės žinios*) 1998, No. 24-628; Register of Legal Acts, 02.02.2015, No. 2015-01482.

Court practice

1. Ruling of the Vilnius District Court in the administrative violation proceedings No. ATP-799-628/2013 of 29 July 2013;
2. Ruling of the Vilnius District Court in the administrative violation proceedings No. ATP-808-628/2013 of 31 July 2013;
3. Ruling of the Vilnius District Court in the administrative violation proceedings No. ATP-883-195/2013 of 9 August 2013;
4. Ruling of the Vilnius District Court in the administrative violation proceedings No. ATP-37-487/2014, dated 14 January 2014.

Other documents

Decision of the Competition Council of the Republic of Lithuania No. 2S-10/2014 as of 22 October 2014

Websites

1. Vilnius City municipality: <http://www.vilnius.lt>
2. Kaunas City municipality <http://www.kaunas.lt>
3. Klaipėda City municipality <http://www.klaipeda.lt>
4. State Enterprise Regitra: <http://www.regitra.lt>
5. Social taxi project: <http://socialinistaksi.lt>

18. LUXEMBOURG

General Legal Framework

In Luxembourg the taxis legislation has recently been reviewed. The *Loi du 5 juillet 2016 portant organisation des services de taxis*, adopted by Parliament in summer 2016, regulates the sector. Taxi services are defined under Article 1 of the said law as "occasional remunerated land transport of passengers".

The legislative framework applicable to taxi services is complemented with decrees: *Règlement grand-ducal du 23 juillet 2016 fixant les modalités d'application de la législation portant organisation des services de taxis*, regulating more in detail what is needed to obtain a taxi operator licence (and a taxi driver permit), alongside the taxi equipment, as well as the *Règlement ministériel du 28 juillet 2016 concernant les modalités d'application de la réglementation portant organisation des services de taxis*, regulating taximeters. Hire cars with drivers are regulated under Article 56bis of the *Code de la Route*. Only an authorization of establishment is needed to exercise the activity of hire cars with drivers.

Taxis

Unlike the previous legislation, where the local authorities were competent, the Ministry of Transport is in charge of issuing the operators' licences. The regulation of taxi parking spaces and of the taxi stands remains a municipal competence. The local authorities provide for such rules by means of regulations dealing with circulation within a given area. However, central authorities can substitute themselves to the local authorities when the latter do not timely react in order to create sufficient parking stands.

Licences

Taxi licences for operators can be granted for six different geographic areas. The 2016 Law regulates the maximum number of licences that can be issued yearly for each geographic area. Within a given area, only taxis licenced for that area can rank in authorised parking stands. The passenger pick-up can occur within areas in relation to which the licence is granted, but also in other areas, upon being hailed by the customer, if the taxi stand is more than 50 meters away from the place of hailing. Taxis can also be pre-booked via phone or radio taxi, in writing or by any electronic means. The drop off can occur in any area. Access to the profession of taxi driver is regulated, whereas fares are liberalised. Licences can be granted also for electric vehicles, within the yearly cap set by the legislation. Taxi drivers must obtain a permit before exercising the profession.

Airport

Licences for the airport are those for the geographic area 1. There are no other specific rules.

Organizational and technical requirements

The vehicles must undergo a technical control, in accordance with Article 13(5) of the 2016 Law. Only vehicles whose owner or user holds a valid licence can be registered as taxis. The taxi may start operating (after the number of the licence has been registered in the certificate) once the registration and the technical control are finalised. Concerning the taximeter, Articles 13(3), 14 and 15 of the 2016 Law provided it must be checked to ensure that it cannot be tampered with and it must fulfil certain requirements further specified by decree. Article 13(1) of the 2016 law provides that on top of the taximeter, the taxi must also have a fixed table, a yellow disk specifying the geographic area; a luminous device indicating "TAXI" in the roof.

Fares

Taxi operators are free to set their own fares, which can also be fixed or flat fares. However, the operator must inform the passenger in advance of the applicable fares.

Passenger rights

Passenger rights are the general rights provided by a transport contract and for occasional remunerated land transport of passengers.

Labour rules

For employees, a collective agreement applies and minimum wages are provided by the legislation. The

maximum working hours are defined.

Hire cars with driver

Hire cars with driver are regulated by Article 56bis of the *Code de la Rue*. Certain technical criteria for the vehicles apply and, in addition, it is required a written and signed contract between the operator and the client. The contract must indicate the duration of the ride (minimum one hour) and the price of the ride. Whenever the passenger asks for a receipt, it must be given.

Enforcement

The new legislation includes the sanctions that are applied by the enforcement authorities.

Ridesharing

Ridesharing services exist in Luxembourg in the form of "genuine" ridesharing (such as *Karzoo*, or *Pendlerportal*). Car sharing was introduced at the end of 2015 and is managed by the municipality of *Luxembourg Ville*.

Market analysis

In Luxembourg the taxi market is generally considered part of the public urban transport and especially of the transport mobility on the demand.

The market is divided into:

- Taxis, which are authorised to pick up passengers on the street and they apply (freely agreed) fares (based on the taximeter) as well as flat fares;
- Hire cars with driver, which are only allowed to perform pre-booked journeys. A written signed contract must be entered into and the car must be hired for at least one hour.

The electronic booking is allowed for both taxis and hire cars with drivers, but for the latter a contract must be signed.

Before the reform, the Luxembourg National Competition Authority, in 2014, analysed the hire transport market concluding that the taxi market was very concentrated with a structure close to the oligopoly, with few large operators. The combination of oligopoly and free fares produced high fares and taxi scams. Recently, some dispatch centres and new operators started their services offering lower prices.

Barriers to entry, limitations, incentives

The taxi sector, also before the reform, was characterized by quantitative restrictions. There are approximately around 520 taxi licences, of which 52 are for the airport. The local authorities issued no new licences since 2007. Since 2008, the maximum fares were abolished with the introduction of free fares. According to the Luxembourg National Competition Authority, this gave rise to fares that were 40-50% above the 2004 maximum fare. Another element of distortion, was the fact that, while the taxi licence is, in principle, non-transferrable, the licences were rented at high prices (around EUR 1,700-1,800 per month) by large taxi operators which have relinquished the majority of the licenses available. The contractual restrictions to the hire cars with drivers, especially the fact that the minimum booking must be of one hour, make difficult for this service to compete with taxis.

Capacity, growth, impact

Until 2014, the sector resulted characterized by an oligopolistic situation with low supply and high prices. This situation, with few taxis available, gave rise, over the last years, to alternatives to classical taxis service, with hire cars offering comparable services at lower or fixed fares. It also gave rise to illegal taxis, i.e. taxi operators with the authorisation for a commercial activity but without licence. The shortage of supply has also incentivized the development of public transport service on demand, such as "Call a bus" service.

Conclusions

The 2016 Law maintains the quantitative restrictions and the free fares, mainly focusing on the quality of the service. In the current context, the taxis market remains characterized by high barriers to entry, both quantitative and qualitative, and by a lack of competition between taxis and hire cars with drivers as well as among taxi operators themselves.

I. Introduction

The first piece of legislation applicable to the taxi sector in Luxembourg was introduced in 1997.¹⁰⁹⁷ The legislation made no distinction between taxis and hire cars with driver: unlike taxis, however, hire cars with drivers could not pick up passengers on the streets on the basis of a communal licence (*i.e.* could only be pre-booked) and they did not use a taximeter. A Decree on the maximum fares applicable was adopted in 2004¹⁰⁹⁸, but subsequently repealed by the entry into force of the regulation of free prices in 2008. Airport taxi services were also regulated in the same year.¹⁰⁹⁹

One of the issues under the previous legislation was that the local municipalities, with few exception, did not regulated their taxi sector and this created confusion concerning the applicable rules.

In 2013, the Government proposed a new program for the mobility of persons which also included a reform of the taxi sector. Subsequently, a lengthy process of consultation with stakeholders followed. As a result, in July 2016, Parliament adopted the *Loi du 5 juillet 2016 portant organisation des services de taxis* (hereinafter, "**2016 Law**").¹¹⁰⁰

The new legislative framework, which currently regulates the taxi and hire car with driver's sectors, overhauls the provisions of the 1997 legislation on taxi operators and drivers (with tightened criteria for access to the profession), as well as centralises the licensing competences. Since 2016, the competence has been devolved to Ministry of Transport.¹¹⁰¹

The 2016 Law introduces a new geographic dimension for taxi licences: namely, taxi licences can be granted for six different geographic areas. Within these areas, only licenced taxis for a given area can stand in the authorised parking stands. The passenger pick-up can occur within areas in relation to which the licence is granted, but also in other areas, upon being hailed by the customer, if the parking stand is more than 50 meters away from the place of hailing. The taxis can also be pre-booked via phone or radio taxi, in writing or by any electronic means. The drop off can occur anywhere the customer wishes. There are caps to the number of licences that can be granted for each of these areas. In addition, there are also overall caps. Specific licences will annually be granted for electric cars ("**0 emissions**"), within certain given caps for certain geographic areas.

The new piece of legislation confirm the free fares (including fixed and flat fares) officially repealing the maximum fares introduced in 2004.¹¹⁰² The use of the taximeter is mandatory.¹¹⁰³

Two subsequent implementing Decrees were also adopted in July 2016, namely the:

¹⁰⁹⁷ *Loi du 18 mars 1997 portant réglementation des services de taxis.*

¹⁰⁹⁸ *Règlement grand-ducal du 9 juillet 2004 fixant les prix maxima pour courses en taxi.*

¹⁰⁹⁹ *Règlement grand-ducal modifié du 3 décembre 1997 portant réglementation des services de taxis à l'Aéroport de Luxembourg.*

¹¹⁰⁰ Official Journal A – 121 of 8 July 2016: <http://www.legilux.public.lu/leg/a/archives/2016/0121/a121.pdf>.

¹¹⁰¹ « *La réforme des taxis: plus de transparence, de protection et de flexibilité pour les clients* », 12 July 2016: <http://www.gouvernement.lu/6163541/12-reforme-taxis>.

¹¹⁰² *Règlement grand-ducal du 9 juillet 2004 fixant les prix maxima pour courses en taxi.*

¹¹⁰³ *Id.*

- *Règlement grand-ducal du 23 juillet 2016 fixant les modalités d'application de la législation portant organisation des services de taxis* (hereinafter, « **2016 Implementing Decree** »);¹¹⁰⁴ and
- *Règlement ministériel du 28 juillet 2016 concernant les modalités d'application de la réglementation portant organisation des services de taxis* (hereinafter, « **2016 Ministerial Decree** »).¹¹⁰⁵

Inter alia, the 2016 Implementing Decree repeals the earlier *Règlement grand-ducal modifié du 3 décembre 1997 portant réglementation des services de taxis à l'Aéroport de Luxembourg*, which specifically regulated the provision of taxi services at the Luxembourg airport.¹¹⁰⁶

Therefore, there is currently one single legal framework also applying to taxi services rendered at the airport.

II. Legal framework applicable to taxis

II.1 National/Local/municipal regulations

The main legislation applicable to taxis in Luxembourg comprises the following pieces of legislation:

- *Code De La Route – Arrêté grand-ducal du 23 novembre 1955* (hereinafter « the Highway Code »), as amended;
- *The 2016 Law* ;
- *The 2016 Implementing Decree*;
- *The 2016 Ministerial Decree*;
- *Règlement grand-ducal du 3 octobre 2001 portant déclaration d'obligation générale de l'avenant à la convention collective de travail pour chauffeurs de taxis conclu entre la Fédération des patrons loueurs de taxis et d'ambulances du Grand-Duché de Luxembourg, d'une part et les syndicats OGB-L/ACAL, LCGB, FNCTTFEL/Secteur ACAL-Section taxis et FCPT/Syprolux, d'autre part* ;
- *Règlement grand-ducal du 3 Septembre 2016 portant réglementation de la circulation sur les voies et places ouvertes à la circulation publique aux abords de l'Aérogare de Luxembourg*.

II.2 Procedures for issuing licences and applicable criteria

The granting of taxi licences in Luxembourg is now regulated by the 2016 Law. The 2016 Law provisions are further specified in the 2016 Implementing Decree.

Taxi operators' licences

¹¹⁰⁴ Published in the Official Journal A – 163, of 11 August 2016:
<http://www.legilux.public.lu/leg/a/archives/2016/0163/a163.pdf>.

¹¹⁰⁵ Published in the Official Journal A – 169, of 25 August 2016:
<http://www.legilux.public.lu/leg/a/archives/2016/0169/a169.pdf>.

¹¹⁰⁶ <http://www.legilux.public.lu/leg/a/archives/2016/0163/a163.pdf>.

Article 1(c) of the 2016 Law defines taxi operator licences as administrative titles granting to the holder the right to exploit a taxi service. Taxis are vehicles for the transport passengers with at least 4 seats and not more than eight seats, except for the driver's seat, which are used to provide the occasional remunerated transport of passengers on the roads.¹¹⁰⁷ According to Article 3(1) of the 2016 Law, only physical persons or the legal persons (commercial companies) who are holders of a valid licence can provide the taxi service. The licence is granted by the Ministry of Transport. The holder of the taxi licence must be owner of the taxi or to be entitled to use the taxi in relation to which the licence is granted.¹¹⁰⁸

Indeed, the licence is only valid with respect to the vehicle in relation to which it is granted (i.e. vehicle specific).¹¹⁰⁹ Article 4 lays down the procedure to obtain the licence. To begin with, a cap is provided,¹¹¹⁰ depending on the geographic areas in relation to which the licence is granted. In a nutshell, the licences are only valid with respect to the area in relation to which it is granted.¹¹¹¹

The areas (and caps) are as follows:¹¹¹²

Number of geographic areas	Name of area	Maximum number of licences
1	Center (Canton Luxembourg)	290
2	South (Cantons Capellen & Esch-sur-Alzette)	140
3	West (Canton Mersch, Canton Redange)	30
4	East (Canton Echternach, Canton Grevenmacher, Canton Remich)	25
5	North 1 (Canton Diekirch, Canton Wiltz)	50
6	North 2 (Canton Clervaux, Canton Vianden)	15

Certain derogations for electric taxis are foreseen.¹¹¹³ More specifically, for the areas 2-6, 15 licences per year can be granted. For the area 1, only five licences per year can be granted. Finally, throughout the country, the maximum number of taxis cannot exceed

¹¹⁰⁷ Article 1(a) of the 2016 Law.

¹¹⁰⁸ Article 3(2) of the 2016 Law. In order to obtain the licence, the applicant must show that he is in possession of an authorisation to reside in Luxembourg, or a decision in principle granting such right to reside: see Article 3(3) of the 2016 Law.

¹¹⁰⁹ Article 5(2) of the 2016 Law.

¹¹¹⁰ *Id.*, Article 4(1).

¹¹¹¹ *Id.*, Article 6(1).

¹¹¹² *Id.*, Article 6(2).

¹¹¹³ *Id.*, Article 6(3).

1,5 taxis for 1000 inhabitants. With regard to the zero emissions licences, there is a cap to three licences per physical person or legal entity.

Within these limits, if these numbers are not reached, the minister publishes a vacancy in the Official Journal, setting the timeline by which the applicants must apply to obtain the licence.

The vacancy mentions the following elements:

- (a) The area of geographic validity of the licence;
- (b) Where the application must be sent;
- (c) The date by which they must be sent;
- (d) The date by which the minister must inform the applicant that the application is complete or, otherwise, the date by which the information submitted must be completed;
- (e) The date by which the minister must decide on the file.

The licences are granted by the Ministry on the basis of the waiting list where the applicants must be registered and on the basis of the priority order indicated by the applicant who has submitted a complete application.¹¹¹⁴ There is a unique waiting list for all the geographic areas. All the interested people can register.

More specifically, the application must contain: (i) the name and surname of the applicant, (ii) the number of the national identification, (iii) the address of the applicant, or if the applicant is a company, the name of the company, (iii) its form and identification number as well as the company seat. The waiting list follows a chronological order. The registration is strictly personal. The application for a licence must be done separately. The registration to the waiting list lasts 1 year. The licence contains the following elements: (i) number of the licence, (ii) number of the geographic area it relates to, (iii) the date in which it has been granted and how long it is granted for, (iv) whether it relates to a taxi vehicle or an electric vehicle. It also contains the generalities of the licence holder and the indication of the type of taxi, the registration number and the vehicle identification number.¹¹¹⁵

The taxi licence is only valid for the geographic area for which it has been issued,¹¹¹⁶ and it is personal and cannot be transferred.¹¹¹⁷ The taxi licence is valid for five years and can be renewed under the conditions laid down under Article 5(4) of the said 2016 Law.

Article 1 of the 2016 Implementing Decree lays down the criteria to obtain or renew the operators' licence. For operators who are physical persons the following documents must be provided:

¹¹¹⁴ *Id.*, Article 4(1).

¹¹¹⁵ *Id.*, Article 4(4).

¹¹¹⁶ *Id.*, Article 5(3).

¹¹¹⁷ *Id.*, Article 5(1).

1. A copy of the passport, of the ID card, of the trip or all other documents that allow the identification of the applicant;
2. A copy of the valid authorisation of establishment or the principle of establishment for the car renter (if the applicant is not the owner of the vehicle) delivered on the basis of law 2 September 2011 on the access to the profession of artisan, or other self-employed professions;
3. A copy of the certificate of registration or, as the case may be, a copy of the vehicle identification number;
4. A certificate of VAT registration.

The same documents must be provided for commercial companies, alongside the ID number of the company's managing director, the bylaws and the registration of the company in the company's register.

In both cases, a registration tax must also be paid. For zero emissions vehicles, in order to obtain a renewal of the licence, it is also necessary to add a proof of sale or the rental contract of the vehicle which certifies that a zero emissions licence has been issued.

Taxi driver permits

All taxi drivers must be holders of a valid taxi driver permit, which is also issued by the Ministry.¹¹¹⁸ The procedures to issue this permit are laid down under Section IV of the 2016 Law.

In accordance with Article 7(2) of the 2016 Law, the following conditions must be fulfilled: (a) be holder of a driver permit since at least two years; (b) have adequate knowledge in at least one of the three languages used in the country for administrative purposes; (c) fulfil criteria of morality and professional capacity.

As to morality, a criminal records check must be shown.¹¹¹⁹ No criminal history of at least 6 months' prison sentence must be shown. In addition, a certificate of attendance in a course organized by the minister must be shown: this course gives information on the legislation, on how to be client focused, on the management of conflicts as well as the notion of first aid help. The certificate is obtained after a written exam is passed. The participation to such a course must be repeated before the taxi driver permit expires.¹¹²⁰

Article 10 of the 2016 Law lays down the procedure to obtain such permit. More specifically, it provides that the minister takes a decision at the latest one month after the complete application has been submitted to him.

Similarly, to the taxi operator licence, the taxi driver permit is personal, and cannot be transferred.¹¹²¹ The permit has a validity of 10 years.¹¹²² During the ride, it must be displayed so that it is visible to customers.¹¹²³

¹¹¹⁸ Article 7(1) of the 2016 Law.

¹¹¹⁹ Article 8(1) of the 2016 Law.

¹¹²⁰ Article 9 of the 2016 Law.

¹¹²¹ Article 11 of the 2016 Law.

¹¹²² *Id.*

¹¹²³ *Id.*

For the renewal, according to the Implementing Decree, the following documents must be submitted: (i) copy of passport or ID number of the applicant; (ii) copy of the driver's permit; (iii) copy of the certificate of absence of criminal record, not older than three months; (iv) copy of the certificate of participation to the training course foreseen under Article 9 of the 2016 Law; (v) a declaration signed by the applicant that he (or she) has sufficient knowledge of one of the languages of the country in accordance with Article 7 of the 2016 Law; (vi) a recent photography of certain dimensions; (vii) a proof of payment of the registration tax.

II.3 Technical requirements applicable to licensed vehicles *(taximeters, vehicles' technical specifications, accessibility, insurance, maintenance)*

Vehicles used as taxis must be suitable to carry minimum four and maximum eight passengers, plus the driver. Operators must be in possession of a licence in order to provide the service with the vehicle the licence relates to.¹¹²⁴ The vehicles must undergo a technical control, in accordance with Article 13(5) of the 2016 Law. Only vehicles whose owner or user holds a valid licence can be registered as taxis.¹¹²⁵ The taxi may start operating (after the number of the licence has been registered in the certificate) once the registration and the technical control are finalised.

Taximeters are regulated under Articles 13(3), 14 and 15 of the 2016 Law. According to Article 13(3) they must be compliant with EU law requirements. The design and operation of the taximeter must make all tampering impossible. The specifications must be set by a Decree. In addition, the Ministry of Transport is responsible for their verification and approval, under Article 14 of the 2016 Law. The Ministry of Transport can defer these checks to a body¹¹²⁶ which carries out these controls through experts of high professional integrity: the specifications are regulated by Decree. In addition, according to Article 14, all taximeters must be integrated with a clock and a calendar, as well as a *fiche* whose technicalities must be specified by the 2016 Ministerial Decree.¹¹²⁷

Taximeters are compulsorily used for taxi services even if a flat fare is agreed, as foreseen under Article 15(1) of the 2016 Law. In addition, under Article 15(3), the taximeter must be equipped with a printer for printing receipts. The fare indicated in the printer must coincide with the fare calculated by the taximeter in accordance with Article 15(2) of the Law.

Some further criteria are spelled out under Sections II and III of the 2016 Ministerial Decree. More specifically, Article 4 provides that the SNCA carries out a technical verification of the taximeter which comprises an administrative exam as well as a metrological test. The technical specifications that the taximeter must fulfil are spelled out under Articles 2 and 3 of the same Ministerial Decree. Pursuant to Article 2 of the said Ministerial Decree, the taximeter must be in conformity with EU directive 2004/22, as well as be built in a solid fashion, protected from humidity, the cables must be protected from oxidation, they must be fixed so as to resist usage and not to be tampered with, it must be securitised, etc. Furthermore, pursuant to Article 3 of the

¹¹²⁴ Article 3(2) of the 2016 Law.

¹¹²⁵ Article 13(4) of the 2016 Law.

¹¹²⁶ *Société Nationale de Certification and Homologation.*

¹¹²⁷ Article 8 and 9 of the 2016 Ministerial Decree.

decree, the taximeter must calculate the fare according to certain technical specifications set therein.

Furthermore, Article 13(1) of the 2016 Law provides that on top of the taximeter, the taxi must also have the following equipment: a fixed table, a yellow disk specifying the geographic area; a luminous device indicating "TAXI" in the roof.

More specifically, Section III of the 2016 Implementing Decree provides some rules on the special equipment for taxis. More specifically, Article 4(1) provides that within the passengers' field of vision, a fixed table listing the following details: (i) readable driver name or name of the company; (ii) the operator's address; (iii) the number of passenger seats available; (iv) the date of validity of the licence; (v) the type of licence; (vi) the type of taxi; (vii) the fares. The model of such a table is set in an annex to the Implementing Decree. More specifically, it must correspond to the following criteria: (i) be in a fixed form, in a paper covered by plastic, (ii) be at least 200 mm large and 140 mm high.

In addition, according to Article 5(1) the taxis must also be equipped with a yellow disk which must be placed behind the wind screen at the right of the vehicle and must be rendered visible at the exterior of the car. This disk must be in conformity with the following criteria:

- (a) Be rectangular and be at least 100 mm large and at least 70 mm high;
- (b) Indicate in readable letters the area of validity of the licence and the number of the licence;
- (c) Indicate the registration as well as the vehicle identification number;
- (d) Indicate the emission date as well as the date of validity of the licence;
- (e) Indicate the type of licence to exploit a taxi service;
- (f) Indicate the type of taxi;
- (g) Have a stamp reading "the minister".

The yellow disk must be issued by the Ministry at the same time as the licence.

Under Article 6(1) of the Implementing Decree a light panel must be placed on the roof of the vehicle. It must be lit when the taxi is free and must be switched off when the taximeter is on. It must fulfil certain criteria that are indicated in paragraph 2 of Article 6.

Finally, Article 7(1) specifies the technical criteria that the metrological logbook, which accompanies the taximeter, must abide by. In this respect, it is worth pointing out that Article 8 provides that the taximeter, including the metrological logbook, must be sealed and certified by the SNCA (so as to avoid tampering) and if the taximeter stops working it must immediately be returned to the SNCA by the taxi operator.

In addition, Article 9 provides some specific rules on the verification of the taximeter by the SNCA. Finally, Article 10 provides that the taximeter must be equipped with a sticker: the information that the sticker must contain is set by the Ministry.

II.4 **Qualitative requirements** (*fitness of the driver, knowledge and skills required, driver training*)

Access to the profession of taxi driver is regulated by a series of entry requirements. Article 7(2) of the 2016 Law, the applicant must: (a) be holder of a driving licence for at least two years; (b) have adequate knowledge in at least one of the three languages used in the country for administrative purposes; (c) fulfil the criteria of morality and professional capacity. Morality can be proven if the applicant has a certificate showing lack of criminal record.

As to professional capacity, a training course must be attended and a written exam must be passed. Furthermore, the applicant must be authorised to work as a self-employed, as foreseen under the Law of 2 September 2011, and a VAT number must be obtained.

II.5 Organizational requirements (*dispatch affiliation centre, minimum service*)

The taxis must park in authorised parking stands within the geographic area in relation to which the licence has been issued (Article 12(1)). According to Article 2(1), taxis can only stand in these authorised areas and it is not possible to look for clients in public roads except for those authorised for taxi stands where a pick up or a pre-booking must occur.

While normally the taxi rank depends from the taxi's arrival order, the clients have the choice to take whichever taxi they want, even if it is not the first in line (Article 2(2)).

Under Article 2(3) of the said law, taxis can pick up passengers upon hailing, except for if the passenger is less than 50 meters away from a parking stand, also in other geographic areas than the one in relation to which the licence has been issued. In this respect, it is necessary to note that taxis can be pre-booked (by radio taxi, by phone, by writing, or by all other electronic means) in any geographic area, according to Article 2(4) of the said law. Finally, the drop-off of the passenger is free.

II.6 Fares (*criteria for taxi fare setting, authority/body in charge of setting the tariffs, maximum tariffs and/or fixed tariffs, composition of the tariff and tariffs adjustment mechanism [minimum charge, additional charge for using a radio taxi or dispatch centre, tariff increases during certain hours, such as at night or for specific journeys, such as towards the airports, reductions for certain categories, such as elderly people]*)

As noted above, according to the new legislation, fares are freely set. There are no additional charges to use a radio taxi or dispatch centres and no there are no different fares for rides within the city and to/from the airport (whithin Zone 1).

Certain state incentives for elderly and people with reduced mobility are foreseen but these are foreseen within the domain of public transportation.

II.7 Passenger rights

Article 12(1) of the 2016 Law provides that the drivers can stand in the areas reserved for taxi stands within the geographic area of the licence within the limits of their availabilities.

In this respect, according to Article 12(2), it is prohibited to the drivers: to refuse to a short ride within their standing area; to prevent clients from taking the taxi that they prefer in the rank; to pick up people chased by the Police; to smoke in the car; to solicit customers; or to ask for a higher price than that displayed in the taximeter.

Passengers also have the right to choose whichever taxi in the stand offers them the best price.

II.8 Subsidies applicable to the taxi sector *(including publicly developed applications for taxi sector, geolocalisation, etc.)*

The central authorities are not aware of any subsidy in this respect. Taxis which carry out the transport of people with reduced mobility are reimbursed by the State for the amount of the ride.

II.9 Labour rules

A collective bargain is in place for taxi drivers who are employed by taxi operators.¹¹²⁸ In Article 4, the collective bargaining agreement rules that working hour legislation must be complied with, the obligation for employees to execute the work to the best of their ability and in compliance with the company's requirements and the obligation to reimburse damages due to misconduct.

More specifically, it is required that, during working hours, the employer must engage the employee on a full time basis. When a taxi is out of order and there is no other car to replace it, resulting in forced unemployment, this may be changed to a leave of absence, upon agreement between the parties.

The daily shift shall not exceed 12 hours. The shift includes actual working time as well as breaks, one of which must be of minimum one hour.¹¹²⁹

The actual working time can add up to 8 hours and can be extended to nine hours so long as it does not exceed a weekly working time of 48 hours. Working time is calculated as actual working time excluding breaks. The 12-hour daily shift should add up to 8 actual working hours.¹¹³⁰ Taxi drivers are forbidden from working overtime.¹¹³¹

¹¹²⁸ Art.2 Règlement Grand-ducal du 3 octobre 2001.

¹¹²⁹ Art. 5 Règlement grand-ducal du 3 octobre 2001.

¹¹³⁰ Art. 6 Règlement grand-ducal du 3 octobre 2001.

¹¹³¹ Art.7 Règlement grand-ducal du 3 octobre 2001.

Each employee is entitled to some rest periods that should be equivalent to the number of Sundays in each month. Per calendar year, at least 1/3 of those periodical rest days must fall on a Sunday. Each rest period should last at least 36 hours.¹¹³²

According to Article 10, in case of Sunday work, which is allowed, the employee is entitled to a supplement on his salary. A supplement is also due for work between 10 pm and 6 am. In case of work shifts during official holidays the supplement is 100% of the salary.¹¹³³

In principle, the payment of wages is done on a monthly basis, in one instalment, and, in any case, no later than the 10th of the following month together with a statement indicating the gross pay, statutory deductions, any surcharges and net salary. However, it is possible that the driver may receive an advance before the end of the month; however, this payment shall not exceed 2/3 of the standard monthly salary.

Article 15 establishes the minimum monthly gross salary, which is proportional to the legal minimum wage due per hour of effective work. For example: Gross monthly Wages for 208 hours actually worked: $208 \times 300.85 = 62,577$, - LUF (with 590.84 index).

The effective wage (actual monthly salary) is 36% of total revenues excluding VAT of the driver. It does not include total revenues night and Sunday supplements, supplements for luggage and for rides abroad and gratuities. The employer transfers these revenues to the employee. The payment by the employer to the driver of night supplements (10%) and Sundays (25%) is made according to the legal provisions concerning the remuneration of Sunday work set by the Law of 12 June 1965 on collective bargaining agreements that also prescribes supplements for night work. These supplements must be included on the VAT payslip. Moreover, they are subject to social security dues and income tax. If the above-mentioned supplementary rates of 10% (Night shift) and 25% (Sunday shift) respectively are reviewed by the Price Authority, this change is automatically reflected in this collective bargaining agreement. Depending on total revenues a higher percentage may be granted.

When the actual monthly salary calculated is below the legal minimum wage, the minimum wage is paid. Tips received by taxi drivers are subject to social security dues and income tax (currently applicable rate: 3% of revenue).

The actual salary is calculated by applying the percentages on the maximum price of taxi fares regardless of the prices actually charged. The taxi driver is not entitled to offer discounts to the customer without the prior consent of the owner.

With regard to annual leave and possible extraordinary leaves, taxi drivers that have been employed for at least 5 years with the same operator are entitled to an additional day off. Taxi drivers with more than 10 years of work experience will receive two additional days off.

¹¹³² Art. 9 Règlement grand-ducal du 3 octobre 2001.

¹¹³³ Article 12 Règlement grand-ducal du 3 octobre 2001.

II.10 Supervisory enforcement tools

The new legislation tightens the penalties compared to the 1997 legislation.

According to Article 19 of the 2016 Law, the Ministry may, as an administrative measure, decide to withdraw or not renew the operator licence or the taxi driver permit when one of the conditions to obtain them is no longer fulfilled. In addition, the Ministry can impose an administrative sanction deciding:

- (a) the final withdrawal of the operators' licence or the taxi driver permit if the owner makes a fraudulent declaration and if there is a total or partial interruption of the service;
- (b) the temporary suspension of the licence or the permit for a period of a maximum of one year when the registration taxes (or other yearly taxes due by the operators) have not been paid; when Article 2(1) to (3) of the 2016 Law, when Article 5(1) to (3) is infringed; when Article 7(1), Article 11(1), Article 12(1) to (3), Article 13(1) or Article 15(1) are infringed.

In this respect, Article 19(2) provides that an opinion for a Commission is required. The decision of the Ministry can be appealed before an administrative judge.

In addition, there are several criminal provisions, laid down under Article 21(1) and 21(2) of the 2016 Law. Under Article 21(1), a penalty for EUR 25 to EUR 250 is imposed if the taxi driver has committed one (or more of) the following infractions:

- a) parking in unauthorised areas;
- b) failure to visibly display the taxi driver permit while in service;
- c) infringement of Article 12(1) to (3), which lays down the various obligations for the drivers in rendering the service;
- d) infringement of Article 13(1), which provides that the use of taxi services is only allowed in a taxi vehicle, as well as lays down the obligation for the taxi to have certain equipment, and the prohibition for other vehicles than taxis to display this equipment;
- e) failure to display in the disc the information concerning the Ministry in charge of complaints, in accordance with Article 17(2). The same penalties are imposed on the taxi operator which tolerates the infringements committed by the taxi driver pursuant to Article 21(a) to 21(e).

In addition, higher penalties (from EUR 25 to EUR 500) are levied for severe contraventions. Such contraventions are: failure to have the required valid licence or permit, as required under Article 3(1), if the licence is transferred or rented in violation of Article 5(1) or when the conditions for its renewal under Article 5(4) are violated, if the taxi starts the service without having the technical requirements that allow its registration, in violation of Article 13(4). These are levied by the police. Furthermore, drivers who also violate Article 5(2) and (3), Article 7(1), Article 11(1) and Article 15(1) are punished with the same type of sanctions from EUR 25 to EUR 500. Finally, also the operator that tolerated the driver violating Article 5(2) and (3), Article 7(1) and Article 15(1) may incur into such penalties.

In accordance with Article 21(3), in the above circumstances, a warning can be issued by the delegated police agents, as well as by the customs agents delegated to do so.

Article 22 provides that the competence is shared between the police and customs agents. They must ensure that a warning is issued (including stopping the car, asking for the registration and the identification number as well as the documents that the vehicle must have on board). In addition, and that the fares system abide by the Consumer Code provisions.

Once the warning is issued by either the police or the customs agent, the Ministry must be informed electronically within 6 days from the time the warning has been issued.

If the payment is not carried out, then the paper documents can be retained by the authorities so that the circulation is stopped.

III. Legal framework applicable to hire cars with driver

III.1 National/local municipal regulation

At national level, the applicable legislation is included in the Highway Code, Article 56bis and Article 56ter.

The main difference compared to taxis is that hire cars with driver can only accept pre-booked journeys and they cannot pick -up passengers off the street. They are also not required to install taximeters.

In addition, certain high technical requirements, as well as organisational requirements are foreseen.

III.2 Procedures for issuing licenses and applicable criteria

No licences are foreseen. Only an authorisation of establishment is needed to operate the service.¹¹³⁴

III.3 Technical requirements applicable to hire cars with driver

Art. 56bis of the Highway Code as subsequently modified provides that:

Notwithstanding other provisions of this Grand Ducal decree and regardless of whether they are used for the passenger transport upon remuneration or for free, vehicles used must be equipped with a table that meets the following conditions:

¹¹³⁴ Law of 2 Septembre 2011 on the self-employed professions:
<http://www.legilux.public.lu/leg/a/archives/2011/0198/a198.pdf>.

- a) permanently secured;
- b) displayed in the cockpit within reach of the passenger;
- c) have at least a width of 150 mm and a height of 100 mm;
- d) indicate in clearly legible characters:
 - the number of seats;
 - a statement certifying that the vehicle is a "hire car with driver", not subject to legal and regulatory requirements governing the service of taxis;
 - where appropriate, an indication that the transportation in the vehicle is subject to a fee.

The conditions under a) and c) are not required for vehicles registered for the first time as "hire cars with drivers" before 1 February 2005. The table can also specify the name or designation of the legal person and its operational seat.

III.4 Qualitative requirements

No particular qualitative requirements have been set.

III.5 Organisational requirements

Under Art. 56bis(2) of Highway Code, drivers of private hire cars with drivers are prohibited from:

- a) soliciting passengers by words or gestures;
- b) providing the service to individuals pursued by public authorities or by agents of the "Grand Ducal Police";
- c) asking higher price than the authorised rate.

If the car is broken, no waiting fee is foreseen.

According to an amendment introduced by a 2015 regulation to the Highway code,¹¹³⁵ in order to comply with the legislation, the hire car with driver must be reserved with a prior booking, with a written contract and for at least one hour. The contract must indicate:

- the contact details of the operator and the customer;
- the object of the contract with a specific mention of the duration of the hiring, that should be of at least one hour;
- the price; and
- the signature and the date.

Drivers shall produce a copy of this document when requested by the police and/or officials of the Customs and Excise Administration, responsible for the implementation of the legislation applicable to taxi services.

Hire car with drivers are required to issue, at the passenger's request, a receipt that must include at least the following information:

- name of the operator, date, vehicle licence number;
- price paid; and
- name and signature of the driver of the vehicle.

¹¹³⁵ Règlement grand-ducal du 25 juillet 2015.

Hire cars with drivers may refuse to carry objects likely to damage or defile their vehicle. Hire cars with must carry passengers by the shortest route, except in the case where the passenger indicates otherwise.

III.6 Passenger rights

Under Article 56bis of the Highway Code, the passenger is entitled to be transported to destination by the shortest route except for if he asks otherwise.

III.7 Labour rules

For drivers employed by a rental company, the same rules and the same collective bargain as taxi drivers applies. These rules do not apply in case of self-employed drivers.

III.8 Local incentives, subsidies provided by the administration in order to carry out certain services (such as mini-van service for people with reduced mobility, elderly, schools)

Hire cars with drivers may perform the transport service of people with health problems or reduced mobility to and from health centres and hospitals, under the same conditions of taxis and with the approval of the medical insurance service.

In addition, some special services (e.g. school minibuses) are foreseen. These services are services of general economic interest. The state subsidises the services providers.

III.9 Supervisory enforcement tools

See s. II.12.

IV. Legal framework applicable to ridesharing and car sharing

There is no current legislation or proposal in Luxembourg for ridesharing. Uber's services have been publicly mentioned to be welcomed in Luxembourg by the country's prime Ministry, subject to an appropriate legislative fiscal, employment and social security framework.¹¹³⁶

As to car sharing, Article 56bis of the Highway Code provides that the same technical requirements as those for hire cars with drivers apply.

There are both bike sharing and car sharing operations managed by the municipality of Luxembourg Ville.

Carloh is a round trip car sharing service (the car must be returned at the pick-up station) that provides access to a fleet of cars in the city of Luxembourg. They are located in the heart of the main city districts, near the central station and in the city centre. The cars must be rented for a minimum of 1 hour and a maximum of 3 days. The service is managed by Car sharing Luxembourg S.A., owned by the municipality (97 %), Automobile Club du Luxembourg (2 %) and by Cambio (1%).

It is important to note that, in order to respond to the need of increased mobility at low prices and to reduce the environmental impact, the local authorities of Luxembourg Ville,

¹¹³⁶ Political leadership in the digital age. Luxembourg's PM X.Bettel speaks in SMU's Presidential Distinguished Lecturer Series, 29 November 2016: <https://www.smu.edu.sg/news/2016/11/29/political-leadership-digital-age>.

have created a “bus on demand” service, “**Call a bus**”, which is available for all passengers from 9 to 24 during the week and from 7 to 24 during the week for people with reduced mobility. The service must be called at least 45 minutes in advance. The price is EUR 6 for each passenger and a reduced fare of EUR 3 for people with reduced mobility and groups. The service also collects other passengers directed in the same area or neighbourhood.

In addition, “genuine” ridesharing services (such as Karzoo, or Penderportal) exist in Luxembourg.

V. Relevant national case law

There are no relevant case law.

IV. Country Market

The market is divided into:

- Taxis, which have monopoly in the hailing and raking segments and compete with other service in the pre-booked segment;
- Hire cars with drivers which are only allowed to perform pre-booked journey, with a minimum reservation of one hour and fixed fares.

For the hailing and ranking, the geographic market corresponds to the geographic area of licences, while in case of pre-booked taxis and hire cars with drivers, the market is larger and even national, due to the small dimension of the country.

VII. Market players

Taxis:

- **Webtaxi** is a joint venture between Voyages Emile Weber and Benelux Taxis. It only uses hybrid vehicles. The service may be pre-booked and it also has a web application in order to book the taxi.
- **Mon Taxi** is a joint venture between the Automobile Club Luxembourg and one of its partners, Inter-Taxis, available only in Luxembourg Ville. It uses only hybrid cars and the drivers must undertake a course in ecological driving. It charges basic fares. A fare for a single journey will not exceed EUR 20 by day and EUR 30 by night. The price per kilometre has been set at EUR 2,36 and the minimum fare price is set at EUR 5. There are no extra costs for luggage or attaching bikes to the taxi.
- **Mytaxi** is a tax app which started operating in Luxembourg as a result of the cooperation between the Automobile Club Luxembourg and the Ville de Luxembourg. Mytaxi competes with dispatch centres and only charges drivers for the single ride, but does not charge a fixed subscription fee.¹¹³⁷

VIII. Barriers, limitations, incentives

¹¹³⁷ <http://www.lessentiel.lu/fr/news/luxembourg/story/29386128>.

In Luxembourg, the taxi sector is subject to quantitative restrictions. There are only **520 licences**, of which 52 for the airport. No new licences have been issued by local authorities since 2007. These entry barriers are combined with particularly high fares, which are freely determined by the drivers with no limits, since maximum fares were removed in 2008.

In 2014, the Luxembourg National Competition Authority carried out a detailed analysis of the market for taxis and private hire cars in Luxembourg.¹¹³⁸ In its analysisThe Authority noted various anticompetitive elements, such as the fact that the fares are currently 40-50% above the maximum fares introduced in 2004; the fact that, while the taxi licences are, in principle, non-transferable, the largest taxi operators having the majority of the licenses available rented them out at high prices (around EUR 1,700-1,800 per month) by (in 2014, the National Competition Authority has calculated that **493 out of 530 licences** available then were owned by a few large taxi companies); or the fact that, in some cases, the un-exploited licences are not sold on the market in order to prevent the entry of new competitors.

According to the Authority, if there is a fixed offer, an increase in the demand will trigger a price increase and any "*spontaneous adjustments of the market conditions are not possible anymore*" without an appropriate legislative intervention.

This situation has produced two effects on the market:

- On the one hand, many "illegal" taxis, provided with the commercial authorisation but not with the municipal licence, pick up passengers off the streets, especially around the central train station and in other parts of the city. This customary behaviour is fairly widespread, partly due to the lack of adequate enforcement sanctions;¹¹³⁹
- on the other hand, "on demand" public transport services have developed. Alternative services especially targeted at young people who cannot afford the taxi services have been introduced.

Another barrier, according to the National Competition Authority, is the obligation for the taxi driver to return empty to the base after a pre-booked journey except when the driver has another journey pre-booked with a written contract - an option that, according to the Authority, is very unlikely. The obligation to return empty from a journey outside the licensing area is particularly detrimental for small taxi companies, while larger companies are more capable of writing off the costs of the empty shift.

The hire cars with drivers is characterized by organisational requirements (contract, minimum booking) which renders difficult to compete with taxis and to offer a similar pre-booking service. The need to sign the contract renders difficult booking with smartphone apps.

The 2016 reform intends to increase the quality of the service, with more stringent qualitative requirements, and with stricter enforcement which should ensure that abuses are detected and punished. However, quantitative barriers remain in place and the provisions on hire cars with drivers may hamper an effective competition in the pre-booked segment.

¹¹³⁸ Avis du Conseil de la Concurrence, N.2014 – AV- 05, 12/5/2014.

¹¹³⁹ Avis du Conseil de la concurrence N0 2014-AV-05 12/5/2014.

IX. Capacity, growth, impact

According to the National Competition Authority, the sector was characterised by an oligopolistic situation with low supply at high prices. This situation has prompted the emergence of alternative taxi services, with taxis and hires cars with drivers offering services at low fares, such as Montaxi and Webtaxi¹¹⁴⁰. In addition, taxi apps, such as Mytaxi, have emerged competing with traditional dispatch centres. The use of taxi apps may correct the asymmetry of information and may help passengers to avoid fares scams.

Moreover, public transport has also reacted to this situation with the introduction of collective transport routes especially during week-ends and at night. These services are managed by the municipalities, such as "Night Rider", "Bummelbus" and Novabus.

X. Results

The **country market** has been identified as being very concentrated, ruled by a few large operators, although the numbers are relatively small (520 licences, 52 of which for the airport market; no licenses issued in recent years). Moreover, the market can be divided, as for many other countries, in street (hailing and rank) and pre-booked segments, with the former segment only for taxis and the latter open also to hire cars with drivers.

Concerning **market players**, as indicated above, the market remains very concentrated, with few relevant actors in taxi operations (Webtaxi, Mon Taxi).

The market is reported as being unable to meet and presenting high prices. This is mainly due to the lack of new licenses, which is considered to be the main **barrier**. This situation has caused, on the one hand, the emergence of illegal taxis, and on the other hand the growth of flexible services provided by public transport services, in particular services targeting young and low income people.

The reform which has recently entered into force focuses more on the quality requirements for taxi drivers and on the centralisation of the licensing procedure within the Ministry. The market continues to be characterized by quantitative restrictions and free fares; there is little competition from other service providers.

XI. Conclusions

Until 2016, the taxi market in Luxembourg has been characterised by an oligopolistic situation where the majority of available licences were concentrated in the hands of few companies applying high fares. The hire car with driver operators are trying to emerge as competitors of the taxi sector in the pre-booked segment, but organisational requirements impose constraints to full competition. Similarly, new innovative services, such as apps and taxi companies providing services at fixed or flat fares have started to develop. The newly introduced reform is expected to increase the quality and availability

¹¹⁴⁰ Avis du Conseil de la concurrence N0 2014-AV-05 12/5/2014.

of taxi services; however, quantitative barriers and free fares remain in place. A major enforcement activity, with the new sanctions in place should avoid abuses. Ridesharing is allowed only to cover the costs of the ride, and new sanctions are provided for transport of passenger for consideration but without the required licences.

Bibliography

RECUEIL DE LÉGISLATION ROUTIÈRE LÉGISLATION: <http://www.infotaxi.lu/>

19. MALTA

General Legal framework

The Taxi Services in Malta is primarily regulated by the Taxi Services Regulation (S.L. 499.59), hereinafter "the Regulation". The Regulation foresees general rules on issues such as security conditions, periodic checks on vehicles, procedure for issuing the licence, as well as security equipment. Moreover, the Regulation distinguishes three categories of taxi vehicles: (i) ordinary taxi vehicles, (ii) wheelchair accessible taxis, and (iii) electric mini cabs. According to the Regulation, taxis may only be driven by the licence holder who is also a holder of a taxi driver permit, or by a permit holder who is employed by the licence holder or who has a service contract with the licence holder.

Licences

As set out under the Regulation, all taxi drivers must hold the taxi driver permit. The Authority for Transport, hereinafter "the Authority", issues the taxi driver permit. The permit is valid for five years from the date it is granted, it is renewable, and it is personal i.e. it cannot be transferred to any other person or company. The taxi licence is a licence granted to the vehicle owner proving that, the taxi vehicle complies with the requirements set out under the Regulation. It may be owned by a natural person or legal person (i.e. companies or partnership) that may own more than one taxi licence. Each taxi licence refers to only one taxi vehicle. The taxi licence is valid for one year and can be renewed every year until the vehicle has reached its twentieth year from the date of its first registration. With regard to the transferability, the taxi licence may only be transferred together with the taxi. New taxi licences may be awarded by the Authority after the launch of a public tender procedure.

Technical requirements

The Regulation lays down a series of requirements that all taxi vehicles must respect. In accordance with the Regulation, those technical requirements must be compliant with the Technical Specifications for Taxi Peripheral Devices issued by the Authority. To be approved, the taxi vehicle must: be new; have adequate internal lighting and ample leg space; have an engine capacity of at least 1400cc; be constructed to carry up to no more than five passengers in addition to the driver; have a taximeter with facilities to print fiscal receipts; a tracking device; a system for two-way communication; a surveillance camera; an emergency button; a fire extinguisher; a security triangle; a first aid-kit and an external device marked "taxi".

Organisational and professional requirements

A person is deemed professionally qualified if he/she: holds a certificate of professional competence issued according to the Motor Vehicles (Driving Licences) Regulations (S.L. 65.18), or if he has successfully participated in a training course. The minimum age to be eligible to obtain a taxi permit is 19 years old and he/she must not have been convicted of a crime.

Fares

The Regulation sets out a series of fares: (i) fixed-fares applicable when taxis are hired from Taxi Booths (the taximeter is not used and clients pay before the trip depending on the chosen destination), (ii) maximum fares applicable when the taximeter is used, (iii) tour fares, depending on the duration of the tour.

Passenger rights

In Malta, the law about taxi services is mainly formed through duties and rules for the professional service i.e. the taxi service. Thus, there are no passenger rights in the traditional sense, because if the provision is breached, it does not entitle the customer to anything other than what follows under normal contract law.

Labour rules

There is no provision in the Regulation about labour law. The general Maltese labour law applies for taxi drivers and employers.

Airport

There are no specific rules on airports.

Enforcement

Article 67 of the Regulation, disciplines the irregular exercise of the taxi transport activity and it states that the offences generally concerning the technical requirements, advertisements, failure to produce taxi driver permit, and plying for hire without a taxi licence, are punishable with a fine not exceeding ten thousand euro or imprisonment for a period of no more than six months or both such fine and imprisonment, or revocation of any authorisation, licence or permit. The issuing Authority or the Court of criminal jurisdiction may revoke or refuse renewal of the taxi driver permit when the holder no longer satisfies the conditions laid down in Articles 11 and 12 of the Regulation, or when he/she has supplied incorrect information to the Authority.

Hire cars with driver

Chauffeur-driven vehicles are regulated by means of the Motor Vehicle Regulations (S.L.65.11) and a related administrative policy issued by the Authority. Operators are required to be in possession of a Public Service Garage Licence and vehicles may only be hired on a pre-booked basis. The market is not regulated in terms of market access and fares.

Ridesharing

There is no specific legislation in place at the national or local levels that regulates ridesharing.

Country market

The number of taxi licences that may be operated in Malta and Gozo is set out in the Taxi Services Regulations.¹¹⁴¹ Before these regulations came into force, in November 2010, there were 200 licensed taxis in Malta and 50 in Gozo. The new Taxi Services Regulations required issuing 50 new licences for taxis operating in Malta by 2012, bringing up the total number of taxi licences to 250 in Malta and 50 taxi licenses in Gozo by 2012. With regard to the hire car with drivers, in Malta there are around 700 public service garages and, around 80 garages in Gozo.¹¹⁴² Some of them belong to hotels.

Market players

The taxi sector in Malta is largely represented by the Malta Taxi Licensed Association (MTLA), whereas those operating in Gozo are represented by the Gozo Taxi Association (GTA). All licences are held by individual owners, with some owners holding up to five different licences. The chauffeur driven market is composed of a number of individual owners and companies (833), each operating with varying numbers and types of vehicles. These are largely represented by an association called the Rent-a-Car Association (RACA). Greenr is the largest fleet of electric taxis and uses a fleet of Nissan leaf cars, a 100% electric vehicle. With regard to hire cars with drivers, eCab is the leading company. It provides a fleet of corporate black cars with various services (Standard, Executive, Van, Executive Van) at pre-arranged rates. In ridesharing, there are two local initiatives: Bum-a-Lift and the University Car Pooling. They are online carpooling and ridesharing platforms mostly active in the field of transport to schools and among university students. Carpoolworld, however, is also present in Malta, offering pre-arranged long distance ridesharing between the largest cities.

Barriers, limitations and incentives

There are quantitative barriers to enter the taxi market, as well as a qualitative requirement to pass an exam for the taxi driver permit. The legislation imposes maximum fares for the various services provided by taxis, including tours. There are no quantitative restrictions for the private hire cars with driver service, but the essential aspect is to own a garage to park the vehicles. The project for the garage must be submitted for approval to the authority and a large upfront investment is required. However, some modern operators have developed, such as eCab, offering hire transport that is pre-booked via apps.

Capacity, growth and impact

Being an island and touristic destination, the capacity of the market is influenced by the touristic season. Moreover, the development of the hire transport market, including taxis, is limited by the high level of personal cars' ownership: the motorisation rate results the second highest in Europe. Some intermediaries are starting to provide hire cars with drivers but they are mainly focusing on high segment/luxury vehicle for tourists.

Conclusions

¹¹⁴¹ Article 22 (1) and (2) of the Taxi Services Regulations (S.L. 499.59).

¹¹⁴² <http://www.transport.gov.mt/admin/uploads/media-library/files/PSG%20List.1.pdf>.

The Malta hire transport is dominated by licensed taxis. However, in recent years, hire car with drivers are developing, at least for pre-booked rides, on the model of the largest European cities. In 2011, electric minicabs were introduced in order to reduce the environmental impact. The rules of the taxi sector are applicable also to electric and water taxi. Fixed maximum fares are imposed by the legislator also for tours in order to avoid tourist scams. Ridesharing and carpooling is still limited to local experiences and the services are still at the initial stages of development, but recent studies have shown the use of private cars remains the prevalent mode of transport.

I. Introduction

Maltese legislation distinguishes between taxis and garage hires (chauffeur – driven) vehicles, commonly referred to as cabs.

A taxi is legally defined as a vehicle that is over 1400cc, capable of carrying five passengers besides the driver, painted white with a sign on its roof and which is authorised to ply the roads and pick up fare paying passengers from the road. It is this access to picking up passengers on roads which distinguishes them from the chauffeur driven car which is operated by garage, usually painted black, and is normally reached by phone and cannot ply for passenger.¹¹⁴³

The taxi service in Malta is essentially regulated by the *Taxi Services Regulation*,¹¹⁴⁴ hereinafter the “Regulation”, which require that taxi services be connected with a Taxi Operator Licence. The same condition also applies to Electric Minicab services that shall be coordinated within an Electric Minicab Operator Licence. The role of taxi or Electric Minicab operator is a new introduction in these regulations and is different from that of the owner of the Taxi or Electric Minicab licence.

II. Legal framework applicable to taxi service

II.1 National Legislation

The Taxi Services Regulation (S.L.499.59), foresees general rules on issues such as security conditions, periodical checks on vehicles, procedures for issuing the licence, as well as the security equipment. The Regulation distinguishes the following categories of taxi vehicles:

1. Ordinary taxi vehicle: passenger car which carries up to no more than five passengers in addition to the driver;
2. Wheelchair accessible taxis: motor vehicles that allow easy and unaided access to persons who make use of wheelchairs, and that complies with all other requirements applying to taxis;
3. Electric mini cab: as an electrically propelled vehicle or an electric power assisted pedal cycle registered and licensed to ply and stand for hire.¹¹⁴⁵

The Regulation also distinguishes the Taxi Driver Permit, which is a permit issued by the Authority for Transport,¹¹⁴⁶ from the Taxi Licence, which is a licence proving that the

¹¹⁴³ “Public Transport Malta: A version for Public Transport which fulfils the public interest in the context of environmental sustainability”, document drawn up by the Ministry for Infrastructure, Transport and Communication on October 2008.

¹¹⁴⁴ Taxi Services Regulation (S.L.499.59), 1st November 2011 as subsequently amended.

¹¹⁴⁵ Article 2 of the Taxi Services Regulation (S.L. 499.59).

vehicle complies with the Regulation's requirements. Furthermore, in accordance with the Taxi Services Regulation, the vehicle must be registered under a Taxi Operator Licence, hereinafter "TOL" before it can be used to operate a taxi service. More specifically, a TOL is needed by an operator to run a taxi service through one or more taxis.¹¹⁴⁷

Article 2 of the Regulation defines the licence holder as a legal or natural person whose name is shown as the registered owner of the vehicle on the registration certificate. As pointed out above, when a legal entity is the registered owner of the vehicle, the natural person providing the services must carry all responsibilities of the licence holder.

The drivers employed in the taxi sector are also regulated by means of the Motor Vehicles (Driving Licences) Regulations (S.L. 65.18).

II.1.2 The Authority for Transport in Malta

The Authority for Transport, hereinafter "the Authority", was established by the Government through Act XV of 2009, as later amended, and is the national regulator for all modes of transport.

Concerning taxi service, as set out under Article 6(2) of the Act, the Authority is entitled to establish the conditions under which such licence may be granted, renewed, refused, suspended or revoked and the fees payable in each case. The Authority also has the power to prescribe the fees to be paid in respect of the issue of any licence, certificate or other document.

The Malta Standards Authority was established by the Malta Standards Authority Act.¹¹⁴⁸ With regard to taxi services, the said Authority is entitled to verify that such condition established by the Authority for transport are granted by persons who operate the taxi services.

II.2 Local/municipal regulations

There is currently no specific legislation in place at a local level that regulates the sector.¹¹⁴⁹

II.3 Procedures for issuing the licence and applicable criteria

The Authority for Transport in Malta is competent to set the maximum number of taxis licences, their supervision and withdrawal of the licence.

¹¹⁴⁶ See s. II.1.2.

¹¹⁴⁷ See point 1.3 of the Taxi Operator Licence Guidelines (Version I); available at www.transport.gov.mt.

¹¹⁴⁸ The Malta Standards Authority Act Chapter 419, was published on 18th July, 2000, as subsequently amended.

¹¹⁴⁹ Answer to the stakeholder consultation provided by Road Transport Services Licensing Unit, Land Transport Directorate, Transport Malta.

II.3.1 Procedures for issuing the Taxi Driver Permit

In order to obtain the taxi driver permit, as provided by Article 10 of the Regulation, the application must be presented together with the following documents:

- i. a certificate issued by the Police or an equivalent authority of the country where the applicant is normally resident, detailing any criminal offences or contraventions for which the applicant may have been sentenced together with the punishment thereof;
- ii. a medical certificate proving fitness for long term driving;
- iii. proof of the payment of the application fee (EUR 6);
- iv. evidence of the skills to act as a driver required under Article 12(1) and (2).¹¹⁵⁰

The candidate must follow a course concerning taxi driver training; upon the successful attendance of this course he is given a certificate issued by the Authority, known as the Taxi Driver and Area Knowledge Certificate, hereinafter "TDAKC", attesting that the candidate is competent and eligible to drive such vehicle. Once the candidate obtains the driver's permit and starts performing the activity, he has to complete a refresher course every five years.¹¹⁵¹

The Regulation requires that, drivers of Wheelchair Accessible Taxis must receive special training on the use of such vehicles and the related peripheral equipment free of charge. The cost of such training may be financed by Transport Malta.¹¹⁵²

A taxi driver permit granted to a driver must be noted on the driver's licence by the Authority. The taxi driver permits are issued by the Authority to individual drivers and they are not cumulative. The taxi driver permit is valid for five years from the date on which it is granted; it cannot be transferable but can be renewed thereafter.¹¹⁵³

As established under Article 16(1), upon granting a taxi driver permit, the Authority issues to the applicant a driver's tag following the payment of the fee (EUR 12), which is valid for five years. The driver's tag is an identification photo-card, which must be displayed in a manner that the driver may be easily identified by passengers and inspecting officer.

Article 16(5) specifies that, the driver's tag cannot be transferable but can be renewed. In the event the driver loses his driver's tag, he must immediately inform the Authority of such fact and must pay a fee for the replacement (Replacement of lost driver's tag: EUR 12).

II.3.2 Procedures for issuing the Taxi Licence: applicable criteria and transferability

¹¹⁵⁰ See s. II.5.

¹¹⁵¹ Such periodic training course is being introduced in 2016. See answer to the stakeholder consultation provided by Road Transport Services Licensing Unit, Land Transport Directorate, Transport Malta.

¹¹⁵² See point 3.8 of the "Taxi Drivers Permits Guidelines" (Version I), published by the Authority for Transport and available at <http://www.transport.gov.mt/admin/uploads/files/Driver%20Taxi%20Guidelines%20over%201.pdf>.

¹¹⁵³ Article 9(5) of the Taxi Service Regulation (S.L.499.59).

Pursuant to Article 19 of the Regulation, only motor vehicles having been granted a taxi licence by the Authority may ply or stand for hire. Article 20 specifies that, a motor vehicle cannot be licensed as a taxi unless it is fitted with all the technical requirements listed by the Regulation¹¹⁵⁴.

In order to obtain the taxi licence, as Article 21(4) states, the applicant is obliged to:

- Specify whether the taxi will be used on the island of Malta or on the island of Gozo;
- Present to the Authority that the initial verification of the taximeter has been carried out;¹¹⁵⁵
- Present the vehicle to the Authority for a visual and technical inspection to ensure that the vehicle has satisfied all requirements laid down in the regulations.¹¹⁵⁶

In addition, the application for a taxi licence must be accompanied by the payment of the application fee (EUR 100).

Taxi licences last one year and can be renewed every year thereafter until the vehicle has reached its twentieth year from the date of first registration¹¹⁵⁷. In order to obtain the renewals, Article 23(2) states that, the licence holder must present to the Authority the application for renewal together with proof that the taxi is fitted with the devices required under regulation 20(1) (e), (g), (h), (i) and (j); proof that the periodical verification of the taximeter has been carried out and eventually proof that the tracking devices have been inspected by the Authority or a body approved by the Authority. Such verification or inspection shall not have been carried out earlier than forty-five days before the date of application.

The Authority may refuse an application for renewal and the decision must be motivated and communicated in writing by registered post to the applicant who may appeal to the Tribunal within thirty days from notification of the decision.

Article 23(7) specifies that, the refusal to renew the taxi licence must have immediate effect notwithstanding any appeal therefrom, unless otherwise directed by the Tribunal or a Court of criminal jurisdiction.

The Authority may issue a temporary taxi licence to a licence holder, as set out under Article 21(16) in the event of death, physical or legal incapacity of the natural person in whose name the taxi operator licence is granted. During this period, the natural person taking over the responsibility for the operation of the taxi service shall apply for a new licence.

Transfers of Licences

The taxi licence may only be transferable together with the taxi. In addition, taxi licences issued for the first time after the regulations came into force cannot be transferable *inter vivos* for a period of five years from when they are first issued. When a taxi is registered in the name of or on behalf of a company, any share transfers within that company

¹¹⁵⁴ For a breakdown of the technical requirement see s.II.4

¹¹⁵⁵ Article 21 (4) let. (a) of the Taxi Services Regulation (S.L.499.59).

¹¹⁵⁶ Article 24 (4) let. (b) of the Taxi Services Regulation (S.L.499.59).

¹¹⁵⁷ As set out under Articles 21(9) and 23(3) of the Taxi Services Regulation (S.L.499.59).

resulting in a change of controlling interest, whether in one transfer, or in a number of separate share transfers, are considered in determining whether there has been a taxi licence transfer. It is important to notice that, controlling interest means one or more transfers *inter vivos* which by itself, or in the aggregate, amount to a change of fifty per cent or more of the ownership or of the voting rights of the company.¹¹⁵⁸

Ownership of licence

Taxi licences may be owned by natural person or legal persons.¹¹⁵⁹

Accumulation of licences

Persons (natural or legal) may own more than one taxi licence. However, each taxi licence refers to just one taxi vehicle.

II.3.3 Procedure for issuing the Taxi Operator Licence: tender procedures

As pointed out above, new taxi licences may be awarded by the Authority after the launch of a public tender procedure.¹¹⁶⁰

Tender procedures for the assignment of these licences must be as follows. The Authority may issue a public call inviting persons to express interest in acquiring a Taxi Licence. In order to obtain a Taxi Operator's Licence as well as a Taxi Licence, interested parties must submit application forms TOL-A1 (Application for a Taxi Operator Licence), TOL-A2 (Personal Declaration on Good Repute) with respective Criminal Record, and TOL-A4 (Application for new Taxi Licences). All eligible applicants must submit in writing their bids for the new Taxi Licences under this Call for Applications using form TOL-Z4.

Therefore, interested parties bidding for more than one Taxi Licence, must submit separate bids for every Taxi Licence, and commit to pay at least EUR 20,000 for each Taxi Licence whether the bid be successful. The bids are opened during a public session, which is held at the Transport Malta premises immediately after the closing time for bids. The Authority evaluates all bids, applying the following conditions:

1. No bid for a Taxi Licence of less than EUR 20,000 shall be accepted by the Authority;
2. Whether there are more bids than licences available, the Authority must rank the applications in order of the highest bidder and must award the licences to the highest bidders so ranked;

¹¹⁵⁸ Article 4(10), (11), (12) and (13) of the Taxi Services Regulation (S.L.499.59).

¹¹⁵⁹ Reply to the stakeholder consultation provided by Road Transport Services Licensing Unit, Land Transport Directorate, Transport Malta.

¹¹⁶⁰ Article 22(4) of the taxi Services Regulation (S.L.499.59) and see Section 3 of the Taxi Operator Licence Guidelines (Version I), published by the Authority for Transport and available at http://www.transport.gov.mt/admin/uploads/medialibrary/files/Taxi%20Operator%20Licence%20Guidelines_Ver%201_EN.pdf.

3. If there are more bids than licences available, and after awarding the highest bidders, and a number of equal bids still remain to be allotted a licence, then the licences shall be assigned by a draw of lots;
4. If the number of bids is less than the licences available, all the bids for EUR20,000 or more will be accepted, and the licences that will not be assigned may be re-issued at any time at the discretion of Transport Malta.

The Authority must notify in writing all persons whose bids have been accepted. In the case of an accepted bidder renouncing one or more of the accepted bids, all rights on any other bids submitted in his/her application are forfeited.

The accepted bidders will be expected to apply for the actual registration of the Taxi car for which the new Taxi Licence will be issued, within the period specified by the Authority on the issue of the Licence.

A new Taxi Licence must only be issued to the accepted bidders on condition that the vehicles that they present for registration comply with all the conditions set out in the Regulations, with the exception of the peripheral equipment which, according to the Regulations, shall be introduced at a later date.

The new licensees must pay the bid sum together with any other fees set out in the Regulations, upon the issue of the new Taxi Licences or within three months from the acceptance of the bid, whichever is earlier. All payments are non-refundable.

In accordance with the Regulation and with Taxi Operator Licence Guidelines (Version 1), a "TOL" is the licence required to operate a Taxi Service; it may be issued by Transport Malta to an undertaking in the name of a natural person authorised by the undertaking, therefore it cannot be transferred.

In order to obtain a TOL, the applicant must identify the undertaking under which the TOL will be issued; nominate one or two authorised representatives; and nominate a designated person to continuously and effectively manage the operation of the taxis.

The authorised representatives, designated person and all the directors or partners of the undertaking must provide proof of good repute and conduct.

II.4 Technical requirements applicable to licensed vehicles

II.4.1 Colour and vehicle characteristics

Article 20 of the Taxi Services Regulation lays down a series of requirements that all taxi vehicles must respect. In accordance with the Regulation, those technical requirements must be compliant with the Technical Specifications for Taxi Peripheral Devices issued by the Authority.¹¹⁶¹

¹¹⁶¹ The Technical Specification for Taxi Peripheral Devices (Version I) was published by the Authority on 22nd February 2011, and are available at www.transport.gov.mt.

In light of the above, the Authority published a set of guidelines to provide information on the Regulation, without prejudice to any provisions in the respective legislation, which lists detailed specifications that apply to the device.

The vehicle must be in a good status and must be well maintained; it also must be compliant with the quality and comfort conditions by respecting the following requirements:

- i. the vehicle motor must be new (defined as a vehicle which has never been permanently registered in any country and which has not travelled under its own power for more than 3,000 km);
- ii. it must have an engine capacity of at least 1400cc (by contrast, this condition does not apply to hybrid vehicles or electric vehicles);
- iii. it must have ample leg space and head room and adequate internal lighting;
- iv. it must be regularly aired to avoid unpleasant smells;
- v. it must be equipped by a fully functional air-conditioning system; and
- vi. it must have a right-hand drive motor vehicle.¹¹⁶²

In addition, every taxi must carry a fire extinguisher, a security triangle and a first-aid kit in such a position as to be available for immediate use in cases of emergency.¹¹⁶³

In accordance with Article 34 of the Regulation, the taxi sign: (i) must be connected with the taximeter; (ii) it must be switched off when the taximeter is switched on, and switched on when the taximeter is switched off; (iii) it must be constructed of a durable and weatherproof material and it must be securely mounted on the roof of the vehicle; (iv) it must emit a white or yellow light; and the dimensions of the sign must be at least 110 millimetres in height, at least 150 millimetres in width and at least 450 millimetres in length.

It is important to specify that, in Malta, all licensed taxis may be recognized from the black and white taxi sign, which must be followed both by three numbers commencing from "001" and by the letter "M". Taxis operating in Gozo may be recognized from the red and white taxi sign, which must be followed both by three numbers commencing from "201" and by the letter "G".

As pointed above, the Regulation defines wheelchair accessible taxis, hereinafter "WAT", as a motor vehicle that allows easy and unaided access to disabled people. In accordance with the Regulation, the Guidelines known as "Licensing of taxi" published by the Authority lists technical specifications in addition to the provisions for taxis.¹¹⁶⁴

With regard to WATs, Article 35 states that, it must be clearly marked with a taxi sign showing the word "Taxi" and the representation of a wheelchair measuring 20cm by 20cm. Moreover, as required by Article 28 of the Regulation, taxis must be white.

II.4.2 Taxi equipment

¹¹⁶² Article 20(1) of the Taxi Services Regulation (S.L.499.59).

¹¹⁶³ Article 58(1) of the Taxi Services Regulation (S.L.499.59).

¹¹⁶⁴ S. II.4.5.

The Regulation specifies that all taxis must be furnished with the following peripheral devices:¹¹⁶⁵

- A taximeter with facilities to print fiscal receipts;
- A tracking device;
- A system for two-way communication;
- A surveillance camera;
- An emergency button;
- A luminous external device marked "taxi".

As required under the Regulations, those technical requirements must be compliant with the Technical Specifications for Taxi Peripheral Devices issued by the Authority.

II.4.2.1. The Taximeter

The taximeter is a measuring instrument designed for installation in a motor vehicle that calculates and displays the fare to be paid for the trip; for this reason, it must be fitted in a place which is clearly visible to passengers.

In order to be approved: (i) a taximeter must be initially and periodically verified by the Malta Standards Authority; (ii) it must include capabilities in its software to calculate the taxi fare, and to allow taxi driver to apply discounts to standard (maximum) fares; (iii) it must cater for the printing of the fiscal receipt. For this purpose, it must be equipped with electronic devices.¹¹⁶⁶

II.4.2.2 The Two-way communication system

A two-way communication system is an apparatus adopted for the purpose of transmitting and receiving spoken messages.

In order to be approved, a two-way communication system (i) must provide the possibility of two-way vocal communication; (ii) it must operate over the GSM network; (iii) it must allow Transport Malta to communicate with the driver through a normal telephone line; (iv) it must operate as a hands-free system without any hindrance to the driver while driving and restrict the communication between the driver and the control room of Transport Malta, the driver and the Operator and the drivers of the same Operator. Eventually, it must be able to operate from any place within the territory of Malta and Gozo.¹¹⁶⁷

II.4.2.3 The Vehicle tracking device

According to Article 43 of the Regulation, the tracking device must be in good working condition at all times. In addition, it must be inspected by the Authority.

¹¹⁶⁵ Article 20(1), lett. (g), (h), (i) and (j) of the Taxi Services Regulation (S.L. 499.59).

¹¹⁶⁶ These technical requirements are listed in the Annex A of the "Technical Specifications for Taxi Peripheral Devices" (Version I), published by the Authority for Transport on 22nd February 2011.

¹¹⁶⁷ Annex D of the "Technical Specifications for Taxi Peripheral Devices" (Version I), published by the Authority for Transport on 22nd February 2011.

More specifically, Annex B, of Technical Specifications for Taxi Peripheral Devices, specifies that, in order to be approved, a Tracking Device (i) must include a GPS receiver; (ii) it must transmit the tracking data via GPRS and (iv) it must be able to record the above-mentioned information in the case of a lost or broken GPRS connection. The tracking device must supply the below mentioned data at a minimum rate of 1 update per minute:

- (a) Device ID;
- (b) Vehicle Registration Number;
- (c) Driver ID (Tag Number, Name, Surname);
- (d) Position of vehicle, including street location;
- (e) Ignition Status (records every time the engine is turned on and off);
- (f) Speed (in km/h); and
- (g) Taximeter operating position.

II.4.2.4 The Emergency button

As a general prescription, the Regulation states that the emergency button must bear a sticker and must be within easy reach of both passengers and the taxi driver.

More specifically, Annex E of Technical Specifications for Taxi Peripheral Devices states that, in order to be approved, an emergency button must be able to activate the tracking device and the surveillance camera.

II.4.2.5 The Surveillance camera

As provided by Article 44 of the Taxi Services Regulation, a surveillance camera must be positioned in a way as to capture the back seat area of the taxi and the sticker denoting that the taxi is fitted with a surveillance camera. More specifically, Annex C, of the guidelines published by the Authority, known as "Technical Specifications for Taxi Peripheral Devices", specifies that, in order to be approved by the Authority for Transport, a surveillance camera (i) must be capable of capturing clear images with a high light level outside the vehicle during day and night; (ii) it must provide reasonable protection against the environment typical in such an application and against tampering.

II.4.2.6 Advertising

Advertising is governed by Article 29 of the Taxi Services Regulation. According to Article 29(1) of the Regulation, *"a taxi may display advertisements and the taxi operations contact detail on any part of its body other than, in the case of a taxi which is not an electric mini cab, on the bonnet, the front doors, the front mudguards and wheel-arches which shall remain at all times painted white in colour"*.

Article 29(3) specifies that, nothing shall be permitted to obstruct or otherwise interfere with the view of the driver or passengers.

II.4.2.7 Insurance and maintenance

The current legislation does not provide specific taxi insurance, except for professional vehicle insurance.

II.4.2.8 Technical Inspections

Taxis must undergo initial verification on technical specifications that is to be carried out at least forty-five days before the date of application.¹¹⁶⁸ The Authority may also carry out technical inspections and the licence holder must comply with such request without delay.¹¹⁶⁹

II.4.3 Accessibility

Special taxi licences may be issued for wheelchair accessible taxis, which must allow easy and unaided access to persons who make use of wheelchairs (Article 32(1)).

II.5 Qualitative requirements

Article 11 of the Regulation lists the following requirements for issuing taxi driver permits:

- **Morality: (good repute and conduct):** to satisfy this criterion, the applicant cannot have been found guilty of committing any crime contemplated in Title I of Part II of Book First of the Criminal Code or articles 198, 199, 203, 203A, 204, 204A, 204B, 204C, 205, 211, 212, 213, 217, 218, 220, 238(a), 245, 248B, 248C, 248D of the same Code. To this end, the applicant must present the court records in accordance with the Article 11 comma 1, (b), (c), (d), (e), (f) and (g).
- **Minimum age:** The minimum age for a taxi driver is nineteen years old, or eighteen in the case of an electric powered assisted cycle driver permit holding the Driving Licence in accordance with the Motor Vehicles (Driving Licences) Regulations.
- **Professional qualification:** to prove this condition, the applicant must hold a certificate issued by the Authority which specifies that he or she has successfully participated in a training course. By contrast, Article 12(4) specifies that, a driver who holds a certificate of professional competence issued in terms of the Motor Vehicles (Driving Licences) Regulations must be exempt from the training course.

More in detail, the certificate of professional competence, as set out under Article 27 of the Motor Vehicles (Driving Licences) Regulations, certifies the initial qualification.

The candidate must also pass a general exam, which consists in two parts, the theory examination and the practical examination, as the PART 2 of the Third Schedule of the Taxi Services Regulation required. The applicant shall only be allowed to sit for the practical examination within twelve months from when he passes the theory examination.

¹¹⁶⁸ Article 4(b) of the Taxi Services Regulation (S.L.499.59).

¹¹⁶⁹ Article 26 of the Taxi Services Regulation (S.L.499.59).

Concerning the theory examination, it may be written or oral and lasts 45 minutes. The theory examination establishes whether the applicant has achieved the required level of knowledge in the subjects listed in Part I of the third Schedule; notably, such subjects are:

- (a) knowledge of vehicle characteristics and safety features;
- (b) safety of driver, passengers and other road users, including the ability to ensure passenger comfort and safety including particular behaviour with elderly and passengers with special needs; the knowledge of legislation regulating the carriage of passengers; a thorough knowledge of Taxi services Regulation; ability to assess and deal with criminality;¹¹⁷⁰ correct use of speed; physical fitness to drive a taxi; awareness of the risks on the road and accidents at work;
- (c) routes and destinations;¹¹⁷¹
- (d) interpersonal skills (customer care, politeness, personal cleanliness);
- (e) languages (proficient in Maltese and basic English).

In the practical examination, the applicant must demonstrate a safety check of the vehicle, a compliance check of vehicle, and the ability to use the Taximeter and other peripheral equipment. The driver must have spent forty hours riding in a taxi with a licensed taxi driver, including a minimum of ten hours during the night (between 20:00 and 6:00). To pass this examination, the applicant must drive a route chosen by the Authority to ensure respect for road safety. The applicant will fail the practical examination if ten or more errors are committed.

Article 14(1) provides that, the Authority may at any time require a driver to submit evidence that he continues to fulfil the requirements of Article 11 or 12, to this end the driver must produce any information and documents requested by the Authority within three working days from the notification of the Authority's request.

In summary, throughout the period the driver provides the services, the driver must satisfy the conditions laid down under Articles 11 and 12.

II.6 Organisational requirements (*dispatch affiliation centre, minimum services*)

Taxis may be hired by using the following methods: (i) by hailing in places where it is safe to stop; (ii) from designated taxi stands; (iii) by booking from taxi booths.¹¹⁷²

The Authority must designate and mark taxi stands with a sign showing the number of taxis which may stand for hire on such stands. Moreover, only taxis may park or wait at a taxi stand.¹¹⁷³

In a taxi stand, the drivers of the first three taxis standing for hire cannot leave their taxis and must remain easily accessible. Only the police or the officers of the Authority

¹¹⁷⁰ Including: refusal by the passenger to pay the fare or tariff; passengers requesting information on illegal activities; passengers requesting over-speeding or requesting overloading of passengers.

¹¹⁷¹ Including the ability to provide shortest and alternate routes; knowledge of prime tourist and commercial locations across Malta and Gozo; knowledge of basic functions of the taximeter and other equipment installed in the taxi in pursuance of the Taxi Services Regulation.

¹¹⁷² <http://www.transport.gov.mt/>.

¹¹⁷³ Article 65(1) and (3) of the Taxi Services Regulation (S.L.499.59).

may exempt the drivers from these duties in case of long exposure to the sun. In a taxi stand or an electric minicab stand, people shall hire the first taxi in line; if he is not available, they shall hire the first taxi with the driver in it. In the case of the hirer with wheelchair, the wheelchair accessible taxi in the stand shall be deemed to be the first taxi available.¹¹⁷⁴

Pursuant to Article 60(4) and (5), when the first driver in any stand refuses to hire, in contravention of this Regulation, he loses his place and he must be replaced by the next taxi. Moreover, a taxi cannot ply for hire in a radius of one hundred meters from a taxi stand and, or within a radius of fifteen meters from any bus stop.¹¹⁷⁵

In Malta, the affiliation to a dispatch centre is not mandatory.

II.6.1 The Road Passenger Transport Register

As a general provision, Article 17 of the Taxi Services Regulation provides that the Authority must set up and maintain a register known as the Road Passenger Transport Register¹¹⁷⁶, which is divided into four Parts: in Part I of the register, the name and address of any person to whom a certificate of competence has been granted must be registered; in Part II, the name and the address of licence holders must be registered; in Part III, the name and the address of persons holding a taxi driver permit together with other particulars including an indication of whether a driver is a self-employed driver or otherwise and the name of the operator, if applicable, in whose operation he is engaged must be registered. It is important to note that, operators cannot employ a driver that is not registered in Part III of this Register. Part IV of the register must contain the list of the vehicles registered as taxis.

II.6.2 Minimum service

Article 59 of the Regulation establishes that, *"No driver shall without reasonable cause refuse to hire the taxi being driven by him to any given place, or at the choice of the person requiring the hiring of the taxi for a specified or unspecified time not exceeding four hours"*. The driver must attend a pre-booked ride at the time and place previously agreed. If, during the ride, the hirer requires it, the driver must wait at the place and for the time requested. In the execution of the ride, the drivers must proceed for the most expeditious route.

II.7 Fares *(criteria for taxi fare setting, authority/body in charge of setting the tariffs, maximum tariffs and/or fixed tariffs, composition of the tariff and tariffs adjustment mechanism [minimum charge, additional charge for using a radio taxi or dispatch centre, tariff increases during certain hours, such as at night or for specific journeys, such as towards the airports, reductions for certain categories, such as elderly people])*

¹¹⁷⁴ Article 60 (2) and (3) of the Taxi Services Regulation (S.L.499.59).

¹¹⁷⁵ Article 61 of the Taxi Services Regulation (S.L.499.59).

¹¹⁷⁶ The Road Passenger Transport Register is set by Article 24(1) of the Passenger Transport Services Regulation (S.L.499.59).

Destinations		Departure Points								
		MIA*	Cruise PT**	Valletta ***	San Giljan	Bugibba	Cirkewwa	Gianpula	MDH ***	Sliema
Zone 1	Luqa, Kirkop, Sta. Luċija, Ħal Far, Ħal Farruġ, Safi, Gudja	EUR11.00	EUR15.50	EUR15.50	EUR19.00	EUR25.00	EUR38.00	EUR19.00	EUR17.00	EUR18.00
Zone 2	Valletta, Ħamrun, Msida, Floriana, Gwardamangia, Marsa, Qormi, Pietà, Sta. Venera, Albert Town	EUR15.00	EUR11.00	EUR9.00	EUR12.00	EUR20.00	EUR33.00	EUR16.00	EUR8.00	EUR11.00
Zone 3	Żebbuġ, Siġġiewi, Għar Lapsi, Rabat, Dingli, Ta' Qali, Mdina, Mtarfa	EUR18.00	EUR20.00	EUR20.00	EUR19.00	EUR18.00	EUR29.00	EUR9.00	EUR17.00	EUR19.00
Zone 4	Paola, Fgura, Laboratory Wharf, Corradino Industrial Estate, Ghajn Dwieli, Tarxien	EUR13.50	EUR13.50	EUR13.50	EUR16.00	EUR22.50	EUR37.00	EUR19.00	EUR14.00	EUR16.00
Zone 5	Cospicua, Kalkara, Senglea, Vittoriosa, Żabbar, Xgħajra, Marsaskala, Smart City	EUR18.00	EUR18.00	EUR18.00	EUR20.00	EUR25.00	EUR40.00	EUR22.00	EUR17.00	EUR19.00
Zone 6	Żejtun, Għaxaq, Mqabba, Dellimara, Birżebbuġa, Qrendi, Marsaxlokk, Żurrieq,	EUR15.50	EUR18.00	EUR18.00	EUR21.00	EUR25.00	EUR39.00	EUR20.00	EUR19.00	EUR20.00
Zone 7	Sliema, Gżira, Kappara, Ta' Xbiex, Paceville, San Giljan, San Gwann, Lija, Swieqi, St. Andrew's, Pembroke, L-Ibraġ, Iklin, Birkirkara, Balzan, Attard,	EUR20.00	EUR18.00	EUR18.00	EUR8.00	EUR16.00	EUR29.00	EUR16.00	EUR9.00	EUR10.00
Zone 8	Mosta, Naxxar, Gharghur, HighRidge, Madliena, Baħar iċ-Ċagħaq	EUR22.50	EUR22.50	EUR22.50	EUR12.00	EUR13.00	EUR26.00	EUR16.00	EUR12.00	EUR14.00
Zone 9	Mġarr, Wardija, Salini, Ghajn Tuffieħa, Bidnija, Burmarrad, Golden Bay, San Pawl il-Baħar, Buġibba, Qawra, Xemxija, Bahrija, Żebbiegħ, Binġemma, Mtahleb,	EUR25.00	EUR25.00	EUR25.00	EUR20.00	EUR12.00	EUR21.00	EUR16.00	EUR18.00	EUR21.00
Zone 10	Mellieħa, Manikata	EUR29.50	EUR29.50	EUR28.00	EUR24.00	EUR14.00	EUR14.00	EUR20.00	EUR23.00	EUR25.00
Zone	Ċirkewwa,	EUR32.00	EUR32.00	EUR30.00	EUR28.00	EUR20.00	EUR7.00	EUR27.00	EUR31.00	EUR32.00

Fares for the taxi transport activity are regulated by Articles 42, 63 and 66 of the Regulation. More in detail, fares are based on the distance travelled and the duration of the trip.

The table 2 of the First Schedule of the Taxi Services Regulation establishes a maximum tariff of taxi fares applicable when the taximeter is used when taxis are hired from Taxi Booths.

When taxis are hired from these booths, the taximeter is not used and instead clients pay a fixed fare at the booth before the taxi trip, depending on the chosen destination.

The fixed fares were calculated using the same tariff applicable for taximeter rides, and the distance from the respective point and the centre of each locality in Malta.

The maximum fixed-fare is listed in the table below as follows:

- *Malta International Airport
- **Passenger Cruise Port Terminal
- ***Valletta Main Entrance
- ****Mater Dei Hospital

By contrast, Table 1 of the First Schedule of the Taxi Services Regulation, states the following maximum fares chargeable when the fixed-fares are not applicable:

- initial fare EUR 3.50;
- for the first eight kilometres 1.40 EUR/km;
- over eight kilometres 1.00 EUR/km.

Moreover, on the 25th December and on the 1st January, an additional flat charge of EUR 4.50 per ride is applied.

Lastly, waiting charge per hour or part thereof while the taxi speed is less than 20km/h provided that this charge shall not trigger off unless the speed of the taxi is less than 20km/h for at least three continuous minutes (EUR 4,20).

The Taxi Services Regulation also considers the possibility of hiring a taxi for a tour, defined as a taxi trip with a duration not exceeding two hours, and sets out particular fares are applied for such tour.

More in detail, fares changes depending on the duration of the tour:

Tour duration (hours)	Fares
2	EUR 50
3	EUR 65
4	EUR 80
5	EUR 95
6	EUR 110
7	EUR 125
8	EUR 140
Any additional hour	EUR 20

As a rule, the driver must keep affixed a copy issued by the authority of the maximum fares together with any percentage discount of the said fares established by the licence holder in the taxi.

A taxi driver may charge a maximum of fifty euro (EUR 50) to a passenger for soiling or causing damage to the interior of a taxi, if the damage involves an interruption of service.¹¹⁷⁷

Discounts

No compulsory discounts are stipulated in the Regulations. However, taxi drivers are free to give any discount to people with reduced mobility or students.¹¹⁷⁸

II.8 Passenger rights

In Malta, the law about taxi services is mainly formed through duties and rules for the professional part i.e. the taxi.

For instance, the taxi drivers are obliged to provide passengers with favourable safety and hygiene conditions, comfort, and proper service. He/she is also obliged to take actions facilitating the use of means of transport by passengers, in particular persons of limited mobility and disabled persons.

Moreover, the Regulation decrees that taxi drivers are forbidden from:

- smoking inside the vehicle;¹¹⁷⁹
- make working the radio or another music device without the consent of the passenger;¹¹⁸⁰
- holding prolix discussion while driving a taxi;¹¹⁸¹
- soliciting for hiring through the streets;

¹¹⁷⁷ Article 64A (3) of the Taxi Services Regulation (S.L. 499.59).

¹¹⁷⁸ Reply to the stakeholder consultation.

¹¹⁷⁹ Article 57(1) of the Taxi Services Regulation (S.L. 499.59).

¹¹⁸⁰ Article 54(2) of the Taxi Services Regulation (S.L. 499.59).

¹¹⁸¹ Article 54(1) of the Taxi Services Regulation (S.L. 499.59).

- picking up a number of persons more than that fixed in the taxi registration certificate;¹¹⁸²
- picking up any persons or things without the approval of the hirer;¹¹⁸³
- demanding a higher price than one displayed on the copy of the maximum tariffs.¹¹⁸⁴

The taxi drivers are required:

- to be sure that, passengers did not forget any objects inside the vehicle and if any property have been left therein, the taxi driver must surrender such property to the Police within twenty four hours from finding it;¹¹⁸⁵
- to drive the taxi in a prudent manner, namely under the power of its own motor;¹¹⁸⁶
- to wear a uniform of the pattern and colour as established by the Authority;¹¹⁸⁷
- to be sure that the equipment are maintained in good order and in a good state;¹¹⁸⁸
- to ferry the passenger to their destination by the shortest route, except where the passenger demands otherwise.¹¹⁸⁹

In light of the above, there are no passenger rights in the traditional sense, because if the provision is breached, it does not entitle the customer to anything other than what follows from normal contract law.

II.9 Subsidies applicable to taxi sector *(including public developed applications for taxi sector, geolocalisation, etc.)*

The taxi business in Malta does not receive any form of incentives or subsidies from the state.¹¹⁹⁰

II.10 Labour rules

There is no provision in the Regulation about labour law. The general Maltese labour law applies for taxi drivers and employers.

II.11 Supervisory enforcement tools

Article 67 of the Taxi Services Regulation, disciplines the irregular exercise of the taxi transport activity. The following offences are punished with a fine not exceeding ten thousand euro (EUR 10,000), or imprisonment for a period of not more than six month,

¹¹⁸² Article 50 of the Taxi Services Regulation (S.L. 499.59).

¹¹⁸³ Article 47(1) of the Taxi Services Regulation (S.L. 499.59).

¹¹⁸⁴ Article 63(1) of the Taxi Services Regulation (S.L. 499.59).

¹¹⁸⁵ Article 48 of the Taxi Services Regulation (S.L. 499.59).

¹¹⁸⁶ Article 51(2) of the Taxi Services Regulation (S.L. 499.59).

¹¹⁸⁷ Article 49(1) of the Taxi Services Regulation (S.L. 499.59).

¹¹⁸⁸ Article 55(2) of the Taxi Services Regulation (S.L.499.59).

¹¹⁸⁹ Article 59(4) of the Taxi Services Regulation (S.L.499.59).

¹¹⁹⁰ Reply to the stakeholder consultation provided by Road Transport Services Licensing Unit, Land Transport Directorate, Transport Malta.

or both such fine and imprisonment, or revocation of any authorisation, licence or permit:

- Failure to produce taxi driver permit [Article 9(1)];
- Playing for hire without a taxi licence [Article 19];
- Failure to verify a taximeter [Article 36];
- Interfering with a taximeter [Article 41(2)];
- Interfering with the tracking device [Article 43].

It also establishes that, the offences regulated by Articles 36 and 41(2) are punished, in addition to the penalty prescribed and to the penalty points, as follows:

- For a first offence by the confiscation of the taxi for a period not less than one month but not exceeding three months;
- For a second offences by the confiscation of the taxi for a period not less than three months but not exceeding six months; and
- For a third or any subsequent offence to the confiscation of the taxi for a period not less than six months but not exceeding one year.

The Authority may impose one penalty point for every ten euros (EUR 10) if the licence or permit holder is found guilty of contravening any provisions of the Traffic Regulation Ordinance¹¹⁹¹ or of the Act; the Authority shall impose in addition to the administrative penalties and the corresponding penalty points, an additional twenty penalty points if the licence or permit holder contravenes the same provision on five different occasion within a period of twelve consecutive months.

The Authority may be impose penalty points and administrative penalties without recourse to a court hearing which may be imposed either as a one-time penalty or on a daily cumulative basis until compliance; before imposing an administrative penalty, the Authority must inform the person on whom the penalty is imposed who has a right to make representation in writing within ten days to the Authority. A person aggrieved by the final decision of the Authority may lodge an appeal with the Tribunal within thirty days from the date when such decision is communicated to him. It is important to note that the Tribunal may confirm, revoke or alter the administrative penalty and the corresponding penalty points imposed by Authority.

The table below provides the administrative penalties established by the Authority.

Regulation	Administrative penalties for Licence Holders	Administrative penalties for Taxi Drivers
14(1)	-	EUR 50
15 [special training for wheelchair accessible taxis]	-	EUR 100
16(2),(3),(5),(7) [Driver's Tag]	-	EUR 50
18 [Employment of drivers]	EUR 250	-
21(3)	-	EUR 300
24(5)	EUR 100	EUR 100
25(1) [Fitness and	EUR 50 and in addition EUR 50 per	-

¹¹⁹¹ Chapter 65.

safety]	day	
26 [Inspections]	EUR 30 and in addition EUR 30 per day	-
27 [Horn]	EUR 100	-
28 [Colour of taxi]	EUR 100	-
29(2) [Advertisements]	EUR 100	-
29(3) [Advertisements]	EUR 50	EUR 50
29(5) [Advertisements]	EUR 100	-
30 [Identification certificate]	-	EUR 50
31 [Modifications to vehicles]	EUR 300	-
32 [Wheelchair accessible taxis]	EUR 150	-
34 [Taxi sign]	EUR 300	EUR 300
34A [Electric mini cab sign]	EUR 300	EUR 300
35 [Wheelchair accessible taxis sign]	EUR 50	-
37 [Position of taximeter]	EUR 300	-
38 [Device for printing fiscal receipts]	EUR 300	-
39	EUR 300	-
40	EUR 300	-
41(1) [Defective or tampered taximeter]	EUR 300	-
42(1) [Operation of a taximeter]	-	EUR 300
42(2) [Operation of a taximeter]	-	EUR 300
42(3) [Operation of a taximeter]	-	EUR 300
42(5) [Operation of a taximeter]	EUR 100	-
45 [Two-way communication system]	-	EUR 100
46 [Air-conditioning system]	-	EUR 50
47 [Carriage of persons or things while on hire]	-	EUR 100
48 [Lost property]	-	EUR 100
49 [Appropriate clothing]	-	EUR 100
50 [Prohibition of overloading]	-	EUR 300

51 [Control of vehicle]	-	EUR 50
53 [Use of apparatus while driving]	-	EUR 50
54 [No disturbances while driving]	-	EUR 10
55(1) [Vehicle cleanliness] in good order]	EUR 100	-
55(2) [Good order and good state]	EUR 150	-
56(1)	EUR 50	EUR 50
56(2)	-	EUR 300
57(1)	-	EUR 100
57(2)	EUR 100	-
58(1) [Emergency equipment]	EUR 100	-
58(3) [Emergency button]	EUR 50	-
59 [Hire of taxi]	-	EUR 60
60 [Solicitation and standing for hire]	-	EUR 100
61 [Plying for hire]	-	EUR 100
62 [Priority to person who use wheelchair]	-	EUR 100
63	-	EUR 200
64 [Copy of tariff]	-	EUR 100
65(5), (6)	-	EUR 60
66(3), (4)	-	EUR 100
66(6)	-	-
74 [Driving licence to be amended by the Authority]	-	EUR 50 and in addition EUR 50 per day

Article 71 specifies that, if the person on whom such penalty is imposed, pays such penalty to the Authority within thirty days from the date of receipt of intimation to pay, no criminal proceedings can be instituted against such person in relation to the relative breach.

In addition, the Authority or the court of criminal jurisdiction may suspend or revoke the taxi driver permit, in case the holder no longer satisfies the conditions laid down in regulation 11(1), (b), (c), (d) and (e) and regulation 12; or in case of the holder has supplied incorrect information to the Authority, or also the case where he or she has breached any of the conditions of licence or has committed serious infringements of the Regulation. The taxi driver permit may be revoked in cases where the driver accumulates two hundred penalty points; or in case of failure of the refresher course. The Authority may suspend for one year the taxi licence if at any time its registered licence holder accumulates five hundred penalty points.

The taxi driver permit, as required under Regulation (Article 13), must be processed and decided by the Authority. Decisions of the Authority to withdraw, not to renovate and to suspend the taxi permit have to be motivated and communicated in writing by registered post to the applicant.

When the application is refused by the Authority, the applicant may appeal to the Tribunal within thirty days from notification of the Authority's decision.

III. Legal framework applicable to Electric mini cabs

III.1 National legislation

The electric mini cab service was introduced in Malta and Gozo in 2011. The Taxi Services Regulation (S.L.499.59) define the electric mini cab as an electrically propelled vehicle¹¹⁹² or an electric power assisted pedal cycle¹¹⁹³ registered and licensed to ply and stand for hire.

Article 33(2) of the taxi Services Regulation states that, the provision of the such Regulation must *mutatis mutandis* apply to the licensing and operation of electric mini cabs; by contrast, the following provisions are not applicable: Article 34 concerning the taxi sign; Article 35 concerning wheelchair accessible taxis, Article 46 concerning the use of air-conditioning system; Article 47(2) concerning the luggage compartment of the taxi; Article 58(2) to (4) concerning the emergency button. As a whole, the relevant legislation is the same for the taxi sector.¹¹⁹⁴

Moreover, there is no minimum and maximum number of electric mini cabs that can be under an electric minicab operator licence.

III.2 Procedures for issuing licences and applicable criteria:

Electric minicabs operate in a similar way to taxis. With regard to the procedures for issuing licenses, the relevant legislation is similar to the taxi sector; in light of the above, the Taxi Services Regulation require that such electric minicabs are operated by a licensed electric minicab operator.¹¹⁹⁵

Electric mini cabs may be driven only by holders of a Driver's Permit and Tag that are issued by the Authority to applicants who satisfy certain requirements.¹¹⁹⁶

Unlike that foreseen for taxis, the electric mini cab's licence does not foresee an expiration date. However, the Authority requires the operator to submit, every five

¹¹⁹² Article 2 of the Taxi Services Regulation defines the electrically propelled vehicle as a vehicle which is used for the carriage of passengers by road and which is complied with the technical requirements set out under the Regulation.

¹¹⁹³ Article 2 of the Taxi Services Regulation defines the electric power assisted pedal cycle as a vehicle which is fitted with pedals capable of propelling it; fitted with an electric motor capable of propelling it; capable of travelling at a speed of not less than 15 km/h and not more than 25 km/h; and has a maximum width not exceeding 550 kg.

¹¹⁹⁴ See s.I.1

¹¹⁹⁵ <http://www.transport.gov.mt/>.

¹¹⁹⁶ See s. II.5.

years, a declaration of compliance with the criteria and the operator must pay a renewal fee (EUR 25) per vehicle per year.

III.3 Technical requirements applicable to licensed Electric mini cab

III.3.1 Electric mini cab equipment

The relevant legislation is similar to the taxi sector¹¹⁹⁷ with the exception of the following provisions: Article 58(2) to (4) concerning the emergency button; Article 34(1) to (4) concerning the taxi sign; and Articles 35 to 46 concerning the taximeter;¹¹⁹⁸ the tracking device;¹¹⁹⁹ the surveillance camera;¹²⁰⁰ the two-way communication system;¹²⁰¹ and the use of the air conditioning system.¹²⁰²

In accordance with Article 24(4) of the Regulation, the registration mark allotted to electric mini cabs must comprise the word "CABS" followed by any three numbers as the Authority may decide or as the licence holder may request. The registration number allotted to each mini cab must be painted on the side of the front doors of the mini cab or wherever the Authority may prescribe.

III.3.2 Electric mini cab sign

Article 34A states that, all electric mini cabs must display an electrically illuminated "MINI CAB" sign fitted on the front middle part of the roof between the front doors; the sign must be made from durable material; it must be connected with the taximeter; and the words "MINI CAB" must be in black letters on a white background.

The Authority must designate and mark electric mini cab stands with a sign showing the number of the number of electric mini cabs which may stand for hire on such stands. Moreover, only electric mini cabs may park or wait in an electric min cab stand.

III.4 Qualitative requirement:

The relevant legislation is the same as that for taxis.¹²⁰³

III.5 Organizational requirements

The relevant legislation is similar to that of the taxi sector.¹²⁰⁴

¹¹⁹⁷ See s. II.4.

¹¹⁹⁸ More specifically concerning the position of the taximeter (Article 37); the device for printing fiscal receipts (Article 38).

¹¹⁹⁹ Article 43 of Taxi Services Regulation (S.L.499.59).

¹²⁰⁰ Article 44 of Taxi Services Regulation (S.L.499.59).

¹²⁰¹ Article 44 of Taxi Services Regulation (S.L.499.59).

¹²⁰² Article 45 of Taxi Services Regulation (S.L.499.59).

¹²⁰³ See s. II.5.

¹²⁰⁴ See s. II.6.

III.6 Fares

The Taxi Services Regulation provides the criteria for setting the electric mini cab fares; more specifically, Table 4 of such Regulation states a maximum of EUR 5.00 per trip, irrespective of location, duration of trip or distance covered.

III.7 Passenger rights

The relevant legislation is the same to the taxi sector.¹²⁰⁵

III.8 Subsidies applicable to the taxi sector

There are no current subsidies to the use of electric cars.

III.9 Labour rules

Labour rules are the same as that for taxis and follow the general Maltese employment law.

III.10 Supervisory enforcement tools

The relevant legislation is the same as that for the taxi sector.¹²⁰⁶

IV. Legal framework applicable to the Water Taxi Services

IV.1 National Legislation

The applicable legislation is listed as follows:

- Water Taxi Services Regulations (S.L.499.55), 1 March 2009 as subsequently amended. The scope of these regulations is to regulate the water taxi services provided in the internal and territorial waters of Malta;
- Commercial Vessel Regulation (S.L.499.23), 1 October 2002, as subsequently amended;
- Code of Practice for the Safety of Commercial Vessels, 11th edition, June 2011 which must be construed in conjunction with the Commercial Vessels Regulation.

The purpose of the Code of Practice for the Safety of Commercial Vessels, hereafter "Code of Practice" is to regulate all aspects concerning the safety of commercial vessels including, but not limited to, construction, machinery, equipment, stability, operation, manning, certification and maintenance.

¹²⁰⁵ See s. II.8.

¹²⁰⁶ See s.II.11.

The Water Taxi Services Regulations define the water taxi as a commercial vessel licensed to ply for hire for the carriage of passengers within the internal and territorial waters.

IV.2 Procedure for issuing licences and applicable criteria

In order to obtain the Commercial Vessel Operator's Licence, as set out Article 19 of the Commercial Vessel Regulation, the application must be presented together with the following documents:

A valid identification document or passport; the certificate of incorporation; a copy of Memorandum and Articles; registration and ownership of the vessel; a commercial vessel certificate; and proof of a valid insurance policy (see s. III.3.2). Moreover, the applicant must specify the hull type, dimensions, tonnage, the engine details and the purpose for which the vessel is to be used, the mooring berth, the places requested to be moored.

If the vessel is in class with a classification society or built to standards specified by an administration recognized by the Authority, the applicant must present also the certificate of class or administration approval and such other documents concerning the fitness of the vessels as required by the Code of Practice.

Article 20 provides that, the Authority may carry out an inspection before issuing the licence. Upon the inspection, the Authority may either accept or decline to issue a licence. The licence holder must display such licence when performing the service.

The licence is valid for a period between six months and one year; it is not transferable but can be renewed within one month before the expiry date. Pursuant to Article 27, before the change of ownership of a vessel, the buyer and the licence holder must, submit to the Authority the licence together with an application for a new licence within twenty-one days. In the event of the licence or certificate is lost, destroyed or becomes illegible, the licence holder must forthwith apply to the Authority for a replacement, upon the payment of a fee.

IV.3 Technical requirement

Water taxi equipment

Article 9 of the Water Taxi Services Regulation lays down the following technical requirements: all water taxis must be equipped with a plate which shows the word "Water Taxi"; it must be fitted as prescribed in the Code of Practice; moreover, all water taxis must have the same colour and image as prescribed in the Code of Practice.

Article 48 of the Commercial Vessels Regulation states that, all vessels must have the effective life-saving and the fire-fighting devices and the other requirements prescribed in the Code of Practice aboard the vessel.

The master of a water taxi needs to guarantee the safety and communication equipment specified by the Authority.

Insurance and maintenance

Article 19(k) of the Commercial Vessels Regulation establishes that, the owner or the Master of the vessel must purchase adequate liability insurance, covering property damage and damage to passengers. The liability insurance is essential as it covers damages caused to customers by the driver (death or bodily injury) as well as pollution damage and costs of preventing or reducing damage resulting from the discharge; and salvage and wreck removal cost.

IV.4 Qualitative requirements

Article 12 lists the necessary requirements for issuing the commercial vessels licence.

The owner of a vessel must have good character and good knowledge of the relevant regulations relating to transport. If the applicant is a corporate body or a foreign corporate body enjoying legal personality, it must observe all the laws and regulations relating to transport within the internal and territorial waters of Malta.

Article 50 of the Commercial Vessels Regulation provides that all master or crew members must hold a certificate of competence issued by the Authority, in accordance with the requirements prescribed in the Code of Practice. Validity of this certificate lasts five years.

IV.5 Organizational requirements

In accordance with Article 9 of the Commercial Vessels Regulation, a commercial vessel must only ply between those landing places, areas and routes as prescribed by the Authority. Moreover, it may only be exposed for hire or moored at places appointed by the Authority.

IV.6 Register

Pursuant to Article 21(1), the register of licences must be maintained by Authority for Transport in Malta. The persons whose name appears in the register must be the owner and Master or the owner or the Master thereof respectively.

IV.7 Minimum services

Article 6 of the Water Taxi Services states the following prescriptions: the master of a water services cannot at any time leave the water taxi unattended while it is alongside a landing place; in addition, he cannot refuse, without reasonable cause, the hire of his water taxi. In the event the master refuses a hire, he must leave his landing place; in addition, he must attend such water taxi whenever they have been agreed upon at an appointed time and place. In the relationship with his customers, the master must reach any particular destination through the most expeditious route.

Article 8(1) states that the master must provide the passenger with a receipt showing the date, the amount paid, the origin and the destination of the trip.

IV.8. Fares

As a general provision, a printed form issued by the Authority showing the tariff of fares must be displayed at all times in the interior of every water taxi.

Article 7(2) states that, fares must be applicable to a complete water taxi service and must be inclusive of the handling of a normal sized luggage. Article 7(4) states that, passengers are obliged to pay the fare at the end of the trip. Article 8 specifies that, the master of a water taxi is obliged to provide passengers with a receipt showing the date, the amount paid and both the origin and the destination of the trip.

The master of a water taxi is not allowed to increase or modify fares more than specified in Regulations 8. More specifically, fares for the Water Taxi Service are as it follows:

1. Direct trips between landing places within the same port or internal waters:
 - (a) up to two passengers: EUR 5;
 - (b) for every additional passenger: EUR 2,50.
2. Direct trips between landing places within the zones as indicated in the Second Schedule:
 - (a) trips within the same zone:
 - up to two passengers: EUR 10;
 - for every additional passenger: EUR 5.
 - (b) trips between neighbouring zones:
 - up to two passengers: EUR 15;
 - for every additional passenger: EUR 7,50.
 - (c) trips between other zones:
 - up to two passengers: EUR 40;
 - for every additional passenger: EUR 10.
3. Water tours:
 - (a) up to two passengers, for every hour or part thereof: EUR 40;
 - (b) for every additional passenger, for every hour or part thereof EUR 10.
4. Waiting charge for every hour or part thereof: EUR 20.

IV.9 Passenger rights

Article 8(1) of the Water Taxi Regulation states that the master must provide the passenger with a receipt showing: the date, the amount paid, and the origin/destination of the trip.

Moreover, as required under Article 10, the master of a water taxi is obliged to assist and help any person with reduced mobility in embarking or disembarking from the water taxi and during the trip aboard.

Article 45 of the Commercial Vessel Regulation provides that, the master of water taxi cannot refuse to assist any passenger requiring assistance.

Article 37 provides that, the owner or the master cannot demand fares higher than the established tariff; he cannot carry another passenger without the consent of the hirer.

IV.10 Supervisory enforcement tools

Article 11 of the Water Taxi Services states that, any contravention committed against the provisions of these regulations must be treated in the same manner as if it has been committed under the Commercial Vessel Regulations.

Article 57 states that, the Authority has the power to examine, investigate and inspect a vessel, the licence or a certificate and any other relevant document. Moreover, a person appointed by the Authority to carry out such functions shall have the power to:

- board freely and without previous notice, a vessel at any place and any time of day or night;
- request the assistance of a member of the Police force during the execution of this duty;
- inspect any document;
- question any person connected with the execution of these regulations; and
- order to suspend the operation of a vessel.

Article 57(4) specifies that, any person who obstruct this inspection, must be considered guilty of an offence.

The Authority may revoke or suspend both certificate and licence, whether the owner or master or crew member: has made a false declaration or representation; is guilty of any fraudulent practice or crime during the use of commercial vessels; has failed to comply with any of the requirements of these regulations; has not carried out the operation for which he is licensed for one year.

Article 62 states that, any person who fails to comply with any requirement prescribed in these regulations must, for a first offence on conviction, be liable to a fine not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (EUR 2.329,37); for each such offence, to a further fine not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (EUR 1.164,69). The penalty has to be paid within such time indicated by the Authority.

Where any offence is committed by a corporate body or body of persons, every person who, at the time of the commission of the offence was a director, manager or other similar officer shall be guilty of that offences, unless he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of the offence.

In addition, any person or corporate body must deliver the licence to the Authority within forty-eight hours in case of suspension, cancellation or revocation.

V. Legal framework applicable to hire cars with driver

V.1 National/Local/Municipal regulation

Chauffeur-driven vehicles are regulated by means of the Motor Vehicle Regulations (S.L. 65.11). Operators are required to be in possession of a public Service garage Licence. Cap 499 defines "*motor vehicle for hire*" means an M1 motor vehicle registered to be hired from a public service garage, and driven by the garage owner or by any person employed by him". "M1 motor vehicles" means vehicles used for the carriage of passengers and comprising no more than eight seats in addition to driver. Operators are required to be in possession of a Public Service Garage Licence and vehicles may only be hired on a pre-booking basis.

Regulation 62, Part II, S.L. 65.11 provides that 62. (1) *No person shall garage more than four motor vehicles in any premises without a private garage licence, or a motor vehicle licensed for hire without a public service garage licence.*

A Public Service Garage Vehicle has a maximum seating capacity of nine seats including that of the driver. It is licensed to be hired from a public service garage owner who holds a licence issued for this purpose by Transport Malta. A copy of the Authority's authorisation should be constantly kept on the premises to which it refers and should be posted up and conspicuously displayed in the premises.

The following service conditions apply:

1. A chauffeur driven service may only be carried out on a pre-booking basis from the operator, by telephone, email or on-line.
2. A Public Service Garage Vehicle should be driven by the owner of that garage or his employee, who should be in possession of a Driver's Tag to be worn at all times.
3. The vehicle can be of any colour except white (with the exception of classic/vintage/veteran or Limousine cars which are normally used for hire of weddings and other special occasions).
4. The vehicle registration number should include a letter followed by the letters GY or LY followed by three numbers.
5. The vehicle can be of any type, model or make but cannot display the word 'TAXI'.

V.2 Procedures for issuing licenses and applicable criteria

The Public Service Garage Vehicle licence is issued by the Commissioner of Police and the Authority respectively, provided that a public service garage licence shall cease to be valid when the holder thereof holds no licences in his name in respect of motor vehicles licensed for hire and authorised to be garaged therein. In order to obtain such a licence, the applicant must submit an application Driver and Passenger Operator Licensing Unit.

According to the information obtained by the Malta transport Authority,¹²⁰⁷ to obtain a public service garage licence, an operator has to engage an architect in order to draw a site plan of the garage which will be used as a public service garage. The architect will then submit a site plan together with his proposal to the Malta Environment and Planning Authority (MEPA). MEPA will review the application and if this is approved, the operator will call Transport Malta to start the process. He will be asked to fill in an application form and submit the following documents:

- A Police conduct certificate;
- A VAT certificate;
- A detailed plan of the garage which should be certified and stamped by the architect showing the measurements in square meters;
- A commercial rental value (for each year) declared by the architect;
- A Certificate issued by the installer with regard to fire extinguishers and smoke detectors in the garage;
- A fee of EUR 20 should also be paid. An annual licence fee should also be paid. However, this payment varies since it depends on the locality and the size of the garage.

In order to obtain a Driver Tag, the applicant must submit together with the application, the following documents:

- Police Conduct Certificate;
- Medical Certificate (if applicant is 50 years and over);
- Copy of Residence Card in cases where a valid EU driving licence shall be utilized;
- Proof of payment of EUR 12 for the issuance of the Permit (Tag);
- Proof of payment of EUR 10 for the licence upgrade including the harmonized code.

Medical certificate is required after a driver has reached 50 years and over. For example, for clients who are at the age of 48, the Driver Permit Tag shall be issued for a period of 2 years then upon renewal with a medical certificate, shall be issued for 5 years. Alternatively, one can present the medical certificate before this is due and the Driver Permit Tag shall be issued for 5 years immediately.

Applicants are also required to apply and attend for the customer care course with the approved service provider for the customer care course (SSM Limited). Once the course has been completed successfully, the Driver Permit (Tag) shall then be issued against a fee of EUR 12. The Permit will be valid for a maximum period of 5 years and will expire in line with the driving licence validity. The driving licence card is updated, against a fee of EUR 10.00, with the harmonized codes 103 showing a chauffeur driver permit.¹²⁰⁸

Licences are issued to operators of car hire/rental garages and multiple vehicles may be operated under the same licence.

¹²⁰⁷ Reply to the stakeholder consultation.

¹²⁰⁸ <http://www.transport.gov.mt/land-transport/driving/hire-and-reward-professional-drivers/light-passenger-vehicle-8-passengers-plus-driver>.

V.3 Technical requirements applicable to hire cars with driver

Regulation 130 S.L: 65.11 130 provides that "(1) Every motor vehicle for hire, self-drive motor vehicle or motor minibus for public transport shall be fit and safe in every respect for the conveyance of passengers. (2) A motor vehicle for hire or motor minibus for public transport shall contain a fire extinguisher, a security hammer and a security triangle, and also as regards a public services garage van and a motor minibus for public transport, a first-aid kit. (3) A motor vehicle for hire which is a public service garage van and which is licensed and/or registered to carry between eight and ten passengers, shall have a seat belt in respect of each passenger".

According to Regulation 132, each hire car must be inspected annually and at other times as provided by the Authority at regular intervals. The Authority may also order the re-examination of such vehicles as it deems fit. Any owner who fails to have his vehicle examined or re-examined as aforesaid, shall have the licence, in respect of the vehicle, suspended until such time as the vehicle has been examined and passed fit for the road (Regulation 120).

Regulation 134(c) provides that "Every motor vehicle for hire and self-drive motor vehicle shall be kept constantly clean and maintained in good order and state of repair".

V.4 Qualitative requirements (fitness of the driver, knowledge and skills required, drivers' training)

Light passenger transport vehicles are vehicles used for hire and reward that may carry up to eight passengers besides the driver. Such vehicles may be driven only by holders of a driver's tag which is issued by the Driver & Passenger Operator Licensing Unit of Transport Malta to applicants who satisfy the following requirements:

- Are in possession of a category B driving licence;
- Have attended the Customer Care course;
- Are of good repute.

Regulation 130A provides that a "person is not considered to be of good repute if he: (a) has been convicted, during the previous five years, of a crime liable to a term of imprisonment of three months or more or a fine of at least four hundred and sixty-five euros and eighty-seven cents (EUR 465.87), (b) has been convicted, during the previous two years, of offences against traffic or road transport regulations".

The Authority may withdraw an identification tag where the holder no longer satisfies the good repute requirement.

V.5 Organisational requirements

Regulation 62(8) S.L: 65.11 provides that "The licensee of a public service garage shall keep a register containing the following information: (a) the date and the time of departure and arrival of each motor vehicle hired therefrom; (b) the name, licence

number and identification tag number of the driver; and (c) the name, address and licence number of any person hiring a motor vehicle to be driven by the hirer”.

The driver, when driving a hire car, must wear a uniform of the colour prescribed by the Authority and show the tag *“in a conspicuous place on the chest in a manner that it may be easily seen”* (Regulation 130A (7)(9)).

V.6 Fares

Regulation 130 provides that the driver of any motor vehicle for hire shall be in possession of a copy of the official tariff of fares and of these Regulations. *“He shall produce the same whenever requested to do so by the Police or by any officer of the Authority or by any passenger”.*

V.7 Passenger rights

There are no particular passenger rights provided by the Motor Vehicle Regulations. However, Regulation 134(a) provides an obligation for the passenger, that *“No passenger shall refuse to pay his fare to the driver of a motor vehicle for hire at the end of a trip, or when demanded thereafter”.* Point EUR of the same regulation forbids the passengers from smoking inside the vehicle. Other passenger rights are to find the vehicle proper and in good condition (Regulation 134(c) *“...Every motor vehicle for hire and self-drive motor vehicle shall be kept constantly clean and maintained in good order and state of repair...”*).

V.8 Labour rules

There are no particular labour rules for hire car with drivers. The licensee may drive the vehicle himself or may employ drivers. In this case, S.L. 65.11 provides that *“The licensee of a motor vehicle is responsible that the driver employed by him is in possession of the requisite licences. The driver of a vehicle is responsible that the motor vehicle under his charge is provided with the necessary licence for the service which it is required to perform”* (Regulation 59).

General labour rules for employees or self-employed are applicable.

V.9 Local incentives, subsidies provided by the administration in order to carry out certain services (such as mini-van service for people with reduced mobility, elderly, schools)

No compulsory discounts are stipulated by the Regulations.¹²⁰⁹

V.10 Supervisory enforcement tools

¹²⁰⁹ Reply to the stakeholder consultation provided by Road Transport Services Licensing Unit, Land Transport Directorate and Transport Malta.

In case of violation of the S.L. 65 11, the Authority may withdrawal the identification tag of the driver, if he does not fulfil the qualitative requirements anymore. Violations of the driving or parking rules are enforced by the Police.

According to the reply of the Authority, the most common infringements reported for private hire car are:

- Drivers not wearing a tag;
- Drivers not in possession of a valid drivers' tag;
- Vehicles not garaged when not in use;
- Overloading of vehicles with passengers;
- Vehicles with lack of safety equipment;
- Badly maintained vehicles;
- Vehicles plying for hire.

VI. Legal framework applicable to ridesharing and car sharing

There is no currently specific legislation in place at a national or local level that regulates ridesharing and car sharing.¹²¹⁰

VI.1. Current regulations and legislative proposals on ridesharing and car sharing

There is currently no specific proposal.

VI.2 National rules applicable to on-line platform and rules applicable to service providers

Not provided by legislation.¹²¹¹

VI.3 Main operators and their business models

As regard to ridesharing providers, Transport Malta is aware of two separate initiatives in the field of ridesharing: Bum-a-Lift and the University Car Pooling.

The **Bum-a-Lift**, launched in 2013, was the first ridesharing platform to launch in Malta.¹²¹² It is an online carpooling and ridesharing platform mostly active in the field of

¹²¹⁰ Reply to the stakeholder consultation provided by Road Transport Services Licensing Unit, Land Transport Directorate and Transport Malta.

¹²¹¹ Reply to the stakeholder consultation provided by Road Transport Services Licensing Unit, Land Transport Directorate and Transport Malta.

¹²¹² <https://news.transport.gov.mt/tag/car-pooling/>.

a school transport.¹²¹³ Actually, there are more than 600 active users, with over 70 of them being parents who carpool for trips to school.¹²¹⁴

The **University Car Pooling** is a pilot project which will transform Car Park 4, the area adjacent to the University quadrangle in the heart of campus, into a carpooling car park from 7am to 1pm on weekdays. The car park can provide a total of 35 parking spaces. Security personnel will be stationed at the gate of the car park to check that each car contains a driver and two passengers, together with two parking permits, one belonging to the driver's car, the other to one of the passengers that have forfeited a car park space on campus.¹²¹⁵ The Car Pooling project includes a web platform to facilitate the matching of supply and demand; more in detail, students can offer or ask for lifts using the carpooling application on the [KSU website](#).¹²¹⁶

VI.4. Requirements imposed upon non-licensed activities (*safety and technical requirements, insurance requirements, obligations relating to licences and on-line platforms*)

There are no specific provisions in Maltese legislation.¹²¹⁷

VI.5 Local incentives, subsidies and other forms of promotion for ridesharing and car sharing (*including parking spots, use of preferential lanes, etc.*). There are no specific provisions in Maltese legislation.¹²¹⁸

VII. Relevant national case law

No relevant case law has been found.

VIII. Country Market

- **Taxis**

The number of taxi licences that may be operated in Malta and Gozo is set out in the Taxi Services Regulations.¹²¹⁹ Before these regulations came into force, in November 2010, there were 200 licensed taxis in Malta and 50 in Gozo.

¹²¹³ Reply to the stakeholder consultation provided by Road Transport Services Licensing Unit, Land Transport Directorate and Transport Malta.

¹²¹⁴ <http://www.timesofmalta.com/articles/view/20160108/local/parents-rush-to-join-bum-a-lift-schools.598006>.

¹²¹⁵ <https://www.um.edu.mt/newspoint/news/features/2016/02/launchofcarpoolinginitiative>.

¹²¹⁶ <http://www.ksu.org.mt/>

¹²¹⁷ Reply to the stakeholder consultation provided by Road Transport Services Licensing Unit, Land Transport Directorate and Transport Malta.

¹²¹⁸ Reply to the stakeholder consultation provided by Road Transport Services Licensing Unit, Land Transport Directorate and Transport Malta.

¹²¹⁹ Article 22 (1) and (2) of the Taxi Services Regulations (S.L. 499.59).

The new Taxi Services Regulations required the issue of an additional 50 new licences for taxi operating in Malta by 2012, bringing up the total number of taxi licences to 250 in Malta and 50 taxi licenses in Gozo by 2012.

The table below shows the new taxi licences issued by the Authority to operate the taxi services in Malta:

Year	Number of new taxi licences
2010	20
2011	20
2012	10

Source: Road Transport Services Licensing Unit, Land Transport Directorate and Transport Malta

No further new licences have been issued since 2012.

In light of the above, the number of taxi licences is currently limited to 250 in Malta and 50 in Gozo: such number was established following a study conducted by the Authority and the Ministry for Transport, in consultation with the sector and is subject to review depending on the market demand.¹²²⁰

The last review took place at the end of 2015 following further consultation with the sector. Upon this consultation, it was decided not to increase the number of licences and to set a new checkpoint for the end of 2020. As from the 1st January 2020, the maximum number established shall be review by the Authority seeking an agreement with the representatives of licence holders.¹²²¹ These decisions are based on the market demand for taxi services and are aimed to ensure adequate service availability for clients on the one hand, and service sustainability for the owners on the other.

- **Hire cars with driver**

With regard to the hire car with driver in Malta there are around 700 public service garages and, around 80 garages in Gozo.¹²²² Some of them belong to hotels.

IX. Market players

The taxi sector in Malta is largely represented by the association **Malta Taxi Licensed Association**, hereinafter "**MTLA**", whereas those operating in Gozo are represented by the **Gozo Taxi Association**, hereinafter "**GTA**". All licences are held by individual owners, with some owners holding up to five different licences.¹²²³

¹²²⁰ Reply to the stakeholder consultation provided by Road Transport Services Licensing Unit, Land Transport Directorate and Transport Malta.

¹²²¹ Article 22(4) of the Taxi Services Regulations (S.L. 499.59).

¹²²² <http://www.transport.gov.mt/admin/uploads/media-library/files/PSG%20List.1.pdf>.

¹²²³ Reply to the stakeholder consultation provided by Road Transport Services Licensing Unit, Land Transport Directorate and Transport Malta.

Greenr is the largest fleet of electric taxis. It uses a fleet of Nissan leaf cars, a 100% electric vehicle. Greenr taxi service now operates all over Malta including from the Malta International Airport at fixed fares. The service may be booked on-line or over the phone and uses a GPS system to dispatch the closest taxis.¹²²⁴

Among the hire cars with drivers, eCab is the leading company, providing a service of black garage cars available 24/24, 7 days a week. It provides a fleet of corporate black cars with various services (Standard, Executive, Van, Executive Van) at pre-arranged rates. The application may be downloaded by iOS and Android smartphone and the pre-booked vehicle may be tracked by the GPS system.¹²²⁵

In the ridesharing, there are two local initiatives: Bum-a-Lift and the University Car Pooling. It is an online carpooling and ridesharing platform mostly active in the field of school transport and among university students.

Carpoolworld, however, is also present in Malta, offering pre-arranged long distance ridesharing between the largest cities.¹²²⁶

X. Barriers, limitations, incentives

As indicated above, the cap is fixed at 250 taxi licences in Malta and 50 in Gozo. The next review of the number of licenses will take place in 2020. In order to obtain a licence, the applicant must pass a written and oral exam. Quantitative barriers and qualitative requirements are therefore used. However, according the Malta Transport Authority, the overriding reasons for the existing licensing systems are the provision of the different transport options to satisfy the market's needs, whilst ensuring a high level of road safety, customer protection and security through vehicle and services standards, operator and driver competence, and objective enforcement of the applicable regulations in terms of service quality.

There is no limitation on the number of licences for hire cars with drivers as long as they meet the legislative requirements.

Taxi service is complemented by water taxis and electric minicabs. Since the legislation has lower barriers to entry than taxis, hire cars are developing, and also provide innovative services at competitive prices, such as ECab. The activity, however, requires a large upfront investment in order to comply with the obligation of having a garage and enough space for parking the vehicles. The plan for the garage must be approved by the Ministry of the Environment, which may require some revisions which increase costs. This may even be complicated by the fact that, according to the 2012 World Bank Report, there are long delays in obtaining construction permits and electricity services, which may disincentive the business.¹²²⁷

XI. Capacity, growth, impact

¹²²⁴ <http://www.greenr.cab/>.

¹²²⁵ <http://ecabs.com.mt/>.

¹²²⁶ http://www.carpoolworld.com/carpool_MALTA_favorites.html.

¹²²⁷ G. A. Pirota, I. Calleja, C. Colino, SGI Sustainable Governance Indicators, Malta 2015, SGI 2015 | 2.

Malta has a total population of 450,000 and a consistent touristic activity.

Being an island and a touristic destination, the capacity of the market is influenced by the touristic season. It is worth mentioning a Study of the University of Malta on the possible benefit of ridesharing in Malta, which reports the results of the World Bank in terms of car concentration in Malta: *"The Maltese road network is bloated. Malta has one of the highest rates of car density in the world, rivalling some of the big cities such as London or Paris. The World Bank puts it in 9th place with 693 vehicles per 1000 inhabitants, while the US, famously considered as one of the most car dependent states, is in 3rd place with 797 vehicles. A less quoted but possibly more important statistic is the number of cars per square kilometre: the US has 25 vehicles; Malta packs a staggering 991".*¹²²⁸

Similarly, the Eurostat 2014 data on EU passengers' cars reports Malta among the Member States where there is the highest number of cars per inhabitants.¹²²⁹

In 2010, Transport Malta attempted to gather this data through an extensive survey. They estimated that over 500,000 trips using a private vehicle are undertaken each day. Birkirkara is the most popular destination with over 34,000 trips, followed by Msida (25,000), Mosta (21,000) and Attard (19,000). These data, according to the University's research, should be used to create possible models of ridesharing that should complement public transport in order to reduce car use. The difficulties to persuade the Maltese to abandon their cars was signalled also by the founders of the ridesharing platform Bum a Lift when they explained the change in their business model and the focus on people living in university campus. While at the beginning, people seemed interested in the idea of ridesharing, it was difficult to persuade a large number of people to drop their cars. Instead, the Bum a Lift team has identified a "micro-culture" that fits the carpooling mould perfectly – the university. According to the founder, *"improving carpooling there would create an environment where sharing cars became something that came naturally to students"*.¹²³⁰ In February 2016, as mentioned above (see s. VI 3.1), the Kunsill Studenti Universitarji (KSU) in collaboration with the University of Malta's Green Travel Committee and Precincts Office announced the launch of a new initiative to promote carpooling at the University of Malta. One of the parking lots at the campus has been transformed into a carpool park. The project has run for two months and the analysis of the results is on-going.

XII. Results

The number of taxi licences is currently limited and only the transfer of licences is possible since no new licences have been issued recently. The last review of the criteria for the issuing of the taxi licences took place at the end of 2015 following further consultation with the sector. Following this exercise, it was decided not to increase the number of licences and to set a new checkpoint for the end of 2020, at which point the Authority shall review the situation and decide whether to issue new licences or not.

¹²²⁸ <http://www.um.edu.mt/think/to-drive-or-not-to-drive/>.

¹²²⁹ http://ec.europa.eu/eurostat/statistics-explained/index.php/Passenger_cars_in_the_EU.

¹²³⁰ <http://www.timesofmalta.com/articles/view/20160424/local/local-drivers-put-the-brakes-on-carpooling.609814>.

These decisions are based on the market demand for taxi services and are aimed to ensure adequate service availability for clients on the one hand, and service sustainability for the owners on the other.¹²³¹

Hire cars with drivers are not subject to quantitative restrictions but there is the need of upfront investment, in particular the garage for vehicles. Various operators belong to the hotels which are developing additional services for clients. For other innovative services, the market does not seem mature yet, also due to the large use of private cars by the residents.¹²³²

XIII. Conclusions

The Maltese hire transport is dominated by licensed taxis. The market is characterized by quantitative restrictions. However, in recent years, hire car with drivers are developing, at least for pre-booked rides, offering fleet of luxury vehicles mainly for business and tourists. In 2011, electric minicabs were introduced in order to reduce the environmental impact. The same licensing rules for taxis are applicable to electric and water taxis. Maximum fares are imposed by the legislator for tours in order to avoid tourist scams. Ridesharing is still at the initial stages of development.

Bibliography

1. SUBSIDIARY LEGISLATION 65.11 MOTOR VEHICLES REGULATIONS, as amended
2. SUBSIDIARY LEGISLATION 499.59 TAXI SERVICES REGULATIONS
3. G. A. Pirotta, I. Calleja, C. Colino, *SGI Sustainable Governance Indicators*, Malta 2015, SGI 2015 | 2
4. http://www.sgi-network.org/docs/2015/country/SGI2015_Malta.pdf
5. <http://www.maltainfoguide.com/taxi-malta.html>
6. <http://www.transport.gov.mt/land-transport/other-public-transport/taxis>
7. <http://www.um.edu.mt/think/to-drive-or-not-to-drive/>
8. <http://www.timesofmalta.com/articles/view/20160424/local/local-drivers-put-the-brakes-on-carpooling.609814>
9. <https://www.um.edu.mt/newspoint/news/features/2016/02/launchofcarpoolinginitiative>
10. http://www.maltatoday.com.mt/news/national/63948/bumalift_carpooling_app_to_extend_to_university_students#.V3qOY_mLSUk

¹²³¹ Reply to the stakeholder consultation.

¹²³² <http://www.timesofmalta.com/articles/view/20160424/local/local-drivers-put-the-brakes-on-carpooling.609814>.

20. THE NETHERLANDS

General Legal Framework

The Taxi Act (*Taxiwet*) came into force in October 2011 and followed the liberalisation of the market in 2000. The liberalisation did not produce the expected results in terms of quality of the service and lower fares, therefore the Government decided to intervene with new rules to redress some negative effects and improve the quality of the service. The Act sets out requirements for taxi companies and drivers and it gives local municipalities the power to develop their own quality policy for street taxis in addition to national rules. One of the biggest changes is the opportunity for municipalities to oblige taxi drivers to form a group as a requirement to access the local market. The city of Amsterdam established new Municipal Taxi Regulations. These came into force in November 2012 and contain regulations for the Amsterdam street taxi market.

Licenses

Taxi operators must have a taxi driver permit which is obtained after a taxi driver exam at the Central Office for Motor Vehicle Driver. The applicant must also apply for a business permit and enrol in the Register of the Chamber of Commerce and obtain a certification from an independent organisation (Kiwa), which is part of the Human Environment and Transport Inspectorate.¹²³³ In order to apply to the Kiwa, the taxi driver must be able to demonstrate that the vehicle for which he applies the certificate for is permanently at his disposal. A licensing certificate is required for the vehicle. In certain cities, such as Amsterdam and Rotterdam, the taxi driver must apply for a permit to use the bus lanes.

Technical requirements

The inspection obligation and legislation are included in the 1994 Road Traffic Act.¹²³⁴ During an APK, the vehicle is inspected by a service station or by a testing station. The inspector carrying out the APK will check whether the vehicle is roadworthy, environmentally safe and registered correctly. Once the vehicle passes taxi inspection, it obtains special blue licence plates. Taxis must be fitted with a certified taximeter, which must be inspected annually by the Netherlands Metrology Institute.

Organisational and professional requirements

The taxi drivers must possess a certificate of good conduct that indicates that the owner did not commit any criminal offences. In accordance with Article 22 of the Passenger Transport Decree 2000 (Bp2000),¹²³⁵ the driver must fulfill the requirement of reliability. All taxi drivers in the Netherlands must have a driver's card. The driver's card must be placed in a way visible for the passengers. A Dutch taxi company must have a taxi business card which may be obtained from the Kiwa Register. The company must be registered in the Dutch Business Register of the Chamber of Commerce and have a taxi transport business permit. In addition to the Kiwa Register, municipalities can impose additional rules on the quality of taxi services. For instance, they can require that various taxi drivers serve the local market as a group (TTO). This involves having a system to manage complaints and have recognizable taxis. In Amsterdam, only taxis associated in TTOs are authorized to pick up passengers in the streets.

Fares

The price of a taxi trip depends from distance and duration, as well as from the starting rate (so called double rate system). Maximum rates apply. Once the taxi trip is completed, the driver must provide the customer with a printed bill that clearly states how the price has been calculated.

Passenger rights

Taxi drivers must display applicable taxi fares and rates in order to inform passengers. The fares must be clearly legible on the outside of the taxi and from all seats within the taxi. The driver must inform the customers where they can lodge complaints.¹²³⁶ For this purpose, the driver's business' permit number must be visible inside the taxi.

Labour rules

Taxi drivers may be employees (in which case labour rules apply) or they may be self-employed. In the Netherlands' taxi market, salaries and conditions of employment are regulated in collective agreements (CAO). When there is no collective agreement, general labour legislation applies. The introduction of the on-

¹²³³ <https://www.kiwa.nl/>.

¹²³⁴ <https://www.rdw.nl/SiteCollectionDocuments/APK/handleidingen/Appendix%20VIII%202016.pdf>.

¹²³⁵ <http://wetten.overheid.nl/BWBR0011982/2016-04-20>.

¹²³⁶ <http://www.taxiklacht.nl/pages/taxiklacht/CONTACT?windowuid=uid1417776975>.

board computer has been a major change for taxis. This device registers the driving times and rest periods of the driver automatically. It helps reduce paperwork and time consuming inspections.

Airports

For serving Amsterdam Schipol Airport, taxi companies must be awarded a European Tender, or the taxis have to register at Stichting Taxi Controle to get access to the airport. These taxis have to have, in addition to the standard requirements, TX-Keur, the national quality mark for taxi transport.

Enforcement

The Dutch national enforcement body is the Human Environment and Transport Inspectorate (ILT). ILT is the supervising authority for taxi drivers and taxi companies. The ILT may withdraw a licence in case of irregularities (criminal offences). A person who wants to submit a complaint against a taxi driver or a taxi company can do so either to the police or to the ILT.

Hire cars with driver

There is no sharp distinction between the taxi and hire car with driver. The Netherlands' taxi regulations make as little distinction as possible between the various market segments, as this then gives Dutch companies the freedom to deploy their vehicles and drivers in the most effective and efficient means possible depending on actual demand. Hence, the same legislation for taxis applies, with exception that, for hire cars with drivers, only contractual fares apply.

Ridesharing

In the Netherlands, there is currently no special legislation applicable to ridesharing. Ridesharing is allowed in order to recover the costs of the journey. There are some incentives to share the vehicle such as designated ridesharing parkings.

Market players

The largest taxi dispatch operators/companies are the so called approved taxi organizations (TTO) such as: Taxi Electric, Staxi B.V., Taxistad B.V., STA B.V., TCA, AMS, Taxi Direct Amsterdam B.V., My Taxi Centrale, BBF, Aemstel Taxi, Member Taxi Amsterdam. The providers of applications are TCA, Ecab, Taxi.eu, Uber, TCA. Uber provides different services (UberBlack and UberX).

Capacity, growth and impact

The entrance barriers are low. There is no limitation concerning the licence, nor maximum licences or geographical limitations (except for special areas - Schiphol, ports, stations and cities where a TTO is mandatory). One of the largest dispatch operators, in replying to the consultation, considered that there are no particular obstacles to access the markets. According to the Dutch Taxi Association, following the new legislation, the number of actors in the taxi stand market is relatively stable.

Conclusions

Since the liberalisation in 2000, the Dutch taxis and hire cars with drivers sectors are characterized by the absence of quantitative restrictions. Access to market is based on stringent qualitative criteria. The hire cars with drivers are essentially covered by the same taxi legislation and must respect the same qualitative standards. This allows the authorized operators to deploy their vehicles and drivers in the most effective and efficient way depending on the actual demand for services. The liberalisation associated with high quality standards has provided positive results in terms of supply of the service.

I. Introduction

The Dutch taxi market has a long history of regulation and deregulation. Before the year 2000, the Dutch taxi market was regulated with standard tariffs and a fixed number of licenses. In order to improve the taxi market quality and to lower the prices for the passengers, the government changed the way it regulated this sector. After the year 2000 the market became deregulated, and the control through legislation lessened. The

fixed tariffs and the quantitative restrictions to the number of taxi licenses were abolished following this deregulation. Over the period 2004-2015 further measures were introduced such as a national exam, restructured tariffs and the so called "*Toegelaten Taxi Organisatie*" (TTO, also known as "*Approved Taxi Organisation*", ATO).¹²³⁷

To improve the quality and image of taxi services for consumers, the Ministry of Infrastructure and the Environment (*Ministerie van Infrastructuur en Milieu*) drew up further new rules. The 'Taxiwet' (*Taxi Act*) that came into force in October 2011 is of particular importance. This Act sets out requirements for taxi companies and drivers. Furthermore, the Act gives local municipalities the power to develop their own quality policy for street taxis in addition to national rules. One of the biggest changes is the power granted to the municipalities to oblige taxi drivers to organise as a group as a requirement to access the local market. They can also impose an obligation to accept all rides from taxi stands and prohibit the refusal of short trips (see further s. II.1).

The government regulates the tariff system and the maximum fares for street taxis (see further s. II.6). A new tariff system came into force in October 2011. The most important change is that the duration of a taxi ride plays a role in calculating the price of the taxi ride. This means the price consists of a starting rate, a time rate and a distance rate. Moreover, the customer should receive a mandatory receipt at the end of the trip.

Finally, a recent major change is the introduction of the on-board computer for taxis. This device automatically registers the driving times and rest periods of the driver. It helps to reduce paperwork and time consuming inspections; in addition, the risk of fraud is significantly diminished.

Concerning contracted taxis (hire cars with drivers), a project has been carried out during 2009 - 2011 to improve the quality of this type of transport as well. This is especially of relevance since the passengers transported under this type of contracts (e.g. disabled and/or elderly people) are more often not capable of standing up for their rights. In co-operation with all parties involved, instruments have been developed to improve the tendering and monitoring of these contracts.¹²³⁸

II. Legal framework applicable to taxis

II.1 National/Local/municipal regulations

Main legislative acts

- The **Netherlands' Passenger Transport Act** ("*Wet personenvervoer 2000*"¹²³⁹) (hereinafter: "Wp2000") regulates taxi transportation, imposes requirements and obligations on the carrier which has to provide certain information to passengers, including the website of the dispatch centre (dispatch centres are associations of taxi companies and they are responsible for taking orders, managing traffic, complaints, and billing, among other things) and phone number of the competent body for complaints. With

¹²³⁷ L. Whittaker, "How to design the Dutch taxi market anno 2015", Erasmus University 2015, p. 4-10.

¹²³⁸ <https://www.government.nl/topics/mobility-public-transport-and-road-safety/contents/public-transport/taxis>.

¹²³⁹ <http://wetten.overheid.nl/BWBR0011470/2015-12-15>.

Wp2000 taxi operators are free to set their own tariffs within a given maximum. Chapter V of Wp2000 in particular contains rules with respect to taxi transport in the Netherlands.

- The **Netherlands' Passenger Transport Decree 2000** ("*Besluit Personenvervoer*", hereinafter "Bp 2000") contains rules with respect to complaints, disputes, professional competence, tariffs etc.

Following the introduction of Wp2000 it emerged that its implementation in the taxi market had not led to an adequate match between supply and demand. The Wp2000 furthermore abolished the limit on the number of licenses distributed, in order to create an easier accessible market. It was expected that prices would drop and quality would rise because of competition. By lowering the entry barriers for the taxi market, greater competition between the new and incumbent taxi drivers was expected to occur. The Wp2000 did not achieve its desired effects, i.e. improving price and quality, but actually ended up having a negative effect on both.¹²⁴⁰ To tackle the problems resulting from Wp2000 and to increase the quality of taxis, a new taxi law was adopted in October 2011, the **Taxi Transport Deregulation Act** ("*Taxiwet*"). The Taxi Act is part of the Wp2000 and contains rules governing taxi transport, drivers and cars. This law aimed to increase the quality for the passenger for the street taxi market in large cities. The core of the Taxi Act gave municipalities the ability to enforce extra quality standards for taxi drivers.¹²⁴¹ If a taxi driver wishes to serve a specific taxi stand, local governments now have the authority to force these taxi drivers to join a so called "Approved Taxi Company" ("*Toegelaten Taxi Organisatie*", hereinafter "**TTO**"). Local governments have indicated that even without using the authority to demand extra quality standards, the TTO's work as a preventative measure to improve the quality of the street taxi market.¹²⁴² The local authorities may also impose on taxis the obligation to accept short trips. To date, implementation of such an obligation has to our knowledge not yet occurred, although various municipalities have prepared regulations.¹²⁴³ In the future, there can be greater regulatory differences between municipalities.

In addition, seven¹²⁴⁴ Dutch municipalities are permitted to introduce additional regulations which apply to companies or drivers that offer street taxi transport in these municipalities. The municipalities attach certain conditions to the TTO.

To date only the Netherlands' three largest cities (which also claim the largest share of the market) have implemented this.¹²⁴⁵ Additionally the transport for Amsterdam Airport Schiphol is an exception, for which separate private taxi concessions are tendered.

Taxis are permitted to offer their services throughout the Netherlands. This, however, does not apply to the municipalities where TTO (see above) is established, and to Amsterdam Airport Schiphol; there, a driver or company that wants to offer street taxi transport must first become part of one of the municipality-appointed TTOs' (or of the concession holder for Amsterdam Airport Schiphol), regardless of whether or not the driver is a resident of the relevant municipality.

¹²⁴⁰ SEO economisch onderzoek, Toekomst voor de taxi, Amsterdam: juni 2008.

¹²⁴¹ Kamerstukken II 2012/13, 31 521, nr. 71.

¹²⁴² Kamerstukken II 2014/15, 31 521, nr. 88.

¹²⁴³ Rapport Rebel, "Tussentijdse evaluatie taxiwet", 2014.

¹²⁴⁴ Amsterdam, Rotterdam, The Hague, Utrecht, Eindhoven, Enschede and Haarlemmermeer.

¹²⁴⁵ Rapport Rebel, "Tussentijdse evaluatie taxiwet", 2014.

- More specific regulation in Amsterdam: based on the Taxi Act, the city of Amsterdam established new Municipal Taxi Regulations. These came into force in November 2012 and contain regulations for the Amsterdam 'pick up' taxi market. Every taxi driver who wants to pick up customers at the street or at a stand needs to join a TTO. As of 1 June 2013, only TTO's and drivers with an Amsterdam taxi dispensation are allowed to pick up their customers at the taxi stands. TCA (Taxicentrale Amsterdam) is such a TTO.¹²⁴⁶
- Details of the fare system for taxis are set out in the **Regulation on maximum tariff and publication of taxi transport tariffs** (*'Regeling maximumtarief en bekendmaking tarieven taxivervoer'*).
- The **Regulation on taxi drivers 2005** (*'Regeling Taxibestuurders 2005'*) describes how taxi drivers can meet the professional competence requirements. This Regulation contains the following obligations for transport by taxi. According to Article 1, the rate should either be fixed or variable per kilometer. Article 1c contains an obligation on the driver to automatically give the passenger a receipt at the end of the journey with the following information: rate, distance, date and time of start and end of the journey, total price, licence number, the phone number of the national complaint reporting centre (*'Landelijk Klachtenmeldpunt Taxivervoer'*) and the website of the dispatch centre (www.taxiklacht.nl). The taxi driver is obliged to display the rate so that it is visible for the passenger inside as well as outside the car (Article 2). It is sufficient to set out the information on the complaint procedure on a taxi information card, as provided in an example given in the Regulation. According to Article 2a, a breach of the abovementioned obligations under the Regulation is a criminal offence within the meaning of Article 1 of the *Wet op de Economische Delicten* (the Economic Offences Act, WED).

II.1.1 National rules and regulation applicable to taxis and taxi drivers

- a) **Wegenverkeerswet 1994** "Road Traffic Act 1994".
- b) **Wegenverkeersreglement (WvR)** "Road Traffic Regulations".
- c) **Reglement verkeersregels en verkeerstekens (RVV) 1990** "Road Traffic and Traffic Signals Regulations 1990".
- d) **Arbeidstijdenwet (ATW) (see II.9)** "Working Hours Act".
- e) **Arbeidstijdenbesluit vervoer (ATB-Vervoer) (see II.9)** "Working Hours (Transport) Resolution".
- f) **Arbeidsomstandighedenwet (see II.9)** "Working Conditions Act".
- g) **Arbeidsomstandighedenbesluit (Arbobesluit)** "Working Conditions Resolution".
- h) **CAO's (see II.9)** "Collective Labour Agreement".

II.1.2 New developments 2016-2017

As of **1 January 2016**, the regulation for all taxi drivers has been simplified. In 2014, the former state secretary Mansveld of the Ministry of Infrastructure and the

¹²⁴⁶ <https://www.tcataxi.nl/en/organisation/history.html>

Environment announced that the Taxi Act will be evaluated. This has resulted in a ministerial regulation with the following amendments to the Taxi Act:

- For the entire taxi market, the exam for professional competence as part of the business permit is no longer mandatory;
- A paper version of the taxi certificate/business permit inside the taxi is no longer mandatory, but a digital version suffices;
- When the driver and passenger can prove to have agreed on a fixed fee¹²⁴⁷ the duty of having a taxameter will be dropped.¹²⁴⁸ However, the taxameter is still obliged in the street taxi market, although a fixed fee can be agreed upon.

The state secretary furthermore changed the Taxi Act and intends to drop the business permit completely. New taxi companies currently only need to provide a Certificate of Good Conduct ('*Verklaring omtrent het Gedrag*', hereinafter "VOG") and to pay EUR 1,500 to Kiwa Register for the taxi drivers permit.¹²⁴⁹ The Kiwa Register is part of the Human Environment and Transport Inspectorate (*Inspectie Leefomgeving en Transport*, hereinafter '**ILT**'). During the second half of 2016 respectively 2017, the following initiatives will be worked out in more detail (and realized):

- Remove the duty for taxi drivers to renew their VOG every five years;
- Remove the compulsory VOG for taxi companies (the VOG will still be compulsory for individual taxi drivers).¹²⁵⁰

II.2 Procedures for issuing licenses and applicable criteria

As mentioned before (introduction, s. I), the market was subject to quantitative restrictions to the number of licenses until 2000. Limits were set by local authorities, based on an estimate of the demand for taxi services and the potential to operate a profitable service.¹²⁵¹ Reform was brought in via primary legislation with a number of provisional measures put in place.¹²⁵² Following the reform entrance into the market has been significantly simplified.

II.2.1. Step by step guide to become a taxi driver¹²⁵³

The Government published a practical step-by-step guide, which merely serves as a guideline. The Taxi Act, which is part of the Wp2000, contains rules governing taxi transport, drivers and cars. If someone intends to carry out taxi services in the Netherlands, he/ she must comply with the relevant rules and regulations. The underlying obligations must be fulfilled:

1. Apply to the Kiwa Register for a **Business permit** (*ondernemingsvergunning*) to operate a taxi service. The Government dropped (since 1 January 2016) the

¹²⁴⁷ It is allowed to agree on a fixed fee that is higher than the maximum tariff.

¹²⁴⁸ https://www.ilent.nl/onderwerpen/transport/taxi/ondernemers/wet_en_regelgeving/taxameter/.

¹²⁴⁹ <http://www.taxipro.nl/ondernemen/2015/05/06/evaluatie-taxiwet-ondernemersvergunning-taxi-gaat-verdwijnen/>.

¹²⁵⁰ <http://www.taxipro.nl/ondernemen/2015/05/06/evaluatie-taxiwet-ondernemersvergunning-taxi-gaat-verdwijnen/>.

¹²⁵¹ A. Baanders and M Canoy, Ten years of Taxi Deregulation in the Netherlands – The Case for Re-Regulation and Decentralisation (2010), p. 8, <http://etcproceedings.org/paper/ten-years-of-taxi-deregulation-in-the-netherlands-the-case-for-re-regulation-a>.

¹²⁵² Wet Personenvervoer (Passenger Transport Act) 2000.

¹²⁵³ Of someone intends to start a taxi company, a guideline can be found at: <http://www.answersforbusiness.nl/guide/starting-taxi-company>.

requirement of professionalism (*eis van vakbekwaamheid*) as part of the business permit. The Ministry of Infrastructure and the Environment has amended the Taxi Act with the further intention to fully drop the business permit. In that case, new taxi companies only need to have a VOG and to pay EUR 1,500 to Kiwa for the taxi drivers permit.¹²⁵⁴

2. Apply for a **Certificate of good conduct for individuals** (*Verklaring omtrent het gedrag voor natuurlijke personen, VOGnp*) from the Ministry of Security and Justice. A VOG indicates that the owner did not commit any criminal offences. For driving a taxi, a VOG is compulsory. In accordance with Article 22 of the Bp2000, the driver must fulfill the requirement of reliability ("*eis van betrouwbaarheid*").
3. **Declaration of collective transport.** If the business is a general partnership (*VOF*), the driver must complete a collective transport declaration stating that the partners operate the taxi company at their joint risk and expense.
4. Apply for a **licensing certificate**. As a taxi operator in the Netherlands, a licensing certificate is mandatory. From 1st January 2016, a paper version of this certificate inside the taxi is no longer mandatory. The competent authority to apply for this certificate (simultaneously with the business permit application) is the Kiwa Register. To do so, the taxi driver must be able to demonstrate that the vehicle for which he requires the certificate, is permanently at his disposal. This is the case when:
 - In the Register of the Centre for Vehicle Technology and Information (hereinafter "RDW") the vehicle is registered to the licensee ("Vehicle Registration card");
 - the licensee certificate is still registered to the licensee's name;
 - there is a legitimate rental, lease or car loan contract for the vehicle(s).
5. **Periodic Technical Inspection ("APK")**. The inspection obligation and legislation are included in the 1994 Road Traffic Act.¹²⁵⁵ During an APK, the vehicle is inspected by a service station or by a testing station. The inspector carrying out the APK will check whether the vehicle is roadworthy, environmentally safe and registered correctly. In the Netherlands, the service station or testing station where the vehicle tested, must be approved by the RDW¹²⁵⁶.
6. **Permit to use bus lanes with taxi**. In some municipalities (like Rotterdam, Amsterdam and The Hague) taxi drivers may use bus lanes (or tram lanes) when driving a taxi. However, in order to do so, the driver requires a permit or dispensation from the municipal or provincial authority. The application procedure conditions may differ from one municipality or province to another.¹²⁵⁷
7. **Suspending vehicle registration**. In the Netherlands, if someone has a business that owns a company car, there are certain obligations regarding motor vehicle tax, periodic motor vehicle tests and car insurance.¹²⁵⁸
 - **Motor vehicle tax** (*motorrijtuigenbelasting*): the tax rate for all vehicle types can be found at <http://www.belastingdienst.nl/rekenhulpen/motorrijtuigenbelasting/> (Dutch). If the vehicle is used for a company, several costs may be qualified as business

¹²⁵⁴ <http://www.taxipro.nl/ondernemen/2015/05/06/evaluatie-taxiwet-ondernemersvergunning-taxi-gaat-verdwijnen/>.

¹²⁵⁵ <https://www.rdw.nl/SiteCollectionDocuments/APK/handleidingen/Appendix%20VIII%202016.pdf>.

¹²⁵⁶ <https://www.rdw.nl/englishinformation/Paginas/About-RDW.aspx?path=Portal/English%20information/About%20RDW>.

¹²⁵⁷ <http://www.answersforbusiness.nl/regulation/permit-use-bus-lanes-taxi>.

¹²⁵⁸ However, if someone wants to stop using its company car for a longer period of time, he or she may decide to suspend the registration of the vehicle. This can be done digitally via an RDW-certificate or a DigiD and Chamber of Commerce number. To have the registration suspended a fee must be paid. A suspension starts immediately and lasts up to one year. Someone can always decide to extend the duration.

costs. In that case, the MRB may be deductible. Only fully electric cars are exempt from paying MRB.

- **Periodic motor vehicle tests** ("APK").¹²⁵⁹ After the initial test, the vehicle needs to be tested annually or every two years. The RDW website includes a (Dutch-language) table which shows when you need to have your vehicle tested.
- **Car insurance:** It is mandatory for all cars to have at least third party liability car insurance (*Wettelijke Aansprakelijkheid* or WA). This obligation is in the Netherlands regulated by the Motor Insurance Liability Act (WAM). This car insurance covers damage inflicted with the car to other people and their property. But it is also possible (not mandatory) to choose WA Plus or All Risk coverage. These insurances offer a more comprehensive coverage. WA Plus covers, amongst others, theft, damage caused by fire, storm, and vandalism. All risk car insurance provides the most comprehensive coverage. It covers even damage caused by an accident that was deemed the taxi driver's fault or where fault cannot be determined. Additionally, the driver can (and sometimes must, see below) take out other vehicle insurances such as passenger insurance. For a taxi company it is particularly important to have the right insurances. Especially if the car is certified with the so-called "TX-Keur".¹²⁶⁰ The TX-Keur is the national quality mark for taxi transport. Some municipalities, insurers and private locations (Schiphol) require extra quality of the taxi company or driver, namely that they apply for the TX-Keur. The driver or company can apply for the TX-Keur under the condition that they have been working for a minimum of twelve months.

The WAM sets minimum requirements that car insurance must meet. The minimum sum insured is (as of June 11, 2007¹²⁶¹) increased to EUR 1,000,000 per passenger but up to EUR 5,000,000 per occurrence and at least EUR 1,000,000 for damage to property.

If the taxi company is certified with a TX-Keur additional requirements apply. For taxi transport by self-employed without personnel:

- Business liability insurance: minimum cover of EUR 1,000,000 per occurrence;
- Passenger insurance (*Ongevallenverzekering Inzittenden*) excluding driver with minimum cover of EUR 10,000 in case of dead and EUR 30,000 for permanent disability;
- WA (*Wettelijke aansprakelijkheid*) for taxis with minimum cover of EUR 5,000,000 per occurrence for personal injury and EUR 1,000,000 for material damage.

For self-employed with personnel and a taxi dispatch centre one extra requirement apply:

- Liability insurance for the driver in case of one-sided incident with minimum insured sum of EUR 1,000,000 per occurrence.

The RDW checks at least once a year whether the (company) vehicle is insured. If it is not, the driver or taxi company may be fined.¹²⁶² Most insurance companies also offer special insurance for taxi vehicles.¹²⁶³

8. **Taxi business card.** A taxi company in the Netherlands requires a taxi business card (*ondernemerskaart*). This card also can be obtained from the Kiwa Register. The

¹²⁵⁹ <http://www.answersforbusiness.nl/regulation/periodic-motor-vehicle-test-apk>.

¹²⁶⁰ <http://www.tx-keur.nl/> and <http://diensten.kiwa.nl/transport-en-mobiliteit/tx-keur-reglement-voor-taxiondernemingen>.

¹²⁶¹ Besluit van 4 juni 2007 tot wijziging van het Besluit bedragen aansprakelijkheidsverzekering motorrijtuigen.

¹²⁶² <http://www.answersforbusiness.nl/regulation/vehicle-insurance>. As a driving school owner you must insure your driving school vehicle and passengers based on the Motor Insurance Liability Act. Almost 1000 taxi companies with together 18,700 taxis have been certified with TX-Keur at the end of 2015.

¹²⁶³ Such as <http://www.taxiverzekeringen.nl/>.

company must be registered in the Dutch Business Register of the Chamber of Commerce and have a taxi transport business permit (see under step 1) in order to apply for the card. The card enables the company to access to the data in the on-board computer of its taxis. With the business card the company can monitor the journey administration and the working and resting times and link this data to the business. The company must be able to show this data when the business is inspected.

9. **Taxi driver's card.** All taxi drivers in the Netherlands must have a driver's card (*Board Computer Taxi* or *BCT card*). The driver's card must be placed visible for the passenger. This driver's card can be obtained from the Kiwa Register as well. Among other things, the driver needs a taxi driver's diploma and a VOG to be eligible for the driver's card (see also s. II.4). The behavior of the taxi driver is continuously screened. If he/she commits a criminal offence, such as an assault or driving under the influence of alcohol or other substances, the driver's card will be withdrawn. The driver's card gives the driver access to the taxi on-board computer. This computer automatically registers data on journeys, working hours, driving times and rest times. The driver's card is personal and not transferable. Neither is it possible to rent a card/taxi licence.
10. **Taxi fares card and complaints procedure.** Taxi drivers must inform their customers in advance about their taxi fares and rates with taxi fares cards. The fares must be clearly readable on the outside of the taxi and from all seats within the taxi. The ILT published a model taxi fares card.¹²⁶⁴
 - **Taxi ride pricing structure:** the price of a taxi ride depends on the distance and duration, and it includes the starting rate (so called double rate system). Maximum rates apply. Once the ride is completed, the driver must provide the customer with a printed bill that clearly states how the price has been calculated (see s. II.9 below).
 - **Complaints:** the driver must inform the customers where they can lodge complaints¹²⁶⁵. For this purpose, the driver's business' P-number must be visible inside the taxi. The P-number is the number under which the driver's business is registered with the ILT. Taxi companies that are not connected by membership with the Royal Dutch Taxi Transport Organisation (*Koninklijk Nederland Taxivervoer*, "KNV Taxi") can register with the Dutch Foundation for Consumer Complaints Boards (*De Geschillencommissie*).¹²⁶⁶ KNV Taxi members are automatically connected to this Complaints Board.
11. **Taxi test certificate and vehicle requirements.** In order to provide taxi services in the Netherlands, a driver must meet different (legal) requirements with regard to its vehicle.
 - **Taxi test certificate:** first of all the driver requires a taxi test certificate for the vehicle. The RDW performs these tests.
 - Furthermore a taxi must display **blue number plates** (apply to RFW). With this application you enclose the RDW taxi testing certificate. Once the vehicle passes taxi inspection, it obtains special blue licence plates.
 - In the third place taxis must have a **taximeter**. Taxis that do not provide contract transport services must be fitted with a certified taximeter, which must be inspected annually by the Netherlands Metrology Institute¹²⁶⁷ (*Nederlands Meetinstituut, Nmi*). The taximeter needs to fulfill a number of requirements set out by the law (Article 78 Bp2000).
 - **Taxi on-board computer.** Each taxi must be fitted with a taxi on-board computer. The on-board computer registers automatically the date of each journey, the working hours, the driving times and the rest periods. The Kiwa

¹²⁶⁴ https://www.ilent.nl/Images/Modeltariefkaart%20II_tcm334-320294.pdf.

¹²⁶⁵ <https://www.taxiklacht.nl/pages/taxiklacht/CONTACT?windowuid=uid1417776975>.

¹²⁶⁶ <https://www.degeschillencommissie.nl/ondernemers/registreren/taxiondernemers/>.

¹²⁶⁷ <http://www.nmi.nl/mobility-and-police-enforcement/testing-and-certification-mobility-and-police-enforcement/verification-4/>.

Register issues various on-board computer cards for retrieving data from the on-board computer:

- Driver's card¹²⁶⁸ with four functions: visual identification (photo of the driver), access to the board computer, digital signature by using a password and registers journey data, working hours, driving times and rest times;
- Business card;
- Control card (valid for 5 years);¹²⁶⁹
- Inspection card;¹²⁷⁰
- System card;¹²⁷¹
- Reference cards.¹²⁷²

12. **Taxi driver's diploma.** In the Netherlands, taxi drivers need a taxi driver's diploma from the Central Office for Motor Vehicle Driver Testing (*Centraal Bureau Rijvaardigheidsbewijzen* or *CBR*). There are different examination procedures (theory test and practical test). These depend on the taxi driver's card the driver wants to apply for:

- Full taxi driver's card: for all types of taxi transport;
- Limited taxi driver's card: for driving regular passengers, on set routes and at regular times;
- Target group transport: for contract transport of elderly people, children and people with an impairment.

The driver applies for the examination to the CBR.¹²⁷³

II.2.2 Municipal regulation

Some municipalities (and special areas (like Schiphol or Central Stations)) only allow licensed taxis to offer their services. This licence demands the compliance with extra quality standards for the drivers and their vehicles. The drivers are always allowed to use tram and bus lanes; they must have good street knowledge and a well-maintained vehicle, no older than six years. If it is a diesel vehicle, it must be fitted with a soot filter. The drivers also need to have a nationally valid TX mark of approval (blue sticker) and they are not permitted to refuse short trips. A premium taxi licence is yellow. *Taxicentrale Amsterdam*, during the stakeholder consultation, has explained that: "We have taxis who service from Schiphol Airport. The Airport is not accessible for every taxi in the Netherlands. If a taxi wants to pick up people from the airport, the taxi company has to be awarded the European Tender. Or the taxis have to register at Stichting Taxi Controle to get access to the airport. These taxis have to have, as an additional to the normal regulation, TX-Keur. This is the national quality mark for taxi. We also have taxis who service from the Passenger Terminal Amsterdam where there are no different regulations applicable."

For example: Stichting Taxi Controle (foundation for taxi control) has been established by Schiphol Nederland B.V.¹²⁷⁴ STC is an independent organisation. It coordinates, controls and – where necessary – regulates the street taxi process in and around Schiphol area. In order to apply for taxi service in this area, the taxi driver needs to enter into an agreement with STC. At this moment AMStaxi, BBF

¹²⁶⁸ <https://diensten.kiwa.nl/vergunningen/taxi/chauffeurskaart> (six conditions).

¹²⁶⁹ <https://diensten.kiwa.nl/vergunningen/taxi/keuringskaart>.

¹²⁷⁰ <https://diensten.kiwa.nl/vergunningen/taxi/inspectiekaart> (two conditions: agreement between Kiwa N.V. and the inspection service).

¹²⁷¹ <https://diensten.kiwa.nl/vergunningen/systeemkaart>.

¹²⁷² <https://diensten.kiwa.nl/vergunningen/referentiekarten>.

¹²⁷³ <https://www.cbr.nl/adressen.pp>.

¹²⁷⁴ <http://www.stichtingtaxicontrol.nl/>.

Schipholtaxi, My Taxi Centrale, StadsTaxiAmsterdam (STA), STAXI, Taxistad, Taxidirect, TCA en TCM are the taxi organisations approved by STC.

II.3 Technical requirements applicable to licensed vehicles *(taximeters, vehicles' technical specifications, accessibility, insurance, maintenance)*

With reference to points 5 (APK), 7 (motor vehicle tax, insurance and maintenance) and 11 (vehicle requirements) of the step-by-step guideline of the taxi driver, a legal taxi can be recognized by a:

- blue number plate;
- fare card (visible from the inside of the taxi as well as the outside);
- drivers card (with a photo of the driver. The driver must be able to show this card upon request. This card is personal and not transferable);
- business permit taxi (this permit proves that the driver makes use of an official taxi company that fulfils all requirements);
- permit per taxi (each taxi need a permit for taxi transport. This permit is not linked to a number plate. The taxi company is able to exchange these permits);
- taximeter;
- trip receipt (contains the price of the trip and the information about the trip, the taxi company and the complaints procedure);
- RDW-certificate (BTC, Board Computer Taxi).

Additional requirements

According to Article 41 of the Road Traffic Signs and Regulations,¹²⁷⁵ illuminated transparencies providing information on the destination or use of the vehicle may be carried by taxis. According to article 41 (3b), taxis may be equipped with illuminated transparencies displaying the following information:

- a. Rates;
- b. The name of the taxi company; and
- c. The telephone number of the taxi company.

Section 4 furthermore indicates that taxis equipped with illuminated transparencies displaying rates may display such lighting only when at a taxi stand.

II.3.1 Municipalities

In addition to the Kiwa Register, municipalities can impose additional rules on the quality of taxi services. For instance, they can require that various taxi drivers serve

¹²⁷⁵

<https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/brochures/2012/02/28/verkeersborden-en-verkeersregels-in-nederland-engels/i-m-rvv2014-eng.pdf>.

the local market as a group. This involves an unambiguous [complaints procedure](#) and recognizable taxis. Drivers that are not a member of that group are not allowed to work in that particular municipality. They can also require that taxi drivers have a thorough knowledge of the layout of the municipality and that they are familiar with the possibilities of local public transportation. They can also ensure that taxi drivers cannot refuse short trips.¹²⁷⁶

In the largest cities, like Amsterdam, only taxi organizations with a TTO-licence can operate on the taxi stands and pick up customers from the streets. The Amsterdam City Council aims to improve the quality of taxis in Amsterdam with this policy. Taxi organizations with TTO-licence are recognizable by means of a taxi number and a roof light with the name of the organization for which they work. The policy of TTO offers advantages especially when it comes to service, quality and safety.

II.4 Qualitative requirements (*fitness of the driver, knowledge and skills required, drivers' training*)

Taxi drivers' exam

In July 2004, a national taxi drivers' exam was introduced with the aim to set a standard for street knowledge and expertise.¹²⁷⁷ As mentioned above (s.II.2, point 12) taxi drivers need a **taxi driver's diploma** from the Central Office for Motor Vehicle Driver Testing (*Centraal Bureau Rijvaardigheidsbewijzen* or *CBR*).

In order to obtain a taxi licence, the applicant needs to pass three competence tests (theory) and a driving test (practical). The first of the competence tests includes testing the applicant's knowledge in map reading. The second test includes testing knowledge in safety and behaviour, and the third in legislation. The applicant has twelve months to complete all tests. The driving test consists of the following elements: inspection of the vehicle (*rijklarcontrole*: free of damage, clean inside and enough fuel), passenger safety, driving in urban areas (highway and in the town) and on small roads, presence of mind, and judgement. The driver must be able to drive to different places (with and without GPS navigation system).

In addition to the requirements described in s. II.2, all the taxi drivers must possess the following:

- the **VOG**, dated within three months before the examination);
- a **medical certificate** (*geneeskundige verklaring*) stating he/she is fit to drive a taxi,¹²⁷⁸ in accordance with article 79 of Wp2000 and article 82 (1b) of the Bp2000. The driver is tested for sight, hearing and balance, mobility, heart disease, diabetes, neurological diseases, epilepsy, kidney disease, dementia and other cognitive diseases, insomnia, use of substances affecting driving behaviour, mental illness, ADHD, autism and alike, and mental retardation.

¹²⁷⁶ <http://www.answersforbusiness.nl/regulation/permit-operate-taxi-service>.

¹²⁷⁷ L. Whittaker, "How to design the Dutch taxi market anno 2015", Erasmus University 2015, p. 10.

¹²⁷⁸ See for example <http://www.arbokeuringen.nl/taxipas.html>.

Since **1 January 2016**, the regulation for all taxi drivers has been simplified.¹²⁷⁹ The professional competence requirement (*eis van vakbekwaamheid*) as part of the taxi business permit ("*ondernemingsvergunning*") for taxi drivers is no longer obligatory.

Criminal offence

Taxi business owners are continuously screened. If they commit a criminal offence, such as fraud, blackmail or driving under the influence of alcohol, their business licence may be withdrawn.¹²⁸⁰

Extra qualitative requirements municipalities

Each municipality or dispatch centre can impose additional rules on the skills of the driver (to improve the quality of the taxi market in the municipality).¹²⁸¹ The dispatch centres are associations of taxi companies and they are responsible for taking orders, managing traffic, complaints, and billing, among other things. The drivers connected to TCA in Amsterdam, for example, must take a psychological test and followed an internal TCA course. During this course a lot of attention is paid to customer service, street map knowledge and dealing with the FMS Terminal (TCA's ride conciliation and orders accepting system). Besides the TCA course, TCA's drivers also followed training for self-defense against aggressions and their prevention.¹²⁸²

II.5 Organizational requirements (*dispatch centre, minimum service*)

Taxi services may only be pursued if the driver works for a taxi company which holds a taxi services (or business) permit (see s. II.2), or has his or her own company which holds such a permit. The requirements for obtaining a taxi services permit have been described above in s. II.2.

There is a high level of dispatch centre affiliation in the Netherlands. However, in the Netherlands there is no regulation on dispatch centres other than a separate legislation clarifying that such centres are allowed notwithstanding current provisions on competition. The taxi centers were thought to create and maintain a reputation for themselves, since, contrary to the street taxis, they are able to retain customers. To protect this reputation, and to ensure more passengers, they would provide better quality services at a lower cost. However, most of the taxi dispatch centers consisted of independent entrepreneurs and small firms, which the Competition Law (Mededingingswet, Mw1998) considers as individual entrepreneurs. This forbids them to agree upon a price setting. In 2003 the Rotterdam Taxi Centrale (RTC) proposed an uniform tariff for its affiliated taxis, however the NMa (Nederlandse Mededingingsautoriteit, currently the ACM) declared this to be in conflict with the Mw1998 and rejected the proposal.

Only the four main cities (Amsterdam, The Hague, Utrecht and Rotterdam) have so called TTO (**Approved Taxi Organizations**). In these four cities, 89 per cent of the taxis are affiliated to a dispatch centre, whereas in the country as a whole, 67 per cent

¹²⁷⁹ <https://www.rijksoverheid.nl/onderwerpen/taxi/inhoud/eisen-taxi>.

¹²⁸⁰ <http://www.answersforbusiness.nl/regulation/permit-operate-taxi-service>.

¹²⁸¹ <https://www.rijksoverheid.nl/onderwerpen/taxi/inhoud/extra-eisen-voor-taxi-s-in-gemeenten>.

¹²⁸² <https://www.tcataxi.nl/en/organisation/the-drivers.html>

are affiliated.¹²⁸³ Rights and duties are attached to a TTO's membership. Members of TTO may use bus and tram lanes. They must have an internal, efficient handling of complaints and they must control over and sanction impermissible behaviour of affiliated drivers. It should be clear that for a municipality, an organized group is easier to work with than individual taxis, so it's of great importance that such a TTO contains a good basis and serious admission criteria.

Dispatch centres use traditional models (telephone supported service) and new models (applications or internet support services). Most of the largest dispatch centres have developed their own web pages with online booking. Normally, a taxi company affiliated with a dispatch centre is not allowed to acquire customers via other means than those provided by the dispatch central. It is a part of the agreement (a contractual competition clause) between the taxi company and the dispatch centre that all business should go through the dispatch centre, except for flags down on the street.

Besides the "normal" taxis large cities have alternative taxis, like: Bike Taxis or Disco Taxis. Also special taxi services like limousine services, Connexion Schiphol Hotel Shuttle or Schiphol Travel Taxi are available.

Amsterdam

Amsterdam has the following certified taxi organizations (TTO):¹²⁸⁴

- Taxicentrale Amsterdam (TCA) (with online booking service);
- Staxi (with online booking service);
- Taxistad (with online booking service);
- Taxi Direct Amsterdam;
- My Taxi Centrale (with online booking service);
- TCS Schipholtaxi (with online booking service);
- TAXI-E Sustainable Taxi Services (with online booking service);
- Aemstel Taxi (with online booking service);
- AMS.

The municipality Amsterdam has decided that it is not allowed to be affiliated to more than one approved taxi organization at the time if the driver wants to pick up people who hail a taxi on the street. The largest dispatch centre (TTO) in Amsterdam, TCA, has 1,250 taxis and 1,500 drivers.



Figure 1: taxi stand Amsterdam

¹²⁸³ <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2003/09/05/bijlage-monitoring-deregulering-taxivervoer-1999-2002/bijlage-monitoring-deregulering-taxivervoer-1999-2002-ww-Verkeerenwaterstaat-nl-cend-bsg-bri.pdf>.

¹²⁸⁴ <http://www.iamsterdam.com/en/visiting/plan-your-trip/getting-around/taxis>.

The Hague

The HTMC, 'Haagse Taxi Mobilfoon Centrale', is the largest taxi office in The Hague. HTMC has a fleet of around 150 vehicles with drivers.¹²⁸⁵

Rotterdam

Rotterdamse Taxi Centrale, RTC, is the largest taxi dispatch centre in Rotterdam and surroundings.

Schiphol

As mentioned before (introduction paragraph under C and par. II.2), at Schiphol airport, there is an airport regulation (local regulation) which stipulates that a taxi driver is not allowed to enter the arrival hall in order to contact/search for customers, etc.

- II.6** **Fares** (*criteria for taxi fare setting, authority/body in charge of setting the tariffs, maximum tariffs and/or fixed tariffs, composition of the tariff and tariffs adjustment mechanism [minimum charge, additional charge for using the radio taxi or dispatch centre, increase of the tariff during certain hours, such as at night or on certain journeys, such as towards the airports, reductions for certain categories, such as elderly people]*)

As mentioned in the introduction section, the Dutch taxi industry is deregulated and the taxi service providers are - up to a maximum level - free to set their own tariffs. The price of a taxi trip depends on the trip distance and duration, as well as the starting rate (double rate system). However, maximum fares and maximum rates apply.

Below, the maximum rates at 1 January 2016.¹²⁸⁶

Taxi transport	Max. flag down rate	Max. kilometer rate	Max. time rate (p/min)
Normal car (max. 4 p.)	EUR 2.97	EUR 2.18	EUR 0,36
Van (5-8 persons)	EUR 6,04	EUR 2,75	EUR 0,41

There are two possible ways of being charged for the journey. Firstly, the customer can be charged by the regular flag-down rate and the travelled kilometers. The customer may on the other hand prefer to agree on a total price beforehand (zone tariff). In this case the meter is still switched on, with the zone tariff displayed. In the past (before the year 2012), the flag-down rate included the first two kilometers, and after that, the customer paid for each extra kilometer covered (or part thereof).

In April 2012 the tariffs were once again restructured, changing the maximum starting tariff including the first two kilometers into a simple maximum starting tariff (without the

¹²⁸⁵ <http://www.htmc.nl/english>.

¹²⁸⁶ <http://wetten.overheid.nl/BWBR0010998/2016-01-01>.

first two kilometers). Also a new tariff was added, namely the maximum tariff per minute to encourage rush hour trips for the taxi driver which is currently still in place. Taxi drivers can set their own flag-down and kilometer rates, up to the maximum prices shown.¹²⁸⁷ Taxi-drivers must notify their customers in advance about their taxi fares and rates with taxi fares cards. The fares must be clearly readable on the outside of the taxi and from all seats within the taxi.¹²⁸⁸ Once the taxi trip is completed, the driver provides the customer with a printed bill which must clearly indicate how the price for the trip has been determined.

Waiting rate

The driver is legally permitted to charge a waiting rate prior to commencing the journey, e.g., if the taxi ordered has to wait before the customer is showing up or if the customer asks the driver to wait during the journey. The waiting rate is EUR 40,93 p/hour.¹²⁸⁹

Delay

If the journey takes longer than the average duration due to heavy traffic, it will cost a little bit more. But if there is no traffic and the journey is quicker than average, then likewise, the overall cost is a bit less than if paying purely by the distance covered.¹²⁹⁰

Special services

The driver can request additional rates for special or supplemental services, e.g., carrying baggage or transport of an animal.. These supplemental prices must be visible on the tariff card.¹²⁹¹

Fixed price and receipt

If the passenger agrees to a fixed price prior to the actual transport, for instance through an interactive mobile application (app), the taxi driver will not need a taxi meter or fares card anymore. Also, if the customer does not need a receipt, the driver is not obliged to issue one.¹²⁹² For example, Amsterdam city centre is a myriad of roads, lanes and footpaths. Because space in the city centre is limited, taxis cannot stop anywhere they like. This is also one of the reasons why there are so many fixed taxi ranks.¹²⁹³

The prices for Dutch taxi journeys are thought to be relatively high compared to taxi prices around the world.

¹²⁸⁷ L. Whittaker, "How to design the Dutch taxi market anno 2015", Erasmus University 2015, p. 10 and Rijksoverheid 2011, "Tariefsysteem taxi, maximumtarieven en indexering", <https://www.rijksoverheid.nl/documenten/kamerstukken/2011/06/01/tariefsysteem-taxi-maximumtarieven-en-indexering>.

¹²⁸⁸ <http://www.answersforbusiness.nl/regulation/taxi-fares-card-complaints-procedure>.

¹²⁸⁹ <https://www.rijksoverheid.nl/onderwerpen/taxi/vraag-en-antwoord/wat-zijn-de-kosten-voor-een-taxi>.

¹²⁹⁰ <https://www.rijksoverheid.nl/onderwerpen/taxi/vraag-en-antwoord/wat-zijn-de-kosten-voor-een-taxi>.

¹²⁹¹ <https://www.rijksoverheid.nl/onderwerpen/taxi/vraag-en-antwoord/wat-zijn-de-kosten-voor-een-taxi>.

¹²⁹² <http://www.answersforbusiness.nl/regulation/permit-operate-taxi-service>.

¹²⁹³ <https://www.amsterdam.nl/parkeren-verkeer/taxi/kaart/>.

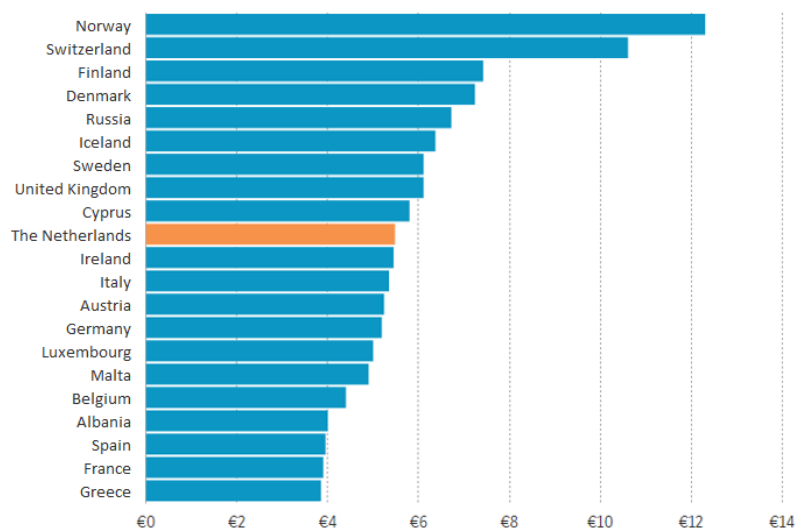


Figure 2: prices constructed from starting tariff + first kilometre travelled. Source: (Van Kampen & Sterk, 2015).

II.7 Passenger rights

Passenger rights include:

- The right to get information about the price (tariff card and maximum prices). This includes a proof of payment indicating at least the information prescribed there, like the price of the journey and corresponding rate, distance to destination, name, address and licence number of the company, licence plate of the vehicle, date and start and end time of the journey.
- The right to agree upon a fixed price, but when using a taximeter, also the right to use the tariff as indicated therein.
- The right that her or his personal data information will be treated with care in accordance with the Data Protection Act (*Wet Bescherming Persoonsgegevens*).
- The right to choose a taxi (e.g. the passenger is free to choose a taxi that is not first in line).
- The right not to be refused short trips.
- The right to travel in accordance with the law (e.g. it is the taxi driver's responsibility that there is a child seat available if there are children travelling).
- The right to be brought safely to the destination via the shortest/quickest route (the taxi driver shall be obliged to take the passenger to the destination via the route most favourable for the passenger).
- The right to report a taxi driver (e.g. if he cheats with the price). The taxi driver must inform his customers about where they can lodge¹²⁹⁴ complaints. For this purpose, the drivers' business' P-number must be visible inside the taxi (s. II.2.1., point 10).
- The right to be compensated for damage in accordance with applicable law and insurances.

There are no special provisions on the right to taxi services for people with disabilities. However, people with disabilities fall under the anti-discrimination legislation. If a disabled person feels he/ she has been discriminated against, he or she can report the taxi driver to the Discrimination Ombudsman. If the person feels the taxi company has

¹²⁹⁴ <http://www.taxiklacht.nl/pages/taxiklacht/CONTACT?windowuid=uid1417776975>.

applied unfair conditions because of his/her disability, the person can report the taxi company to the Consumer Agency.

II.8 Subsidies applicable to taxi sector *(including public developed applications for taxi sector, geolocalisation, etc)*

For the year 2016 no subsidies have been identified in the Netherlands. According to a respondent to the stakeholder consultation there were national subsidies for clean taxis and delivery vehicles (-until the end of 2015): *"As of October 1st 2012, a national subsidy was available for clean vehicles. The Dutch government had set aside 25 million euros from the National Air Quality Cooperation Programme (Nationaal Samenwerkingsprogramma Luchtkwaliteit, NSL) to fund the program. In addition to the national subsidy for electric cars, Amsterdam had introduced a provision for clean taxis, freight vehicles and vans during the first half of 2013. While the national subsidy program focused on all entrepreneurs in the country, Amsterdam's program was targeting those who drive frequently in the city for work reasons."*¹²⁹⁵

At the end of 2014 public mobility authority RDW counted 246 registered electric taxis active on Dutch roads.

II.9 Labour rules

Taxi drivers can be employed by a taxi company (affiliated or not affiliated to a dispatch centre), and they can also be self-employed in their own business (sole proprietor (ZZP¹²⁹⁶) or incorporated in a partnership (VOF). Taxicentrale Amsterdam (TCA¹²⁹⁷) has both a dispatch service and a taxi business service for operators.

In the Netherlands' taxi market, salaries and conditions of employment are regulated by collective agreements (CAO). When there is no collective agreement, general labour legislation applies. The main labour legislation can be found in book 7, title 10 of the Civil Code. The provisions of the Act set minimum requirements for labour relations. This means that collective agreements may not offer worse conditions than the legislation.

The main trade union for taxi drivers is KNV. KNV is the Dutch umbrella organization for professional passenger transport and rail freight in the Netherlands. KNV represents the common interests of several Dutch transport sectors and provides a variety of services for its members. Approximately 240 taxi companies and associate members are connected to KNV by membership.¹²⁹⁸ Each week 1 million passengers are transported by 30,000 employees, 8.000 driver/owners in 30.000 taxis. The total turnover is about 1.2 billion a year. KNV's members represent 70% of that turnover.

The KNV has a set of quality rules for good taxi behaviour. KNV Taxi negotiates with the unions FNV (The Netherlands Trade Union Confederation) and CNV (National Federation of Christian Trade Unions) on behalf of the whole industry to reach collective labour

¹²⁹⁵ <http://www.rvo.nl/subsidies-regelingen/subsidieregeling-emissiearme-taxis-en-bestelautos>.

¹²⁹⁶ In the Netherlands there are around 4,500 self employed (ZZP) taxi drivers (2012). <https://www.zzp-nederland.nl/kennisbank/zzp-taxichauffeur>.

¹²⁹⁷ <https://www.tcataxi.nl/en/organisation/departments.html>.

¹²⁹⁸ More information available at http://www.knv.nl/en/about_us/.

agreements (CAO Taxi¹²⁹⁹). These collective agreements usually set out wage scales, working hours, training, health and safety, overtime, grievance mechanisms and rights to participate in workplace or company affairs. In addition, the KNV Taxi organization provides legal aid and answers specific questions regarding taxi legislation and social issues. KNV Taxi actively advocates in political matters that are relevant to its members, on national and local level. Trade unions have a legal right to represent their members.

Taxi drivers who are employed full time have the right to 5 weeks' vacation in accordance with the Dutch Civil Code. In the event of illness, taxi drivers are covered by the social insurance scheme and are entitled to sickness benefits. When having a child, anyone is entitled to minimum 16 months' parental leave, taxi drivers included. Taxi drivers employed by a company are entitled to unemployment benefits. Certain restrictions may apply to those who are self-employed, who may not be entitled to unemployment benefits. The employer must pay the taxi fares VAT (6 percent) received from the customer to the Tax authority and withhold payroll/income tax for their employees. The self-employed must pay the VAT received from the customer to the Tax authority, and pay payroll tax and income tax based on the profit.

The Working Hours Act and Working Hours (Transport) resolution provide that professional drivers, including taxi drivers, must have at least a rest time of 8 hours per day, a break of 30 minutes in case of 5,5 hours work (can be divided in two periods), a break of 45 minutes in case of 10 hours' work.¹³⁰⁰

The introduction of the on-board computer has been a major change for taxis. This device automatically registers the driving times and rest periods of the driver. It helps to reduce paperwork and time consuming inspections. In principle the Working Hours Act applies for everyone who works for an employer, so for all employees, including interns, temporary employees and seconded employees. In a number of cases the Working Hours Act also applies to the self-employed. This is the case in situations in which the safety of third parties is also at stake, such as in transportation.

The Taxi Companies Social Affairs Fund (*Sociaal Fonds Taxi*) is the point of contact for issues regarding occupational health and safety, general safety, and the collective labour agreement (CAO).¹³⁰¹

II.10 Supervisory enforcement tools

Dutch law provides out-of-court procedures for submitting and handling complaints. Based on the Wp2000 and the Bp2000, the Dutch national enforcement body is the Human Environment and Transport Inspectorate (ILT), which is part of the Ministry of Infrastructure and the Environment¹³⁰². ILT is the supervising authority for taxi drivers and taxi companies.

The transport departments of the ILT are committed to ensure the safety of transport by road, on water and by air. It supervises the companies operating in these sectors and

¹²⁹⁹ <http://files.flexnieuws.nl/wp-uploads/2012/07/CAO-Taxivervoer-2016.pdf>.

¹³⁰⁰ See for more information: <http://www.taxipro.nl/geen-categorie/2015/01/02/bekijk-de-nieuwe-rij-en-rusttijden-voor-taxichauffeurs/>.

¹³⁰¹ <http://www.sociaalfondstaxi.nl/sociaal-fonds-taxi/controle-rij-en-rusttijden>.

¹³⁰² https://www.ilent.nl/english/road_transport/.

the compliance with requirements of resting and driving/sailing/flying times, professional competence, loading and maintenance. The ILT advocates the safe transport of passengers by taxis and the fair competition within the sector. Infringements of the legislation and regulations are sanctioned with fines. Administrative measures can also be implemented.

The Policy Regulation for the imposition of administrative fines under the Working Hours Act and Working Hours Decree has been amended. For example, the violations of the Bp 2000 referred to in Article 8:1 (4) of the Working Hours Decree have been designated as offences punishable by fines under the violation codes B 2 4 1 (15) up to and including 2 4 2 (21) for such offences. These violations concern the use of on-board computers in taxis. For example: use of on-board computer is obligatory in taxis in the Netherlands. If this is not the case (or the computer is not operational, the driver (or the company) risks a fine of EUR 4,400.¹³⁰³ If a transport company or self-employed driver has not fulfilled their registration obligations (working hours and rest periods) they incur a fine of EUR 2,200.¹³⁰⁴ The fine for not having a taximeter (or not functioning) is EUR 900.¹³⁰⁵ If the taxi company operates taxi services without a valid licence it risks a fine of EUR 4,300.

The ILT may withdraw a licence in case of irregularities (criminal offences). A person who wants to submit a complaint against a taxi driver or a taxi company can do so either to the police or to the ILT. The ILT has the responsibility to supervise the licence-holder and the taxi driver (administration inspection¹³⁰⁶ within the taxi company or transport inspection on the road¹³⁰⁷). Among others, it acts upon information from the police about reported infringements.

The Ministry of Infrastructure has provided the following data on the enforcement:

Enforcement taxi	2011	2012	2013	2014	2015
Number of covenants	2	5	8	14	15
Number of taxi's at street controls	5.500	3.979	3.942	3.042	1.159
Administration controls at companies	420	211	222	286	167

Infringements are mostly related to:

- Non-compliance with working and resting timing times;
- Absence of taxi permit;
- Infringements related to the taximeter (e.g. no obligatory yearly inspection).

Sanctions are applied by the Inspection and public prosecution service.

¹³⁰³ Article 2:4:2 (1) Working Hours (Transport Workers) Decree.

¹³⁰⁴ Article 80 (4) Passenger Transport Decree.

¹³⁰⁵ https://www.ilent.nl/onderwerpen/transport/taxi/ondernemers/wet_en_regelgeving/taxameter/.

¹³⁰⁶ <https://www.ilent.nl/onderwerpen/transport/taxi/ondernemers/inspecties/administratiecontroles/>.

¹³⁰⁷ <https://www.ilent.nl/onderwerpen/transport/taxi/ondernemers/inspecties/objectinspecties/>.

Sanctions	2014	2015
Warning	752	273
Criminal punishment	704	294
Administrative punishment	187	114

Additional

In some municipalities (Amsterdam, The Hague, Utrecht, Rotterdam and Den Bosch) additional regulations apply. The supervisory body is the municipality itself.

At Schiphol and other airports other rules and regulations apply. The supervisory authority is the Royal Netherlands Military Police (*Marechaussee*).

III. Legal framework applicable to hire cars with driver

Regarding most aspects of the taxi regulation, the Netherlands does not make a distinction between the various market segments. The legislation does not provide a distinction between the taxi market and the market for hired cars with drivers. As explained by the Ministry of the Infrastructure, hire car with driver is considered part of the taxi market, in particular of the pre-booked market. Rules always apply horizontally as all players in all segments are considered to offer the same service.

Once they comply with the legislative and administrative requirements, Dutch companies have the freedom to deploy their vehicles and drivers in the most effective and efficient means possible depending on actual demand.¹³⁰⁸

A distinction is however made between street taxis and *contractual* transport. The latter is exempt from fare regulations (they are not bound to maximum tariffs), and the visibility marks thereof (such as the requirement of having taxi meters/on-board computers for example).

The market segments are therefore not legally defined, although the law does regulate which types of vehicles are exempt from fare regulations. According to Wp2000, Article 81, para 2, the rules on taxi fares and transparency do not apply to fares for taxi transport that *is made pursuant to a written agreement in which, during a fixed period specified in the agreement, repeated taxi transport is provided at a fare specified in the agreement*. Taxi companies that actively offer taxi transport on the street (primarily at taxi stands), also offer contracted transport. Taxis that provide street taxi transport also perform pre-booked rides; for example, ordered via central taxi dispatchers.¹³⁰⁹

In the Netherlands most people order taxis by telephone or app via the central taxi dispatcher system or by walking to a designated taxi stand (central stations/airports). It

¹³⁰⁸ <http://www.kimnet.nl/sites/kimnet.nl/files/international-comparison-of-taxi-regulations-and-uber.pdf> (p. 10).

¹³⁰⁹ <http://www.kimnet.nl/sites/kimnet.nl/files/international-comparison-of-taxi-regulations-and-uber.pdf> (p. 11).

is rare for a moving taxi to be hailed in the street, although doing so is not prohibited (except for special areas, like Schiphol).

As indicated by the 2016 Report on tariffs of the Ministry of the Infrastructure, the majority of the taxis are pre-booked via applications (apps), which may also provide a fare comparison for the same journey. One example is **Gogido.com**,¹³¹⁰ which compares different taxi companies and prices. Apps are qualified as broker/mediation and they are not regulated. Similarly, dispatch centres are not regulated.

III.2 Local incentives, subsidies provided by the administration in order to carry out certain services (*such as mini-van service for people with reduced mobility, elderly, schools*)

In the Netherlands, hire taxi contracts provide for carriage of elderly people, disabled people and pupils of special schools. These taxis and minibuses are also suitable for wheelchair users. These services are (partly) subsidised by the local municipalities or health insurers.¹³¹¹ The municipality or health insurer will enter into an agreement (by means of an invitation to tender) with a taxi company for a couple of years. Nowadays municipalities have implemented budget cuts for special taxi transport service. Instead of taxi transport service, elderly people or pupils of special schools, these days often have to travel by means of public transport (bus, train, tram, metro).

There is no regulation about the minimum amount of taxis which have to be fully accessible to people with reduced mobility. But most of the taxi centres offer a special service for elderly people or people with reduced mobility.”

IV. Legal framework applicable to ridesharing and car sharing

In the Netherlands there is currently no special legislation applicable to ridesharing or car sharing. The national legislation allows for carpooling (colleagues sharing a ride to and from work from carpooling places) and encourages this with designated carpool parkings.¹³¹² There are basically three types of car sharing platforms:

1. A shared car via a private company (for example ConnectCar or Car2Go);
2. Private car sharing among individuals (for example SnappCar, MyWheels and WeGo);
3. The sharing of one's own car, with the owner serving as a driver (for example UberPOP).

It is relevant to note that the Wp2000 is accommodating all types of car sharing, services among friends, and volunteer transport services.. Consequently, the Wp2000, Article 2 par. 2, provides the discretionary scope to determine by governmental decree that the legislation for public transportation and taxis, or the provisions based thereon, is entirely or partly *not* applicable to certain types of

¹³¹⁰ <https://www.gogido.com/nl>.

¹³¹¹ <https://www.rijksoverheid.nl/onderwerpen/taxi/inhoud/contractvervoer-taxivervoer-voor-speciale-groepen-mensen> and p. 28 of [file:///webinfra.local/fileserver\\$/Kneppelhout/User/ml/Documents/Downloads/health-insurance-in-the-netherlands.pdf](file:///webinfra.local/fileserver$/Kneppelhout/User/ml/Documents/Downloads/health-insurance-in-the-netherlands.pdf).

¹³¹² In the national legislation there is a sharp difference between private car sharing (*delen van een privé-auto*) and ridesharing (*meerijden in de particuliere sfeer*).

transport.¹³¹³ At present, Article 2 of the Passenger Transport Degree states that the Wp2000 is not applicable to 16 precisely defined transportation services (for example: BOB-services: transportation executed by drivers who provide car driving services to customers who themselves own the car).¹³¹⁴

In addition, Article 2 par. 5 of the Wp2000 declares that the law is not applicable to transport services provided at cost price (or below) if they are not conducted as part of a profession or business.¹³¹⁵ Article 2, para. 5, Wp2000 reads as follows:

"The law is not applicable to the transportation of people by car, other than public transport, if the sum of the payment for that transportation does not exceed the cost of the car and any possible additional costs for that transportation, unless the above was executed in the performance of a profession or business. By or pursuant to the general decree, rules have been established pertaining to the cost of the car and any possible additional costs."

There are certain initiatives in the Netherlands, like ANWB-Car Buddy¹³¹⁶, that make use of this provision and provide transportation with volunteers who perform rides to specific target groups at cost price.

With regard to UberPOP, the fares are seemingly higher than the costs of the car and any additional costs. Moreover, at issue is whether or not these rides are executed by drivers in the performance of a profession or business (Article 2 para 5 Wp2000, mentioned above). On this point, in a preliminary injunction procedure, a Dutch court seized of such a case concluded that it does pertain to a commercial fare, given the nature of the service (non-contractual transport) and the 20% of the total transportation charge that Uber receives from the driver.¹³¹⁷

IV.1 Current regulations and legislative proposals

In 2014, research was conducted for an interim evaluation of amendments made in 2011 to the taxi regulations contained in the Wp2000. During the course of this research, Uber's introduction in the taxi market emerged as an increasingly important focal point.

IV.2 National rules applicable to on-line platform and rules applicable to service providers.

As clarified by the Ministry of the Infrastructure,

"Digital platforms are not regulated and no new provisions were introduced. Where possible existing regulation was however adapted to the new technological reality (as off 1/1/2016). This means that certain informational requirements in the existing regulation can now also be met through digital means. For example, information about the tariff, the route or where to deliver a complaint. In principle

¹³¹³ <http://www.kimnet.nl/sites/kimnet.nl/files/international-comparison-of-taxi-regulations-and-uber.pdf> (p. 21).

¹³¹⁴ <http://wetten.overheid.nl/BWBR0011982/2016-02-02>.

¹³¹⁵ <http://maxius.nl/wet-personenvervoer-2000/artikel2>.

¹³¹⁶ <http://www.taxipro.nl/>.

¹³¹⁷ <http://www.kimnet.nl/sites/kimnet.nl/files/international-comparison-of-taxi-regulations-and-uber.pdf> (p. 22).

rules always apply horizontally as all players in all segments are considered to offer the same service. However as the market segments function differently in terms of consumer choice or because differences exist on operational level, regulation can differ between segments. For example, municipalities can issue additional minimal quality requirements only in the hailing market. And in the contract market a taximeter is not obligatory as prices are already set in contracts".¹³¹⁸

IV.3 Main operators and their business models

In the Netherlands, three Uber services are offered in the four major cities:

1. **UberBlack:** Drivers and customers connect with each other via the app. The services are provided by drivers who adhere to the legal requirements. The drivers decide whether they want to work by logging on into the app. Payment also occurs via the app; Uber receives 20% of the trip price, with the rest for the driver.
2. **UberLux:** the same conditions apply for this service. The cars are more luxurious and the fares higher.
3. **UberPOP:** hereby the drivers and customers also connect with each other via the app. Private drivers are hired and paid for their services. The drivers do not adhere to the legal regulations.. The fares one pays are also substantially lower than those of regular taxi rides.

The Directorate General Accessibility (DGB) commissioned to the KiM Netherlands Institute for Transport Policy Analysis an international comparative study of taxi market regulations in a number of countries and of the ways in which various countries have dealt with the advent of Uber, and in particular the UberPOP service.¹³¹⁹

The first two drivers (UberBlack and UberLux) adhere to the legal requirements (such as a driver identity card). However, not all Uber-deployed cars have taxi meters and driver identity cards; the Uber services also operate according to a different fare structure. Consequently, taxi rides undertaken for Uber (for transport services) do not meet all the legal requirements.¹³²⁰ Nevertheless, the intermediary service that Uber offers (connecting supply and demand via its app) is not prohibited in the Netherlands.

Drivers for the UberPOP service do not adhere to the legal requirements for taxis: they do not have company licenses and/or driver identity cards.¹³²¹ In the summer of 2013, Uber started an UberPOP pilot program in Amsterdam, before subsequently deciding to regularly offer this service. UberPOP was also offered in The Hague, Rotterdam and Utrecht. Because the cars and drivers did not adhere to the legal requirements, the transport services that follow the UberPOP formula were prohibited and the drivers subjected to fines.¹³²²

IV.4 Requirements imposed upon non-licensed activities (safety and technical requirements, insurance requirements, obligations relating to licenses and on-line platforms)

¹³¹⁸ Reply of the Ministry of the Infrastructure to the stakeholder consultation, received on 13 July 2016.

¹³¹⁹ <http://www.kimnet.nl/sites/kimnet.nl/files/international-comparison-of-taxi-regulations-and-uber.pdf>.

¹³²⁰ Rapport Rebel, "Tussentijdse evaluatie taxiwet", 2014.

¹³²¹ Rapport Rebel, "Tussentijdse evaluatie taxiwet", 2014.

¹³²² <http://kimnet.nl/node/456>.

None

IV.5 Local incentives, subsidies and other forms of promotion for ridesharing and car sharing (including, parking spots, use of preferential lanes, etc)

None

V. Relevant national case law

On December 8, 2014, the Dutch Administrative High Court for Trade and Industry¹³²³ banned the UberPOP ridesharing service that was launched as a pilot project in Amsterdam between July and September 2014, followed by an expansion into The Hague and Rotterdam. The Court ruled: "*Drivers who transport people for payment without a licence are breaking the law*".¹³²⁴ As a consequence UberPOP has been marked as illegal by the Dutch court. The services Uberblack, Uberlux and UberX, which involve licenced drivers, are not affected.

The company Uber has decided to stop the UberPOP project in the Netherlands.¹³²⁵

VI. Country Market

The relevant product market is the taxi market. Indeed, as seen above, there is no separate regulation for hire cars with drivers since they are subject to the same definition of taxi traffic.

In the last years, an increase in the environmentally friendly vehicles used by the taxi industry has been observed. Some dispatch centres in for example Amsterdam, Rotterdam, Utrecht have started to buy environmentally friendly vehicles on their own initiative to boost their brand awareness.

In general the Netherlands' taxi market can be characterized as follows:

- Certain aspects, such as maximum fees and (the absence of) capacity regulations, are regulated at the national level in the Netherlands.
- There is no clear distinction between the market segments of taxis and hirecars with drivers.
- The majority of taxi rides are pre-booked by telephone compared to other countries, where a significant proportion of rides is 'hailed on the street'. Moreover, the Netherlands' major cities make use of a central taxi dispatcher

¹³²³ <http://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:CBB:2014:450>. Newsarticle: <http://nos.nl/artikel/2007891-rechter-verbiedt-uberpop.html>.

¹³²⁴ https://en.wikipedia.org/wiki/Legal_status_of_Uber%27s_service#Regulatory_opposition.

¹³²⁵ <http://www.dutchnews.nl/news/archives/2015/11/uber-drops-UberPOP-taxi-service-in-the-netherlands/>. Earlier in 2015, transport ministry inspectors raised the fine payable by Uber for breaking taxi sector rules to a maximum of EUR 1 million. UberPOP drivers themselves can be fined up to EUR 4,200 and are given a criminal record.

system as an intermediary between taxi services and taxi customers (Amsterdam: TCA, Rotterdam: RTC, The Hague: HTMC).

The Netherlands' regulations strive to facilitate the most effective and possible use of cars and drivers, to ensure that the resources are in place and capable of then being deployed where they can best be utilised, unhindered by regulations that define boundaries between market segments. The third point listed above is seemingly primarily the result of a historically developed culture.¹³²⁶

VII. Market players

According to the Ministry of the Infrastructure in its reply to the stakeholder consultation, the market is diverse and local. No particular player or players stand out. Dispatch centres in the major cities are probably best known by the public, such as TCA in Amsterdam and RTC in Rotterdam.

Street taxi market

The main player in the street taxi market are the TTOs:

- **Amsterdam:** Taxi Electric, Staxi B.V., Taxistad B.V., STA B.V., TCA, AMS, Taxi Direct Amsterdam B.V., My Taxi Centrale, BBF, Aemstel Taxi, Member Taxi Amsterdam.
- **Rotterdam:** Rotterdamse Taxi Centrale RTC NV (TTO), Erasmus Taxicentrale, Taxi St. Job, STC Taxi (TTO), RTO Taxi (TTO), Rotterdam Airport Taxi, Gemeente Rotterdam, RTR Taxi (TTO).
- **The Hague:** H.T.M.C. (TTO), Hofstad Taxi (TTO), Taxicentrale Haaglanden (TTO), Haagsche City Tax (TTO), Taxicentrale Den Haag (TTO), Business en Taxi Services Haaglanden (TTO), Taxi Comité Den Haag (TTO), P.D.D.A. (TTO), VTC (TTO). The foundation "Taxibelang Haaglanden" has been established in order to improve the quality of the taxi service in the Hague. This was one of the reasons for developing the "Haagse taxikeurmerk".

Intermediaries

The providers of applications are TCA, Ecab, Taxi.eu, Uber, Yeller, Snapcarr, Taxify, Abel, Tinker.

Hire cars with driver

Uber is currently the main player in the hire car with driver segment. Other new service providers are emerging, with fleet of luxury electric vehicles. Some of them are offering transport for private clients and business on the basis of contract of minimum 10 hours per month¹³²⁷. The main taxi operators also provide hire cars with drivers and luxury limousine service.

¹³²⁶ Report KiM Netherlands Institute for Transport Policy Analyses, "International comparison of taxi regulation and Uber", p. 4.

¹³²⁷ <http://www.mama-taxi.com/en/>.

The Ministry of Infrastructure has provided the following data on the number of licences over the period 2010-2015:

	Number of business licences	Number of taxi driver licences
2010	521	21.407
2011	577	15.759
2012	669	11.697
2013	745	12.689
2014	754	12.588
2015	621	19.538

The number of the taxi driver licence has dropped from 2011 to 2014. According to one respondent to the stakeholder consultation, the drop in the number of the licences can be explained by the need for the drivers to comply with the new qualitative requirements (and in part also with the economic crisis). However, in 2015, the level has returned closed to 2010. The taxi driver licence is renewed every five year and this also influences the figures.¹³²⁸

VIII. Barriers, limitations, incentives

Entry barriers in The Netherlands are low. There are no limitations concerning the licences, i.e. there is no limit to the r maximum number of licences nor geographical limitations, except for special areas (Schiphol, ports, stations) and cities where a TTO is mandatory.

A qualitative barrier may be the need to be affiliated to a TTO in the largest cities and the obligation to comply with higher standard requirements in order to operate on the street market.

The legislation strives to ensure high quality standards for passengers. The new reform will reduce administrative burdens through a simplification of the procedures, and will allow the authorities to perform faster and better controls through an increased used of digital documents. One of the largest dispatch operators submitted, in reply to the stakeholder consultation, that there are no particular obstacles to access the markets. Given the liberalisation of the market in the early 2000s, taxis can also operate as hire car with driver in the contract market. While fares may be contracted between the driver and the passengers directly or via an intermediary, as clarified by the Ministry of the Infrastructures, the fares rules and obligations remain the same.

¹³²⁸ Reply of the Ministry of the Infrastructure to stakeholder consultation and interview.

However, one stakeholder submitted that obtaining the driver permit from Kiwa is very costly. As explained above, in order to get a driver card, drivers need to have a driver licence, pass two exams, and show a certificate of good conduct (VOG) and a medical statement. According to this stakeholder, the cost of a taxi driver permit (which is set at EUR 1443,53) renders difficult to find enough drivers to develop hire transport companies. The cost for a taxi operator licence is calculated to be around EUR 2,500. Various stakeholders advocate for the removal of these costs. According to the information received, there was a plan for a Study to evaluate the possibility to remove the operator licence.¹³²⁹

One respondent to the stakeholder consultation submitted that, although all taxis must be equipped with the Board Computer Taxi (BCT), the introduction of the BCT has been delayed due to the many flaws and malfunctioning which have affected its development.

In its 2016 tariffs Review, the Ministry of Infrastructure has submitted that the street market has benefitted from the development of digital platforms, which allow ordering rides at competitive prices. Consumers can easily compare fares and may know them in advance. Moreover, the maximum rate does not apply as there is no need to use the taximeter if the passenger and the driver agree on the price.

As this type of agreements happen frequently, the impact of the maximum fares is becoming smaller and smaller – it is calculated to be about one tenth of all the taxi rides in the Netherlands. However, the same report advises to keep the maximum fare in order to avoid excessive rates. The report found that the maximum rate has no disruptive effects on the market, since there is always the possibility to agree on the price in advance. The taximeter is necessary for those customers who do not want to negotiate with the taxi driver, for tourists and for elderly people; in addition it prevents the application of excessive tariffs in case of disruption of public transport. The conclusions of the report were maximum rates were not an obstacle to innovation.¹³³⁰

Despite huge efforts to improve the quality of the taxi service, the Dutch users' association ROVER has reported, in its reply to the stakeholder consultation, that it still receives complaints about long waiting times and lack of availability of accessible taxis. Passengers consider that the maximum fares are too high to justify a daily use of the service.

The 2015 Rebel Report¹³³¹ indicated the following factors as indicators of robustness of the Taxi Act in relation to new developments:

¹³²⁹ Reply to the stakeholder consultation.

¹³³⁰ Ministry of the Infrastructure, 16 June 2016, Evaluation of the maximum tariffs. <https://www.rijksoverheid.nl/documenten/kamerstukken/2016/06/16/tariefregulering-en-experimenteerruimte-taxi>.

¹³³¹ Rebel, Tussentijdse evaluatie taxiwet, 19 December 2014.

- Use of subsidies, granted by the municipality to the operators, in order to develop sustainable transport and environmentally friendly vehicles. Several taxi companies operate with electric vehicles;
- Increased use of electronic payments; ofonline payments, payment via pin and / or credit cards and via apps;
- Development of technological innovations bringing together supply and demand. Ordering a taxi via an app is increasingly common in the Netherlands and accounts for a large size of the booked taxis;
- Development of alternative transport concepts for taxi as carpooling, car sharing and private drivers. These are gaining popularity;
- Supporting technological developments such as websites and apps that bring the parties together more easily.

IX. Capacity, growth, impact

The major debate on the Dutch market was held after liberalisation in the first years of 2000. The OECD Report provided a broadly positive evaluation of the Dutch experience of liberalisation: *"Despite an economic downturn (including a move into recession in 2003), the post-deregulation picture was broadly positive, with a 50% increase in taxi numbers to 2003, a 20% increase in the number of passenger kilometers travelled and consumer satisfaction levels being maintained or improved. A number of negative indicators were noted, including a declining proportion of the population using taxis and increasing fares. However, these were judged to be due to a combination of the economic downturn and the fact that post-deregulation equilibrium had yet to be reached. In general, the changes were judged to be successful"*.¹³³²

However, another analysis was less positive, tipping the balance towards certain negative outcomes. According to Baanders and Canoy, *"It is clear that the policy objectives were not met in the ten years of deregulation, particularly in the street taxi market in the main cities. Contrary to the expectations of the policy makers, instead of going down, the fares went up much faster than the inflation rate, in the main cities trips and passenger kilometres went down and undisciplined driver behaviour became a very serious problem (...). One of the objectives of deregulation was innovation in the taxi market. A few initiatives were taken, but they all met with resistance from the taxi drivers. They remain marginal, and overall there was little innovation."*¹³³³ These authors were proposing to reintroduce regulation and fixed fares for the street market, with taxi zone systems.

According to the Dutch Taxi Association, after the new 2011 legislation, the number of actors in the taxi market remained relatively stable. The need to comply with the new, highly qualitative requirements contributed to substantially stabilize the market.

The Dutch passengers' association has a less positive opinion about the supply market: it considers that the number of taxi drivers in the largest cities exceeds the number of potential passengers; it believes that access to profession is easy and advocates for capacity limitations and lower maximum fares.¹³³⁴

¹³³² OECD/ECMT (2007), pp 59-84.

¹³³³ A Baanders and M Canoy, *Ten years of Taxi Deregulation in the Netherlands*, Association for European Transport and Contributors 2010, p. 5.

¹³³⁴ Reply to the stakeholder consultation by Rover, 2 February 2016.

Sector turnover

According to CBS, the taxi industry's turnover (combining street and pre-booked) has been falling for each quarter since the end of 2013. Since then, the average revenue decline was approximately 7%. This decline was mainly due to the new stricter regulations. In the third quarter of 2015, sales started to rise again by 3% compared to the same period in 2014; in the fourth quarter of 2014, the turnover increased by 0.8%. However, minimum revenue was reduced by 0.2% for the whole of 2015.

Yearly change in turnover (%)					
	2011	2012	2013	2014	2015
per taxi	0,9	2,4	-2,9	-6,8	-0,2

Source: CBS

Nearly 75% of the turnover is made in the pre-booked sector. The street taxi transport accounts for nearly 25% of that turnover.

The table below shows that the average turnover is represented by:

- Vehicle;
- Hour;
- Mileage;
- Loaded kilometres (Loaded);
- Ride.

Average turnover (EUR)			
Average turnover per:	Companies with Employed drivers	Taxicentrales	Average
Vehicle	45.246	59.459	49.164
Hour	27,38	21,87	25,60
Kilometer	0,89	1,17	0,95
Loaded km	1,59	2,75	1,83
Ride	24,33	21,87	22,88

Bron: Taxibrancheonderzoek 2012 (Sociaal Fonds Taxi), dit zijn de laatst bekende cijfers

X. Results

The data mentioned above relates to the period immediately prior to the 2011 reform but following the 2000 liberalisation. The number of business licences increased between 2011 and 2014 but dropped in 2015, while the number of taxi driver licences dropped between 2012 and 2014, but returned to the 2011 levels in 2015. According to responses to the stakeholder consultation, innovative services and apps that allow reserving taxis and comparing fares below the maximum have increased. Municipal

regulation introducing qualitative requirements entered into force in Amsterdam and Rotterdam in 2013 and in The Hague in 2014. The existence of a clearer regulation may explain the increase in the number of taxi driver licences. However, according to the 2015 Rebel report,¹³³⁵ the need to comply with all the requirements has increased the costs of obtaining a licence and the costs for being able to work for a TTO. The simplification program introduced in January 2016 should reduce the administrative costs for the industry by around EUR 10 million.¹³³⁶

According to the information provided, since 2013 revenues have dropped. This may be explained by the higher costs to be incurred in order to comply with higher qualitative standards.

XI. Conclusions

Since the liberalisation in 2000, no quantitative restrictions exist in the Dutch taxis and hire cars with drivers sectors. Access to the market is based on stringent qualitative criteria. The hire cars with drivers must essentially comply with the same legislation and qualitative standards as taxis. This enables the authorized operators to meet demand in the most effective and efficient way with their vehicles and drivers. Projects exist to simplify and reduce administrative burdens while at the same time maintaining strict controls over the taxi operators. Innovative services, such as apps enabling to reserve a taxi and compare prices, are well developed and popular among users. Non-commercial transport services are allowed only if provided not for profit; otherwise they must comply with the taxi regulation. The current situation seems to be largely satisfactory and the liberalisation of the service, associated with high quality standards, has produced positive results.

Bibliography

National legislation

1. [Wet personenvervoer 2000 \(Passenger Transport Act 2000\)](#).¹³³⁷
2. [Besluit personenvervoer 2000 \(Passenger Transport Decree 2000\)](#).¹³³⁸
3. [Regeling vergoedingen documenten Wet personenvervoer 2000 \(prices for business/taxi permit\)](#).¹³³⁹
4. [Regeling vakbekwaamheid beroepspersonenvervoer](#).¹³⁴⁰
[Regeling taxibestuurders 2005](#)¹³⁴¹
5. [Regeling controledocumenten taxivervoer](#).¹³⁴²
6. [Regeling maximumtarief en bekendmaking tarieven taxivervoer](#).¹³⁴³
7. [Wijzigingsbesluit wet personenvervoer voor het taxivervoer 2000](#).¹³⁴⁴

¹³³⁵ Rebel, Tussentijdse evaluatie taxiwet, p. 65.

¹³³⁶ <https://www.rijksoverheid.nl/onderwerpen/taxi/nieuws/2016/01/27/dijksma-taxibranche-bespaart-10-miljoen-euro-door-eenvoudigere-regels>.

¹³³⁷ <http://wetten.overheid.nl/BWBR0011470/2010-07-01>.

¹³³⁸ <http://wetten.overheid.nl/BWBR0011982/2016-02-02>.

¹³³⁹ <http://wetten.overheid.nl/BWBR0011925/2016-01-23>.

¹³⁴⁰ <https://zoek.officielebekendmakingen.nl/stcrt-2015-44664.html>.

¹³⁴¹ <http://wetten.overheid.nl/BWBR0018667/2015-10-01>.

¹³⁴² <http://wetten.overheid.nl/BWBR0004253/2005-08-24>.

¹³⁴³ <http://wetten.overheid.nl/BWBR0010998/2016-01-01>.

8. [Wijzigingsregeling Regeling maximumtarief en bekendmaking tarieven taxivervoer](#)¹³⁴⁵
9. [Beleidsregel inzake toetsing vakbekwaamheid in het taxivervoer](#)¹³⁴⁶
10. [Regeling boordcomputer taxi](#)¹³⁴⁷
11. [Regeling permanente eisen taxi's](#)¹³⁴⁸
12. [Regeling instelling taxicommissie](#)¹³⁴⁹
13. [Tijdelijke regeling subsidie boordcomputer taxi](#)¹³⁵⁰
14. [Regeling erkenning werkplaatsen boordcomputer taxi](#)¹³⁵¹
15. [Regeling cursusstelsel boordcomputer taxi](#)¹³⁵²
16. [Regeling gebruik boordcomputer en boordcomputerkaarten](#)¹³⁵³
17. [Regeling specificaties en typegoedkeuring boordcomputer taxi](#)¹³⁵⁴
18. Handreiking fiscale verplichting Taxi-onderneming¹³⁵⁵

Reports and other literature

1. Report KiM Netherlands Institute for Transport Policy Analyses, "International comparison of taxi regulation and Uber" (May 2015);
2. Report Rebel, "Tussentijdse evaluatie taxiwet", 2014;
3. L. Whittaker, "How to design the Dutch taxi market anno 2015", Erasmus University 2015;
4. A Baanders and M Canoy, Ten years of Taxi Deregulation in the Netherlands (2010);
5. Kamerstukken II 2014/15, 31 521, nr. 88 / Kamerstukken II 2012/13, 31 521, nr. 71;
6. SEO economisch onderzoek, *Toekomst voor de taxi*, Amsterdam: juni 2008.

¹³⁴⁴ <http://wetten.overheid.nl/BWBR0026675/2013-06-29>.

¹³⁴⁵ <http://wetten.overheid.nl/BWBR0020573/2007-12-23>.

¹³⁴⁶ <http://wetten.overheid.nl/BWBR0014628/2003-01-31>.

¹³⁴⁷ <http://wetten.overheid.nl/BWBR0027945/2016-01-01>.

¹³⁴⁸ <http://wetten.overheid.nl/BWBR0009110/2008-11-20>.

¹³⁴⁹ <http://wetten.overheid.nl/BWBR0005225/1991-10-16>.

¹³⁵⁰ <http://wetten.overheid.nl/BWBR0028976/2013-10-01>.

¹³⁵¹ <http://wetten.overheid.nl/BWBR0030525/2016-01-01>.

¹³⁵² <http://wetten.overheid.nl/BWBR0030711/2011-12-01>.

¹³⁵³ <http://wetten.overheid.nl/BWBR0028974/2014-11-01>.

¹³⁵⁴ <http://wetten.overheid.nl/BWBR0027945/2016-01-01>.

¹³⁵⁵ <http://www.taxikeurmerkadvies.nl/Documenten/Handreiking%20taxi%20juni%202010.pdf>.

21. POLAND

General legal framework

The general law for taxis is the Road Transport Act, which is the general act specifying the rules for performing such activity on the national level. In Poland, there is no typical service such as hire car with driver and the "limousine" activity is carried out under the same conditions as taxi service or under a licence for performance of national road transport (unless a particular hires a car with driver service and if it may be classified as incidental transportation (*pl. przewóz okazjonalny*) it will meet statutory criteria which exclude a requirement of obtaining a licence). As a general rule, road transport may be classified as incidental transportation if it is carried out by a passenger car which allows for the transport of more than 7 persons including the driver.

Licences

Pursuant to Article 5b sec. 1 of the Road Transport Act, passenger transport by taxi requires obtaining a relevant licence. The licence is granted for a particular vehicle and the area covering: 1) a particular municipality; 2) the area of neighbouring municipalities – after prior conclusion of an agreement between them; c) the capital city of Warsaw.

As confirmed by the national transport authority in its reply to the consultation, there are no quantitative restrictions to licences. Licences for taxis can be issued only to entrepreneurs for an individual vehicle because they include vehicle registration numbers. Licences for car and licences for motor vehicle, structurally designed to carry more than 7 and no more than 9 persons including the driver, can be issued to entrepreneurs. Licences for taxi and hire car with driver are issued for a period of 2 to 50 years. According to Article 6.3a of the Road Transport Act, the municipal councils of the municipalities with populations exceeding 100,000 inhabitants are authorised to introduce a mandatory training course on the knowledge of city topography and local regulations, with a final exam. An example of this provision is the Resolution No. LXXI/1843/2013 of Warsaw.¹³⁵⁶

Local regulation

The liberalisation left the power to Municipal councils to introduce regulations concerning the fares applicable to passenger transport by taxi, the obligation to complete training and pass an exam or obligations related to distinctive marks with respect to taxis. Municipal councils are also authorised to introduce additional regulations concerning the transport of passengers and luggage in a city.

Organisational and technical requirements

In accordance with the provisions of the Road Transport Act, each taxi driver may not be convicted of certain types of crimes. According to Article 3 sec. 1 of the Act of 5th January 2011 on drivers of vehicles, a driver is a person who reached the required age, is physically and mentally fit and has skills of driving vehicles in a manner not endangering safety, not impeding road traffic and not endangering anyone of harm and a proper document confirming holding the authorisation to drive vehicles.

Since 1 December 2014, taxi drivers are no longer required to complete any state course in the field of road transport or pass any final state exam. With regard to technical requirements, Regulation 1 specifies technical requirements applicable to taxis. Taxis shall be equipped, among others, with: electronic taximeter with valid proof of legalization; at least two seats for passengers, room for hand luggage of passengers; first aid kit; spare tire; and an additional light with the word "TAXI" meeting requirements imposed by the regulation. Municipal councils are authorised to introduce particular regulations concerning imposition of additional labelling obligation, distinctive marks and additional technical equipment. Most of the taxi operators have their own booking apps and websites companies use the support of their own IT systems, which were forced on them by strong competition on the market. The system of electronic reservation and mobile phone or card payment is a standard in Warsaw.

Fares

According to Article 11b sec. 2 of Road Transport Act, municipal councils regulate fares for providing services of passenger transport by taxi for each city. In most cases, the resolutions foresee a minimum charge for entering a taxi and different tariff rates depending whether the transport takes place on a weekday or on Sundays/holidays and depending whether the transport takes place during the day or at night.

¹³⁵⁶ Resolution No. LXXI/1843/2013 of the City Council of the capital city of Warsaw of 21st November 2013 on obligation to complete training concluded by an exam for individuals rendering passenger transport services by taxi.

Passenger rights

Pursuant to Article 14 of the Transport Law Act, each carrier (including taxi drivers) is obliged to provide passengers with favourable safety and hygiene conditions, comfort, and proper service. The carrier is also obliged to take actions facilitating the use of means of transport by passengers, in particular, persons of limited mobility and disabled persons. Specific rights of taxi passengers may be introduced by virtue of resolutions of municipal councils. Passenger rights at the statutory level of regulation are the same for taxis and hire car with drivers.

Labour rules

Working Time for Drivers Act of 16th April 2004 regulates both the work time applicable to employees' drivers and the self-employed. For employees, as a general rule, work time may not exceed 8 hours per day and on average 40 hours in a five-day working week within the reference period not exceeding 4 months. Weekly work time, including overtime, may not exceed an average of 48 hours in the accepted reference period not exceeding four months. For the self-employed, a weekly work time must not exceed an average of 48 hours in the accepted reference period not exceeding 4 months. The work time applicable to self-employed drivers described applies regardless of the fact that a self-employed driver performs services in favour of more than one operator and regardless of the fact that he may simultaneously be self-employed and employee.

Enforcement

If there is a breach of the conditions upon which the licence is granted, including the non-performance of the activity, the transfer of the licence to another party or in case of conviction for a crime, the licence may be revoked.

Inspectors of the Road Transport Inspection service are also authorised to impose a fine for infringements to the provisions of road transport, including the performance of passenger transport by taxi without the required qualifications, the lack of the required licence, exceeding the prescribed work time, the lack of technical prescribed equipment required for a taxi. Fines amount from PLN 50.00 to PLN 10,000.00 for each violation, for instance for such infringements as

Airports

Provisions of Polish law do not foresee a requirement of obtaining a separate/additional licences / permits in case of providing road transport services at the airports.

Hire cars with driver

Since 15 August 2013, there are two types of hire car with driver licenses: a licence for national road transport concerning passenger cars; and a licence for national road transport concerning cars constructed to carry at least 7 and no more than 9 persons including the driver. As general rules, the driver who performs services must obtain a licence for this activity under the provisions of the Road Transport Act. The licence is issued based on fitness and financial capacity criteria (a financial capacity of EUR 9,000 for the first vehicle and EUR 5,000 for each subsequent vehicle). According to the Road Transport Act, the driver must hold a certificate of professional competence - evidence of formal qualifications and knowledge necessary to take up and pursue economic activities in the area road transport. Only the so-called incidental transportation does not require obtaining a licence, if it meets certain criteria, including that the vehicle is driven by an entrepreneur rendering transportation services or by an employee; pursuant to a written contract made at the operator's business premises for affixed fee agreed in advance on the service. The transport fee is paid to the operator by a wire transfer, or in cash in the business premises.

Ridesharing

At the time of writing, there are no rules regulating ridesharing and car sharing. However, the Ministry of Finance has issued an opinion on the applicability of the tax regime to ridesharing providers.

Market analysis

Due to the liberalisation of passenger transport by taxi and abolition of the state course and exam, the number of taxi drivers is constantly increasing. At the end of 2013, the total number of licenced taxis in Warsaw amounted to 9,954. A year later, the aforementioned amount increased to 10,475. Finally, at the end of 2015, the total number of licenced taxis in Warsaw amounted to 11,079. The major players in the market for taxi are: Eco-Car, City Taxi, Halo Taxi, Super Taxi, Sawa Taxi, Bayer Taxi, MPT Taxi. With regard to the taxi sector, the geographical dimension is municipal or inter-municipal, depending from the conditions attached to the licence. With regard to the hire car with driver, the dimension is national, as clarified by the national transport authority. Ridesharing operators that have had trouble in other jurisdictions such as

Germany and France, have settled activities here, since especially ridesharing with non-professional drivers seems more tolerated.

Barriers to entry, limitations, incentives

In Poland, there are no quantitative restrictions to entry the market, both for taxis and hire cars with drivers. There are only qualitative requirements concerning the licence, the financial capacity of the operator, and the technical requirements for vehicles. No particular incentives exists, except the fact that ridesharing and car sharing is not regulated but generally accepted, and this seems to be an incentive for EU service providers to move/open their activities in Poland, especially companies experiencing difficulties under highly regulated jurisdictions such as France and Germany (Uber, Heetch, Wundercar).

Growth, capacity, impact

According to the national competent authority, the number of taxi licences are: in 2011 – about 62,000, in 2012 – about 61,000, in 2013 – about 59,600, in 2014 – about 61,300 and in 2015 – about 62,000.

Conclusions

Following the liberalisation introduced in 2001 and the removal of the quantitative barriers, the number of taxi licences has progressively increased accompanied by lower fares. The hire car with driver sector has also developed in the recent years, thanks to the arrival of innovative service providers and intermediaries. Moreover, the legislative and regulatory environment has contributed to the development of new and innovative services, such as ridesharing “for consideration” (UberPop, Heetch, Wundercar

I. Introduction

Under Polish law, the performance of road transport by taxi is mainly regulated in the Road Transport Act of 6th September 2001. The Road Transport Act is a general act specifying the rules for performing such activity on the national level.

II. Legal framework applicable to passenger transport by taxi

Since 1st December 2014, taxi drivers are no longer required to complete any state course in the field of road transport or pass any final state exam. Nevertheless, according to Article 6.3a of the Road Transport Act, the municipal councils of the municipalities with population exceeding 100,000 inhabitants are authorised to impose, at the local level, an obligation to complete a training covering the knowledge of city topography and local regulations and to pass a final exam.

Specific regulations on the performance of passenger transport by taxi are introduced by municipalities at local level. Therefore, the scope of legal regulations of passenger transport by taxi varies depending on the municipality in which it is performed. Municipal councils are authorised to introduce local legal regulations concerning the fares applicable to passenger transport by taxi, an obligation to complete a training, or additional obligations on distinctive marks for taxis. Municipal councils are also authorised to introduce additional regulations concerning the transport of passengers and luggage in a city.

II.1 National regulations

The following national regulations apply to the subject matter:

- Road Transport Act of 6th September 2001;
- Working Time for Drivers Act of 16th April 2004;
- Road Traffic Act of 20th June 1997;

- Transport Law Act of 15th November 1984;
- Drivers of Vehicles Act of 5th January 2011;
- Regulation of the Ministry of Infrastructure of 31st December 2002 on the technical conditions of vehicles and obligatory equipment ("**Regulation 1**");
- Regulation of the Ministry of Economy of 27th December 2007 on the requirements to be met by electronic taximeters and detailed scope of checks performed during legal metrological control of these measuring instruments ("**Regulation 2**");
- Regulation of the Ministry of Transport, Construction and Maritime Economy of 6th August 2013 on the amounts of fees for administrative actions connected with rendering road transport services and for examination and issuing certificates of professional competence ("**Regulation 3**");
- Regulation of the Ministry of Transport, Construction and Maritime Economy of 26th June 2012 on the scope and manner of performing technical inspections of vehicles and specimen of documents used at these inspections ("**Regulation 4**").

II.2 Local/municipal regulations

Pursuant to the provisions of the Road Transport Act and Transport Law Act of 15th November 1984, municipal councils are authorised to adopt the following local regulations concerning the subject matter:

- a) According to Article 11b sec. 2 of the Road Transport Act the municipal councils are authorised to determine prices and tariff rates for passenger transport by taxi.

Examples of resolutions adopted by various municipalities on the subject matter:

- Resolution No. XXIX/608/2011 of the City Council of the capital city of Warsaw of 15th December 2011 on determining official prices for taxi passenger transport within the territory of the capital city of Warsaw;
- Resolution No. LXXVI/977/09 of the City Council of Cracow of 17th June 2009 on tariff zones for taxis and determining maximum official prices for taxi passenger transport within the territory of Cracow Municipality;
- Resolution No. XXXVII/649/09 of the City Council of Piotrków Trybunalski of 26th May 2009 on determining official prices for taxi passenger transport within the territory of the city of Piotrków Trybunalski.

- b) According to Article 6.3a of the Road Transport Act, the municipal councils of the municipalities with population exceeding 100,000 inhabitants are authorised to introduce an obligation to complete a course confirming knowledge of city topography and local regulations. In such case, the applicant is also obliged to pass the final exam after completing the course.

Examples of resolutions adopted by various municipalities on the subject matter:

- Resolution No. LXXI/1843/2013 of the City Council of the capital city of Warsaw of 21st November 2013 on obligation to complete training concluded by an exam for individuals rendering passenger transport services by taxi;
- Resolution No. LX/931/VI/2013 of the City Council of Poznań of 10th December 2013 on the obligation to complete training confirmed with a passed exam for entrepreneurs personally rendering road transport services by taxi within the territory of the city of Poznań or drivers employed by them;
- Resolution No. X/109/15 of the City Council of Białystok of 22nd June 2015 on introducing the obligation to complete training concluded with an exam before the examination board, confirming the knowledge of the topography of the City of

Białystok and provisions of local law by an entrepreneur personally rendering transport services or by a driver employed by him.

- c) According to article 15 sec. 5 of the Transport Law Act of 15th November 1984, municipal councils are authorised to introduce particular regulations concerning the transport of passengers and luggage in a city;

Examples of resolutions adopted by various municipalities on the subject matter:

- Resolution No. LXXXV/2185/2014 of the City Council of the capital city of Warsaw of 3rd July 2014 on regulation connected with passenger and luggage transport by taxi;
- Resolution No. LIV/811/VI/2013 of the City Council of Poznań of 9th July 2013 on regulations connected with transport by taxi within the territory of the city of Poznań amended by Resolution No. XVI/179/VII/2015 of the City Council of Poznań of 8th September 2015;
- Resolution No. LXXX/1681/14 of the City Council of Łódź of 12th February 2014 on introducing regulations concerning transport of passengers and luggage in a city by taxis and additional labelling identifying a taxi within the territory of the city of Łódź.

- d) According to article 15 sec. 7 of the Transport Law Act of 15th November 1984, municipal councils are authorised to introduce particular regulations concerning the imposition of an obligation of additional labelling and additional technical equipment with respect to taxis;

Examples of resolutions adopted by various municipalities on the subject matter:

- Resolution No. LXXXV/2184/2014 of the City Council of the capital city of Warsaw of 3rd July 2014 on additional labelling of taxis;
- Resolution No. LXIII/581/04 of the City Council of Cracow of 20th October 2004 on additional labelling of passenger taxis amended by Resolution No. XXVII/352/07 of the City Council of Cracow of 21st November 2007;
- Resolution No. LXXX/1681/14 of the City Council of Łódź of 12th February 2014 on introducing regulations concerning transport of passengers and luggage in a city by taxis and additional labelling identifying taxis within the territory of the city of Łódź;
- Resolution No. LIII/418/2014 of the City Council of Świnoujście of 24th April 2014 on additional labelling and additional technical equipment of taxis;
- Resolution No. XIV/083/2008 of the City Council in Nowe Warpno of 30th June 2008 on additional labelling and additional technical equipment of taxis;
- Resolution No. XV/98/08 of the Municipality Council of Józefów nad Wisłą of 16th October 2008 on additional labelling and additional technical equipment of taxis.

II.3 Procedures for issuing licences and applicable criteria

II.3.1 Applicable criteria

Under provisions of the Road Transport Act, the licence for rendering national road passenger transport services by taxi is granted to an entrepreneur, if:

- 1) members of the governing body of a legal person, persons managing a general partnership or limited partnership and in case of other entrepreneur – persons conducting business:

- a) have not been convicted with a final judgment of a fiscal criminal offence or of wilful offence against road traffic safety, property, business transactions, reliability of documents, environment or against work conditions and wages or other criminal offence having connection with performed profession;
- b) have not been issued with a final judgment prohibiting the performance of business within the field of road transport;
- 2) he has a legal right to dispose of a vehicle or vehicles by which the road transport services are supposed to be rendered, meeting technical requirements set by the road traffic provisions of law;
- 3) he (if he personally performs transports) and drivers employed by him:
 - a) have not been convicted of crimes against life and health and against sexual freedom and decency, and have not been issued with a final judgment prohibiting performance of the profession of a driver;
 - b) have a certificate of training in road transport by taxi and the certificate of successfully passing the exam (in case the city council of a relevant municipality with population exceeding 100,000 inhabitants introduced the obligation to complete a training concluded with an exam before an examination board, confirming the knowledge of city topography and local regulations by an entrepreneur personally performing transports or by a driver employed by him¹³⁵⁷);
 - c) to have the driving licence and the legal age required for the different categories of vehicles and reported in s.II.5.1.

II.3.2 Procedures for issuing licences

Pursuant to Article 5b sec. 1 of the Road Transport Act, transport service by taxi requires obtaining a relevant licence beforehand.

The licence mentioned hereinabove is granted for a period of time not shorter than 2 years and not longer than 50 years.

The licence is granted for a particular vehicle and the area covering:

- 1) particular municipality;
- 2) area of neighbouring municipalities – after prior conclusion of an agreement between them;
- 3) the capital city of Warsaw.

Licences for undertaking and rendering passenger transport services by taxi are issued upon a motion of the entrepreneur submitted in writing or in the form of an electronic document.

The submission of a motion is connected with an obligation to pay the relevant fee.

¹³⁵⁷ The obligation to complete a training concluded with an exam before an examination board, confirming the knowledge of city topography and local regulations by an entrepreneur personally performing transport services or by a driver employed by him was introduced in many Polish municipalities with the number of inhabitants exceeding 100,000 inhabitants, including Warsaw, Poznań, Białystok, Cracow, Łódź, Wrocław, Radom, and Szczecin. All of the largest municipalities in Poland with the number of inhabitants exceeding 400,000 have decided to introduce the obligation described hereinabove. For exemplary resolutions introducing obligation to complete a relevant training conclude with an exam please see sec. II.2 b) hereinabove.

Pursuant to the provisions of Regulation 3, as of the date of this report the fees for issuing the licence for passenger transport by taxi are as follows:

Fee in PLN for each vehicle								
area of a municipality			area of neighbouring municipalities			area of the capital city of Warsaw		
period of validity of a licence in years								
from 2 to 15	over 15 to 30	over 30 to 50	from 2 to 15	over 15 to 30	over 30 to 50	from 2 to 15	over 15 to 30	over 30 to 50
200	250	300	280	350	400	320	380	450

The following administrative authorities are authorised to issue a licence for rendering road transport services by taxi:

- 1) in case of licences covering the area of a municipality – mayor of the municipality (*pl. wójt, burmistrz, prezydent*);
- 2) in case of licences covering the area of neighbouring municipalities - mayor of the municipality (*pl. wójt, burmistrz, prezydent*) appropriate with respect to the registered office or place of residence of an entrepreneur;
- 3) in case of licences covering the area of the capital city of Warsaw – Mayor of the capital city of Warsaw (*pl. Prezydent m.st. Warszawy*).

The motion for issuing the licence for rendering road transport services by taxi:

- 1) name of the entrepreneur, his address and registered office or the place of residence;
- 2) information on entry into the Central Registration and Information on Business (*pl. Centralna Ewidencja i Informacja o Działalności Gospodarczej*) or number in the Business Register of the National Court Register (*pl. Rejestr Przedsiębiorców Krajowego Rejestru Sądowego*), if required;
- 3) Tax Identification Number (NIP);
- 4) indication of the type and scope of road transport services, as well as the area of rendering transport services;
- 5) indication of the period time for which the licence is supposed to be submitted;
- 6) indication of the type and number of vehicles which will be used by the entrepreneur for rendering road transport services;
- 7) indication of the number of excerpts of the licence.

In addition, the following constitute attachments to the motion for issuing the licence:

- 1) statement of members of the governing body of a legal person, persons managing a general partnership or limited partnership and in case of other entrepreneur – persons conducting business confirming that they:
 - a. have not been convicted with a final judgment of a fiscal criminal offence or of wilful offence against road traffic safety, property, business transactions, reliability of documents, environment or against work conditions and wages or other criminal offence having connection with performed profession;
 - b. have not been issued with a final judgment prohibiting performance of business within the field of road transport.

- 2) statement on the intent of hiring drivers meeting the conditions specified in the Road Transport Act or on the intent to co-operate with persons not employed by the entrepreneur, but performing transport services personally in his favour meeting the conditions specified in the Road Transport Act;
- 3) list of vehicles containing information on the brand, type, character/purpose, registration number, VIN number and indication of the type of a legal title thereto;
- 4) proof of payment of a fee for issuing the licence;
- 5) medical certificate confirming a lack of health impediments to perform the job of a driver, medical certificate confirming a lack of psychological impediments to perform the job of a driver;
- 6) certificate on the completion of the training and passing the exam confirming the knowledge of city topography and local regulations (if applicable).

Pursuant to Article 8 sec. 6 of the Road Transport Act, the statements mentioned under sections 1) - 2) hereinabove are made under penalty of perjury.

Procedures for issuing licences for rendering national road passenger transport services by taxi are considered administrative proceedings. Therefore, general rules specified in the Code of Administrative Procedure of 14th June 1960 apply thereto.

As a result, pursuant to Article 35 of the Code of Administrative Procedure the matter of issuing the licence shall be resolved without unnecessary delay. Resolving a matter requiring investigative proceedings shall take place within one month and resolving a particularly complicated matter shall take place no longer than two months.

II.4. Technical requirements applicable to licensed vehicles *(taximeters, vehicles' technical specifications, accessibility, insurance, maintenance)*

Article 24 of Regulation 1 specifies additional technical requirements applicable to taxis. Taxis shall be equipped with:

- 1) electronical taximeter with valid proof of legalization;
- 2) at least two seats for passengers;
- 3) at least two doors on each side of the vehicle body or two doors on the right side, one on the left side and one of the tailgate of the vehicle;
- 4) room for hand luggage of passengers;
- 5) first aid kit;
- 6) pneumatic spare tire;
- 7) additional light with the word "TAXI" meeting the following requirements:
 - a. located on the roof;
 - b. of white or car yellow colour with black inscriptions visible from the front and rear of the vehicle;
 - c. the light may be turned on when the taximeter is off, regardless of other lights being turned on and location of a device enabling work of an engine; turning on or off the taximeter should cause simultaneous corresponding turning on or off of the light;

- d. should be visible after falling of the dark from the distance of at least 50 m with good air transparency;
- e. the light may be supplemented with two flashing lights of car yellow colour on either side of the light in a common casing; lights may be turned on or off with a separate switch by a taxi driver in case of emergency;

The provisions of Regulation 1 allow the use of the following additional equipment and labelling:

- 1) additional lamps with inscriptions specifying the name of the company, its telephone number or other data additionally identifying a taxi, meeting the following requirements:
 - a. location on the roof, symmetrically from the left and right from the light with the word "TAXI";
 - b. of white or car yellow colour;
 - c. may not hinder readability and visibility of the word "TAXI";
- 2) additional labelling containing the name of a place, coat of arms of a place, side number and other markings identifying a local taxi, provided they are consistent with local regulations within a municipality or a union of municipalities.

According to Article 15 sec. 7 of the Transport Law Act, municipal councils are authorised to introduce particular regulations concerning imposition of an obligation of additional labelling and additional technical equipment with respect to taxis. Although municipality councils rarely decide to adopt further technical requirements applicable to taxis with which passenger transport is performed on the territory of a particular municipality, there are several municipality councils in Poland who actually decided to introduce such further technical requirements, for instance the City Council of Świnoujście, the City Council in Nowe Warpno and the Municipality Council of Józefów nad Wisłą. By virtue of these resolutions the aforementioned municipalities introduced additional technical requirements applicable to taxis which are listed in s. II.2 d) hereinabove.

The additional technical requirements applicable to taxis introduced by the aforementioned municipality councils are:

- 1) additional technical requirements introduced by the City Council of Świnoujście:
 - a. taxis shall be equipped with the following items:
 - i. mobile phone or other means of direct distance communication enabling connecting with ambulance service, fire brigade, and police;
- 2) additional technical requirements introduced by the City Council in Nowe Warpno:
 - a. taxis shall be equipped with the following items:
 - i. flashlight or electrical lamp powered from the power supply independent from the vehicle;
 - ii. mobile phone or other means of direct distance communication enabling connecting with ambulance service, fire brigade, and police;
- 3) additional technical requirements introduced by the Municipality Council of Józefów nad Wisłą:
 - a. taxis shall be equipped with the following items:

- i. electrical flashlight or electrical lamp powered from the power supply independent from the vehicle;
- ii. mobile phone or other means of direct distance communication enabling connecting with ambulance service, fire brigade, and police.

In addition, as in the case of all holders of vehicles, in accordance with the provisions of the Act of 22nd May 2003 on compulsory insurance, Insurance Guarantee Fund and Polish Bureau of Motor Insurers, each taxi driver is obliged to be insured against civil liability of holders of vehicles for damages arising out of use of these vehicles.

Moreover, based on the provisions of the Road Traffic Act of 20th June 1997, each owner of a vehicle is obliged to subject it to a technical inspection. As a rule, the technical inspection of a vehicle is mandatory and it needs to be done once a year. Pursuant to Article 81 sec. 11 item 4 of the Road Traffic Act, a taxi is subject to additional technical inspections. The scope of additional technical inspection applicable to taxis is determined by the provisions of Regulations, specifically by provisions of Attachment No. 1, Section I, item 0 and Attachment No. 2, Section I, item 2.

Additional technical inspection of taxis requires verification of registration plates, identification number of the vehicle (VIN), body of a car number, chassis number, car frame number and presence and correctness of additional equipment and labelling specified in Regulation 1.

Furthermore, specific regulations concerning taximeters installed in taxis are contained in Regulation 2. Pursuant to § 3 of Regulation 2, the following information must be legibly and permanently placed on the taximeter:

- 1) the manufacturer's name or mark;
- 2) conformity marking, the supplementary metrology marking and notified body number;
- 3) the unit of measurement or its designation;
- 4) the number of the EC type-examination certificate or EC design-examination certificate;
- 5) determination of the accuracy.

Regulation 2 also provides for further detailed regulations concerning the technical requirements for taximeters and control of taximeters.

II.5 Qualitative requirements (*fitness of the driver, knowledge and skills required, drivers' training*)

In accordance with the provisions of the Road Transport Act, each taxi driver needs to meet the following qualitative requirements:

- 1) to have not been convicted of crimes against life and health and against sexual freedom and decency and have not been issued with a final judgment prohibiting performance of the profession of a driver;
- 2) to have a certificate on completion of a training in road transport by taxi confirmed with a passed exam (if applicable – obligation to complete a training and passing an exam may be introduced by a city council of the municipality

- with population exceeding 100,000 inhabitants, introducing the obligation to complete a training concluded with an exam before an examination board, confirming the knowledge of city topography and local regulations by an entrepreneur personally rendering transport services or by a driver employed by him;
- 3) to be at least 18 years old – in case of drivers driving vehicles for which holding the following driving licence categories is required:
 - a. C or C+E, if he obtained proper preliminary qualification;
 - b. C1 or C1+E, if he obtained proper accelerated preliminary qualification;
 - 4) to be at least 21 years old – in case of drivers driving vehicles for which holding the following driving licence categories is required:
 - a. C or C+E, if he obtained proper accelerated preliminary qualification;
 - b. D or D+E, if he obtained proper preliminary qualification;
 - c. D1 or D1+E, if transport is performed on regular lines, which route does not exceed 50 km, if a driver obtained proper accelerated preliminary qualification;
 - 5) to be at least 23 years old – in case of drivers driving vehicles for which holding D or D+E driving licence is required, if he obtained proper accelerated preliminary qualification;
 - 6) to have proper qualifications to drive vehicles set in the Act of 5th January 2011 on drivers of vehicles;
 - 7) to not have health impediments to perform the job of a driver;
 - 8) to not have psychological impediments to perform the job of a driver.

As indicated hereinabove, having proper qualifications to drive vehicles is one of the necessary qualitative requirements which need to be met in order to be able to perform passenger transport services by taxi and obtain the relevant licence.

Under provisions of Article 3 sec. 1 of the Act of 5th January 2011 on drivers of vehicles, a driver is a person who reached the required age, is physically and mentally fit and has skills of driving vehicles in manner not endangering safety, not impeding road traffic and not endangering anyone of harm and a proper document confirming holding the authorisation to drive vehicles.

Authorization to drive vehicles is obtained by passing a state exam. In case of applying for category B drivers licence (which is required in case of most of taxis), the applicant needs to be at least 18 years old.

Pursuant to Article 11 sec. 1 of the Act of 5th January 2011 on drivers of vehicles, drivers licence is issued to a person, who:

- 1) reached the minimum age requirement for driving vehicles of particular category;
- 2) obtained:
 - a. a medical statement on a lack of medical contradictions to drive vehicles;
 - b. a psychological statement on a lack of psychological contradictions to drive vehicles (this requirement, however, does not apply to drivers licences in the following categories: M, A1, A2, A, B1, B (which is the most popular in case of taxi drivers), B+E or T;
- 3) took a training required for obtaining the drivers licence of a particular category;

- 4) passed the state exam required for obtaining the drivers licence of a particular category;
- 5) submitted, under penalty of perjury, a statement that he/she resides within the territory of the Republic of Poland for at least 185 days in each calendar year due to its personal or professional ties, an in case he/she is not connected with the place professionally that he/she stays within the territory of the Republic of Poland with the intention of permanent residence or presented a certificate confirming that he/she studies for at least 6 months.

Driving licences issued in the Member States of the European Union, Member States of the Swiss Confederation and Member States of the European Free Trade Association – parties of the agreement on the European Economic Area are recognised in Poland.

II.6 Organizational requirements (*dispatch affiliation centre, minimum service*)

There are no obligations to be affiliated to a dispatch centre or to provide minimum service.

II.7 Fares (*criteria for taxi fare setting, authority/body in charge of setting the tariffs, maximum tariffs and/or fixed tariffs, composition of the tariff and tariffs adjustment mechanism [minimum charge, additional charge for using the radio taxi or dispatch centre, increased tariff during certain hours, such as at night or on certain journeys, such as towards the airports, reductions for certain categories, such as elderly people]*)

According to Article 11b sec. 2 of Road Transport Act, municipal councils determine tariff rates for providing services of passenger transport by taxi for each city.

Usually, resolutions of the municipal council determining fares for passenger transport by taxi foresee a minimum charge for entering a taxi and different tariff rates depending whether the transport takes place on a weekday or on Sundays/holidays and depending whether the transport takes place during the day or at night. Maximum fares for passenger transport by taxi during the nights and Sundays/holidays are higher than standard maximum fares for transport during the day on weekdays. The aforementioned resolutions usually also contain maximum tariff rate for 1 hour of stop.

1) Maximum fares of the **capital city of Warsaw**

- Tariff 1		on weekdays between 6:00 a.m. and 10:00 p.m.	1 km - PLN 3.00
- Tariff 2 - higher by 50% from tariff 1 (night tariff)		on weekdays between 10:00 p.m. and 6:00 a.m. and on Sundays and holidays throughout the entire day and night	1 km – PLN 4.50
- Tariff 3 - higher by 100% from		for travel beyond the boundaries of tariff 1 zone without using transport in the opposite direction on weekdays	1 km – PLN 6.00

tariff 1		between 6:00 a.m. and 10:00 p.m.	
- Tariff 4 - higher by 100% from tariff 2		for travel beyond the boundaries of tariff 1 zone without using transport in the opposite direction on weekdays between 10:00 p.m. and 6:00 p.m. and on Sundays and holidays throughout the entire day and night	1 km – PLN 9.00
- Initial fee			PLN 8.00
- Fee for 1 hour of stop (on all tariffs)			PLN 40.00

2) Maximum fares adopted by the **city council of Cracow**

Zone I			
- Tariff 1		on weekdays between 6:00 a.m. and 10:00 p.m.	1 km - PLN 2.80
- Tariff 2		on weekdays between 10:00 p.m. and 6:00 a.m. and on Sundays and holidays throughout the entire day and night	1 km – PLN 4.20
- Initial fee for hiring a taxi and driving first section			PLN 7.00
- Fee for 1 hour of stop			PLN 38.00
Zone II			
- Tariff 3		on weekdays between 6:00 a.m. and 10:00 p.m.	1 km - PLN 5.60
- Tariff 4		on weekdays between 10:00 p.m. and 6:00 a.m. and on Sundays and holidays throughout the entire day and night	1 km – PLN 8.40
- Initial fee for hiring a taxi and driving first section			PLN 7.00
- Fee for 1 hour of stop			PLN 38.00

3) Maximum fares adopted by the **city council of Piotrków Trybunalski**

- Tariff 1		on all days, except for Sundays and holidays, between 6:00 a.m. and 10:00 p.m., within the administrative borders of the city of Piotrków	1 km - PLN 3.00
------------	--	---	-----------------

	Trybunalski	
- Tariff 2	on weekdays between 10:00 p.m. and 6:00 a.m. and on Sundays and holidays throughout the entire day and night, within the administrative borders of the city of Piotrków Trybunalski	1 km – PLN 4.50
- Initial fee for all tariffs		PLN 7.00
- Fee for 1 hour of stop for tariff 1		PLN 30.00
- Fee for 1 hour of stop for tariff 2		PLN 40.00

II.8 Passenger rights

Pursuant to Article 14 of the Transport Law Act, each carrier (including taxi drivers) is obliged to provide passengers with favourable safety and hygiene conditions, comfort, and proper service. The carrier is also obliged to take actions facilitating the use of means of transport by passengers, in particular persons of limited mobility and disabled persons.

Articles 777 of the Civil Code provides that a carrier is to be held liable for the luggage which the passenger carries with him only, if the damage resulted from the carrier's intentional fault or gross negligence. A driver is to be held liable for the luggage he has been entrusted with according to the principles envisaged for the carriage of things.

Additionally, Article 15 sec. 5 of the Transport Law Act provides that municipal councils are authorised to introduce particular regulations concerning the transport of passengers and luggage in a city. Such regulations may introduce more specific rights of taxi passengers.

Among the specific city councils resolution on passenger rights:

- 1) Passenger rights introduced by Resolution No. LXXXV/2185/2014 of the **City Council of the capital city of Warsaw** of 3rd July 2014 on regulation connected with passenger and luggage transport by taxi:
 - a. driver is obliged to perform the service regardless of the length of the drive ordered by the passenger;
 - b. driver should take into account the priority of transporting passengers requiring immediate help or in special need (disabled persons, persons with young children, pregnant women, etc.);
 - c. passenger has a freedom of choosing freely a taxi from the ones waiting at a taxi rank;
 - d. driver is obliged to provide assistance in getting in and out of the taxi to the elderly or persons in need of such assistance;

- e. driver is obliged to provide assistance in loading and unloading hand luggage;
 - f. driver is obliged to perform the ordered transport with a shortest route, unless a passenger demands performance of the transport with a different route;
 - g. on demand of a passenger, a driver is obliged to hand over a receipt for transport to the passenger;
 - h. passenger has the right to take other persons to the vehicle which he/she uses, taking empty seats without payment of any additional fees;
 - i. passenger has the right to take with him/her hand luggage and, upon the consent of a driver, dogs or other small house pets without payment of any additional fees;
 - j. driver is obliged to have a counterpart of regulations connected with the transport of persons and luggage by taxi and present it to a passenger on his/hers each demand;
- 2) Resolution No. LIV/811/VI/2013 of the **City Council of Poznań** of 9th July 2013 on regulations connected with transport by taxi within the territory of the city of Poznań amended by Resolution No. XVI/179/VII/2015 of the City Council of Poznań of 8th September 2015:
- i. driver should take into account, to the extent possible, the priority of transporting passengers requiring immediate help or in special need;
 - ii. passenger has a freedom of choosing freely a taxi from the ones waiting at a taxi rank;
 - iii. driver is obliged to perform the ordered transport with a shortest route, unless a passenger demands performance of a transport with a different route or agrees thereto;
 - iv. after completed transport service, a driver is obliged to hand over to a passenger a receipt for the transport specifying the amount to be paid;
 - v. passenger has the right to take other persons to the vehicle which he/she uses, taking empty seats without payment of any additional fees;
 - vi. passenger has the right to take with him/her hand luggage and, upon the consent of a driver, dogs or other small house pets without payment of any additional fees;
- 3) Resolution No. LXXX/1681/14 of the **City Council of Łódź** of 12th February 2014 on introducing regulations concerning transport of passengers and luggage in a city by taxi and additional labelling identifying a taxi within the territory of the city of Łódź:
- a. passenger may choose a taxi regardless of its spot at a taxi rank;
 - b. driver is obliged to perform the transport with the shortest route, unless a passenger agrees to or demands performing of the transport with a different route;
 - c. upon a passenger's demand, a driver is obliged to hand over a receipt for the performed transport service;
 - d. upon a passenger's demand, a driver is obliged to specify the route of the transport and data identifying a driver on a receipt;
 - e. passenger has the right to take other persons to the vehicle which he/she uses, taking empty seats without payment of any additional fees;
 - f. driver should take into account the priority of transporting passengers requiring immediate help or in special need;
 - g. driver is obliged to provide assistance in getting in and out of the taxi to the elderly or persons in need of such assistance;

- h. passenger has the right to resign from the transport service at any point;
- i. passenger has the right to take with him/her hand luggage and, upon the consent of a driver, dogs or other small house pets without payment of any additional fees;
- j. driver upon demand of a passenger is obliged to provide for review a counterpart of regulations connected with transport of persons and luggage with taxis with which a passenger is authorised to familiarize himself/herself without payment.

II.9 Subsidies applicable to taxi sector *(including public developed applications for taxi sector, geo-localisation, etc.)*

No specific subsidies applicable to taxi sector have been identified.

II.10 Labour rules

II.10.1 Employees

According to Article 11 of the Working Time for Drivers Act of 16th April 2004, working time of drivers employed under an employment agreement may not exceed 8 hours per day and on average 40 hours in an average five-day working week in a given settlement period, as a rule not exceeding 4 months.

Working schedule, in which extension of work time to 12 hours per day within the system of equivalent work time is permitted, may be applied to drivers performing road transport services.

In the system of equivalent working time, work time extended in some days is equivalent to shortened working time in other days or to free days. As a rule, in such case a settlement period may not be longer than 1 month. In particularly justified cases, a settlement period may be extended to no longer than 3 months. Driver's weekly working time, including overtime hours, may not exceed in average 48 hours in a settlement period not exceeding 4 months.

Weekly working time described hereinabove may be extended to 60 hours, if average weekly working time does not exceed 48 hours in a settlement period not exceeding 4 months. The weekly working time applies also to a driver employed by more than one employer. If work is performed at night, the drivers' working time may not exceed 10 hours on a particular day.

II.10.2 Self-employed

The working time for self-employed drivers is regulated in Article 26c of the: Working Time for Drivers Act of 16th April 2004.

Pursuant to the aforementioned, weekly working time of a self-employed driver may not exceed an average of 48 hours in a settlement period not exceeding 4 months. Weekly

working time may be extended to 60 hours, if an average weekly working time does not exceed 48 hours in a settlement period not exceeding 4 months.

The working hours mentioned above apply also to self-employed drivers, regardless of number of entities for which they perform road transport services and regardless of the fact that they are employed under the employment agreement at the same time.

If work is performed at night, the driver's working time may not exceed 10 hours on a particular day.

II.11 Supervisory enforcement tools

Pursuant to Article 15 sec. 1 of Road Transport Act, a licence for passenger transport by taxi is revoked in case of:

- 1) issuing the final judgement prohibiting an entrepreneur to perform a licenced activity;
- 2) failure to undertake a licenced activity within 6 months as of the date of issuing a licence, despite a notice from the licencing authority to undertake the licenced activity;
- 3) failure to meet the qualifications required to perform road transport activity;
- 4) gross breach of conditions set out in the licence or other conditions of performing road transport services specified by the provisions of law;
- 5) transferring the licence or the extract of the licence to a third party;
- 6) cessation of conducting licenced activity for at least 6 months;
- 7) gross breach of legal provisions on work time of drivers or drivers' qualifications;
- 8) arbitrary change in reading and measuring devices - control installed in the vehicle.

In the instances described hereinabove, withdrawal of a licence is obligatory. As a rule, in case of infringement specified in sections 1, 2, 4, and 5, before to proceed with the withdrawal, a written warning must be sent to the licence's holder informing him/her that, in case the breach is repeated, proceedings aiming at revoking the licence will be commenced.

According to Article 15 sec. 3 of Road Transport Act, a licence may be revoked in case of:

- 1) a failure to present documents which a driver is required to hold under the provisions of the Road Transport Act;
- 2) gross or repeated violation of the rules on the maximum permitted weight of a vehicle, axle pressure or size of a vehicle;
- 3) delays in payment of customs, taxes or other public charges relating to the road transport activity or amounts due to contractors;
- 4) arbitrary change in reading and measuring devices, tachographs, vehicle card, etc.

In case of a licence is revoked, it may not be granted again within 3 years as of the date when the withdrawal decision becomes final and binding.

A licence is revoked in the course of administrative proceedings by the following administrative authorities:

- 1) in case of licences covering the area of a municipality – mayor of a municipality (*pl. wójt, burmistrz, prezydent*);
- 2) in case of licences covering the area of neighbouring municipalities - mayor of a municipality (*pl. wójt, burmistrz, prezydent*) competent with respect to the registered office or place of residence of an entrepreneur;
- 3) in case of licences covering the area of the capital city of Warsaw – Mayor of the capital city of Warsaw (*pl. Prezydent m.st. Warszawy*).

Furthermore, supervision over the activity of passenger transport by taxi is performed by the Inspection of Road Transport (*pl. Inspekcja Transportu Drogowego*).

According to Article 50 of the Road Transport Act, inspectors of the Road Transport Inspection are in particular authorised to control:

- a. compliance with the obligations or conditions of performing road transport activity;
- b. compliance with traffic rules;
- c. documents related to performing road transport activity;
- d. compliance with regulations on drivers' work time.

Inspectors of the Road Transport Inspection are also authorised to impose a fine for infringements of the obligations or conditions of performing road transport activity amounting from PLN 50.00 to PLN 10,000.00 for each violation, including the activity of infringements of passengers transport by taxi without the required qualifications, without the required licence, exceeding drivers' work time, lack of the taxi's prescribed technical equipment.

A detailed list of violations and fines applicable thereto is set out in the annexes to the Road Transport Act.

III. Legal framework applicable to hire cars with driver

III.1 National/local municipal regulation

The drivers providing hire car with driver service are obliged to obtain a licence for such an activity pursuant to the provisions of the Road Transport Act. This obligation applies to drivers providing services with hire limousines, and other persons and entities active in this particular field, as well as to drivers providing for road transport service under agreements concluded with companies such as Uber or iTaxi.

Polish law does not introduce any specific legal regulation applicable to the companies acting as providers of apps helping to arrange passenger transport such as Uber. Therefore, hire transport intermediaries are not obliged to obtain any kind of licences, differently from drivers who actually provide the passenger transport services.

Drivers co-operating with Uber and iTaxi shall obtain a relevant licence in accordance with the provisions of the Road Transport Act (i.e. either a licence for performance of national road transport or a licence for performance of a road transport by taxi) prior to start the passenger transport services. Nevertheless, contrary to the law, some drivers

decide to co-operate with Uber and similar companies and render transport services without obtaining the requisite licence.

On 24th September 2015, taxi drivers in Warsaw held a strike to draw the authorities' attention on this problem and to induce the government to establish specific regulations applicable to the operations of companies acting as agents and providing applications facilitating arranging passenger transport such as Uber and iTaxi.

Members of the Polish parliament have even prepared an initial draft amendment to the Road Transport Act of 6th September 2001 and other acts, which would introduce an obligation to obtain the licence for intermediaries activity related to domestic transport of passengers. However, the amendment to the Road Transport Act and other acts, at the end, was not adopted. Due to the beginning of a term of office of a new panel of Parliament in November 2015, and the principle of discontinuity of the parliament's works in force, the Polish constitutional law works regarding the adoption of the amendment described hereinabove were discontinued and no new works on the subject matter are currently in progress.

The licence is not required if the hire car with driver service is performed under the rules of the incidental transportation (*pl. przewóz okazjonalny*). As a general rule, road transport may be classified as incidental transportation if it is carried out by a passenger car which construction allows for the transportation of more than 7 persons including the driver. Incidental transportation may be also carried out by a car owned solely or leased by the entrepreneur, which does not meet the aforementioned requirement concerning structure of a car, if it is an/a:

- 1) antique car;
- 2) passenger car:
 - drove by an operator rendering transportation services or a driver employed thereby;
 - on the basis of a written agreement made in writing at the business premises;
 - on the basis of fixed fees agreed prior to the commencement of the service, fees must be paid to the operator by a wire transfer, or in cash in the business premises.

Incidental transportation is not subject to permit/licence if:

- 1) the same group of people is transported in the same vehicle for the entire ride and back to the starting point; or
- 2) it consists in transporting people to the place of destination and return back empty to garage; or it consists in an empty trip to the place of pick up passengers, collecting and transporting back the passengers by the same road pursuant to sec. 2. In addition, when carrying out domestic incidental transportation by road with a vehicle which structure allows for transportation of not more than 9 persons including the driver, it is forbidden:
 - to place and use a taximeter in the vehicle;
 - to place designations with the name, address, telephone number, website address of the operator or other designations identifying the operator, as well as advertisements of taxi services and any other signs which may be visible and readable from the outside of the car;
 - to place lamps or other technical devices on the roof of the car.

The following national regulations apply to the subject matter:

- Road Transport Act of 6th September 2001;
- Working Time for Drivers Act of 16th April 2004;
- Regulation 3.

III.2 Procedures for issuing licenses and applicable criteria

Procedures for issuing licences for performing road transport by hire car with driver are regulated in the Road Transport Act. The obligation to obtain the relevant licence applies to drivers performing services with cars such as hire limousines and other persons and entities to perform activity in this field.

Even though intermediation in hire cars with drivers' activity is not regulated by the national law, a driver who performs services in the field of hire car with driver is obliged to obtain a licence for such an activity under the provisions of the Road Transport Act.

III.2.1 Applicable criteria

Under the provisions of the Road Transport Act, a licence for the performance of national road passenger transport by car or with a car structurally designed to transport more than 7 and no more than 9 persons including the driver, is granted to an entrepreneur, if:

- 1) members of a governing body of a legal person, persons managing a general partnership or limited partnership and in in case of other entrepreneur – persons conducting business:
 - a. have not been convicted with a final judgment of a fiscal criminal offence or of wilful offence against road traffic safety, property, business transactions, reliability of documents, environment or against work conditions and wages or other criminal offence having connection with performed profession;
 - b. have not been issued with a final judgment prohibiting performance of business within the field of road transport;
- 2) at least one person managing the entity has a certificate of professional competences;
- 3) is in a financial situation allowing for undertaking and conducting business within a scope of road transport identified with available financial funds or assets in the amount of:
 - a. EUR 9,000 – for the first vehicle intended for road transport;
 - b. EUR 5,000 – for each subsequent vehicle intended for road transport.
- 4) no prohibition of performance of the profession of a driver was issued with respect to drivers employed by him and with respect to other persons not employed by him, but performing road transport in his favour;
- 5) he holds a legal title to dispose of a vehicle or vehicles by which the road transport is supposed to be performed, meeting technical requirements set by the road traffic provisions of law.

III.2.2 Procedures for issuing licences

Pursuant to Article 5b sec. 1 of the Road Transport Act, national transport operations in the passenger transport by car require obtaining a relevant licence beforehand.

A licence mentioned hereinabove is granted for a limited period of time not shorter than 2 years and not longer than 50 years.

Licences for undertaking and performing passenger transport by car are issued upon the motion of an entrepreneur submitted in writing or in the form of an electronic document.

Pursuant to the provisions of Regulation 3, as of the date of this report the fees for issuing a licence for passenger transport by car are as follows:

Fee in PLN for each vehicle		
period of validity of a licence in years		
from 2 to 15	over 15 to 30	over 30 to 50
700	800	900

The administrative authorities competent for issuing to issue a for hire cars with drivers is the head of a county (*pl. starosta*) competent with respect to the entrepreneur's registered office.

An application for the licence must contain:

- 1) the name of the entrepreneur, his address and registered office or a place of residence;
- 2) information on entry into the Central Registration and Information on Business (*pl. Centralna Ewidencja i Informacja o Działalności Gospodarczej*) or number in the Business Register of the National Court Register (*pl. Rejestr Przedsiębiorców Krajowego Rejestru Sądowego*), if required;
- 3) Tax Identification Number (NIP);
- 4) An indication of the type and scope of road transport services, as well as the area of performance of transport services;
- 5) an indication of the period of time for which the licence is supposed to be submitted;
- 6) an indication of the type and number of vehicles which will be used by the entrepreneur for the performance of road transport services;
- 7) an indication of the number of excerpts of the licence.

In addition, the following constitute attachments to the motion for issuing the licence:

- 1) statement (statement of good reputation) of members of the governing body of a legal person, persons managing a general partnership or limited partnership and in case of other entrepreneur – persons conducting business confirming that they:
 - a. have not been convicted with a final judgment of a fiscal criminal offence or of wilful offence against road traffic safety, property, business transactions, reliability of documents, environment or against

- work conditions and wages or other criminal offence having connection with performed profession;
 - b. have not been issued with a final judgment prohibiting performance of business within the field of road transport;
- 2) statement of members of the governing body or person managing transport activity confirming to be a holder of the certificate of professional competence (statement or certificate). According to Road Transport Act, the driver has to be in possession of certificate of professional competence - evidence of formal qualifications and knowledge necessary to take up and pursue economic activities in the area road transport (specify in part I of the Annex 1 to the Regulation (EC) No. 1071/2009 of European Parliament and of the Council of 21st October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator).

The driver has to demonstrate knowledge of certain aspects of following areas:

- a. Civil Law;
 - b. Commercial Law;
 - c. Social Law;
 - d. Fiscal Law;
 - e. Business and financial management of the undertaking;
 - f. Access to the market;
 - g. Technical standards and technical aspects of operation;
 - h. Road safety.
- 3) list of vehicles containing information on brand, type, character/purpose, registration number, VIN number and indication of the type of a legal title thereto;
- 4) documents confirming fulfilment of conditions concerning an appropriate financial situation of an entrepreneur, i.e.:
- EUR 9.000,00 – for the first vehicle;
 - EUR 5.000,00 – for each subsequent vehicle;
- 5) statement confirming that the drivers employed by the entrepreneur or other drivers not employed by the entrepreneur but personally engaged in performing road transport services in his favour were not prohibited from undertaking the activity of passenger transport by car;
- 6) proof of payment of a fee for issuing a licence.

Pursuant to Article 8 sec. 6 of the Road Transport Act, the statements mentioned in items 1)-2) hereinabove are made under penalty of perjury.

Procedures for issuing licences for performance of national road passenger transport by car are considered administrative proceedings. Therefore, general rules specified in the Code of Administrative Procedure of 14th June 1960 apply thereto.

As a result, pursuant to Article 35 of the Code of Administrative Procedure a matter of issuing the licence shall be resolved without unnecessary delay. Resolving a matter requiring investigative proceedings shall take place within one month and resolving of a particularly complicated matter shall take place within no longer than two months.

III.3 Technical requirements applicable to hire cars with driver

There are no specific technical requirements for vehicles used as hired cars.

III.4 Qualitative requirements

In accordance with the provisions of the Road Transport Act, each entrepreneur conducting passenger transport by car needs to meet the following qualitative requirements:

- 1) the person conducting business:
 - a. has not been convicted with a final judgment of a fiscal criminal offence or of wilful offence against road traffic safety, property, business transactions, reliability of documents, environment or against work conditions and wages or other criminal offence having connection with performed profession;
 - b. has not been issued with a final judgment prohibiting performance of business within the field of road transport.
- 2) at least one member of the governing body or person managing transport activity is a holder of the certificate of professional competence;
- 3) the entrepreneur's financial situation allows to establish and pursue a business in the field of road transport;
- 4) the entrepreneur holds a legal right to dispose of the vehicle or vehicles that meet the technical requirements under Polish law.

III.5 Organisational requirements

See s. III. 2

III.6 Passenger rights

Pursuant to Article 14 of the Transport Law Act, each carrier is obliged to provide passengers with favourable safety and hygiene conditions, comfort, and proper service. The carrier is obliged as well to take actions facilitating the use of means of transport by passengers, in particular people with limited mobility and disabled persons.

Articles 777 of the Civil Code provides that a carrier is to be held liable for the luggage which the passenger carries with him only, if the damage resulted from the carrier's intentional fault or gross negligence. A is to be held liable for the luggage he has been entrusted with according to the principles envisaged for the carriage of things.

III.7 Labour rules

See s. II.10. The rules are the same that for taxi sector.

III.8 Local incentives, subsidies provided by the administration in order to carry out certain services (such as mini-van service for people with reduced mobility, elderly, schools)

No specific subsidies have been found.

III.9 Supervisory enforcement tools

See s. II.11

IV. Legal framework applicable to ridesharing and car sharing

IV.1 Current regulations and legislative proposals

Ridesharing, car sharing or intermediaries facilitating ridesharing activities are not regulated by any statutory legal framework in Poland. At the time of writing, , there are no works pending in the Polish parliament aiming to cover the above area with any statutory legal framework.

There are several companies engaged in maintaining online platforms, which allow users to contact one another directly to arrange for ridesharing. BlaBlaCar is the biggest and most significant on the market in this area. However, there are also other entities on the Polish market providing for similar services.

IV.2 National rules applicable to on-line platform and rules applicable to service providers

Service providers are obliged to observe the provisions of law concerning personal data protection contained in the Personal Data Protection Act of 29th August 1997, and of the executive acts thereto.

It is important to recall the opinion of the Ministry of Finance concerning the taxation of ridesharing services.¹³⁵⁸ According to the Ministry, Article 9 of the PIT Act dated 26th July 1991 provides that a personal income tax shall be levied on all kinds of incomes, which means that any income earned by a natural person shall be subject to taxation, unless there is a specific provision which explicitly exempts the income from that levy. Therefore, under the provisions of the PIT Act it should be assumed that drivers occasionally providing other people with free passenger seats in a car to make the journey together, in exchange for sharing the cost of the trip, do not receive taxable income.

The above conclusion applies only to natural persons who do not conduct an economic activity within a scope of providing transportation services and who use a car only for private purposes. In case of offering shared journeys with a company car, which has been entrusted to a person exclusively for purposes other than private use, such activity will be considered a gainful activity and the income gained as a result thereof is subject to taxation.. An income gained as a result of collecting fees exceeding the cost of a shared journey per each passenger is also subject to taxation.

The response of the Ministry mentions that natural persons providing the services of passengers' transport according to terms and conditions indicating that they conduct profit-making activity on their own behalf in an organized and continuous manner, may

¹³⁵⁸ Opinion dated 1st June 2015 of the Polish Minister of Finance, No. 221850.654195.427483, DD2.054.20.2015, in response to the interpellation of a deputy in the Lower Chamber of Polish parliament, Mr. Zbigniew Chmielewecm concerning the Ministry's standpoint on taxation issues connected with the „sharing economy”.

be considered pursuing non-agriculture business and, therefore, may be obliged to individually pay personal income tax according to the provisions of the PIT Act.

The Ministry stated that the carriage of persons performed by natural persons involving websites and mobile applications to match drivers and passengers, shall be deemed as an economic activity for the purposes of taxation if further prerequisites specified in the PIT Act are met.

An assumption that a given natural person that, for instance, lends a car, acts as a taxpayer conducting business within the meaning of the VAT Act, requires verification (individually in a given case) as to whether a given entity meets the economic and organized action principle consisting, e.g. of transport of people. If the level of engagement and the continuity of the lending business are close to that of professional operators, there is the presumption that his type of activity falls under the definition of business within the meaning of the VAT Act.

The Ministry emphasized that services are considered provided "against payment" within the meaning of the VAT Act, if between the service provider and the customer exists a legal relationship, under which mutual performances are exchanged and the remuneration received by the service provider constitutes an actual equivalent of the services provided in favour of the customer. The fact that the services are provided without holding a legally required licence required by the law is of no importance for a given action to be considered subject to VAT.

As a result of the above, the Ministry came to a conclusion that if the prerequisites of conducting business activity are met, activities included within the so-called sharing economy, may, in certain cases, be subject to the tax on goods and services.

IV.3 Main operators and their business models

Currently, the following operators maintain online websites, which facilitate carpooling/car sharing:

- **Comuto SA with its registered office in Paris at Avenue de la République 84, 75011 Paris.** Comuto SA maintains the website **<https://www.blablacar.pl>**. BlaBlaCar is a community marketplace that connects drivers with empty seats to passengers looking for a ride. In order to be able to use the services of BlaBlaCar, each user needs to create a user account and agree to provide personal information requested by BlaBlaCar.
- **owners of www.inonecar.com online service**
The online service **www.inonecar.com** provides services which enable to connect drivers driving to work having empty seats in a car with potential passengers, who also need to get to work.
Inonecar services provides for dedicated platform of joint transport. Inonecar also focuses on providing services to companies and students.
- **owners of jedziemyrazem.pl online service**
The online service **jedziemyrazem.pl** provides services which enable to connect drivers with empty seats in a car with passengers who would like to travel on the same route.

IV.4 Requirements imposed upon non-licensed activities (*safety and technical requirements, insurance requirements, obligations relating to licences, and on-line platforms*)

There are no specific legal regulations concerning carpooling/car sharing in Poland. A driver of a car used for car sharing, as every other driver in Poland, needs to have an insurance against civil liability of holders of vehicles for damages arising out of use of these vehicles required under the provisions of the Act of 22nd May 2003 on compulsory insurance, Insurance Guarantee Fund and Polish Bureau of Motor Insurers.

IV.5 Local incentives, subsidies and other forms of promotion for ridesharing and car sharing (*including parking spots, use of preferential lanes, etc.*)

No specific incentives have been found.

V. Relevant national case law

The Regional Administrative Court of Wrocław, in a ruling dated 17th June 2014, Ref No. III SA/Wr 124/14, stated that the performance of incidental road transport services without licence, which is a statutory requirement to undertake and conduct such business, is subject to the provisions of Article 92a of the Road Transport Act of 6th September 2001, imposing a fine of PLN 8,000.00. Although the driver did not advertise his services or labelled his vehicle as a taxi, the court did not accept the driver's explanations in which he defined his services as a favour to his friends. The court classified such services as road transport services regulated by the Road Transport Act of 6th September 2001.

VI. Country Market

Following the liberalisation of the market, the taxi sector seems quite open and competitive. Prices results among the lowest in Europe and the market is characterized by a large number of players.

New transport players such Uber, Heetch and other foreign companies have entered the market without being particularly "disruptive". Recently, taxi sector called for a reform of the legislation requiring the digital applications acting as agents, such as Uber and iTaxi to obtain a licence under the Road Transport Act. However, the legislative proposal to amend the Road Transport Act remained a draft due to the Parliament's term at the end of 2015.

The taxis market in Poland is often perceived through the situation in Warsaw and other big cities with more than 500,000.00 inhabitants, i.e. Cracow, Łódź, Poznań, Wrocław, Poznań and Tricity (i.e. Gdańsk, Gdynia and Sopot jointly), where the local markets are the most competitive due to the large number of taxi drivers.

There is no direct division of the market provided under provisions of Polish legal acts or case law. However, pursuant to Article 6 sec. 4 of the Road Transport Act, a licence for performance of a road transport by taxi is granted for a particular vehicle and the area covering:

1. particular municipality;
2. area of neighbouring municipalities – after prior conclusion of an agreement between them; and
3. the capital city of Warsaw.

As a result, from a geographical point of view, a dimension of the market of road transport by taxi in Poland is municipal (or in case of specific agreement between municipalities it covers an area of two or more municipalities, which are bound by the agreement).

As mentioned above, performing a road transport by hire car with driver also requires obtaining a licence under the provisions of the Road Transport, however the licence is different than in case of performance of the road transport by taxi. It resulted that some drivers decided to perform such road transport without the required licence.

The licence issued for the national road transport by car or by car which is structurally designed to transport more than 7 and no more than 9 persons including the driver authorises to performance of the road transport on the entire territory of Poland. As a result, the market is not geographically separated. However, the service of road transport by hire car with driver also tends to focus on the cities and it is the most competitive there. This applies, in particular, to road transport by hire car performed by drivers co-operating with such companies as Uber, which it mainly takes place on the same short distances performed by taxis.

The hire car with driver's service entered in direct competition with the taxi services after the arrival in Polish market of companies like Uber.

In the service of performance of road transport by hire cars with drivers, classified as incidental transportation, which rather refers to limousine services for ceremonies or other incidental transportation, should be considered as a separate segment from the hire car with driver's service facilitated by intermediaries such as Uber, etc.

With respect to ridesharing, car sharing and carpooling there is no statutory legal framework in Poland and no relevant case law. The biggest player on this market is BlaBlaCar. In most instances the ridesharing, car sharing and carpooling market is of the national scope of operation as the most transports take place between different cities in Poland.

However, some of the online platform providers enabling searching car sharing/ridesharing/carpooling connections offer also the possibility of searching connections between different places in the same city in addition to searching connections between different cities in Poland, for instance jedziemyrazem.pl offers the possibility of searching both types of connections.

In addition, www.inonecar.com platform provides services which enable to connect drivers driving to work having empty seats in a car with potential passengers and therefore it is rather focused on connections within cities.

VII. Market players

- **Taxis**

According to the Ministry of Infrastructure and Construction, the major operators in the market for taxi are: Eco-Car, City Taxi, Halo Taxi, Super Taxi, Sawa Taxi, Bayer Taxi, MPT Taxi.¹³⁵⁹ The majority has web application to order taxis, they provide street service, pre-booked and also corporate accounts which are paid upon invoice. They provide premium services with luxury vehicles especially in the largest cities and accept the major credit cards. EcoCar provides only low impact vehicles.

- **Taxi intermediaries**

Major web applications are iTaxi and Mytaxi. **iTaxi**¹³⁶⁰ is a Polish application (in English), active in the majority of the Polish cities, to order a taxi, but the customer may choose the taxi he prefers. The application offer different taxi driver with different vehicles with the different applicable fares for the same journey, and the customer may order the one he prefers. Once the taxi has been ordered, the customer may follow the arrival on its smartphone.

- **Ridesharing**

The major player in the market for ridesharing is **Uber**. UberPOP is currently available in 8 cities in Poland (Warsaw since 2014, Krakow, Poznan, Wroclaw, Tricity area since 2015).

Heetch decided to open in Poland in 2016 after UberPOP was present in Warsaw. The Ministry of Infrastructure issued guidelines on UberPoP (see s. IX).

VIII. Barriers, limitations, incentives

In Poland, barriers to enter the hire transport market are low. There are no quantitative restrictions for taxi licences or for hire car with driver. The state exam was abolished on 1 January 2016. Only big cities, such as Warsaw, require following a course aiming at confirming the applicant's knowledge of the city topography and local regulations. The applicant must also sit a final exam after completing the training. Cities have set maximum prices per kilometre as well as the basic fare, but no minimum price exists. Under these conditions, many taxi providers compete on price.

¹³⁵⁹ http://www.hallotaxi.gda.pl/about_us.html; <http://www.ecocar.pl/>; <http://www.citytaxi.szczecin.pl/>.

¹³⁶⁰ <https://itaxi.pl/english/>.

As clarified by the Ministry of Infrastructure and Construction in its reply to the consultation, in Poland there is no such service as hire a car with driver. Nonetheless, such service can be carried out on an occasional basis by car and motor vehicles that are structurally designed to carry between 7 and 9 persons including the driver.

According to one respondent to the consultation, this provision limits the number of potential market entrants. If the driver's car meets these technical requirements, a contract has to be signed before the start of the journey at the premises of the driver's registered business address. The contract must specify the pickup and destination points, as well as the agreed flat fare cost. Therefore, drivers cannot transport people occasionally without a licence if their vehicle is not able to transport at least 7 persons.

With regard to the hire car with driver service, the financial standing may represent an obstacle. This amounts to EUR 9,000 for the first vehicle and EUR 5,000 for each additional vehicle. According to one respondent to the market enquiry, the hire transport sector would develop better if drivers had access to the tax card reconciliation scheme provided for small entrepreneurs, including taxi sector entrepreneurs. Under this tax regime, small entrepreneurs pay a single amount irrespective of the level of their income. This is beneficial for entrepreneurs who run one business activity only in small localities and who expect to have no tax-deductible costs or tax reliefs for the purpose of tax calculation. The list of professionals that can use this framework does not include hire transport drivers. This may reduce their ability to make their business more efficient.

With regard to web applications providing intermediation services, one difficulty is due to the fact that, in Poland, income deriving from any business activity, including hire transport and taxis activities must be recorded in a fiscal cash register and a receipt or invoice must be provided to the customer at the moment of delivery of the product/service. Web applications' cashless systems and tracking of rides provide similar services; however, as no physical transaction takes place in the car, the affiliated driver must keep a double record of the services provided. This adds a further complication to the driver's work.

IX. Capacity, growth, impact

In Poland, the number of taxi drivers constantly increases due to the liberalisation of the passenger transport by taxi and the abolition of the state course and exam. At the end of 2013, the total number of licenced taxi in Warsaw amounted to 9,954. In 2014, the aforementioned amount increased to 10,475 and, at the end of 2015, the total number of licenced taxis in Warsaw amounted to 11,079. The prices of passenger transport by taxi in Warsaw are the lowest among the EU capital cities, except Sofia and Bucharest.

The Ministry of Infrastructure and Construction clarified that an entrepreneur can have more than one licence for taxi but only one licence for car or motor vehicle structurally designed to carry between 7 and 9 persons.

In reply to the consultation, the Ministry of Infrastructure and Construction has provided the following data regarding the number of valid taxi licences at national level:

2010 - about 63 000 licences
 2011 - about 62 000 licences
 2012 - about 61 000 licences
 2013 - about 59 600 licences
 2014 - about 61 300 licences
 2015 - about 62 000 licences

Licences for hire car services with driver are presented in the table below (data includes approximate values):

	Licences for car	Copies of licences for car	Licences for motor vehicle structurally designed to carry more than 7 and no more than 9 persons including the driver	Copies of licences for motor vehicle structurally designed to carry more than 7 and no more than 9 persons including the driver
2015	500	1 400	900	2 100
2014	500	1 400	800	1 800
2013	30	50	100	170

With regard to ridesharing operators, Uber confirmed through the press that *"in the first year on the market, when we launched services in five cities, we had a faster growth rate than London, Paris, Amsterdam and Stockholm in our first year of operations"*.¹³⁶¹

With regard to the impact of the arrival on the Polish market of ridesharing intermediaries, the National Competition Authority (UOKiK) has considered, in a recent opinion, that Uber's entry contributes to the development of competition on the local passenger transportation service markets, with a positive impact on consumers. For consumers, the emergence of a new carrier means wider choice, while for other market players represents a challenge to raise the quality and innovation of their services.

According to the UOKiK, Uber's model is not misleading, since consumers are sufficiently made aware on Uber's website of the nature of Uber's activity and of the fact that the use of the services via Uber's platform is not the same as taxis. The company is not considered to provide a low level of protection against abuses as the fare is calculated according to a transparent system of rates and objective parameters, and the consumer may have an estimate fare option. The complaints procedure is treated in a comprehensive way by a back office. UOKiK observes that, at the date of the opinion (5 May 2016), it had not received any consumer-related complaint about Uber.. With regard to complaints from other drivers concerning the fact that Uber drivers do not pay income taxes or social contributions, the Authority recalled the position of the Ministry of Finance that personal income generated by transportation services provided using the application is subject to personal income tax according to the rules laid down by the Personal Income Tax Act 1991.¹³⁶²

¹³⁶¹ <http://www.thenews.pl/1/12/Artykul/244235,Uber-planning-expansion-in-Poland.>

¹³⁶² https://www.uokik.gov.pl/komentarze_wyjasnienia_i_stanowiska.php?news_id=12354.

X. Results

The country-wide system has been gradually liberalised since 2001, when the licence quotas were eliminated. Meanwhile, however, the national legislator made a lot of efforts to effectively curb the phenomenon of unlicensed entrepreneurs offering "carriage of persons" (imitating licensed taxis -- a popular practice especially in Warsaw). The liberalisation pursued the idea that the removal to the quantitative restrictions would have prevented further circumvention of laws. The taxi market liberalisation was part of a wave of general liberalisation of dozens of professions in Poland initiated in 2012. In the context of the liberalisation, the exams for prospective cab drivers covering topography of the cities were to be eliminated [all over the country. This made perfect sense in the current era of GPS and of technological achievements. This would confine the Polish cab licensing system to a pure formality limited to verifying the entrepreneurs' and drivers' criminal records, the drivers' physical ability to work pursuant to a medical examination as well as the preliminary technical inspection of vehicles".¹³⁶³

The main results concerning the Polish hire transport market are discussed under the main market analysis in Chapter III on the basis of Eurostat data. However, the data provided by the Ministry of Infrastructure and Construction shows a similar average number of valid taxi licences over the 2010-2015 period, i.e. around 61,400 licenses over 6 years. Instead, licenses for hire car with drivers have substantially increased, i.e. from 30 licences issued in 2013 to 500 licences issued in 2014 and 2015. The arrival of Uber on the Polish market may explain this increase.

Finally, as indicated above, we have observed that the extremely competitive Polish market has attracted other players such as Heetch and Wundercar. Uber has confirmed, during the consultation that, with regard to UberPop, the reception of from authorities has been relatively positive at both local and national levels.

XI. Conclusions

The removal of quantitative access barriers to the Polish market has contributed to the rapid growth of the taxi and hired cars' services. Access to these activities requires a licence based on qualitative criteria. Recent competition between various service providers has favoured lower prices. The legislative framework seems favourable to the development of innovative services, including ridesharing. This has prompted various non-Polish operators to move their intermediation activities in Poland. As considered by the National Competition Authority, the emergence of these players in the Polish market contributes to the development of competition among these services and has a positive impact on consumers.¹³⁶⁴

Bibliography

¹³⁶³ J. Górski, Liberalization and Deregulation of Taxi Market in Warsaw, Poland (2014).

¹³⁶⁴ Statement of UOKiK of 5 May 2016, courtesy translation by Mlex.

1. https://www.uokik.gov.pl/komentarze_wyjasnienia_i_stanowiska.php?news_id=12354.
2. <http://kluwercompetitionlawblog.com/2016/05/17/polish-competition-authority-declares-that-uber-does-not-pose-a-threat-to-competition-and-protection-of-consumer-interests/>.
3. Jędrzej Górski, Liberalization and Deregulation of Taxi Market in Warsaw, Poland (2014).

22. PORTUGAL

General legal framework

The Law of Road Transport No 10/1990 regulates the activity of passengers transport with light carriers.¹³⁶⁵ The transport of passengers by road with light vehicles may be performed by taxis, touristic vehicles or by hire cars with drivers as an activity ancillary to car rental. Decree Law 251/98, August 11, as amended,¹³⁶⁶ regulated the taxi activity establishing rules with regard to the access to market, its organisation as well as enforcement mechanisms and penalty regime. Law 5/2013 lays down rules on driver's access to the activity. The government is currently planning to revise and update the legislation to respond to technological changes.

Taxis

The Decree-Law 251/98 of 11 August¹³⁶⁷ is the general national regulation applying to taxi transport. Article 3 of the Decree-Law establishes that the taxi transport activity can only be carried out by commercial companies or cooperatives licensed by the *Direcção-Geral de Transportes Terrestres* (DGT) or by self-employed. The commercial companies or cooperatives may hold multiple licences while self-employed drivers may only hold one licence.

Licences

The Decree-Law establishes the procedure to obtain the taxi licence. Taxi drivers are required to hold a Professional Certificate (*Certificado de Aptidão Profissional*) that is valid for 5-years. The public entities that provide this certificate are IMT; the Regional Authorities for Transport and Mobility (*Direcções Regionais de Mobilidade e Transportes*); and *Câmaras Municipais*, i.e., the City Governments or the local councils in each municipality. Article 4 of Decree Law 263/98¹³⁶⁸ lists the necessary requirements in order to obtain the CAP: capability; age between 18 and 65; basic education; proficiency in Portuguese; and driving licence. Since 2013, the capacity to manage a business is required.¹³⁶⁹

Local regulation

Municipalities are competent at local level for the procedure of determining the number of taxis (taxis' licences), criteria the taxis' fleet and for regulating the taxi stands. Regarding the city of Lisbon, according to Municipal Bulletin No. 463 of 2 January 2003;¹³⁷⁰ the procedure for issuing licences for taxi consists of an open tender set by a resolution of the City Council. The Municipality starts an open tender when there is the need to increase the number of taxi licences. In Lisbon, the maximum number of licensed taxis is set at 3,550 and the number of taxis for people with reduced mobility is set at 50.

Organisational and technical requirements

The organizational requirements are regulated by Article 3 of the Decree Law 251/98 amended by the Law 5/2013. Article 3 establishes that the taxi activity can only be carried out by commercial companies, cooperatives companies or by the self-employed. The service providers must have financial means (a reserve of EUR 1,000 per each licensed vehicle) and technical capacity. After 2013, they were also required to prove to be able to manage a business. Technical requirements are regulated by the Order 134/2010¹³⁷¹ which lists the specific requirements referred to all taxis: taximeters, visual devices, and ID badges. A visual device must be placed in front of the roof, in a visible position, and visible from the front and rear of the vehicle.

Vehicles that provide taxi services are also subject to a mandatory periodic inspection regime which is more demanding than that for other vehicles.

¹³⁶⁵ Law 10/1990 of the 17 March, Framework Law on Road Transport (*Lei 10/90 de 17 de Março Lei de Bases do Sistema de Transportes Terrestres*).

¹³⁶⁶ By-Law no. 251/98, August 11, amended by Law no. 159/99, September 19, by Law no. 106/2001, August 31, by By-Law no. 41/2003, March 11, by By-Law no. 4/2004, January 6 and by Law no. 5/2013, January 22.

¹³⁶⁷ amended by the Law no. 156/2009 of 19 September, Law no. 106/2001 of 31 August, Decree Law 41/2003 of 11 March.

¹³⁶⁸ Decreto Lei No. 263/98 de 19 de Agosto.

¹³⁶⁹ Law 5/2013 of 22 January on the simplification to the access of the transport activity.

¹³⁷⁰ Boletim Municipal nº 463, de 2 de Janeiro de 2003.

¹³⁷¹ Portaria No. 134/2010 de 2 de Março.

Fares

Taxi fares in Portugal are regulated by the Ministry of Economy and Labour which periodically publishes the fares applicable to the taxi service. The current fares are regulated by a convention¹³⁷² between the Ministry of Economy and Labour, ANTRAL (*Associação nacional dos transportadores rodoviários em automóveis ligeiros*) and the Portuguese Taxi Federation (F.P.T). The last revision was made in 2012 and the convention came into force on the 1 January 2013.

Passengerrights

Passenger rights stem from the taxis' obligations listed in Article 2 of Law 5/2013 of 22 January, including accepting passengers, providing the requested service, and helping people with reduced mobility.

Labour rules

There are no specific provisions applying to the taxi sector under labour legislation. Regular term contract or open-ended contract rules apply. The Labour Code¹³⁷³ regulates term contracts in Article 141 and open-ended contracts are regulated by Article 147. Article 230 of the Commercial code (*Código comercial de Portugal*) defines and regulates self-employment status. The Decree Law 42-422 of 27 June 1962¹³⁷⁴ applies to self-employed taxi drivers operating in Lisbon and Porto. This Decree provides a general regime for the self-employee in transport services.

Enforcement

Chapter 6 of the Decree Law 251/98 amended by the Decree Law 41/2003 sets the rules regarding the supervisory enforcement tools. Article 25 establishes that the competent authority for supervision and enforcement of the taxi rules are: DGTT, *Inspecção-Geral das Obras Públicas, Transportes e Comunicações*, the municipal halls, *Guarda Nacional Republicana and Polícia de Segurança Pública*. The Decree lists the various infringements (exercising the activity without the licence, failing to comply with the duty of information; failing to show the taxi licence during a check) and the amount of the fines that may be imposed.

Airports

No special licences are required for the airport service. However, if the airport is in another municipality, as in the case of Porto, taxis from Porto city may not pick up passengers and the airport.

Hire cars with driver

For the hire car with driver there is no specific regulation applying since article 23 of the Decree Law 251/98 provides that the same rules regarding the access to the profession and the need to hold a professional certificate are also applicable to the drivers of vehicles without badge and touristic vehicles. Article 23 provides that the organisational equipment for hire cars should have been introduced by a decree, which was not adopted. The service is performed by Taxis T, Taxis A and rental car companies. Such vehicles are equipped with taximeters and meet all the technical requirements for taxis. A particular type of hire transport service is provided by touristic drivers defined as professionals that carry both nationals and foreign tourists by vehicles with a capacity of up to 9 passengers that give historical, cultural and general information to the passengers. Such kind of service must comply with the taxi requirements as established by the general Decree Law.

Ridesharing

Concerning ridesharing, there is no regulation or regulatory proposal that applies to drivers or intermediary services.

Market analysis

Taxis and hire vehicles with drivers are in competition in the pre-booked market. However, few licences are issued for taxis T and A, due to the lack of the decree that should have regulated the organisation of the service. Based on data contained in a study prepared by the FPT (*Federação Portuguesa do Táxi*), there are 11,024 taxi vehicles and 9,300 entrepreneurs operating in Portugal. These data show that the market is mostly composed of micro-companies with one or two registered vehicles and with a total of 26,000 drivers.

¹³⁷² http://www.antral.pt/resources/494586e0963bd345908f7680672376af/qeral/tabela_de_precos_2013.pdf.

¹³⁷³ Lei No. 7/2009, de 12 de Fevereiro.

¹³⁷⁴ Decreto Lei No. 42 422 de 27 de Junho de 1962.

Barriers to entry, limitations, incentives

Barriers to entry are both qualitative and quantitative: the number of taxis is limited by the municipalities and in order to be granted a licence, the applicant must hold a professional certificate and satisfy capability, knowledge, linguistic and age requirements. Licenses for access to the activity (operators' licenses) are non-transferable. Vehicle licenses (access to the market) are tradable under market conditions (*i.e.* prices vary according to its geographical coverage/territorial areas, demand, etc.).¹³⁷⁵ A recent report of the Portuguese National Competition Authorities proposes to reduce the barriers to access the market, especially the local maximum number which constitutes a geographical restriction. Concerning the fares, the Portuguese Competition Authority considers that, despite increased transparency in the market, the pricing regime limits the ability of each market player to compete on price and quality. This restriction is significant considering the development of new business models, as taxi service providers are prevented from reacting to the entry of new players in the market (e.g., through new pricing or quality strategies). For the use of car sharing vehicles, in Lisbon there is the possibility to use parking spots for free. Based on information provided by stakeholders, it appears that the reason why no licences for hire cars with drivers have been issued since 1998 is the legal uncertainty related to the fact that there are no specific rules regulating such services.¹³⁷⁶

Growth, capacity, impact

Services like Uber X, even when carried out by hire cars with driver services or professional taxi drivers, have been considered by the Court as an illegal transport service.¹³⁷⁷ Intermediaries for taxi services are available and the largest are developing tailor-made services. According to the Portuguese Competition Authority, the removal of the quantitative restriction would increase the supply, reduce the waiting times and costs for users. According to the Authority, the value of the taxi market in Lisbon is between EUR 3,5 and 5,9 million per year not including the loss of benefits deriving to consumers from the lack of competition.

Conclusions

The Portuguese taxi market is characterized by quantitative restrictions to access the market and by fare regulation. The hire transport is dominated by taxis (*i.e.* there are few alternative service providers such as hire cars with drivers) due to the uncertainty related to the licences. Intermediaries are starting to develop but mainly in relation to the taxi sector. The Portuguese Competition Authority has recently proposed to remove or relax the barriers in order to increase the competition of the sector and to bring benefits to consumers.

I. Introduction

In Portugal, the taxi service must meet the uniform requirements established by the Government but local authorities regulate the access to market. In the autonomous regions of the Azores and Madeira, these requirements may have undergone some changes established by the organs of self-government of the regions.

Portugal has also witnessed the emergence of innovative mobility services based on electronic platforms and mobile applications, like Uber (in Portugal since July 2014). The ease of use of such technologies and the comparatively lower fares generated considerable sympathy among users. It gave rise, however, to strong opposition from taxi service providers (associations, operators and drivers). Again, as in other countries, an action against Uber was filed by one of the largest and most representative taxi associations (ANTRAL), obtaining a court ruling which prevented Uber from operating nationwide in April 2015¹³⁷⁸ (see s. V).

¹³⁷⁵ Reply to the stakeholder consultation.

¹³⁷⁶ Information provided by Antral (Autoridade Nacional Transporte Rodoviário).

¹³⁷⁷ Precautionary procedure n. 7730/15.0T8LSB the Court of Lisbon on 23 April 2015.

¹³⁷⁸ Reply to the stakeholder consultation by the Institute of Mobility Portugal (IMT).

Portugal requested the International Transport Forum (ITF) to carry out a Case Specific Policy Analysis Project, entitled "Review of the Legislation and Regulatory Framework for Taxi and for-hire transport services". This study provides input for the ongoing policy-making process to possibly revise regulations that were developed before the arrival of new app-enabled demand-responsive mobility services and platforms. The sample of the analysed states is centred on jurisdictions where there are currently tensions between incumbents and market entrants following the introduction of app-based, demand-responsive mobility services.¹³⁷⁹

On 20 July 2016, the Portuguese National Competition Authority published a report on the regulation of passenger transport services in which: it sets out regulatory rules; analyses the constraints of such rules on competition in the market; and issues recommendations.¹³⁸⁰ It has also launched a public consultation on the report.

II. National regulations

The legal framework in force - Decree Law 251/98, August 11, as amended¹³⁸¹ (hereinafter Decree-Law 251/98 as amended) - establishes rules concerning the access to the activity, the organisation of hire transport market as well as the enforcement mechanisms and penalty regime, while Law 5/2013, January 22, (hereinafter Law 5/2013) lays down rules on driver's access to the activity.

The Decree-Law 251/98 primarily regulates the access to the taxi activity providing that for other categories, such as touristic vehicles and vehicles without a badge, the access to the profession is the same but the access to market required a separate decree.

Article 2 of the Decree-Law 251/98 provides for the definition of taxi as "light motor passengers' vehicle" assigned to the public transport of passengers, equipped with a machine to measure time and distance (taximeter) and with its own distinctive signs (Article 2(a)). Taxi transfers means the transport performed by the vehicle referred to in point a), at service of a single entity, according to an itinerary of its choice and for consideration (Article 2(b)). Taxi operator means the qualified company licensed for the activity of transport by taxi (Article 2(c)).

Article 3 of the Decree-Law 251/98 establishes that the taxi transport activity can only be carried out by commercial companies or cooperatives licensed by the *Direcção-Geral de Transportes Terrestres* (DGTT) or by self-employed drivers. The licence is valid for five years and is renewable proven that the requirements are maintained.

Article 4 lists the requirements to exercise the taxi transport activity (see s. II.7).

¹³⁷⁹ <http://www.itf-oecd.org/sites/default/files/docs/regulation-for-hire-passenger-portugal.pdf>

¹³⁸⁰ Consulta pública ao Relatório Preliminar sobre Concorrência e Regulação no Transporte de Passageiros em Veículos Ligeiros, http://www.concorrencia.pt/vPT/Noticias_Eventos/ConsultasPublicas/Paginas/Consulta-p%C3%BAblica-ao-Relat%C3%B3rio-Preliminar-sobre-Concorr%C3%Aancia-e-Regula%C3%A7%C3%A3o-no-Transporte-de-Passageiros-em-Ve%C3%ADculos-Ligeiros-.aspx.

¹³⁸¹ By-Law no. 251/98, August 11, amended by Law no. 159/99, September 19, by Law no. 106/2001, August 31, by By-Law no. 41/2003, march 11, by By-Law no. 4/2004, January 6 and by Law no. 5/2013, January 22.

The Decree Law 251/98 transfers the relevant powers to regulate the access to market to the municipalities, including the market organization and licensing of vehicles.

Competencies over “Taxis” are thus divided between national and local authorities. While access to the activity (licensing of operators) is dealt with at national level, access to the market (licensing of vehicles) and the market organization fall under the competency of municipalities. Therefore, the hire transport is regulated at two levels:

- National level (IMT) – licensing of operators.
- Local level (municipalities) – licensing of vehicles and market organisation.

As mentioned above, municipalities have also the responsibility to act as organising authorities - establishing, within their territorial jurisdictions, quotas for taxi services, parking regimes, special regimes (such as those for people with reduced mobility), and the setting of the enforcement bodies.

Whereas access to the activity (licensing of operators) has no quantitative restrictions, there are restrictions on the number of taxis allowed to operate within a given municipality (taxi licences). The quota is established by each municipality and it takes into account the global needs as regards taxi transport in a given municipal area. A licensed operator which is a self-employed may hold only one taxi licence while commercial companies may hold more taxi licences.

According to Article 3(2) of the Decree-Law 251/98, the operator licence is personal and not transferable, while the taxi licence is transferable.

II.2 Local/municipal regulations

Municipalities are competent at local level for the procedure of issuing the vehicles’ licences, for the taxis’ fleet and for establishing rules concerning the taxi stands.

With regards to the city of Lisbon, according to the Municipal Bulletin No. 463, of 2 January 2003,¹³⁸² the procedure for issuing licenses for taxi consists in an open tender set by a resolution of the City Council. The Municipality starts an open tender when there is the need to increase the number of taxi licences. Commercial Companies, cooperatives and entrepreneurs that fulfils the financial requirements can apply to obtain the licence to exercise the taxi transport activity proving they comply with the tax and social security obligations. After the application, the Municipality issues the licences taking into account the following criteria:

1. The place where the office is registered;
2. Number of years without applying to the tender;
3. Number of years of activity;
4. Number of years where the office is registered inside the Municipality.

Municipalities are competent for the renewal of the licences. They are also competent for issuing special licences for transportation of people with reduced mobility and to set the rules concerning the taxi stands.

¹³⁸² Boletim Municipal nº 463, de 2 de janeiro de 2003.

Pursuant to the Municipal Communication of 14 July 1992¹³⁸³ (*Despacho Municipio de Lisboa*), the municipal taxi fleet is organized as follows:

- Up to 3,550 taxi vehicles can be licenced;
- Up to 50 taxis for people with reduced mobility can be licenced.

According to the Report of the Portuguese Competition Authority, the number of taxi licences in Lisbon is unchanged since 1992 and only 3447 licences were issued. With regard to the remaining 103, the Municipality has clearly stated that it does not intend to publish the tender to assign them in order, among other reasons, not to reduce the profitability of the sector which has been strongly affected by the economic crisis.¹³⁸⁴

II.3 Procedures for issuing licences and applicable criteria

II.3.1 Access to the activity (operator's licence)

According to Decree-Law 263/98 (as amended by the Decree Law 298/2003) which regulated the conditions for access to activity for passengers' transport with "light" vehicles, one of the conditions in order to exercise the taxi activity is to obtain a certificate of suitability (*certificação da aptidão profissional, CAP*).

The CAP can be obtained in three ways:

1. With the professional training;
2. Both with professional experience and professional training;
3. Recognition of the qualification obtained abroad.

In order to exercise the taxi transport activity, the licensing authority must first verify that the general and special requirements are fulfilled¹³⁸⁵ (see s. II.5).

II.3.2 Access to market (taxi licence)

According to Article 14 of the Decree-Law 251/98, municipalities issue the vehicle's licence after an open tender defined by Regulatory Decree of the Municipality. Article 13 of the Decree Law 251/98, provides that the decision concerning the cap of vehicles is taken by the municipality in agreement with the taxi professional association.

Article 16 provides that the municipality may decide how the taxi may park on the street in quest for clients, including free park, fixed stands, or in fixed stands which are indicated on the licence, or sequential shifts (*escala*) where the taxis are obliged to provide consequential rides.

¹³⁸³ Diário da República, Terça-feira, 14 de Julho 1992 No. 160 II Série.

¹³⁸⁴ Consulta pública ao Relatório Preliminar sobre Concorrência e Regulação no Transporte de Passageiros em Veículos Ligeiros, para 57, p. 12.

¹³⁸⁵ Decreto-Lei n.º 263/98, de 19 de Agosto, alterado e republicado pelo Decreto-Lei n.º 298/2003, de 21 de Novembro e Portaria n.º 788/98, de 21 de Setembro, amended by the Portaria n.º 121/2004, de 3 de Fevereiro (Anex 1 and 2).

Article 2 of the Decree-Law 263/98 amended by Decree-Law 6/2003 provides that the taxi driver must hold a certificate proving his suitability to exercise such activity. The driver can obtain the certificate with a special authorisation. Article 12 establishes that the competent authorities for the issuance of such certificates are the municipalities, while the DGTT is responsible for the registration of the certificates.

For the access to the market and in order to participate to the public tender, the Law 5/2013¹³⁸⁶ simplifying the access to the market for the taxi operators requires the financial standing, which has been set in EUR 1,000 per vehicle. Moreover, the applicant must prove some knowledge of business management.

Taxi licenses are tradeable under market conditions (*i.e.* prices vary according to its geographical coverage/territorial areas, demand, etc.).¹³⁸⁷ In Lisbon, the price of the transfer is around EUR 100,000.

Fees for taxi licenses:¹³⁸⁸

In EUR	1980	1998	2003	2010
New application	EUR 0,50	EUR 75	EUR 75	EUR 90
Renewal of application		-----	EUR 55	EUR 70
Issue of certified copy	EUR 15	EUR 12,	EUR 15	EUR 20

As to vehicles licenses (access to the market):

	EUR /vehicle
Lisbon	371,60
Oporto	706,84
Coimbra	120,00

II.4 Technical requirements applicable to licensed vehicles (*taximeters, vehicles' technical specifications, accessibility, insurance, maintenance*)

Technical requirements are regulated by the ordinance no. 134/2010¹³⁸⁹ which amends the ordinance no. 277-A/99.

¹³⁸⁶ Lei No 5/2013 de 22 de Janeiro.

¹³⁸⁷ Reply of IMT, I.P. to the stakeholder consultation.

¹³⁸⁸ Information provided by the Portuguese Competition Authority (Autoridade da Concorrência).

¹³⁸⁹ Portaria No. 134/2010 de 2 de Março.

Article 1 of the ordinance lists the specific requirements referred to all taxis. Such requirements are: taximeters, visual device, ID badge.

The same article lists a series of particular requirements applicable for the taxi vehicles. Such special requirements are:

- Closed frame;
- Minimum distance of 2.5 meters between axes;
- Minimum of four doors, two of them on the right side;
- Up to 9 persons capacity including the driver;
- Vehicle painted in beige or sea-green and black corresponding, in the latter case, sea-green to the upper half of the vehicle and the black to the bottom half;
- The age of the vehicle cannot exceed 12 years from the date of registration.

Article 2 of the ordinance establishes that the visual device and the same device identifying the fare is regulated by the Annex I of the ordinance, such device must be placed in front of the roof, in a visible position, visible from the front and rear of the vehicle. The device must works under the following conditions:

- The elements identifying "Taxi" and the Council must be illuminated when the taxi is working and turned off when the taxi is not working;
- The screen identifying the fare or the contract service or the route service must be illuminated when the taxi is busy, during the payment or when it's available for service;
- The screen identifying the practiced tariff could be used in case of emergency displaying the "SOS" message;
- When the vehicle is parked in the specific taxi lot the display may be turned off;
- When the vehicle is circulating with the display off it means that the taxi is not in service;
- Taxis can only install devices certified by the "*Instituto Português da Qualidade*".

Article 3 regulates the taxi licence badge; such badge must follow the standards and design established in the Annex II of the ordinance. The badge must be placed in the front and rear windscreen of the vehicle.

Article 4 establishes that the label indicating the standard of the taximeter must be placed on the top right of the front windscreen of the vehicle after each annual inspection.

Having regard to the taximeter, Article 11 of the Decree-Law 251/98 establishes that the verification and homologation is carried out by the body in charge for the metrological control for measuring device of distance and time.

The taximeter has to be placed on the top of the dashboard visible to the passenger and the receipt of the periodical check of the taximeter must be visible (art. 4 of the Order 277-A/99).

Article 30 of the Road Code¹³⁹⁰ (*RCE/Despacho 15680/02*) compels the owner of the taxi vehicle to install a fire extinguisher. The specifics of the fire extinguisher are defined in the same article. The owner of the taxi must have a spare wheel.

Article 5 regulates the advertising on the taxi vehicles. The advertising must be displayed only on the vehicle's frame and in a way that does not obstruct the driver's visual. Article 2 of the Law no. 6/98 defines the rules regarding the safety devices. For the licence of the vehicle, it is required to install at least one of these kinds of devices:

- Radio device connected with security forces;
- Separator between the driver and the passengers;
- SOS device;
- GPS or SOS radio.

It is also possible to install a video surveillance system inside the vehicle; such system must comply with the privacy rules defined by the same article.

Article 4 of the Decree Law 291/2007 of 21 August¹³⁹¹ amended by the Decree Law 153/2008 of 6 August obliges all drivers to be covered by insurance for the reparation of bodily injury or property damage caused to third parties by a motor land vehicle.

Article 80 of the above regulation establishes that the taxi driver must prove to be covered by insurance before being able to receive the licence for the vehicle. Private drivers must also be insured for accidents at work. The obligation to have this insurance is provided by the Decree 159/99 of 11 May for self-employers.

II.5. Qualitative requirements (*fitness of the driver, knowledge and skills required, drivers' training*)

Article 4 of Decree-Law 263/98¹³⁹² lists the necessary requirements in order to obtain the CAP. The point 1 of the article lists the general requirements:

- Capability;
- Age between 18 and 65;
- Basic education;
- Proficiency in Portuguese;
- Driving licence.

According to the Ordinance No. 251-A/2015,¹³⁹³ taxi drivers must follow an initial training course in order to obtain the licence.

¹³⁹⁰ Regulamento Código da Estrada, Decreto n.º 39 987, de 22 de Dezembro de 1954.

¹³⁹¹ Decreto Lei No. 291/97 de 21 de Agosto.

¹³⁹² Decreto Lei No. 263/98 de 19 de Agosto.

¹³⁹³ Portaria No. 251-A/2015.

The first training course is defined by Art. 3 of the above mentioned Ordinance. Such training course has duration of 125 hours divided into practical and theoretical parts. Annex I of the Order provides all the details concerning the structure of such training course.

Article 4 of the Order provides that the taxi driver must attend a periodic training course aiming to update the skills and required qualifications of the driver. It is established for a minimum time of 25 hours of such training. The details of such periodic training are defined by Annex II of the Order.

Qualitative requirements are also established in Law No. 6/2013.¹³⁹⁴ Article 3 of this law points out that to exercise the taxi driver profession the driver must have a specific certificate (*Certificado de motorista de taxi, CMT*) which proves that the owner has the necessary training. The CMT certificate is emitted by the IMT, I.P. (*Instituto da Mobilidade e do Transporte, I.P.*).

Article 5 of the Law 5/2013 establishes the necessary requirements to obtain the CMT. Such requirements are:

- Driving licence;
- Not be considered as unsuitable;
- Basic education;
- Successfully pass the specific exam (established in article 12)
- Proficiency in Portuguese.

Article 12 establishes that, in order to obtain the CMT, the applicant must previously pass an exam after attending an initial course. Such exam is regulated by a specific Decree-Law.

II.6 Organizational requirements (*dispatch affiliation centre, minimum service*)

The organizational requirements are regulated by the Decree-Law 251/98 in Chapter 3 amended by the Law 5/2013 of 22 January. Article 3 establishes that the taxi activity can only be carried out by commercial or cooperatives companies licenced by the DGTT or by self-employed holding a specific licence. Such licence is valid for five years and is renewable.

The applicant for the operator's licence must prove to have the professional capacity, which means to have the capacity and the knowledge to perform the activity (Article 6).

There are fixed costs that a single taxi owner will have to incur when starting his/her own company. The table below provides an estimate of the current fixed costs:¹³⁹⁵

Required equity per vehicle	EUR 1000
-----------------------------	----------

¹³⁹⁴ Lei No. 6/2013 de 22 de Janeiro.

¹³⁹⁵ Information provided by the Portuguese Competition Authority (Autoridade da Concorrência).

Firm's licence, valid for a 5-year period, granted by IMT)	EUR 90
35 hour basic training, provided by ANTRAL, among others)	EUR 800
Driver's certificate, valid for a 5-year period, granted by IMT)	EUR 30
Vehicle's licence, granted by IMT)	EUR 20
To be admitted to public tender process run by Municipal authority	EUR 15
Operating licence granted by the Municipal/City authority to one vehicle (if available)	EUR 371
TOTAL	EUR 2,326

II.7. Fares (*criteria for taxi fare setting, authority/body in charge of setting the tariffs, maximum tariffs and/or fixed tariffs, composition of the tariff and tariffs adjustment mechanism [minimum charge, additional charge for using the radio taxi or dispatch centre, increase of the tariff during certain hours, such as at night or on certain journeys, such as towards airports, reductions for certain categories, such as elderly people]*)

According to Article 15 of the Decree-Law 251/1998, provides that the transportation service by taxi must be provided on the basis of the distance travelled and waiting times: a) for time, depending on length of service; b) for distance, on the basis of the price establish for certain routes; c) on the basis of a pre agreed contract, for a period not less than 30 days, which must contain the term of the contract, the identification of the parties and the price agreed.

Taxi fares in Portugal are regulated by the Ministry of Economy and Work which periodically publishes the fares applicable to the taxi service. The current fares are regulated by a convention¹³⁹⁶ between the Ministry of Economy and work, ANTRAL (*Associação nacional dos transportadores rodoviários em automóveis ligeiros*) and the taxi Portuguese Federation (F.P.T). Such convention came into force in the 1st January 2013.

The final fare paid by the passenger is calculated according to the prices set for the kilometre and the waiting time depending on the specificities of the taxi ride: time of the day, capacity of passengers in the taxi; type of luggage; existence of a prior booking; etc.

Fares are divided into 3 main categories:

- Urban fares;
- Kilometers fares;
- Time fares.

¹³⁹⁶ http://www.antral.pt/resources/494586e0963bd345908f7680672376af/geral/tabela_de_precos_2013.pdf.

Urban fares:

Number of passengers	Fares	Starting fares		Price/Km EUR	Price/hours EUR	Fraction			
		meters	EUR			meters	EUR	seconds	EUR
4 More than 4	Fare 1 -Daily	1800	3,25	0,47	14,80	212,77	0,10	24,0	0,10
		1440	3,90	0,56	14,80	178,57	0,10	24,0	0,10
	Nightly Fare 1 -Daily	1800	3,25	0,61	14,80	163,93	0,10	24,0	0,10
		1440	3,90	0,73	14,80	136,99	0,10	24,0	0,10

Kilometres fares:

Number of passengers	Fares	Starting fares		Price/Km EUR	Price/hours EUR	Fraction			
		meters	EUR			meters	EUR	seconds	EUR
4 More than 4	Fare 3 (free return) -Daily	1800	3,25	0,94	14,80	106,38	0,10	24,0	0,10
		1800	3,90	1,13	14,80	88,50	0,10	24,0	0,10
	Nightly Fare 5 (busy return) -Daily	3600	3,25	0,47	14,80	212,77	0,10	24,0	0,10
		3600	3,90	0,56	14,80	178,57	0,10	24,0	0,10
	Nightly Fare 5 (busy return) -Daily	1400	3,25	1,21	14,80	82,65	0,10	24,0	0,10
		1400	3,90	1,45	14,80	68,97	0,10	24,0	0,10
	Nightly	2800	3,25	0,61	14,80	166,70	0,10	24,0	0,10
		2800	3,90	0,73	14,80	138,90	0,10	24,0	0,10

Time Fares:

Type of vehicle	1 st hour (in euros)	½ hour (in EUR)
4 passengers	8,35	4,18
More than 4 passengers	9,80	4,90

The convention regulates also the additional charges for other services provided by the driver. Such charges are stated in the following table:

Type	Value (in EUR)
Luggage	1,60
Pets	1,60
Call	0,80

The above convention regulates also the so called "contract fare" or, in Portuguese "tarifa a contrato" which is a fare agreed by the taxi driver and the client.

The convention also states that special fares can be set for specific routes.

II.8. Passenger rights

Passenger rights are listed in Article 5 of Decree-Law 263/98. The article lists the obligations applying to the taxi drivers in relation to the service they provide to passengers. Taxi driver must:

- a) Provide the requested transportation service;
- b) Stop at sign of any potential passenger when the taxi is free on service;
- c) Correct the route when requested by passenger and third parties;
- d) Assist passengers that have limited mobility to get into and out of the car;
- e) Activate the taximeter at the beginning of the ride;
- f) Place the taxi driver certificate (CMT) in the upper right side of the windshield, clearly visible to the passengers;
- g) Comply with the price regime established by the law;
- h) Observe the guidelines provided by the passenger for the itinerary and the speed within the limits in force, and, in the absence of express guidance, take the shortest route;
- i) Comply with the conditions of the transport service agreed, unless there is a reason justifying non-compliance;
- j) Transport luggage and provide the loading and unloading of luggage. Provide the loading and unloading service for passengers with reduced mobility;
- k) Carry passengers' assistance dogs with disabilities, free of charge;
- l) Transport passengers' pets;
- m) Issue and sign the receipt proving the total value of service identifying the name, address and VAT number of the company and registration of the vehicle and when requested by the passenger, the time, the origin and destination of the service as well as payed supplements;
- n) Not to pressure on passer-by to use the taxi service;
- o) To facilitate the payment of the service, and therefore to bear cash in order to be able to provide change for at least the minimum amount of EUR 20;

- p) Diligently deliver to the police authorities any object left in the vehicle. On passengers' request the driver should also provide, for the appropriate fee, the delivery of any object left;
- q) Take care of the personal appearance;
- r) Keep the outside and inside of the vehicle clean;
- s) Not to be accompanied by other people when on service;
- t) Inform passengers of any tariff or route change.

II.9 Subsidies applicable to taxi sector (including public developed applications for taxi sector, geolocalisation, etc.)

No policies/subsidies (targeted towards the final user) were introduced.

Only policies/subsidies targeted towards service providers/operators have been introduced.¹³⁹⁷ Among those:

- Attribution of taxi licenses (at favourable conditions) for vehicles accessible by people with reduced mobility (PRM);
- Operation of specific services (with mini-bus, mini-van, taxi and other vehicles) to the use of PRM, the elderly or students (scholar transport);
- Support to investments in the passenger transport's network (installation of elevators in metro and rail stations and access ramps for PRM in railcars, introduction of low floor busses equipped with ramps for PRM, introduction of information in vehicles, stations and stops adapted to people with visual impairments, etc.).

In April 2016, a package of 10 measures aiming at the modernisation of the taxi sector, representing an overall investment of EUR 17 million, was then presented by the Ministry of Environment. More recently, a medium-term Reform Plan approved by the Government in April 2016 to modernise the economy includes an investment of EUR 6 million to "decarbonise" the engines of a thousand taxis.¹³⁹⁸

II.10 Labour rules

There are no specific provisions applying to the taxi sector for the labour legislation. For regulars employees term contracts or open-ended contracts' rules are applied.

The Labour Code¹³⁹⁹ regulates the term contracts in Article 141 and followings while the open-ended contracts are regulated by the Article 147 and followings.

Article 230 of the Commercial code (*Código comercial de Portugal*) regulates the self-employment status. Concerning self-employed taxi drivers operating in Lisbon and Porto, the Decree-Law 422/62 of 27 June 1962¹⁴⁰⁰ provides a general regime for self-employed providers of transport services. Based on such decree, the self-employed operators of transport services can opt for fixed or flexible working time.

¹³⁹⁷ Reply to the stakeholder consultation (IMT, I.P.).

¹³⁹⁸ <http://www.theportugalsnews.com/news/taxis-step-up-stance-against-uber/38008>.

¹³⁹⁹ Lei No. 7/2009, de 12 de Fevereiro.

¹⁴⁰⁰ Decreto Lei No. 42 422 de 27 de Junho.

When the driver opts for a fixed working time he has to carry at all times:

- A working time map (whose template is provided by article 5 of the Order no.19 462 of 27 October 1962¹⁴⁰¹);
- A working time record book (whose template is provided by article 9 of the Order n.19 462 of 27 October 1962).

When the driver opts for a flexible working time he must use a working time record book, whose template is provided in the above Order.

II.11 Supervisory enforcement tools

Chapter 6 of the Decree-Law 251/98 amended by the Decree-Law 41/2003 sets the rules regarding the supervisory enforcement tools. Article 25 establishes that the competent authority for supervision and enforcement of the taxi rules are: DGTT, *Inspecção-Geral das Obras Públicas, Transportes e Comunicações*, the municipal authorities, *Guarda Nacional Republicana* and *Polícia de Segurança Pública*.

The offence consisting in exercising the activity without the licence is regulated by the article 28. The sanction is between EUR 1,247 and EUR 3,740 when the offence is committed by a private driver and between EUR 4,988 and EUR 14,964 when committed by a company. The authority responsible for the enforcement of this offence is the DGTT.

The offence of failing to comply with the information duty imposed upon the taxi company and individual drivers is sanctioned with a fine between EUR 100 and EUR 300. The information duty refers to the duty to communicate to the DGTT every change in the corporate bylaws, change of the legal seat, and change of the management within 30 days from the date of the change (Article 9 of the Decree-Law 251/98).

Article 30 regulates the irregular exercise of the taxi transport activity. The following offence are punished with a fine ranging from EUR1,247 to EUR 3,740:

- a) The use of unlicensed vehicle or not yet registered;
- b) The presence of a defect within either the taxi licence or the vehicle registration.

It also establishes that the following offences are punished with a fine between EUR 150 and EUR 449:

- a) Failing to respect the special parking rules for taxi;
- b) Failing to respect the taxi identification rules;
- c) Failing to have the taxi licence;
- d) Abstain from exercising the activity for 30 consecutive days or 60 days overall within a year;
- e) Failing to respect the contractual service (time service, route service, contractual deal, distance service as established in article 15);
- f) Failing to respect the service rule established in article 17, in particular the driver must be available for passengers when parked and is not allowed to deny service.

¹⁴⁰¹ Portaria No. 19 462 de 27 de Outubro.

Article 31 refers to the offence of failing to show the taxi licence during a check. Such offence is punished with a fine between EUR 150 and EUR 449. If the driver presents the document within 8 days the fine will be reduced and therefore range between EUR 50 and EUR 250.

III. Legal framework applicable to hire cars with driver

In Portugal, there is no specific hire car with driver regulation. Article 23 of Decree-Law 251/98 provides that the rules concerning the access to the activity for taxis (i.e. operators' licence) are applicable also to touristic vehicles and vehicle without the need of a badge.

The same article establishes that a specific decree should have been adopted to regulate the access to market for hire cars with drivers. Thus, the rules on taxi transport activity apply to the services of renting cars with drivers but there is uncertainty concerning the access to the activity. IMT has not issued further licences for hire cars with drivers after 1998.

In Portugal, hire car with driver service is performed by Taxis T, Taxis A., as well as by rental car companies. The Portuguese car rental law allows for the inclusion of driver in the provision of hired car's service.

Pursuant to Article 13 of the Decree-Law 181/2012, the activity of hire cars with drivers is possible as activity ancillary to the rent-a car (without driver). In order to perform this activity it is required that:

- A contract relating to the renting of a vehicle without a driver is entered into between the client and the rent a car undertaking;
- Another (additional) contract is entered into, the exclusive object of which is the driving of the vehicle that was rented;
- The driving of the vehicle is made by the person contracted by the locating entity.

As confirmed by a respondent to the stakeholder consultation, rental car accounts for a significant portion of hire cars with drivers due to the very limited availability of Taxi T and Taxi A licenses.

Article 23 of the Decree-Law 251/98 also applies to touristic vehicles. Article 2 of the Regulatory Decree 71-F/79 of 29 December defines the touristic drivers as professionals that carry both nationals and foreign tourists with vehicles with a capacity of up to 9 passengers and who give historical, cultural and general information to the passengers.

Article 9 of the Decree-Law n. 519-F/79¹⁴⁰² establishes that these professionals must hold a certificate proving the attendance of the relevant training course.

The Regulatory Decree no. 41/80 of 21 August¹⁴⁰³ creates a special legal framework for professional tourists' drivers. The Regulatory Decree confers to the DGTT the

¹⁴⁰² Decreto Lei No. 519-F/79.

¹⁴⁰³ Decreto Regulamentar No. 41/80 de 21 de Agosto.

competence to issue licences for this kind of drivers, and the DGTT sets the allotment in accordance with the Municipalities.

Article 14 of the above-mentioned Regulatory Decree establishes that the applicable rules to the transport of passengers on tourist vehicles are the general rules on passenger transport with light vehicles.

III.1 National/local municipal regulation

Article 23 of the Decree Law 251/98 applies to hire car with drivers when using licences A and T.

III.2 Procedures for issuing licenses and applicable criteria

The relevant legislation is that applied to the taxi sector (see s.II.3). The competent authority for issuing operators' licences for private rent vehicles is the IMT (*Instituto da mobilidade e dos transportes*).

III.3 Technical requirements applicable to hire cars with driver

The relevant legislation is the same applied for the taxi sector (see s.II.4). However, these vehicles do not have to comply with the requirements concerning the colour of the vehicle and the element identifying the "taxi".

III.4 Qualitative requirements

The relevant legislation is the same applied for the taxi sector (see s.II.5).

III.5 Organisational requirements

The relevant legislation is the same applied for the taxi sector (see s. II.6).

III.6 Passenger rights

The relevant legislation is the same applied for the taxi sector (see s. II.8).

III.7 Fares

Fares for private rent vehicles are regulated by a Convention¹⁴⁰⁴ agreement between the Ministry of Economy and work, ANTRAL (*Associação nacional dos transportadores*

¹⁴⁰⁴ http://www.antral.pt/resources/494586e0963bd345908f7680672376af/geral/tabela_de_precos_2013.pdf.

rodoviários em automóveis ligeiros) and the taxi Portuguese Federation (F.P.T). Such agreement came into force on 1 January 2013 (see s. II.9).

III.8. Labour rules

The relevant legislation is the same applied for the taxi sector (see s. II. 10).

III.9. Local incentives, subsidies provided by the administration in order to carry out certain services (such as mini-van service for people with reduced mobility, elderly, schools)

Policies/incentives/subsidies given to providers/operators of taxi, hire car with driver, car sharing, carpooling and other ridesharing services that have been introduced:

- Assignment of favourable conditions (reduced fees on-street parking with no time limit) for car sharing vehicles (ex: Regulation for On-street Parking in Lisbon, Reg. n.º 47/AM/2013). Users benefit from improved convenience (parking is included for car sharing vehicles).¹⁴⁰⁵

Policies/incentives/subsidies that were studied (but not yet introduced):

- High occupancy vehicle (HOV) lanes, with toll reduction for HOV (including carpooling) in motorways accessing Lisbon.¹⁴⁰⁶

III.10. Supervisory enforcement tools

The relevant legislation is the same applied for the taxi sector (see s. II.11).

IV. Legal framework applicable to ridesharing and car sharing

There is no specific legislation for ridesharing and car sharing.¹⁴⁰⁷

IV.2 Main operators and their business models

Having regards the "genuine" ridesharing, there are several on-line platforms providing the service in Portugal.

BlaBlaCar is the world's largest long-distance ridesharing community, connecting people seeking to travel with drivers going the same way and it is active in Portugal.

¹⁴⁰⁵ Information provided by IMT I.P to the stakeholder consultation.

¹⁴⁰⁶ See the footnote above.

¹⁴⁰⁷ IMT is participating in an ITF/OECD "Case Specific Policy Analysis" project titled *Review of the Legislation and Regulatory Framework for Taxi and for-hire transport services*. Future developments (namely adoption of new provisions) will build on the findings / conclusions of both processes (Information provided by a respondent to the stakeholder consultation).

Other on-line platforms for carpooling that provide similar services are:

- **Deboleia;**
- **Viagensportostoes;**
- **Boleia.net;**
- **Umcoche;**
- **Carpoolworld.**

Citydrive is the only company providing the car sharing service in Lisbon; the minimum fare is of EUR 0,29 per minute on travel time and EUR 0,10 per minute when the car is still.

IV.4 Requirements imposed upon non-licensed activities (*safety and technical requirements, insurance requirements, obligations relating to licences and on-line platforms*)

There are no specific requirements applicable to non-licensed activities.

IV.5 Local incentives, subsidies and other forms of promotion for ridesharing and car sharing (*including, parking spots, use of preferential lanes, etc.*)

No incentives or subsidies have been found. As indicated above, in Lisbon, the shared cars may use preferential parking spots.

V. Relevant national case law

*Court of Lisbon – Precautionary procedure n. 7730/15.0T8LSB.*¹⁴⁰⁸

With the Precautionary procedure n. 7730/15.0T8LSB the Court of Lisbon on 23 April 2015 prohibited UberTechnologies Inc. from providing transport services with light vehicles in the whole Portugal using online applications. In particular, the Court:

- banned the provision of passenger transport services with light vehicles called Uber and any other similar service;
- banned the webpage www.uber.com and any application or technological or informatics system used to provide transport services in Portugal;
- banned the use of credit cards or of electronic payment systems related to the use of and registration to the Uber platform.

In conclusion, the company was ordered to shut down its website and other services in Portugal, or to face fines of EUR 10,000 a day.

The Court motivated such decision explaining that while the services provided through the Uber platform are similar to taxi services, however the Uber platform does not comply with the legal requirements applicable to the provision of taxi services.

¹⁴⁰⁸ Available at: <http://s3.observador.pt/wp-content/uploads/2015/04/decisao-comarca-de-lisboa-uber.pdf>.

The Court stated that Uber is running an illegal service that cannot assure customers that its drivers and their cars are fit for the job. The Court also maintained that the service violated tax rules because the drivers do not issue invoices and it argued that the Uber service constitutes a practice of unfair competition that seriously compromises the taxi sector through its unregulated service.

VI. Country Market

The passenger transport sector includes: taxi services, touristic vehicles, vehicles exempt of badges. According to the Article 16 of the Decree-Law 251/98, there are three types of taxi services:

- a) Street Taxis (also called Hailing or Cruising Taxis) - the taxi is on the road and is hailed by the passenger, with no prior booking required;
- b) Square Taxis (Cabstand business) - the taxi is parked at a specific location where only taxis can stop, i.e., an officially designated area (a taxi rank), and a passenger approaches a parked taxi seeking its services;
- c) Call Taxis (also called Dispatch Taxis) – as prior booking is required, the passenger contacts a dispatch centre (typically by phone, but can also be online) indicating his/her location and the time at which he/she needs it. The “call centre” communicates with the various taxis to which it is associated and the service is assigned to one of them. The passenger is then informed about which taxi (e.g., its number) will make the required service, as well as on the estimated waiting time if the passenger requested an immediate service.¹⁴⁰⁹

Touristic drivers are defined as professionals that carry both nationals and foreign tourists with vehicles with a capacity of up to 9 passengers and who give historical, cultural and general information to the passengers.¹⁴¹⁰

There is not a legal definition of hire cars with drivers. The hire transport is performed by taxis with licence A and T for which the same rules than taxis apply. Some requirements for taxi vehicles do not apply to hire cars with drivers (e.g. requirements concerning colour of the vehicle, visual device).

Taxi licences are issued by the municipal authorities who are also competent for the renewal of the licences, to establish the taxi maximum number and the special parking regulation. Thus, each taxi licence covers a specific geographic area where the municipal authority has jurisdiction. From a geographical point of view, the taxi sector may be considered as municipal.

VII. Market players

Taxis

Based on data contained in a study prepared by the FPT (Federação Portuguesa do Táxi), there are 11,024 taxi vehicles and 9,300 entrepreneurs operating in Portugal. These data show that the market is mostly composed by micro-companies with one or two

¹⁴⁰⁹ Portuguese Competition Authority.

¹⁴¹⁰ Article 2 of the Regulatory Decree no. 71-F/79 of 29 December.

registered vehicles and 26,000 employees. It is estimated that the number of kms travelled by employee amounts to 343.9 million per year with the number of provided rides amounting to 45.859.840 per year.¹⁴¹¹

Based on available information, the main taxi market player in Portugal is the **Cooptaxis** with a fleet of 800 vehicles operating in Lisbon, Loures, Odivela, Almada, Seixal, Portimão, Loulé, Faro, Olhão and Vila Real Santo Antonio.

According to information provided by the Municipality of Lisbon there are currently 3447 licenced taxi in Lisbon and 50 licenced taxis providing service for people with reduced mobility.¹⁴¹² As reported by the Portuguese Competition Authority, the Municipality of Lisbon does not intend to launch a tender procedure to assign the remaining 103 licences.

Based on information provided by the Lisbon Municipality, in the city the majority of taxi licences' holders are companies.¹⁴¹³

Taxi Intermediaries

Among the local web applications allowing passengers to order a taxi there is **Geosensi**,¹⁴¹⁴ a web application launched in 2012 and available for iOS and Android. **TaxiDigital**¹⁴¹⁵ covers the largest Portuguese cities.

Wappa,¹⁴¹⁶ leader on the Brazilian taxi market, has launched in Portugal in March 2015 in order to enter the European market. Wappa works only with licensed taxis and licensed drivers and, in Lisbon, has currently 1,500 affiliated taxis. At the beginning, the app was available only to private users, but the company is also planning to provide the business/corporate services. The payments are processed cashless through the website (the passenger does not need cash or credit cards) and the driver receives the payment minus a fee within 48 hours. The application requires passengers to provide feedback of the drivers and in order to ensure the quality of the affiliated drivers. The strategy of Wappa to Portugal, as happened in Brazil, is not to compete, but rather to complement to existing radiotaxis services. To this end, the Brazilian company has already signed a partnership agreement with **Retális** (Radio Taxis Lisbon) and negotiations are ongoing with other central taxis in Lisbon and Porto. The company is planning to launch a project SMEs and family, so that the accredited people can use the services. Parents can hire through Wappa a taxi service for the child to move from school to home or vice versa at a certain time.

The **MEO Taxi** app¹⁴¹⁷ is the result of the strategic partnership between the MEO and Microsoft Portugal, and it is available for Windows Phone system. It works like the other applications, with geolocation, cashless payment, rating of the driver. The passenger may choose the type of taxis with specific features (number of place, animals). The app

¹⁴¹¹ http://issuu.com/revistafptaxi/docs/revista_taxi_59, p. 26.

¹⁴¹² Information provided by Lisbon City Council to the stakeholder consultation.

¹⁴¹³ See footnote above.

¹⁴¹⁴ <http://geosensi.com/index.php?page=professionais-de-taxi>.

¹⁴¹⁵ <http://taxidigital.pt/>.

¹⁴¹⁶ <https://www.wappa.com.br/home>.

¹⁴¹⁷ <https://www.microsoft.com/it-it/store/apps/meo-taxi/9nblqgh2k0kg>.

has also an English version which may be more user friendly for tourists than the only Portuguese applications.

➤ **Hire car with driver intermediaries**

In Portugal, **Uber** is providing the services Uber Black and UberX. In March 2016, Uber Portugal also launched a new service, UberGreen, which is operated by 100% electric vehicles, free of CO2 emissions. This is a three-month pilot project restricted to Lisbon and Porto, and with tariff system similar to that charged by UberX.

Ridesharing and car sharing

Some ridesharing services are offered by local authorities and/or by transport operators. As to car sharing, Portugal has witnessed the emergence of some businesses offering this kind of services¹⁴¹⁸. The largest market players are indicated in s. IV.2.

VIII. Barriers, limitations, incentives

The Portuguese market is characterized by quantitative restrictions of taxi licenses. Since the hire transport market is dominated by taxis, which also provide hire transport without taximeter, the market conditions do not favour new entrants or the emergence of alternative hire transport services. Access to the driver's profession is subject to stringent qualitative requirements: while there is no cap on the number of licences for operators, a long training of 125 hours must be followed and an exam has to be passed. These requirements were among the reasons at the basis of the taxi drivers' protests against new market entrants such as Uber. Regular taxi operators have been protesting against what they consider unfair competition based on the different requirements for access to the market (no quotas anywhere in the country), for accreditation as driver (no training needed) and also for the much lower costs associated with the licensing.¹⁴¹⁹

In addition, the licences have a significant cost (EUR 80,000/90.000 in Lisbon's secondary market).

The geographical fragmentation of the market implies that customers cannot be picked up at airports by taxis from different municipalities. For example a taxi from a municipality such as Porto, cannot pick up a passenger at the Porto airport after having dropped another passenger, because the airport is in a different municipality.

The Portuguese Competition Authority has clarified in its Report that the licences for tourist vehicles (licence T) are subject to quantitative restrictions, and are only available in Lisbon, Porto and Faro, which are considered touristic areas. Licences A, which also allow the hire cars' service, are also subject to quantitative restrictions at national level and currently are limited at 10 licences per each dispatch area of Lisbon and at 25

¹⁴¹⁸ Information provided by the IMT I.P. during the stakeholder consultation.

¹⁴¹⁹ REGULATION OF FOR-HIRE PASSENGER TRANSPORT: PORTUGAL IN INTERNATIONAL COMPARISON — OECD/ITF 2016, p 22.

licences for Porto. Moreover, the holders of a taxi licence have precedence in the delivery of the new A and T licence.¹⁴²⁰

Based on information provided by respondents to the stakeholder consultation, it appears that the legal uncertainty surrounding hire cars with drivers is the main reason behind the refusal to issuing new licences (A and T) since 1998.¹⁴²¹ Operators like Uber are trying to enter the market both using licensed taxis and the regulation of car rentals. The current legal framework for car rental service hinders increasing the supply, as the law requires car rental companies to have a minimum number of vehicles (seven) and an open storefront. Besides, car rental agreements must be made in writing, and the inclusion of a driver in the provision of the car rental service is subject to an additional agreement. This requires a complex contractual structure which creates a difficult regulatory environment.¹⁴²²

In 2015, Uber commissioned a study on the perception of Portuguese consumers about Uber services.¹⁴²³ The consumer survey carried out in that context shows a marked divergence in the perceptions of Uber users versus Uber non-users. In particular, Uber users appeared to have a positive perception regarding the quality of Uber's service and also appeared to value prior knowledge of the price range and the convenience of service. For non-Uber users, however, the findings show a less positive perception on the quality of Uber's service.

According to the Portuguese Competition Authority, on-line intermediaries and apps are important in reducing asymmetry of information and transaction costs, promoting the coordination of the economy of density. In particular, transaction costs will be reduced in case of various intermediaries in competition between them. The on-line intermediaries also allow reducing waiting times, since they allocates efficiently the vehicle that is closest to the user while offering, at the same time, important opportunities to the market.¹⁴²⁴

IX. Capacity, growth, impact

The national competent authority issued the following taxi operators licences (for which no quota is introduced):

Year	New licences
2011	2586
2012	2093
2013	1407
2014	1818

¹⁴²⁰ Relatório Preliminar sobre Concorrência e Regulação no Transporte de Passageiros em Veículos Ligeiros, 25 Julio 2016, p.28 from para 132.

http://www.concorrenca.pt/vPT/Noticias_Eventos/ConsultasPublicas/Documents/Relatorio%20Preliminar%20sobre%20Concorr%C3%Aancia%20e%20Regula%C3%A7%C3%A3o%20no%20Transporte%20de%20Passageiros%20em%20Ve%C3%ADculos%20Ligeiros.pdf.

¹⁴²¹ Information provided by the Antral (Autoridade Nacional Transporte Rodoviario).

¹⁴²² Relatório Preliminar sobre Concorrência e Regulação no Transporte de Passageiros em Veículos Ligeiros, quoted , p. 32 from para 159.

¹⁴²³ Estudo sobre a Uber em Portugal, Aferição da percepção dos consumidores em relação ao serviço e à marca.

¹⁴²⁴ Relatório Preliminar sobre Concorrência e Regulação no Transporte de Passageiros em Veículos Ligeiros, quoted, p. 34 from para 165.

2015	2024
-------------	------

By the end of December 2015, the total number of licensed taxi operators amounted to **10,068**.

In its report, the Portuguese Competition Authority considers that the current regulatory *status quo*, which is based on quantitative restrictions and stringent regulation, does not bring benefits to consumers and reduces the incentives for innovation and investments in hire transport services that could be more attractive for consumers. Moreover, according to the Authority, excessive restrictions could affect the sustainability of the sector on the long run and its capacity to react competitively to the challenges of the sector.¹⁴²⁵ Similarly, regulated prices based on conventions with the representatives of the taxi sector restrict competition and reduces the consumer welfare.

X. Results

Whereas access to the activity (licensing of operators) has no quantitative restrictions, there are quantitative restrictions for vehicles allowed to operate within a given municipality. A maximum number is established by the City Council for a number of parishes or for each parish and takes into account the global needs as regards taxi transport in a given municipal area. An operator may only be granted a single licence but a licensed operator may licence several vehicles.

Therefore, the cap on the number of licences, combined with the transferability and the concentration of licences in the hands of few players, has created scarcity value. There have been no new taxi licenses recently. The legal framework for hire cars with drivers is unclear, and one respondent to the stakeholder consultation confirmed that hire cars working with intermediaries mainly have licences Taxis T (i.e., tourist taxis), Taxis A (i.e., taxis without taxi badge), rental car companies and tourism agencies.

The report of the Portuguese Competition Authority¹⁴²⁶ has considered that the quantitative restrictions and the rules on parking spaces create a quantitative restriction on access to the market and a geographic barrier for the different market players. Since market entry costs are low, the quantitative restriction aims to prevent a potential oversupply of taxis in the market, which would reduce the occupancy rate per taxi. Also the way on which fares are established is considered to be intransparent.

In its report, the Portuguese Competition Authority recognised the challenge that new online platforms represent to the existing regulatory framework. Traditional market players have expressed their concerns about the different regulatory provisions applicable to the different segments of the market and have questioned the need for a new regulation for online platforms. A discrepancy between market context and regulatory framework may create disparities for market players.

¹⁴²⁵ Relatório Preliminar sobre Concorrência e Regulação no Transporte de Passageiros em Veículos Ligeiros, quoted, p. 10. para 49.

¹⁴²⁶ Relatório Preliminar sobre Concorrência e Regulação no Transporte de Passageiros em Veículos Ligeiros, 25 Julio 2016, Report quoted.

According to the Competition Authority, the regulatory framework needs to be adapted in order to open the market to the new opportunities provided by online platforms, such as:

- reduced transaction costs;
- information asymmetries; and
- more efficient allocation of resources.

In light of the above, the Competition Authority's has made a number of recommendations to the government, including the following:

- the need to assess the necessity and proportionality of the existing quantitative restrictions on market access;
- the relaxation of certification and licensing requirements;
- the restriction of regulatory intervention to the extent necessary to regulate market failures;
- the introduction of price flexibility to give operators the freedom to set their prices; and
- the removal of unnecessary service quality requirements in order to avoid an artificial standard offer that limits non-price competition.

XI. Conclusions

The current Portuguese regulation for taxi services is comprehensive and encompasses market entry control, with the introduction of quantitative restrictions in each administrative region, and the specification of the conditions for providing the service, including taxi fares. Innovative services, especially taxi web applications, are developing but only for licensed taxis. New innovative service providers and hire transports alternative to taxis (such as hire cars with drivers) encounter difficulties in developing their services, not only due to the taxis sector resistance but also to the regulatory constraints and the unclear legislative framework. This concerns especially hire cars with driver, for which no new licences are currently issued by the competent authorities. Ridesharing is currently allowed only for sharing the costs of the journey without any additional profit.

Bibliography

1. http://issuu.com/revistafptaxi/docs/revista_taxi_59.
2. <http://antral.pt/resources/494586e0963bd345908f7680672376af/geral/uber.pdf>.
3. Estudo sobre a Uber em Portugal, Aferição da perceção dos consumidores em relação ao serviço e à marca.
4. EuCml Reports Issue 1-2/2015, pp 63-64-65.
5. REGULATION OF FOR-HIRE PASSENGER TRANSPORT: PORTUGAL IN INTERNATIONAL COMPARISON — OECD/ITF 2016.

Consulta pública ao Relatório Preliminar sobre Concorrência e Regulação no Transporte de Passageiros em Veículos Ligeiros, 26 Julio 2016.

23. ROMANIA

General Legal Framework

Law 38/2003, as amended, contains the main source of regulations concerning transport by taxis and hire cars with drivers¹⁴²⁷.

Licenses

Local authorities issue the taxi driver licence and approve the taxi vehicle. In Bucharest, the Department for Transport, Roads and Traffic Safety issue the licence and approve the vehicle. The driver must pass a professional exam. The number of licenses is set on the basis of the number of inhabitants. The Law 38/2003 limits the number of licences to 1/4000 inhabitants. A licence is necessary for each car. For companies, a licence is required for each car used as taxi.

Technical requirements

Taxis must pass a technical inspection in order to be authorised. The taxi vehicle must be equipped with a radio station to receive all communications from the dispatch centre, and with a taxi lamp homologated by the Romanian Auto Registry. Most of the Municipalities have decided in their regulations that taxi vehicles must be coloured yellow in order to grant exposure to clients.

Organisational and professional requirements

In Romania, a person who wishes to create a transportation business first needs to be recognized as an Authorized Natural Person (ANP) or a Company SRL (operator). For a SRL, a transport manager must be appointed. The affiliation to a dispatch centre is mandatory for all the authorised taxis within an area of authorisation, except the municipalities where the number of authorisations is less than 100.

Fares

Distance fare (RON/km) is set depending on the technical factors and the maximum authorised carrying capacity of motor vehicles. In the case of passenger transport by taxi, the comfort level will be considered. In Bucharest, the maximum fare, approved by a decision of the General Council of Bucharest, is 3.5 RON/ km (0.8 euro/km). At present, in Bucharest, the fare for passenger transport by taxi is between 1.39 RON/ km and 3.5 RON/ km.

Passenger rights

The taxi drivers have to make an effort to make the passenger feel comfortable and safe during the trip. The taxi operator needs to guarantee the legality, safety and quality of the transport services by taxi. The taxi driver must maintain civilized behaviour to begin a good relationship with the customer, must comply with the customer's request, must stop at the client's request whenever he/she is not already transporting other clients (except when he/she goes to pick up a client or traffic conditions do not allow him to stop), must issue the receipts at the end of the trip, and must claim only the amount indicated on the taxi meter.

Labour rules

Regarding labour rules, no specific provisions are introduced for the taxi sector, therefore the general rules concerning general employment and self-employment apply.

Airports

Licences for the airport are issued by airports' administrations that organize all the necessary services in order to ensure the proper transport of passengers to/from the airport. Airports' administrations are obliged to show the maximum fares applied for taxi rides;. Licences for airports are issued without maximum validity period.

Enforcement

In general, violation of the licence's conditions provided by law is an offence and may entail suspension or withdrawal of the licence. Supervisory bodies may intervene when they notice a violation of the provisions stated by law.

¹⁴²⁷ Lege nr. 38 din 20 ianuarie 2003, privind transportul in regim de taxi si in regim de inchiriere publicata in M. Of. 45 din 28.01.2003 http://www.dreptonline.ro/legislatie/legea_taximetriei.php.

Hire cars with driver

Hire car with driver service is possible based on a pre-paid contract and fiscal documents according to the Law 38/2003. The "return to garage" rule applies.

Ridesharing

In Romania, Law no. 38/2003 forbids the commercial transport of passenger by taxi without a licence. A transport service via taxi or hire car with driver is provided by licensed operators with their own vehicles (including leased vehicles).

Market players

The largest market is Bucharest. In Bucharest the main players are: Taxi Leone, established in 2000, the company has over 900 employees; Cristaxi - Bucuresti, with over 20 years in the Bucharest market and over 800 cars in its vehicle fleet; Taxi Pelicanul, with approximately 850 taxis; Speed Taxi, with 1.500 cars in its vehicle fleet; Fly Taxi (aeroport) and Fly Taxi (oras), whose taxis can access the domestic and international arrivals terminal of the International Airport Henri Coanda, Otopeni and in the city of Bucharest as well. Uber Eurocar and Taxi Elegance are among the main intermediaries/ providers of hire cars with drivers' service.

Capacity, growth and impact

The quantitative restrictions on the number of licences seem to be the major barrier. The number is not considered sufficient in Bucharest, where the municipality of Bucharest is currently in litigation with central authorities. Hire cars with drivers must be performed based on a contract and pre-paid fares and is subject to the "return to garage" rule. New players are entering the market providing hire car services in competition with taxis in the pre-booked segment, especially in Bucharest, where, according to the municipality, there is a shortage of supply.

Conclusions

The taxi market is characterized by quantitative barriers imposed at national level. The largest cities, and especially Bucharest, are experiencing shortage of supply, and are asking for the removal of the cap. Hire cars with drivers compete with taxis in the pre-booked market, despite the contractual restrictions imposed by the legislation in order to keep the two services separate.

I. Introduction

In Romania, the commercial hire transportation service provided by licensed vehicles which can be divided into two categories: taxis and hire cars with drivers. Taxis and hire cars with drivers is considered part of the local transport public services and are regulated by the Municipalities.

II. Legal framework applicable to taxis

II.1 National regulation

The main source of regulation is Law no. 38/2003 on the regime of taxis and hire cars with drivers¹⁴²⁸ (hereinafter Law no. 38/2003), as further amended and completed by Law no. 265/2007¹⁴²⁹ and then by Law no. 129/2015.¹⁴³⁰ The latter brought the following modifications to Article 7, Law no. 38/2003:

¹⁴²⁸ Lege nr. 38 din 20 ianuarie 2003, privind transportul in regim de taxi si in regim de inchiriere publicata in M. Of. 45 din 28.01.2003.

¹⁴²⁹ Lege nr. 265 din 19 iulie 2007 pentru modificarea și completarea Legii nr. 38/2003 privind transportul în regim de taxi și în regim de închiriere.

- transport by taxi or hire car with driver is authorized only if provided by accredited operators holding a valid taxi licence or authentic copy thereof; is forbidden the passenger transport by car for consideration and without holding a valid taxi licence or authentic copy thereof;
- is forbidden the commercial freight transport with a vehicle with a maximum weight not exceeding 3.5 tones, without holding a valid taxi licence or other valid applicable permit.

The Law no 129/2015 has also amended the Article 55 of Law no. 38/2003, which is currently applicable to natural or legal persons who continuously carry out commercial transport of people by motor car or transport of goods by motor vehicle. Recently, the Government Order no. 8/2016¹⁴³¹ has amended and supplemented Law no. 38/2003, by introducing a new art. 7.1 (see s. II.3).

II.2 Procedure for issuing licences and applicable criteria

In Romania a person who intends to develop a transportation business needs to be recognized as an Authorized Natural Person (ANP); a Family Association (FA); or a Company SRL (operator). As a first step, the person (either ANP or Company) must be registered in the Trade Register with CAEN code no. 4932, "taxi transport as main business".

An ANP must comply with the conditions stated by law and by Government Order no. 44/2008.¹⁴³² The costs of obtaining a taxi certificate, necessary for practicing the profession, plus the costs of training, and other preparations are currently around 500 RON. In case of a SRL company, the administrator (owner) must appoint a "Transport Manager" who initiates procedures to obtain the approval from the Romanian Auto Registry. The costs for getting the certificate of "Transport Manager" are around 1,000 RON.

Following the registration, the operator and/or the self-employed taxi driver must submit an application to the municipal administration in order to get the transport authorization. The application must be based on the following documents:

¹⁴³⁰ Lege 129/2015 pentru modificarea si completarea Legii nr. 38/2003 privind transportul in regim de taxi si in regim de inchiriere.
http://www.dreptonline.ro/legislatie/legea_129_2015_modificare_lege_38_2003_transportul_regim_taxi_si_re_gim_inchiriere.php

¹⁴³¹ Ordonanța nr. 8/2016 pentru modificarea și completarea Legii nr. 38/2003 privind transportul în regim de taxi și în regim de închiriere.

¹⁴³² <http://www.zf.ro/eveniment/oug-44-2008-actualizata-legea-care-reglementeaza-pfa-12525530>.

- application for transport authorization;
- a copy of the registration certificate from trade registry as transport provider/authorized natural person/ family association/ legal person as applicable;
- a proof that the applicant meets the conditions of professional competence (a copy of professional competence certificate of the nominee and a copy of professional competence certificate for the transport manager);
- a criminal record certificates of drivers and, where applicable, of the Transport Manager by taxi, showing that they have not been convicted;
- a medical and psychological opinion stating that the designated person is able to carry out the job without affecting the traffic safety and security;
- a medical and psychological opinions about drivers and, if applicable, of the Transport Manager by taxi; a fiscal record of the transport provider; self-declaration covering f periods when the operator has provided transport services and for the periods when there was a prohibition and the reason thereof;
- a proof of financial capacity, namely: self-declaration of the transport provider that he/she can provide parking space; self-declaration of the transport provider that he/she owns a number of cars by type (ownership or leased cars).

The Government Order no. 8/2016, amending and supplementing Law no. 38/2003, has introduced new rules for the training of the transport manager. Transport managers' training program will include the following subjects: civil law, commercial law, social law, fiscal law, commercial and financial management of companies, road safety and transport security and it will include 60 hours of training.

According to Law no. 38/2003, the licence is unique, non-transmissible and gives the right to participate in the award management procedure for public transport by taxi. The licence or any conform copy is unique and non-transmissible from one operator to another or to a natural person, family association or from one car to another one. One operator may obtain more than one licence that may be issued just for one car. The licence can be owned by the car owner or by another person with whom the owner concluded a leasing contract for the car.

Taxi licence may be issued even for three months consecutive per year and it is called seasonal authorisation. This is a document certifying that the vehicle for which it was issued can be used for taxi transport only.

The licence is valid for 5 years and it may be renewed for additional five years if the following conditions are met:

- the vehicle for which the renewal of licence/certified copy is requested is not older than 10 years;
- the transport authorisation has not been withdrawn and the licence or certified copy was not suspended in the last 5 years;
- award management contract of transport by taxi is valid and the operator has met the provisions of the tasks book;
- the operator fully recorded its gross turnover in the accounting records.

A licence is mandatory for each car on the basis of: an approved certificate which allows the use of taxi vehicle, issued by the Romanian Auto Registry; a registration certificate

and copy of the ID of the vehicle; a coupon annex to the registration certificate with valid technical inspection; passenger and baggage insurance risks borne by operator and/or independent taxi drivers; mandatory motor vehicle insurance; proof of tax payment to the Romanian Road Authority.

Depending on the authorizing locality's rules, the licensed operator could provide the taxi service in the following situations:

- a) permanently, within the area of authorisation, at the request of client;
- b) occasionally, between the area of authorisation and other municipalities, only at the request of client, with the approval of taxi driver. The taxi should return to the area of authorisation once the service is provided;
- c) occasionally, between licensing areas and other municipalities abroad, at the express request of the client and with the approval of taxi driver. The taxi driver should return to the area of authorisation once the service is provided.

Airport Rules

Law no. 38/2003 provides in Section 21 rules for the taxi transport service to airports. By derogation from the general rule, which provides for a 5 years validity of the taxi licence, Article 241 of Law no. 38/2003 establishes that the licence for taxis providing transport service of passengers from/to the airports are granted without such time limit. It is up to the airport administration to organize all the necessary services in order to ensure the proper transport of passengers to/from the airport. Taxi stands and waiting areas for passengers are organised outside the airports. Inside an airport, taxi drivers must respect the passengers' order when picking up a waiting passenger.

Airport administrations are obliged to indicate the maximum fares applied for taxi rides; higher fares than the maximum limit provided by the competent authority are forbidden.

II.2.1 Municipal Regulation - Bucharest

According to Law no. 38/2003, the authorisation for transport by taxi is issued by the authorizing agency within the City Hall of Bucharest or the City Halls of other places where the operator has based its headquarter. The taxi service is regulated by the Bucharest municipal regulation on the organization and execution of public local transport.¹⁴³³

The municipality is also competent to organize the taxi stands. In Bucharest there are 232 organized stands.¹⁴³⁴

The Bucharest Regulation on the taxi transport service provides, in Articles 49 and subsequent, for the procedure for granting the taxi licence for the Bucharest district. In order to be granted the licence, certain steps are followed:

- submission of the application by the taxi operator;

¹⁴³³ <http://www.adti.ro/wp-content/uploads/2014/12/Regulament-Cadru-HOT-178...2008.pdf>.

¹⁴³⁴ HCGMB – No. 259/2009, Article 5.

- submission the operator's points for the Administration in order to identify the ranking position;
- determination of the total score obtained by each vehicle for which the taxi licence is requested;
- publication of the final ranking in descending order of the scores.

Ten days after the expiration of the application deadline, the competent authority analyses the applications and publishes the licences ranking identifying the authorised operator and the score obtained. When the ranking is ready, licences are granted to the vehicles with highest scores in descending order. If some licences are not granted, a new procedure for applications is proposed. If the lasts licences are attributed to a group of vehicles exceeding the maximum number of available licences to be allocated, lasts licences are granted to the vehicles with higher cylinder capacity.

Some minimum requirements in order to obtain the licence must be fulfilled:

- maximum of 5 years of age of the vehicle;
- amount of the initial investment (the value of the vehicle, the leasing contract or other type of contract are evaluated);
- additional equipment of the vehicle.

Moreover, the owner of the vehicle must hold an insurance covering the professional transport of passengers' activity.

The operator's licences can be transmitted only in case of merger or demerger of the company. In such cases vehicles licences are aggregated or divided depending if a merger or demerger takes place in accordance with the number of vehicles transferred during the operation. The procedure for transferring the licences is decided by the Bucharest Municipality in accordance with the applicable law.

II.3 Technical requirements applicable to licensed vehicles (*taximeters, vehicles' technical specifications, accessibility, insurance, maintenance*)

Taxis must comply with certain requirements to be allowed to freely circulate on the road.

One of the most important is the taximeter.¹⁴³⁵ The taximeter must comply with the standards imposed by the law, such as: to provide real and authentic information on transportation services by taxi performed on a working schedule of 24 hours and for longer period, as indicated by the fiscal memory; to ensure access to the electronic data via the keypad, to have the printer or the electronic key access; to ensure the possibility to control the program, the proper functioning of electronic fiscal memory and associated functions; to ensure that the speed limit is 10 km per hour comparing to the taxi fare; to print receipts for passengers, including customer data on the screen and delete this data automatically right after. It is an offence to place on the market, and put into use, a taximeter that does not comply with the regulations and which has not been authorised by a notified body.

¹⁴³⁵ Articles 38 and following, Law no. 38/2003.

The taxi vehicle must be equipped with a radio station to receive all the communications from the dispatch centre, and with a taxi lamp homologated by the Romanian Auto Registry. Most of the Municipalities have decided in their regulations that taxi vehicles must be yellow in order to grant a major exposure to clients. In addition, there must be information on fares applied together with the information of the offices responsible for control and supervision. Midline horizontal stripes should be usually placed below the windows and be marked on the sides of a dual band plaid type chess, (black and white), size 3 x 3 cm for motor cars and 5 x 5 cm for other kind of vehicles.

Vehicles used for taxi servicemust have the prescribed insurance and be submitted to a periodic maintenance.

The Bucharest Municipal Regulation concerning the taxi transport service¹⁴³⁶ lays down the technical requirements that licensed taxi must respect in order to provide the service within the municipality the area. Taxi vehicles must be previously registered and be inspected before starting to provide the service. All the taxis must be equipped with taximeter, radio station and luminous device indicating "TAXI". The luminous device must always be on when the taxi is on duty: green when the vehicle is free and red when busy.

Any form of advertising on the vehicle must be previously authorised by the Bucharest Municipality. Non authorised advertising is prohibited and is sanctioned. The advertising must comply with the provision of the Bucharest Regulation in order to protect consumers and passengers.

The taxi driver must have inside the vehicle, in a visible position, the following elements:

- the licence;
- the applicable fares(departure fare, parking fare, distance fare) for day and night transport service;
- the badge with the full name and picture of the driver.

Taximeter must be placed between the driver and the passenger's seat.

II.4 **Qualitative requirements** (*fitness of the driver, knowledge and skills required, drivers' training*)

To become a taxi driver, the applicant must meet the following conditions:

- a valid driving licence category B with at least 2 years of experience or a valid driving licence category C and at least 2 years of experience;
- a valid certificate of professional training;
- proof that he is hired by the operator who owns the taxi or, in case of self-employed operator, proof of the ownership or leasing of the car;
- be medically and psychologically fit.

¹⁴³⁶ Regulament-cadru pentru organizarea si executarea serviciului public de transport local in regim de taxi pe teritoriul municipiului Bucuresti, articles 12 and following.

Certificates are issued by the Romanian Road Authority after the applicant has passed the requested examination. In order to enter the exam, the applicant must submit the following documentation: the proof of completion of a training course for taxi driver, lasting at least than 3 months; the proof of payment to Romanian Road Authority of the fees for the exam; and the certificate of professional training. The certificate of professional training is issued for five years and can be extended for another 3 years.

The exam consists in a multiple-choice test approved by the Ministry of Public Works, Transport and Housing, passed in case of obtaining at least 70% of the maximum score. In case of failure, the driver is entitled to a re-enter the exam 15 days after the new test. After a second failure of the test driver, the applicant may apply for another one only after attending a new training course.

The Authority of the City of Bucharest organizes, as part of a protocol signed with the representative of the professional associations,¹⁴³⁷ and manages a database relating to the professional activity, containing the evidence of actions contrary to professional behaviour and penalties for violations of the legislative provisions.

The local public administration shall consult with representative industry associations in order to maintain an updated register of professional conduct.

II.5 Organizational requirements (*dispatch affiliation centre, minimum service*)

As mentioned in s. II.2, in order to obtain a licence, the applicant must be registered as Authorized Natural Person (ANP), Family Associations (FA) or company (SRL). In Romania, there is the obligation to be affiliated to a dispatch centre for all authorised taxis that operate within an authorisation area, except the areas where the number of authorisations is less than 100. In that case, the taxi driver must have a mobile phones to take over the orders from clients. The phone number will be displayed on the taxi.

The authorised taxis are obliged to use the services of the dispatch centre based on a contract concluded in non-discriminatory conditions.

Dispatch centre activity can be performed only by a Romanian legal entity or by a taxi operator licenced by the Romanian Road Authority, on the basis of the following conditions:¹⁴³⁸

- a) evidence that the operator has premises, materials, equipment and a protected radio frequency; authorisation for an independent communication network issued by the Ministry of Communications and Information Technology;
- b) evidence of the dispatching contracts concluded with all the taxi operators including independent taxi drivers; list of radio stations and standard equipment for taxis, transport operators and independent taxi drivers, with their series and call codes;
- c) documents requested by the Romanian Road Authority about the person appointed to conduct the dispatching activity;
- d) copy of the registration certificate issued by the Trade Register;

¹⁴³⁷ Some of them are: Asociația profesională a transportatorilor în regim de taxi și de închiriere, Asociația națională a transportatorilor și taximetristilor independenți (A.N.N.T.I.), Asociația pentru drepturile taximetristilor independenți (A.D.T.I.).

¹⁴³⁸ Article 15 of Law no. 38/2003.

- e) other documents as determined by the road transport rules, required by the Romanian Road Authority.

The dispatch centre must keep a record of radio stations for taxis, including the identification details and duration of the authorisation.

Licence for dispatching activity may be withdrawn in the following cases:

- a) the dispatcher equips the taxis with radio stations whose legal origin cannot be proven;
- b) the dispatcher supplies unauthorised taxi operators or independent taxi drivers.

II.6 **Fares** (*criteria for taxi fare setting, authority/body in charge of setting the tariffs, maximum tariffs and/or fixed tariffs, composition of the tariff and tariffs adjustment mechanism [minimum charge, additional charge for using the radio taxi or dispatch centre, increase of the tariff during certain hours, such as at night or on certain journeys, such as towards the airports, reductions for certain categories, such as elderly people]*)

Provisions concerning fares are established by the Law no 38/2003. The legislation provides for the methodology for calculating fares. Each Municipality establishes its own maximum fares.

The taxi fares are calculated in two different ways:¹⁴³⁹

- a) the calculation type "S" which is a simple application of the tariff price based on tariff zone (RON/hour), running under the switching speed, and distance tariff (RON/km), running with a higher speed than the switching speed;
- b) the calculation type "D" which applies a double tariff and price calculation based on simultaneous application of time tariff and distance tariff throughout the trip.

The total price of a taxi trip consists of the following elements:

- a) In case of transport of person, there is a starting fare: The price calculated by type "S" for distance covered with a speed over the switching speed and the time spent at the client's disposal or through some distance below the switching speed;
- b) in case of transport of goods or supplies there are two possible alternatives and additional cost is added.

Fares are set depending on the following elements:

- a) Distance rate, (RON/km), is determined on the basis of the technical characteristics and maximum authorised carrying capacity of motor vehicles. The distance rate, lei/km, can be set for daytime and night-time. Night fare is 50% more than the daily fare;
- b) the transportation cost is not influenced by the number of people in the vehicle or the amount of goods carried, as long as they do not exceed the authorised carrying capacity of the vehicle;

¹⁴³⁹ Article 47 and following of Law no. 38/2003.

- c) when calculating the hourly rate (expressed in RON/hour) and distance rate (expressed in RON/km) it must be equal to 10, which is the switching speed limit expressed in km/h;
- d) in case of applying double tariff for the transport of goods by taxi, the performance price increases simultaneously based on distance travelled and time spent. Double tariff can be made for the transport of goods by taxi, for vehicles having maximum payload authorised exceeding a ton at that time standing to the customer is at least twice higher than during circulation;
- e) starting fare will be equal to the distance fare (RON/km) applied;
- f) the fare for loading/unloading luggage shall be previously established.

The pricing procedure to set out the fares for transport service is specified in the award of contracts and delegated administration must comply with the following rules:

1. the amount of fares collected by the licensed driver after providing transport services must cover at least the amounts invested and the expenses incurred in order to provide the taxi transport service;
2. fares are modified or updated periodically taking into account the index of consumer prices, by decision of the local council or of the General Council of Bucharest, as applicable;
3. respecting the level of maximum fare for passenger taxi is one of the criteria for the award of delegated management of the service.

Most of taxi companies in Bucharest have the same fares: the starting price of 1,39 RON, plus a tariff per kilometre – 1,39 RON, or a parking fee of 23 coins per minute that is 13,9 RON per hour.

II.7 Passenger rights

Taxi services must be committed to customers' satisfaction. The taxi drivers have to put all their effort to make the passenger feel comfortable and safe during the trip. The operator itself needs to guarantee the legality, safety and quality of the transport services.

Moreover, the taxi driver must keep a civilized behaviour to begin a good relationship with the customer, he must comply with the passenger's requests (except when illegal); he must stop at the client's signal whenever he is not busy with other clients, except when he goes to pick up a client or traffic conditions do not allow this manoeuvre; he must issue the invoice at the end of the trip, he must claim only the amount indicated on the taxi meter.

Some provisions includes certain duties for passengers, such as to assist the taxi driver in case of aggression while performing transport and immediately inform the police thereof; to notify to the Mayor and the local office of Consumer Protection Commission, not to sit on the front seat if there is place available in the backseat.¹⁴⁴⁰

II.8 Subsidies applicable to taxi sector

¹⁴⁴⁰ Article 52 and following of Law no. 38/2003.

Incentives for providing services for people with reduced mobility (PRM) have been introduced by Law no. 448/2006 on protection and promotion of rights of people with reduced mobility.¹⁴⁴¹ Article 63 of the a law obliges all taxi operators to ensure at least one wheelchair accessible vehicle.

II.9 Labour rules

Having regards the labour rules, no specific provisions are introduced for the taxi sector; therefore the general rules concerning the employment contracts and self-employment apply.

The Codul Muncii actualizat 2016 (Legea nr. 53/2003¹⁴⁴²) provides, in Articles 111 and following, the general rules for employment. Pursuant to Article 112, the maximum working time per week is 40 hours, where the maximum working time including the extra hours is 48 hours (Article 114). Different working time limits can be established by collective agreements.

It is worth noting the Order no. 37/2007, as further amended and completed, on the application of the rules on driving schedule, breaks and rest periods for drivers, as well as the use of recording devices for the activity.¹⁴⁴³ First of all, at least 30% of the total working days per year are verified in the traffic and at least 50% of them are checked at the operators' headquarter. Also, it is an offence to exceed of 4,5 hours or more the daily 9 hours driving schedule, when it is not allowed an extension up to 10 hours; to exceed of 5 or more hours the 10 hours daily driving schedule; to exceed of 14 hours or more of maximum weekly driving schedule; to exceed of 22.5 hours or more of maximum cumulative driving for two weeks in a row.

II.10 Supervisory enforcement tools

As general rules, violation of the conditions provided by law is offences and may entail suspension or withdrawal of the licence. Supervisory bodies may intervene whether they notice or are informed of a violation of the legislative provisions.

The law provides for fines from a minimum of 100 RON up to 50.000 RON for offences committed by taxi drivers¹⁴⁴⁴. The taxi driver may be fined if: he/she doesn't have an appropriate attire, a civilized behaviour with the customer; he/she refuses a client on board;; he/she doesn't issue the receipt to clients at the end of the ride based on the services performed; he/she claims payment higher than the amount indicated on the taximeter; he/she doesn't drive the client on the best route to the destination or eventually on a route requested and agreed with it; he/she exceeds the loading capacity of the taxi or he/she transports objects of unauthorized dimensions; he/she transports luggage or goods that do not allow closing trunk, doors and windows. It is also prohibited to share the ride among passengers if they had not previously agreed on it.

¹⁴⁴¹ http://www.dreptonline.ro/legislatie/lege_persoane_handicap.php.

¹⁴⁴² http://www.avocat-dreptul-muncii.eu/codul_muncii_2016.php.

¹⁴⁴³ <http://www.legeamuncii.ro/legislatie/SSM/oq-37-2007.pdf> recently amended and completed by the Ordinance no. 8 of 28.01.2015 published in the Official Gazette of Romania, 1st part, no. 84 of 30 ianuarie 2015.

¹⁴⁴⁴ Article 55 and following of Law no. 38/2003.

A fine from 1.000 RON to 5.000 RON is imposed to taxi drivers who tamper with the taximeter in order to increase illicitly the fares or use the taxi for criminal activities or in other antisocial acts; if taxi services are performed without having the proper seals on the taximeter; if taxi services are performed without having the taximeter and taxi lamp operating.

Dispatch centres may be sanctioned with fines from 5,000 RON to 25,000 RON if they don't keep track of all affiliated taxi's radio station identification data, , of call numbers, of the name of the authorised driver, number and duration of the taxi's authorisation validity; if they alterate the taxi market competition through unfair or monopolistic practices.

Under article 37 of the Law no 38/2003, the authorities in charge of supervising the taxi sector are:

- a) local governments;
- b) local and county tax authorities;
- c) specialized bodies of the Ministry of Economy and Finance;
- d) the Romanian Road Authority - ARR;
- e) the Bureau of metrology;
- f) police from the General Inspectorate of the Romanian Police;
- g) territorial representatives from "Romanian Auto Registry";
- h) the National Authority for Consumer Protection;
- i) labour inspectorates.

Within the Bucharest area it is forbidden, for taxis licensed by another municipality, to pick up passengers and to park within the city in the quest for clients.

The authority shall not issue the transport or dispatcher authorisation if the applicant is in one of the following situations:

- the business purpose doesn't involve public transport services, for which the authorisation is requested according to the CAEN code;¹⁴⁴⁵
- he is involved into a judicial reorganization, liquidation, bankruptcy or debts to local or state budget; he has some mentions in the tax or court records;
- the submitted documentation for granting authorisation is incomplete; the person has committed commercial crimes, as well as violation of legal provisions on transports; vehicles are not owned or under a leasing contract; he has provided false information in the documents submitted for issuing authorisations.

III. Legal framework applicable to hire cars with driver

III.1. National/local municipal regulation

III.1.1 National regulation

Law no. 38/2003, and amendments, covers also the hire cars with drivers service. The law differentiates between passengers' hire transportation and rental service in general. Hire cars with drivers is considered a passengers' transport carried out by licensed

¹⁴⁴⁵ The CAEN code (Clasificarea activitatilor din economia nationala) is the acronym used to designate national statistical classification of economic activities in Romania. For further information see <http://e-economie.ro/ce-este-codul-caen/>.

operators on the basis of a hourly or daily contract and prepaid; the rental service is performed by authorised operators that rent cars without driver on the basis of a rental contract, with advanced payment.

Article 25 of Law no. 38/2003 provides that transport in a rental scheme may be performed by any route, at the request of the customer, with the obligation to return the vehicle in the town of authorisation after the trip, according to the contract. The driver must necessarily hold a professional certification and be hired by an operator.

III.1.2 Municipal regulation - Bucharest

In Bucharest, the "*Regulament-cadru pentru organizarea si executarea serviciului public de transport local in regim de inchiriere*"¹⁴⁴⁶ is the local regulation of the city of Bucharest governing the hire cars with drivers and which better defines the rules contained in the primary law. Pursuant to Article 11, the authority responsible for issuing hire car operators' licences is the Romanian Road Authority. According to Article 12, the hire cars with drivers can only be pre-booked and cannot wait on the street in order to pick up passengers.

III.2 Procedures for issuing licenses and applicable criteria

Section 3 of the Bucharest regulation on hire cars with drivers lays down the procedure for issuing the operator's licences. The activity requires a specific authorisation for each vehicle the operator owns and is intended to be used for a hire car with driver service, or through a leasing contract of the authorised vehicle (Article 15).

The authorisation to exercise the hire car with driver transport activity is granted by the administrative authority where the operator has the business seat. In order to obtain the authorisation, the operator must submit the following documents:

- The formal request to exercise the hire transport service;
- Copy of an extract from the commercial register,
- Copy of the hire transport licence;
- Certificate issued by the commercial register proving the existence of the business;
- Proof of the professional capacity, copy of the certificate of the professional capacity, copy of the certificate proving the driver works under the operator;
- Criminal records;
- Medical and psychological certificate proving the operator is suitable to exercise the activity of passengers' transport;
- Tax certificate proving the operator has no tax debts;
- Self-declaration proving the experience as operator of hire transport service.

Operator's vehicles can only be used as hire cars if they respect the technical requirements in Article 23 and they obtained the vehicle licence (see s. III.3).

¹⁴⁴⁶ http://www.pmb.ro/adrese_utile/transport_urban/autorizatii_taxi/doc/Anexa_1_regulament_rent_car.pdf.

Article 25 regulates the procedure for issuing the vehicles' licenses. In order to obtain the vehicles' licence, the operator must present to the competent authority the following documents:

- Application for vehicles' licence;
- Self-declaration that the operator is eligible to provide the hire cars with drivers transport service;
- Self-declaration concerning the ownership of the vehicles that will be used for the hire transport of passengers;
- in case the operator is not the owner of the vehicles, a letter of guarantee of the payment of the 5% of vehicle's contract.

The Bucharest Municipal Council is the competent authority for granting the licenses, providing for the number of licenses to be issued before the granting procedure starts. The procedure is the same applied for the taxi sector (see s. II.3.1.).

III.3 Technical requirements applicable to hire cars with driver

The vehicles used for this purpose must be fully functional and have the required marks which need to be all reported in the vehicle registration and in the registration certificate. Inside each vehicle there must be, at the bottom left corner of the front and rear windscreens, a visible badge for the entire period of validity of the certified copy, which can be verified in every moment. Furthermore, there should be a badge with the name and photograph of the driver, together with the information on where and how the customer can submit notifications and complaints to the authorizing authority, or to the national consumer protection authority and other authorised control bodies.

During the trip, on the front windshield and on the rear windshield inside, there must be attached the "HIRE CAR" tag and the badge on the inside part of car windows, which must be fastened and secured against loss.

If the authorised carrier explicitly demand to have on the car the identification data (logo, phone numbers, web page, e-mail, etc.), these must be on the external part, on the roof front/rear/ceiling, and be framed in a rectangle of maximum 50x50cm. The name and graphical logo as well as the authorised carrier's acronym need to be registered and protected as a trademark at the National Office for Inventions and Trademarks. Without the approval of the authority, any signature, symbols or other facilities cannot be applied on the external parts of the car. In order to comply with specific legislation on consumer protection and eliminate deceptive practices, it is forbidden to use on a hire car symbols which can create confusion with taxis.

For this reason, the Bucharest local regulations have imposed that hire cars shall not be in yellow colour in order to avoid confusion with licensed taxis.

In order to obtain the hire cars' licence, vehicles must comply with the following requirements (Article 23 of the Bucharest Regulation):

- vehicle aged up to 5 years;
- maximum degree of pollution admitted: minimum Euro 4;

- minimum standards requirements such as: air conditioner; devices for the passengers' safety, ABS ESP, parking control, antitheft device, GPS device.¹⁴⁴⁷

III.4 Qualitative requirements

Article 11 of the Bucharest Regulation on hire cars with drivers provides for the minimum requirement the operator must comply in order to exercise the activity. Such requirements are:

- Hold a B driving licence type for at least 2 years;
- Hold a professional certificate for the activity of transport operator;
- To be physically and mentally healthy;
- To be at least 21 years old.

III.5 Organisational requirements

Transport services by hire cars may be carried out only by authorised carriers, according to delegated management contracts.

Article 12 of the Bucharest Regulation obliges the hire cars with drivers' operators to provide the service on a pre-booked basis, while drivers are forbidden to quest for passengers. The operator must be professionally suitable in order to provide such service. The procedure to award delegated management of transport services consists of:

- a) assigning authorisations;
- b) issuing authorisations and related badges;
- c) signing contracts of delegated management in accordance with the number of authorisations allocated and released.

III.6 Passenger rights

The relevant legislation is the same applied for the taxi sector (see s. II.9).

III.7 Labour rules

The relevant legislation is the same applied for the taxi sector (see s.II.11).

III.8 Local incentives, subsidies provided by the administration in order to carry out certain services (such as mini-van service for people with reduced mobility, elderly, schools)

No incentives for the hire transport sector.

¹⁴⁴⁷ See art. 39 and following of "Regulament-cadru pentru organizarea si executarea serviciului public de transport local in regim de inchiriere".

III.9 Supervisory enforcement tools

The Municipality of Bucharest has a database of professional activities, which covers the violations and sanctions imposed to operators and drivers.¹⁴⁴⁸

The following actions are enforced:

- repeated infringement of law provisions on safety, quality and continuity of the service;
- repeated violations of customer protection and environmental protection;
- withholding or misstating earned income;
- the person has omitted the duty as imposed by judgment or in cases stipulated by Law no. 38/2003;
- the person appointed to lead permanently and effectively the road transport activity no longer perform this function for more than 15 days.

IV. Legal framework applicable to ridesharing and car sharing

IV.1 Current regulations and legislative proposals

Currently, there is no specific legislation for ridesharing and car sharing. However, in 2015 the Romanian Parliament has adopted an amendment to Law no. 38/2003 in order to declare illegal the ridesharing services similar to UberPop, provided by non-professional drivers upon compensation¹⁴⁴⁹. In particular, the national law was modified with the purpose of punishing individuals who perform public passenger transport by car without having the requested licence. As a consequence, only transport by taxis or by hire cars with drivers is permitted.¹⁴⁵⁰

IV.2 National rules applicable to on-line platform and rules applicable to service providers.

No legislation provided.

IV.3 Main operators and their business models

Long distance ridesharing operator BlaBlaCar is providing services in Romania. Another platform that granted similar services in Romania was Autohop but in March 2015 it was acquired by BlaBlaCar.

¹⁴⁴⁸ Article 53 of "Regulament-cadru pentru organizarea si executarea serviciului public de transport local in regim de inchiriere".

¹⁴⁴⁹ Law no. 129/2015.

¹⁴⁵⁰ Information provided by http://www.avocatnet.ro/content/articles/id_35563/Legea-care-interzice-autostopul-adoptata-prin-vot-final-de-deputati.html.

IV.4 Requirements imposed upon non-licensed activities (*safety and technical requirements, insurance requirements, obligations relating to licences and on-line platforms*)

No requirements are imposed on such activities.

IV.5 Local incentives, subsidies and other forms of promotion for ridesharing and car sharing (*including, parking spots, use of preferential lanes, etc.*)

No incentives or subsidies have been found or reported.

V. Relevant national case law

- *Competition Council's Opinion on proposed Amendments to Law on Taxi Services*¹⁴⁵¹

In its opinion of 29 March 2012, the Competition Council expressed the view that the proposals aimed at setting fixed fares would impose burdensome conditions for taxi operators by limiting their options to perform activities outside the municipal area for which the licenses are issued. The pernicious effects which would be produced on the market would have, given the lack of alternatives for consumers, the potential to significantly distort competition. The Council argues that setting fares would be contrary to the interests of the users of the services, both in terms of prices and of quality of services.

According to the Competition Council, the previous system, where the taxi transport operators could offer different fares without exceeding the maximum set by the local public authority, gave rise to real market price competition.

In the same opinion, the Council underlined that the provision regarding the maximum number of licenses serves the exclusive interests of the taxi operators by limiting access from potential competitors. In this context, it should be noted that, in the past, the Competition Council frequently asked the competent authorities to remove the quantitative barriers.

- *Taxi sector cartel*

In 2015, the Competition Council sanctioned, with fines totalling 2,264,875 RON (EUR 505,021) eight taxi operators in Bucharest and in the Ilfov region for having participate in a tacit agreement/concerted practice to fix the tariff for taxi transportation. The Competition Council found that all taxi companies in Bucharest charged the same price,

¹⁴⁵¹ Competition Council's Opinion of 30 March 2012, available at: http://www.consiliulconcurrentei.ro/uploads/docs/items/id7378/com_de_presa_lege_taximetrie_30_martie_2012.pdf.

RON 1.39 (32 EUR/cents) per kilometre, which is the minimum price set by Bucharest's local authorities.¹⁴⁵²

The sanctioned taxi companies held the 70% of market at the moment of agreement. Subsequently, more than 90% of taxi operators on the market aligned to unique tariff set by those companies engaged in anticompetitive agreement, thus eliminating any form of price competition between them.. It is important to note that during the anticompetitive practice, the Parliament initiated the amendment of the Taxi Law, in order to allow the taxi operators of the Ilfov region to carry out the service in Bucharest.

The Competition Council found that *"both licensing authorities' actions and some legislative provisions that facilitate the exchange of sensitive information between competitors (through consultation, grouped in associations, in terms of maximum tariff) have facilitated the anti-competitive behaviour. The Competition Council will make recommendations to regulatory authorities on how to organize and manage the taxi transportation in Bucharest and Ilfov and to decision makers in the field at national level"*.¹⁴⁵³

VI. Country Market

The Romanian market can be divided into taxis and hire cars with drivers.

Taxi is legally defined as a vehicle having up to a maximum of 5 seats, including the driver's one, provided for transport of people or goods, with a maximum of total authorised weight not exceeding 3,5 tons, supplied with a taxi licence.

There is not a legal definition of hire cars with driver. In the pre-booked market, taxis and hire cars with driver are allowed to compete, even if there are some requirements imposed on hire cars, such as to be pre-booked (hourly or daily) and with pre-paid fee.

The geographical dimension of the taxi market is local, since the taxi licences are issued by the municipal authorities which are also competent for the renewal of the licences. Thus, each taxi licence covers a specific geographic area where the municipal authority has jurisdiction.

The Municipality of Bucharest approved a maximum number of 10,269 taxi licenses. The number of parking stands was increased from 172 (distributed in 31 locations), to 232 (distributed 41 locations).¹⁴⁵⁴

VII. Market players

Taxis

¹⁴⁵² http://www.consiliulconcurrentei.ro/uploads/docs/items/id9970/amenzi_taxi_2015_english.pdf.

¹⁴⁵³ http://www.consiliulconcurrentei.ro/uploads/docs/items/id9970/amenzi_taxi_2015_english.pdf.

¹⁴⁵⁴ HCGMB nr. 259 - 200, <http://www.amrsp.com.ro/images/HCGMB%20nr.%20259%20-%202009.pdf>.

Based on available information, some of the major taxi market players in Romania are the following:¹⁴⁵⁵

Bucharest

- Taxi Leone, established in 2000, has over 900 employees and 1,39 RON/km fare;
- Taxi D'Artex, established in 2002, offers to its clients a 1,39 RON/km fare;
- Cristaxi - Bucuresti, with over 20 years in the Bucharest market, has over 800 cars in its vehicle fleet, and it offers a fare of 1,39 RON/km;
- Taxi Pelicanul, with approximately 850 taxis and 1,39 RON/km fare;
- Speed Taxi, with 1,500 cars and 1,39 RON/km fare.

Fly Taxi (aeroport) and Fly Taxi (oras), whose taxis can access to domestic and international arrivals terminal of the International Airport Henri Coanda, Otopeni and in the city of Bucharest as well, offer 2,99 RON/km fare.

Cluj-Napoca

- Nova Taxi - Cluj, with around 400 cars and 1,79 RON/km fare;
- Taxi Speed Cluj Napoca, offers 1,78 RON/km fare;
- Taxi Pritax, established in 1990, offers a 1,79 RON/km fare.

Brasov

- Taxi Brasov Trip, offered 1,73 RON/km fare;
- Shark Taxi, offers 2 RON/km fare;
- Taxi Red Brasov, offers 1,53 RON /km.

The fare price changes in every city. In 2012, the Competition Council considered that it is practically impossible to set a single tariff, given that each private operator have different costs.¹⁴⁵⁶

Hire cars with driver

UberX launched its services at the beginning of 2015 in Bucharest.¹⁴⁵⁷ Overall reception by politicians was largely favourable. Notwithstanding, stakeholders expressed concerns with regard to the tax compliance of Uber partner-drivers. A limited enforcement campaign was launched by the Road Police of the City of Bucharest, but no fines were applied, only warnings, based on a provision of the taxi law. The president of the Competition Council of Romania expressed his support for Uber which improves urban mobility, increases competition and brings better service to customers.

¹⁴⁵⁵ <http://www.taximetre.ro>.

¹⁴⁵⁶ http://www.consiliulconcurrentei.ro/uploads/docs/items/id7378/com_de_presa_lege_taximetrie_30_martie_2012.pdf.

¹⁴⁵⁷ <https://www.uber.com/cities/bucharest/>.

Uber's starting rates are similar to those of most taxi companies in Bucharest. The users will pay a RON 1,39 (EUR 0,31) base fare and RON 1,39 per kilometre. The app charges RON 0,23 (EUR 0,05) per minute for stationing, the same as regular taxis. The minimum fare is RON 6 (EUR 1.35). The cancellation fee is also RON 6. A ride from the Henri Coanda International Airport in Northern Bucharest to the centre of the city (Universitatii Square) should cost about RON 40 (EUR 9).

Since 18 June 2016, Uber has included in its offer the possibility to book private flights **UberJet** from Bucharest to Constanta, a city on the Black Sea and close to many touristic destinations. The private flight may be booked for EUR 110 per person.¹⁴⁵⁸ An Uber driver will pick up passengers who have reserved the flight to the Baneasa airport, depending on the number of seats available. Also, due to weight limitations, the users can't take luggage weighing more than 2 kg per person. The UberJET planes will depart from Bucharest between 10:30 and 12:00. The ride to Baneasa airport and the transfer from Tuzla airport to Mamaia are included in the flight tariff.

Elegance taxi is a top tier hire transport, with professional drivers and luxury vehicles, which provides both taxi and hire transport pre-booked for journey within the city and to and from the airports¹⁴⁵⁹ with both fare taxis and flat fares.

Private Driver Romania¹⁴⁶⁰ is hire car with drivers operators active since 2001, with more than 2,000 regular customers. It offers flat fares for the airport transfers (EUR 30 in Bucharest) as well as private tours to the costs or to the main touristic attractions.

VIII. Barriers, limitations, incentives

In Romania, the biggest entry barrier is represented by the cap on the number of licences. The municipality of Bucharest has issued more licenses to address the insufficient supply in that city; however, it has done so against the Taxi Law and is currently in litigation with the central authorities. The Bucharest municipality has also allowed taxis from a nearby county, namely the Ilfov region, to operate within the capital city. The Competition Council claims that the provision regulating the maximum number of licenses serves the exclusive interests of taxi operators by limiting access from potential competitors. In this context, in the past it has frequently urged the competent national authorities to remove the quantitative restrictions. In addition, as mentioned above (s. V), the Competition Council has sanctioned various anticompetitive practices such as agreements to fix the applicable fares.

Hire cars with drivers may provide substitutability in the pre-booked segment. This service is starting to develop especially in Bucharest, where new innovative service providers are starting to appear.

IX. Capacity, growth, impact

¹⁴⁵⁸ <http://fortune.com/2016/06/17/uber-uberjet-romania/>.

¹⁴⁵⁹ <http://www.elegancetaxi.com/>.

¹⁴⁶⁰ <http://private-driver-romania.com/#aboutus>.

According to the reply of the Romanian Competition Council to the stakeholder consultation, no data are available concerning taxis and hire cars with drivers as there is no centralised data system regarding those services. The only available data cover the city of Bucharest, where the Municipality approved a maximum number of 10,269 taxi licenses also increasing the number of parking spaces¹⁴⁶¹. It is important to note that the city of Bucharest has authorised taxis licensed outside the Municipality to operate in Bucharest due to the scarcity of supply.

In the same vein, it aims at removing the quota of 1 taxi/4,000 inhabitants because of the insufficiency of the service. For this reason, services like Uber have found a good ground for development, encountering few protests from traditional operators, tolerated by the local authorities, and also offering top tier seasonal services. Also top tier hire transport is developing in Bucharest (see s. VII). Similarly, ridesharing is available mainly for long distance journeys.

X. Results

The hire transport market is characterised by quantitative barriers which limit the capacity of supply especially in the biggest cities and in Bucharest. In the past, the taxi sector has also carried out anticompetitive practices (in particular fixing fares) sanctioned by the Competition Council. At the same time, the market has been favourable to intermediaries and operators active in the hire car with driver services. While some of these services are in the luxury segment, forming a separate market, others, such as airport transfers, are in direct competition with taxis in the pre-booked segment.

XI. Conclusions

The Romanian taxi market presents quantitative barriers to entry, with a rigid licence ratio, which seems inadequate to meet the demand, especially in the biggest municipalities. In this context of scarcity of supply, hire cars with drivers and innovative service providers have found good opportunities to enter the market, taking advantage of lower entry barriers compared to taxis. The Competition Council has advocated the removal of quantitative restrictions, in order to increase supply and allow the entry of new players in hire transport. This would be beneficial for urban mobility, and would bring more competition and better service for customers.

Bibliography

1. Lege nr. 38 din 20 ianuarie 2003, privind transportul in regim de taxi si in regim de inchiriere publicata in M. Of. 45 din 28.01.2003.
2. http://www.dreptonline.ro/legislatie/legea_taximetriei.php.
3. Lege nr. 265 din 19 iulie 2007 pentru modificarea și completarea Legii nr. 38/2003 privind transportul în regim de taxi și în regim de închiriere http://www.cdep.ro/pls/legis/legis_pck.htm?act_text?idt=82372.

¹⁴⁶¹ HCGMB nr. 259 - 200, <http://www.amrsp.com.ro/images/HCGMB%20nr.%20259%20-%202009.pdf>.

4. Lege 129/2015 pentru modificarea si completarea Legii nr. 38/2003 privind transportul in regim de taxi si in regim de inchiriere. Lege nr. 129/2015, Publicat in [Monitorul Oficial, Partea I nr. 396 din 5 iunie 2015.](#)
5. <http://www.dreptonline.ro/legislatie>.
6. [legea_129_2015_modificare_lege_38_2003_transportul_regim_taxi_si_regim_inchiriere.php](#).
7. Ordonanța nr. 8/2016 pentru modificarea și completarea Legii nr. 38/2003 privind transportul în regim de taxi și în regim de închiriere.
8. <http://lege5.ro/Gratuit/heytiojtgu/ordonanta-nr-8-2016-pentru-modificarea-si-completarea-legii-nr-38-2003-privind-transportul-in-regim-de-taxi-si-in-regim-de-inchiriere>.
9. <http://www.adti.ro/wp-content/uploads/2014/12/Regulament-Cadru-HOT-178...2008.pdf>.
10. <http://www.zf.ro/eveniment/oug-44-2008-actualizata-legea-care-reglementeaza-pfa-12525530>.
11. Lista de control a soferului de taxi.
12. http://ec.europa.eu/transport/road_safety/pdf/taxi_driver_check_list_ro.pdf.
13. http://www.dreptonline.ro/legislatie/lege_persoane_handicap.php; http://www.avocat-dreptul-muncii.eu/codul_muncii_2016.php.
14. <http://www.legeamuncii.ro/legislatie/SSM/og-37-2007.pdf> recently amended and completed by the Ordinance no. 8 of 28.01.2015 published in the Officiale Gazette of Romania, 1st part, no. 84 of 30 ianuarie 2015.
15. http://www.pmb.ro/adrese_utile/transport_urban/autorizatii_taxi/doc/Anexa_1_regulament_rent_car.pdf.
16. http://www.avocatnet.ro/content/articles/id_35563/Legea-care-interzice-autostopul-adoptata-prin-vot-final-de-deputati.html.
17. http://www.consiliulconcurrentei.ro/uploads/docs/items/id7378/com_de_presa_lege_taximetrie_30_martie_2012.pdf.
18. http://www.consiliulconcurrentei.ro/uploads/docs/items/id9970/amenzi_taxi_2015_english.pdf.
19. <http://www.amrsp.com.ro/images/HCGMB%20nr.%20259%20-%202009.pdf>.
20. <http://www.taximetre.ro>.
21. http://www.consiliulconcurrentei.ro/uploads/docs/items/id7378/com_de_presa_lege_taximetrie_30_martie_2012.pdf.

24.SLOVAKIA

General Legal Framework

Act No. 56/2012 Coll. on Road Transportation is the main legislative act regulating the taxi sector in Slovakia. Under the Act on Road Transportation, taxi service is defined as transport of passengers with taxi vehicles based on a contract for passenger transport. Municipalities may specify and add further requirements to the performance of taxi services, but these cannot derogate the main regulations.

Licenses

There is no cap on the maximum number of licences (concessions) that can be issued. A concession may be awarded to applicants having at least one owned or hired vehicle meeting the taxi's vehicle requirements imposed by the Road Transportation Act. The applicants must also have their own, hired or otherwise procured taxi station and a place (garage or other parking space) to park the taxi when not in service.. Applicants must be without criminal records; they must hold a certificate of professional competence; and they must demonstrate their financial standing pursuant to the Road Transportation Act. The financial standing is demonstrated by the availability of the sum of EUR 1,000 per each taxi vehicle. A concession shall be awarded for ten years, unless a shorter validity period was requested by the applicant.

Technical requirements

A taxi is only the vehicle that is specified in the concession and whose registration number is reported in the concession. The taxi number must be placed on the vehicle in a position visible to the passenger. A taxi can be equipped with a division wall to protect the driver. The taxi must have a fixed built-in operating taximeter that meets the requirements for designated measuring instruments, and that allows passengers to monitor the indicated price of fare during the transport and be equipped with a fixed or removable roof light in yellow colour with the inscription TAXI.

Organisational and professional requirements

Taxi driver's professional competence shall be obtained by passing an examination before an examining board and certified by the issue of the driver's licence. This is a pre-requisite for the issuance of the concession. Once the concession is obtained, there is no obligation to be affiliated to a dispatch centre.

Fares

Fares are not regulated at the national or municipal level. Taxi companies have discretion in fare setting. There is fierce price competition between taxi companies.

Passenger rights

The Road Transportation Act does not stipulate rights of the passengers but rather obligations of the taxi driver from which passenger rights are stemming.. Furthermore, some taxi companies include passenger rights in their internal regulations (operational orders).

Labour rules

Taxi drivers shall be either: i) employed by a taxi operator; or ii) provide taxi services as self-employed. Taxi drivers who are employed by a taxi company are subject to the general Slovak labour law rules.

Airports

There are no separate licences for airports.

Enforcement

The Road Transportation Act provides for several tools available to respective authorities in order to ensure compliance by the taxi operators and taxi drivers with the regulation. The two most relevant sanctions imposed by the respective authority are i) withdrawal of the concession; and ii) monetary fine. Monetary fines vary depending on the breach of the Road Transportation Act and its severity. The fines may vary from EUR 100 to EUR 15,000 for major breaches.

Hire cars with driver

The Road Transportation Act also applies to hire cars with drivers since it provides that the transportation of persons may be carried out either as bus transportation or provision of taxi services. Personal transportation with vehicles with capacity of no more than 9 passengers including the driver shall be considered as provision of taxi service.

Ridesharing

There is no regulation which specifically addresses ridesharing and car sharing in Slovakia

Market players

The following taxi companies are the most relevant market players within their area of concession:

- Fun Taxi, Hello Taxi, VB Taxi, Easy Taxi, Profi Taxi, Caribic Taxi in Bratislava;
- Yellow Taxi, CTC Taxi, Easy Taxi in Košice;
- Fun Taxi, City Taxi, Euro Taxi in Nitra and Trnava.

Uber operates its UberX service. In September 2015, methodological guidelines for Uber were issued by the tax authority classifying the service as a taxi operator.

Capacity, growth and impact

In Slovakia, since any kind of passenger transportation may be performed only either as bus transportation or taxi service, the taxi operators are only competing with the public transport services and between themselves. Only recently there have there been new entrants like UBER and Liftago, but their future is uncertain due to the lack of applicable rules. Certain taxi companies are also providing limousine services but it is not considered as a separate market. According to one respondent to the stakeholder consultation, the taxi sector is on the rise in terms of revenues and quality of services.

Conclusions

Road Transport Act in 2012 created two categories of passenger transport – bus and taxi – and the transport of passengers by cars became possible only with a valid licence (concession). There are no quantitative restrictions, and the access to market is based on stringent qualitative requirements, including financial standing and vehicle requirements, applicable to both taxis and hire cars with driver. The main purpose of the reform was to prevent tax evasion and transport by unlicensed drivers. The market is competitive and growing, partly due to the absence of fare regulation, with a continuous increase in the number of players and the development of new innovative services, as well as an increase in the quality of the services.

I. Introduction

Provision of taxi services was always substantially regulated in Slovakia. During the socialism era the taxis were part of state owned companies and not private entrepreneurs. This changed after collapse of the Soviet Union and transformation of Czechoslovak political and economic system to liberal democracy and free market economy.

It should be noted that after the year 1989, the regulation and overall requirements were loosened and it was easier to obtain a licence or conduct business in taxi sector. Provision of taxi services was considered as free trade, meaning that general basic requirements such as : i) full legal capacity; ii) not being convicted of a crime; and iii) reaching of age of at least 18 years, were considered sufficient for obtaining a licence.

More stringent regulation was introduced in 1996 which, however, also contained several imperfections and needed to be amended quite often. This former act on road transportation was amended 17 times and finally was abolished and replaced by current Act No. 56/2012 Coll. on road transportation, as amended (the "Act on Road Transportation") in 2012.

Adoption of current Act on Road Transportation responded to the need to comply with the EU rules on public transport. Furthermore, regulation of taxi industry was reassessed and more restrictive regulation was re-introduced.

In particular:

- conditions for issuing of special licence were introduced;
- competences between state and municipality authorities were précised;
- more stringent requirements with respect to taxi vehicles were imposed; and
- rights of customers and obligations of taxi drivers were inserted directly into the Act on Road Transportation.

Taxi service is defined under the Act on Road Transportation as operation of passenger transport with taxi vehicles providing the transport of individual passengers or of a group of passengers to the final destination according to a contract for passenger transport.

II. Legal framework applicable to taxis

II.1 National/Local/municipal regulations

The regulation exists at national level only. The relevant legislation is the Road Transportation Act – i.e. the Act No. 56/2012 Coll. on road transportation (*o cestnej dopravě*), as amended. However, municipalities may specify and add further requirements in the area of taxi services, but these cannot be in contradiction with main regulations.

Furthermore, the Road Transportation Act allows for municipalities to set out details on provision of taxi services in the territory of the municipality by adopting a general binding regulation and to issue operation rules on taxi stands.

The Road Transportation Act stipulates that the transportation of persons may be carried out either as bus or by taxi. This Road Transportation Act recognizes only two methods of transportation of persons. Therefore, transport service provided with vehicles with capacity of no more than 9 passengers (including the driver) shall be considered as provision of taxi services.

The position of the authorities is that hire cars with driver (under the free licence) would be bypassing of the regulation contained in the Road Transportation Act and a would be prohibited. Therefore, the provision of transportat services by vehicles with capacity of less than 9 passengers including the driver shall be always considered as provision of taxi services with all resulting consequences (e.g. requirements for the vehicle, need of concession to provide taxi services, taximeter etc.).

Even within taxi services, under the Road Transportation Act two sub-groups or two types of taxi services may be (indirectly) identified:

- general taxi service provided with vehicles which shall have taxi-meters installed; and
- taxi service provided without taximeter.

According to the Road Transportation Act, a vehicle does not need to have a taximeter installed in case of transportation of group of passengers (i) who paid the travel fare in advance prior to commencement of the transportation; or (ii) at usual places on the regular transportation route. The meaning of the expression "transportation of group of passengers" is not clarified; therefore is unclear whether the exemption might be applied also if there is only one passenger.

According to a non-binding explanation of the Ministry of Transportation, Construction and Regional Development of the Slovak Republic published on its website, the exemption may be interpreted so that the installation of a taximeter is not required when the route and price is agreed and paid in advance; thus we believe that the exemption would be applicable even if there is only one passenger. This would mean that hire cars with driver and limousine service have to comply with the Road Transportation Act requirements with the only exception of the taximeter.

Each taxi service provider shall have:

- operation obligations in the extent of the concession;
- transportation obligations in the extent of the travellers rules; and
- tariff obligations pursuant to the tariff.

The regulatory authorities are the District office with seat in the Circuit in particular for granting of concessions to operate taxi services, the municipality as a first instance supervisory authority. On the highest level is the Ministry which adopts certain conceptual guidelines in this sector etc.

II.2 Procedures for issuing licences and applicable criteria

According to the Road Transportation Act, only concession holders are allowed to operate a taxi service.

A concession may be awarded to applicants who:

- have at least one own or a hired vehicle, which meets requirements for taxi vehicle pursuant to the Road Transportation Act;
- have their own, hired or otherwise procured taxi station and a place to garage or park the taxi vehicle when transport service is not provided;
- are without a criminal record;
- have a certificate of professional competence; and
- demonstrate their financial standing pursuant to the Road Transportation Act. The financial standing is demonstrated by a sum of EUR 1,000 per each taxi vehicle.

A concession authorises the carrier to offer transport services and conclude contracts for the transport of passengers only in the area defined by the concession. The carrier can transport passengers from the defined area to any final destination within the Slovak Republic or abroad, and from a final destination within the Slovak Republic into the area defined by the concession.

A concession may not be awarded to applicants whose estate was adjudicated bankrupt, during three years of the termination of bankruptcy or repeated confirmation of compulsory composition; this shall not apply if the bankruptcy or the compulsory composition resulted from the winding up or a third party criminal act. However, a concession may be awarded to applicants after the lapse of one year of the date of settlement of liabilities resulting from the bankruptcy according to an allocation resolution of the court. If the applicant deliberately inflicted the bankruptcy or compulsory composition, a concession may be awarded to them only five years after the date of complete settlement of liabilities resulting from the bankruptcy according to an allocation resolution of the court. This also applies to applicants against whom the bankruptcy order was rejected only due to insufficient estate which was sufficient at least to cover the costs of proceedings.

A concession may not be awarded to applicants on whom a judicial decision imposing a driving ban was adopted following an infringement procedure, for the duration of the period of the ban.

In the concession award decision, the transport administrative authority imposes to the applicant the obligation to:

- a) Use a certain type of vehicle or respect certain requirements concerning the age of vehicle, its equipment and the technical level; or to have the equipment for the transport of selected passenger groups and dogs with special training;
- b) Use a certain taxi station;
- c) Ensure information services for passengers or use a certain system for ordering of transport, including the use of an electronic medium and electronic system.

A concession shall be awarded for ten years, unless a shorter validity period was required by the applicant. The concession may be prolonged on demand of its holder, if the Road Transportation Act requirements for the operation of taxi service continue to be met.

A concession is non-transferable to another person. If the concession holder's undertaking is transferred to another, the transport administrative authority shall withdraw the concession from the present holder. The undertaking buyer can become the operator of taxi service, if he/she is awarded a concession by the transport administrative authority. To let the operation of taxi service be run temporarily for maximum six months to another taxi service operator, it is necessary to have a decision by the transport administrative authority which temporarily changes the concession. The change is possible on demand of the concession holder for reasons of major obstacles in taxi operation, and if the temporary taxi operator ensures the compliance with conditions on the operation of taxi service under the concession. The temporary taxi operator must agree with the change in the concession.

The concession shall expire after the period for which it was awarded, or in case of withdrawal. Another reason of expiration is the death of the holder in case of natural

person. The heir, the surviving spouse or another person may carry on the taxi operation until the termination of probate proceedings with respect to the undertaking of the deceased concession holder, if they meet the good repute requirement as imposed by the Road Transportation Act. The resumption of taxi service operation must be reported to the transport administrative authority within three business days from the commencement of continuation of taxi service, and a copy of an entry in the criminal records not older than three months must be enclosed. Within 15 days of delivery of the report, the transport administrative authority shall inform that it has no objections to the continuation of taxi service, or it refuses the continuation if the requirements for operation of taxi service are not met.

The transport administrative authority shall withdraw the concession if the holder:

- No longer fulfils the requirements according to the Road Transportation Act;
- The holder's undertaking was adjudicated bankrupt;
- Is no longer able to perform the carrier activity for any business, technical or personnel-related reasons, and for natural persons also for health-related reasons;
- Has not started to operate the taxi service without a major obstacle according to the conditions specified in the concession and according to the transport regulations within 30 days of the validity of concession awarding decision;
- Despite warning and imposed fine runs the taxi service in contradiction to the law, to the concession or to the transport regulations; and
- Applied for the withdrawal himself/herself.

An application to initiate a procedure for the award of a concession for taxi service must contain:

- a) Personal information of the applicant;
- b) A certificate of professional competence and information on undertaking's financial standing and good repute of the members of the undertaking's statutory body;
- c) Information on the registered office and place of business and on the seat of technical basis;
- d) Identification data on taxis, namely the type, make and licence number, the date of first entry into the register of motor vehicles, data on technical inspection and on emission inspection and data on whether they are owned, hired or in leasing;
- e) Data on the place and legal relation to the taxi station;
- f) List of taxi drivers and data on their fitness for driving the vehicles and on their professional competence and good repute and on driver's licences;
- g) Data on the existence, operating and technical possibilities of the dispatching.

Documents proving data specified in the application for concession should be annex to the application. There is an administrative fee payable in the amount of EUR 30 for issuance of the concession.

II.3 Technical requirements applicable to licensed vehicles *(taximeters, vehicles' technical specifications, accessibility, insurance, maintenance)*

A taxi vehicle may only be a vehicle which:

- a) It is specified in the concession and whose registration number is reported in the concession; the number must be placed on the vehicle in a position visible to the passenger.
- b) The left and right front doors must be marked with the taxi operator business name and the dispatching telephone number for pre-booking; otherwise the driver or carrier's telephone number.
- c) Has a fixed built-in operating taximeter which meets the requirements for designated measuring instruments, which allows passengers to monitor the fare spot price during the transport, and which issues invoices of the fare paid. A taxi used for the transport of a group of passengers who paid the fare in advance or or performing a repetitive service on scheduled route does not need to have the taximeter.
- d) On the right front door and inside the vehicle, in a position visible to the passenger, shows the basic rate; except if it is a taxi used for the transport of a group of passengers who paid the fare before the start of transport or in usual places on scheduled route.
- e) Is insured against third party liability risks with respect to damage inflicted to the passenger's health or passenger's property.
- f) Is equipped with a fixed or removable roof light in yellow colour with the inscription TAXI.
- g) Must allow the transport of at least 50kg of traveller's luggage when loaded with its full complement of persons within the vehicle total weight, or must have a luggage compartment or a loading space of at least 375 dm³.

The transport administrative authority shall only record a vehicle as a taxi in the concession which:

- a) it has at least three entrance doors into the driver and passenger's space;
- b) according to the certificate of registration, it is approved for the transport of at least four and maximum nine passengers including the driver;
- c) it is not older than eight years from the date of registry (i.e. from date of putting it in operation).

A taxi can be equipped with a division wall to protect the driver. The division wall must be placed in a way so to separate the driver and the passengers, but also allowing communication between the driver and the passengers, having a sliding part, folding part or with fixed holes.

The taxi operator must have at least one taxi vehicle per 15 operated vehicles, where the number of passenger seats or the size of luggage compartment or loading space is designed for or equipped for the transport of more than four and maximum eight passengers, selected passenger groups with the accessories, a high number of luggage items or bulky luggage.

With respect to accessibility, there is no specific regulation for taxis on accessibility in Slovakia. The Road Transportation Act does not impose any accessibility (wheelchair) obligation.

The Road Transportation Act requires that the taxi vehicle is insured against third party liability risks with respect to damage inflicted to the passenger's health or passenger's property. Furthermore, the owner of the vehicle shall have mandatory collision insurance which covers also damage on property and personal injury.

As regards to the maintenance of vehicles, the Road Transportation Act only stipulates that a concession may be issued only to a person who has a place to garage or park the taxi vehicle when it is not in service. Also, the vehicle shall comply with general regulations in the field of communication meaning that the vehicle shall be duly capable of travelling on roads (i.e. shall have necessary technical and environment controls if older than four years and shall not anyhow endanger road traffic).

II.4 Qualitative requirements (*fitness of the driver, knowledge and skills required, drivers' training*)

Only the holders of taxi driver's licence can perform as the taxi drivers. Taxi drivers must be employed at the taxi service operator for defined weekly working hours, or they can operate a taxi service as a self-employed person.

A driver's licence can be issued to persons who:

- a) are the holders of driving licence of the group or sub-group authorizing them to drive a taxi vehicle, for at least three years;
- b) are at least 21 years old;
- c) have full legal capacity;
- d) have clean criminal records.

People who were convicted of intentional crime or of a negligent crime related to road transport or to the provision of services to customers, and whose sentence was not served at all, shall not be deemed as persons with clean criminal record for the purposes of Road Transportation Act. Also, persons who were sentenced of a ban on driving of a motor vehicle or the ban was imposed by the court during an infringement procedure,, shall not be treated as being without a criminal record for the duration of the ban.

Taxi service driver's professional competence shall be obtained by passing an examination before an examining board and certified by the issue of the driver's licence. This is a pre-requisite for issuance of the concession. Performance of the examination is regulated by Decree of the Ministry of Transport, Construction and Regional Development of the Slovak Republic No. 124/2012 Coll., through which certain provisions of the Road Transportation Act were implemented (the "Decree").

The Decree stipulates what shall be the content of the professional examination of the taxi driver. Through the examination the taxi driver shall demonstrate, *inter alia*, i) the ability to ensure passengers' comfort; ii) the knowledge of driver and passenger rights and obligations; iii) the knowledge of documents relating to the vehicle; iv) the use of the communication network; v) the ability to operate the taximeter etc.

Competent authority for setting the examination boards is the District Office of the Regional City. The administrative fee for such professional examination amounts to EUR 100.

II.5 Organizational requirements (*dispatch affiliation centre, minimum service*)

The affiliation to a taxi dispatch centre is not mandatory. However, according to Section 26 of the Road Transportation Act, the taxi drivers may also provide their services through a dispatch centre.

If the driver is affiliated to a dispatch centre, then he/she should report it. The information about the affiliation, including the operational and technical parameters, shall be provided when applying for the concession.

No other regulation with respect to dispatch centre and/or minimum service is contained in the Road Transportation Act.

II.6 **Fares** (*criteria for taxi fare setting, authority/body in charge of setting the tariffs, maximum tariffs and/or fixed tariffs, composition of the tariff and tariffs adjustment mechanism [minimum charge, additional charge for using the radio taxi or dispatch centre, increase of the tariff during certain hours, such as at night or on certain journeys, such as towards the airports, reductions for certain categories, such as elderly people]*)

Fares are regulated neither at national nor at municipal level. Taxi companies have discretion in fare setting and there is a fierce price competition between taxi companies. On one hand this is beneficial for the customers but taxi drivers are complaining about the lack of regulation and how the fares are cheaper in Slovakia than in other EU Member States.

Most taxi companies, however, have introduced a minimum fare price which amounts approximately to EUR 3. Some Taxi companies introduced a flat fare price per ride and divided the city into zones (i.e. the flat fee depends on whether the trip shall be conducted only in one zone or if multiple zones will have to be passed through).

IN general the current fare scheme is based on price per km where the taxi companies have discretion to set such price and a minimum fare price per trip.

In Bratislava, there is the intention to regulate prices in taxi sector with the introduction of a municipal regulation stipulating either minimum fares or fixed fares. However this has not yet happened. In Bratislava, according to the desk research and the stakeholder consultation, a taxi is cheaper if pre-booked than when picked up from that taxi stand, as different rates are applicable.

II.7 **Passenger rights**

The Road Transportation Act does not include passenger rights but rather obligations for taxi driver from which passenger rights are stemming.. Furthermore, some taxi companies include passenger rights their internal regulations (operational orders).

According to Section 29 of the Road Transportation Act, a taxi driver is obliged to provide transport services according to the transport regulations, in particular to:

- a) carry passengers according to the dispatching instructions from a place agreed in advance or to passengers who required the service at the taxi station. or when hailed at any place while the taxi vehicle is in motion without a passenger, except if hailed at regular transport stops;
- b) use a roof light to inform whether the taxi vehicle is free or occupied or by an order placed;
- c) load and fix luggage and other belongings of the passenger, and unload the same after the end of transport;
- d) allow the passenger to watch the taximeter's display during the ride after getting on and until leaving the vehicle;
- e) conduct the transport by the shortest route allowed by the transport situation; another transport route can only be used with the passenger's consent or on passenger's proposal, or when it is a scheduled route for a group of passengers which is agreed in advance;
- f) take on board another passenger only with the consent of the passenger or on passenger's proposal; this shall not apply to the transport of a group of passengers on scheduled route a even if there is a free place on the taxi vehicle, or when the taxi was booked in advance;
- g) issue an invoice proving that the fare was paid; a copy in paper form or in electronic form shall be part of taxi service operator's filing department;
- h) have the driver's licence displayed on the taxi vehicle in a place which is visible to passengers;
- i) have complete tariff conditions on the taxi vehicle and allow passengers to inspect them on demand.

A taxi driver can refuse the transport or he/she can stop commenced transport, if:

- a) the technical condition and road capacity or the safety and free flow of traffic on the route do not allow the performance of the service, also due to bad weather, road damage or accident;
- b) The passenger's conduct, in particular if the passenger is aggressive or armed, the time and the desitationation may raise concerns about the driver safety or vehicle integrity;
- c) With respect to the passenger's condition, there is a threat of damage to the taxi vehicle or of driver's harassment during the transport;
- d) Despite warning, the passenger is smoking in the taxi vehicle, eats or drinks or feeds a transported animal, or places in the front passenger seat small luggage, newspapers, maps or other objects which can restrict the driver's view or endanger the driving of taxi vehicle;
- e) The passenger has luggage which exceeds the permitted size and weight or of a shape that cannot be transported, or wishes to carry animals which as to their size, quantity or behaviour cannot be carried in the passenger space or in the storage compartment.

If the taxi service driver refuses to carry a passenger for reason mentioned above under letter e), he/she is obliged to report it to the dispatching in order to ensure an additional appropriate taxi vehicle or to another driver whose vehicle is fit for taxi services.

Taxis are not currently obliged to accept electronic payments. However, if electronic payments are not accepted, it must be indicated.

II.8 Subsidies applicable to taxi sector *(including public developed applications for taxi sector, geolocalisation, etc)*

There are no expressly targeted subsidies in the taxi sector, in particular subsidies for the taxi drivers.

However, the Slovak law specifies several situations in which various forms of "subsidies" or partial travel reimbursements are allowed for passengers. Under the Act No. 447/2008 Coll. on Financial Benefits for Compensation of Serious Health Disability, as amended, particular individuals with serious level of health disability (as defined by the Act) are entitled to a financial subsidy granted for transport. This compensation is subject to number of conditions; e. g. the recipient needs to be dependent on an individual transport by a car (according to a medical opinion); its income cannot exceed the five times' statutory minimum living wage; he/she cannot own his own motor vehicle.

Applicant must file a formal request at local Office of Labour, Social Affairs and Family, a public body which decides in administrative procedure. Amount of this compensation is calculated as a certain percentage from minimum living wage (for 2015 it was max. EUR 101,07 a month). Recipient of subsidy is obliged to provide the respective Authority with pertinent proofs of expenses on a monthly basis.

II.9 Labour rules

Taxi drivers shall be either: i) employed by operator of taxi service or ii) provide taxi services as sole practitioner (self-employed entrepreneur). Taxi drivers who are employed by a taxi company are subject to the general Slovak labour law rules.

However, a significant number of taxi drivers are sole practitioners who contract with dispatch companies for brokerage of orders. Therefore, implication of labour law rules is rather limited.

II.10 Supervisory enforcement tools

The Road Transportation Act provides for several tools available to respective authorities in order to ensure compliance by the taxi operators and taxi drivers with the regulation.

Two most relevant sanctions which may be imposed by the respective authority are: i) withdrawal of the concession; and ii) monetary fine. Monetary fines vary depending on the breach of the Road Transportation Act and its severity. The fines may vary from EUR 100 to EUR 15,000 for major breaches.

III. Legal framework applicable to hire cars with driver

III.1. National/local municipal regulation

Only applicable regulation in field of transportation of persons is the Road Transportation Act. The Road Transportation Act stipulates that the transportation of persons may be

carried out either as bus transportation or provision of taxi services. Transport with vehicles with capacity of no more than 9 passengers including the driver shall be considered as provision of taxi services. As mentioned above, the Road Transportation Act recognizes only two methods of transportation of persons, bus and taxi transport. Furthermore, due to the fact that the Road Transportation Act or any other law does not regulate additional methods of private hiring of cars with drivers, any service of hire cars with driver is be considered as taxi service and it would need to comply with the taxi regulation.

III.2 Procedures for issuing licenses and applicable criteria

See s. II.2. Same as for obtaining and issuing taxi concession.

III.3 Technical requirements applicable to private hire cars

See s. II.3. Same requirements are applicable as hire cars with driver are deemed taxi service.

III.4 Qualitative requirements

See s. II.4. Same requirements are applicable as hire cars with driver are deemed taxi service.

III.5 Organisational requirements

See s.II.5. Same requirements are applicable as hire cars with driver are deemed taxi service.

III.6 Passenger rights

See s. II.6. Same requirements are applicable as hire cars with driver are deemed taxi service.

III.7 Labour rules

See s. II.7. Same requirements are applicable as hire cars with driver are deemed taxi service.

III.8 Local incentives, subsidies provided by the administration in order to carry out certain services (such as mini-van service for people with reduced mobility, elderly, schools)

No specific incentives or subsidies were found.

III.9 Supervisory enforcement tools

See s. II.10. The same enforcement tools than taxis are applicable.

IV. Legal framework applicable to ridesharing and car sharing
IV.1 Current regulations and legislative proposals

There is no regulation which specifically addresses ridesharing and car sharing in Slovakia. According to the rigid wording of the Road Transportation Act and to the interpretation of the authorities, ridesharing and car sharing activities might be considered as provision of taxi services if conducted as a business or with commercial purpose. An activity is considered to be conducted as business if it is provided on a continuous basis; in the person's own name and responsibility; and with the aim to achieve profit.

Furthermore, there are no legislative proposals addressing this topic, even though from current market developments such legislation would be appropriate or amendments to the Road Transportation Act should be adopted to reflect the market situation.

Regular taxi operators were protesting at the end of last year against the arrival of new tech platforms (in particular Uber) in the Slovak market. They requested the Slovak government to adopt appropriate measures and prohibit such new market players. However, the situation is now at standstill and the government said they are yet analysing the situation.

Nevertheless it is important to mention that, from a strict legal point of view, these new technical platforms are most likely not violating the Road Transportation Act since they are only intermediaries providing a mechanism for the drivers to get more working opportunities. It should be always the drivers (provided that they would be provided the transportation services as defined under the Road Transportation Act and fulfilling the definition of conducting business) who would have to comply with all the requirements set out by the Road Transportation Act. Therefore the risk of being sanctioned and even penalized by criminal sanctions rests mainly with the drivers.

IV.2 National rules applicable to on-line platform and rules applicable to service providers.

See above.

IV.3 Main operators and their business models

Uber, Liftago.

IV.4 Requirements imposed upon non-licensed activities (*safety and technical requirements, insurance requirements, obligations relating to licences and on-line platforms*)

Not applicable.

IV.5 Local incentives, subsidies and other forms of promotion for ridesharing and car sharing *(including, parking spots, use of preferential lanes, etc)*

Currently, there are no specific incentives or subsidies for ridesharing and car sharing.

V. Relevant national case law

We have not identified any relevant case law in Slovakia with respect to taxi operators. There were protests and strikes against Uber at the end of year 2015. But so far we are not aware of any measures imposed by courts and/or the government against Uber or similar companies.

VI. Country Market

There is no legal definition of the taxi market in Slovakia or any precise definition by Slovak competition authority.

Basically in Slovakia, since any kind of personal transportation may be performed only either as bus transportation or taxi service, the taxi operators are only competing with the public transport service and between themselves.

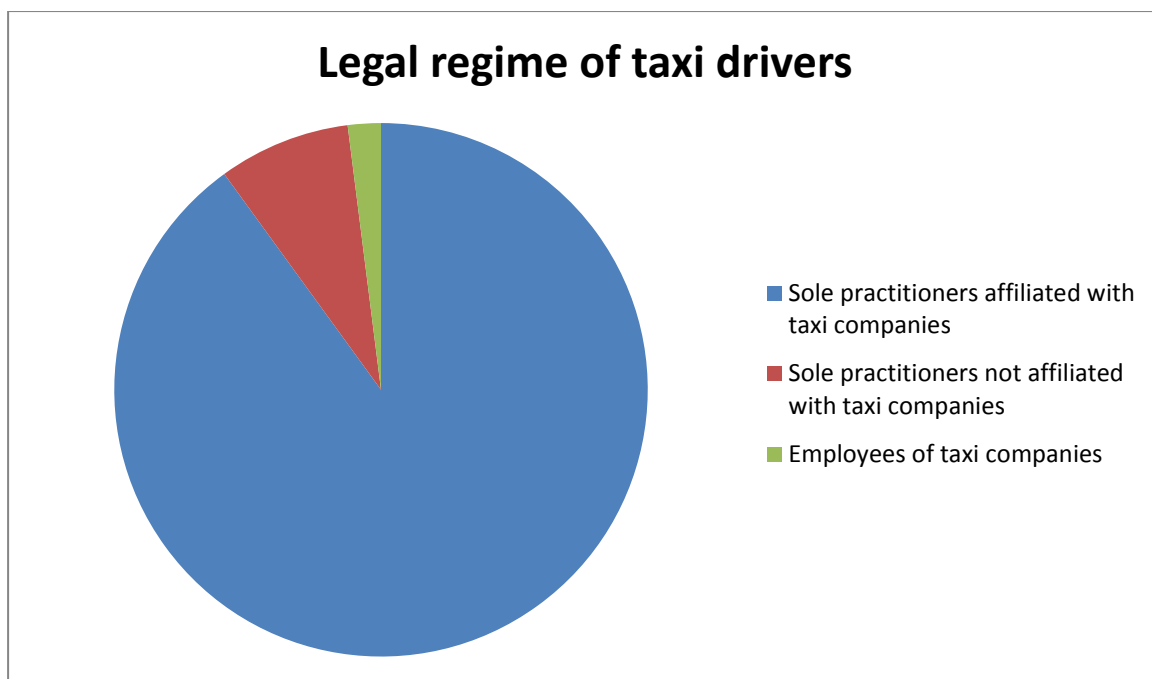
Only recently there have been new entrants like Uber and Liftago but their future is not yet clear due to lack of applicable rules. Certain taxi companies are also provided limousine services but we would not consider this as separate market.

Each concession shall indicate the geographic area for which it was granted. This usually covers the entire administrative region (Slovakia is divided into 8 administrative regions). Thus taxis usually compete between themselves at regional level.

Most of the taxi drivers are self-employed who are cooperating with taxi companies. A respondent to the stakeholder consultation has confirmed that. Almost all taxi drivers are self-employed and work as independent licensed contractors for various taxi companies or use a taxi app.¹⁴⁶²

Taxi drivers pay a fee to the dispatch centres or intermediaries for brokerage service. The fees vary depending on the dispatch centre/intermediary, but they range from EUR 180 to 250 a month, based on publicly available information. Furthermore, taxi companies also rent the taxi stands in the city allowing affiliated taxi drivers to use their stands. Approximately 90% of taxi drivers cooperate in such manner. 8% of taxi drivers are self-employed without any affiliation to any taxi company and 2% of taxi drivers are regularly employed by taxi companies.

¹⁴⁶² Reply to the stakeholder consultation, 8 April 2016.



VII. Market players

Traditionally only taxi companies or taxi drivers – sole entrepreneur/self-employed, are competing among themselves. Therefore the most relevant market players are biggest taxi operators in different regions.

According to the Ministry of Transport, the number of concessions issued each year between 2010 and 2015 is:

- a. 2010 – 51
 - b. 2011 – 197
 - c. 2012 – 362
 - d. 2013 – 2093
 - e. 2014 – 1184
 - f. 2015 – 294
- TOTAL 5592**

However, on the basis of publicly available data, the following taxi companies are the most relevant market players:

- Fun Taxi, Hello Taxi, VB Taxi, Easy Taxi, Profi Taxi, Caribic Taxi in Bratislava;
- Yellow Taxi, CTC Taxi, Easy Taxi in Košice;
- Fun Taxi, City Taxi, Euro Taxi in Nitra and Trnava.

In Bratislava, the capital city, there is the largest number of concessions. The capital is followed by the second largest city in the eastern part of Slovakia – Košice.

KOLL UP, spol. s r.o. is one of the biggest taxi operators, and it operates a taxi brand named **Hello Taxi** in Bratislava. They cooperate with approximately 300 taxi drivers out

of overall approximately issued 1,500 taxi concessions for Bratislava region. Other notable players and recent entrants are **Easy Taxi and VB taxi**. Easy Taxi entered the market with new method of pricing (i.e. fixed price per city zones) and VB taxi uses retro image of police cars deployed in former socialist regime (VB being a shortcut for public security – former name of the police).

Uber operates the UberX service. On 7 September 2015 methodological guidelines specifically aimed at Uber were issued by the tax authority (Financial Administration). It classified transport operators (drivers) using the Uber app as a taxi service and set an obligation to use a cash register, pay VAT for receiving a cross border service as well as pay income and motor vehicle tax.

Below the list of largest taxi operators by revenue operating in largest Slovak cities:

Bratislava

Name of the company	Revenue (in EUR, 2014)	Revenue (in EUR, 2013)	Revenue (in EUR, 2012)
Delta TAXI	237 653	167 556	148 281
Hello taxi	226 919	211 779	290 109
Taxi Trend Bratislava	459 433	469 608	436 475
Taxi Bratislava PROFI	410 501	153 416	137 810
OTTO TAXI	48 984	49 545	49 380
AA taxi EURO	184 326	201 467	216 707
Fun Taxi	45 955	23 446	19 813
SUPER TAXI	31 988	23 080	47 475
ABC Taxi	42 819	39 767	-
Alexandra Taxi	52 030	49 767	48 341
TA XI	211 444	-	-

Banská Bystrica

Name of the company	Revenue (in EUR, 2014)	Revenue (in EUR, 2013)	Revenue (in EUR, 2012)
TAXing	42 102	34 720	3 576
EXPRES TAXI	31 781	14 120	-

Prešov

Name of the company	Revenue (in EUR, 2014)	Revenue (in EUR, 2013)	Revenue (in EUR, 2012)
HALO TAXI	117 306	104 123	34 965

Ružomberok

Name of the company	Revenue (in EUR, 2014)	Revenue (in EUR, 2013)	Revenue (in EUR, 2012)
TAXI TATRA	35 414	68 242	-

Žilina

Name of the company	Revenue (in EUR, 2014)	Revenue (in EUR, 2013)	Revenue (in EUR, 2012)
TAXI Airport Žilina	16 465	9 920	8 400

Malacky

Name of the company	Revenue (in EUR, 2014)	Revenue (in EUR, 2013)	Revenue (in EUR, 2012)
TAXISS	155 655	158 410	166 998

Prievidza

Name of the company	Revenue (in EUR, 2014)	Revenue (in EUR, 2013)	Revenue (in EUR, 2012)
SUPER TAXI - WHITE TAXI	45 509	27 431	800

Košice

Name of the company	Revenue (in EUR, 2014)	Revenue (in EUR, 2013)	Revenue (in EUR, 2012)
LUCKY TAXI	16 986	14 038	42 978

Liptovský Mikuláš

Name of the company	Revenue (in EUR, 2014)	Revenue (in EUR, 2013)	Revenue (in EUR, 2012)
Liptov Taxi	40 711	-	-

Zvolen

Name of the company	Revenue (in EUR, 2014)	Revenue (in EUR, 2013)	Revenue (in EUR, 2012)
VIP TAXI	27 276	33 049	32 614

Spišská Nová Ves

Name of the company	Revenue (in EUR, 2014)	Revenue (in EUR, 2013)	Revenue (in EUR, 2012)
ABC - Taxi service	19 494	30 021	19 305

Bardejov

Name of the company	Revenue (in EUR, 2014)	Revenue (in EUR, 2013)	Revenue (in EUR, 2012)
BENELUX - TAXI	21 509	3 232	-

Hamuliakovo

Name of the company	Revenue (in EUR, 2014)	Revenue (in EUR, 2013)	Revenue (in EUR, 2012)
MERCEDES TAXI airport	81 980	-	-

Nové Zámky

Name of the company	Revenue (in EUR, 2014)	Revenue (in EUR, 2013)	Revenue (in EUR, 2012)
Elpo Taxi	42 993	-	-

VIII. Barriers, limitations, incentives

In Slovakia, the taxi sector is characterized by the presence of qualitative barriers only - the main one being the heavy administrative process for obtaining the concessions.

As indicated in Section II, there is a rather rigid regulation for obtaining a taxi concession; a number of requirements are imposed to obtain the taxi driver's licence and strict regulation is imposed to ensure the quality of vehicles. Finally, educational prerequisites for potential candidate drivers were introduced, although it is difficult to identify the success rate as data about the candidates are not publicly available.

Due to the high number of taxi companies and taxi drivers, there is fierce competition among operators; however this does not always ensure the quality of the service, as participants on the taxi market often refuse to take a customer because they perceive that the rides are not lucrative enough for them. Self-employed drivers complain that the free fares have resulted in too low fares and, consequently, in low earnings.

In Slovakia, there is no regulation with respect to ridesharing/car sharing. Furthermore, under Slovakian legislation, all personal transportation is considered to be a provision of taxi services. This interpretation is too rigid and results in redundant administrative obstacles.

IX. Capacity, growth, impact

In Slovakia, there are approximately 3,500-4,000 concessions. Most of them (above 90%) serve the cities and in the suburbs. Most taxi companies affiliate self-employed professional taxi drivers, who pay a fee for dispatching the services and get a taxi stand of the taxi company in return.

Since the introduction of the Road Transportation Act, the number of self-employed has decreased significantly and, in parallel, the number of taxi drivers affiliated to the largest taxi companies has increased.

There has also been a limited increase in the number of taxi companies.

Despite the introduction of more stringent requirements, it still can be concluded that the taxi sector is on the rise in terms of revenues and quality of services as indicated in the table below:

Year	Gross revenue (EUR)	Gross profit before taxation (EUR)
2012	1.715.506	35.828
2013	1.914.982	– 61.424
2014	2.753.995	– 107.006

X. Results

The introduction of the Road Transportation Act resulted in the harmonization of the public personal transportation with EU rules. This has had a major impact on the taxi market: by introducing strict administrative requirements and new fines, the new rules aimed at removing "black market (i.e. without permit) taxi drivers". This purpose was partially achieved, and the quality of the services has increased due to more stringent requirements on the taxi vehicles. This measure was also connected with the safety of passengers.

However, the unclear legal wording and the lack of specific legislation with regard to ridesharing or hire cars with drivers has led to grey zones and raised many uncertainties, resulting in a legal environment where the same regulatory requirements apply to the old taxi companies business model as well as to the innovative car sharing/ridesharing services. As a result, every mode of transport of persons is considered as a taxi service, if conducted as a business activity.

Against the above background, in Slovakia only the taxi market has a clear legal framework and is open to competition. The entry costs are quite high due to a large number of strict requirements (permits, technical availability, financial security), and the market is shifting from self-employed professionals towards major taxi firms.

The regulation of the car sharing/ridesharing service providers is expected to remain unclear in the near future. Also, there are no specific rules for intermediaries providing innovative services. It is not yet clear how the government and the competent national authorities will position themselves vis-à-vis new market entrants like Uber, Liftago, etc. The radically different organizational background as well as business model of these new companies as compared to the taxi enterprises' is the source of many protests from the established taxi communities. However, only the drivers who decide to cooperate with companies like Uber or Liftago, and not the companies themselves, run the risk of being sanctioned

Against the above situation, it could be expected that discussions on whether or not to amend the current legislative framework will take place between the taxi drivers, the car sharing/ridesharing companies and the Government. This is inevitable as the consumer demand for the services of these companies is growing and it seems that this tendency will continue in the future.

We therefore expect that the car sharing/ridesharing companies present in Slovakia will continue providing their quasi-legal operations until further legislative developments occur. In fact, the Government could shortly face a situation where it will no longer be able to postpone the review of the entire sectoral regulatory framework.

The legal measures identified in the Road Transportation Act are the main barriers to entry in the taxi market, in particular, the administrative requirements associated with the obligation to obtain a concession as well as economic barriers such as the need of proving the financial standing and the costs connected with obtaining the concession.

As there are no official statistic records available, it is difficult to verify certain areas of the taxi market.

XI. Conclusions

The Slovak market is characterized by the absence of quantitative restrictions and by the presence of free fares. The access to market is based on stringent qualitative requirements which apply to both taxis and hire cars with drivers as well as to every passenger transport carried out as a business. The 2012 Road Transportation Act contains stringent requirements regarding the conditions for obtaining the concession, vehicle and drivers' requirements. The legislation also lists a number of driver's obligations from which rights of passengers may be derived. The taxi market is characterized by strong competition due to the absence of quantitative restrictions and free fares, which have contributed to lower the prices of the taxi rides. The main problem related to the quality of the service is linked to the fact that taxis often refuse to take passengers if they think that the ride is not profitable. New innovative service providers are active on the market; they have encountered few difficulties so far. Consumer demand for these innovative services is on a steady rise, along with an increase in the quality of the services.

Bibliography

1. Act No. 56/2012 Coll. on road transportation, as amended;
2. Decree No. 124/2012 Coll. performing certain provisions of the road transportation act, as amended.

25. SLOVENIA

General Legal Framework

Legal rules applicable to taxis are laid down by national legislation (the Road Transport Act). Each region, local (municipal) government also has the power to introduce legal rules applicable to taxis operating within its area of competence. Local authorities are competent for enforcing the applicable rules in particular, with respect to the permits required to exercise the taxi activity. Whenever local regulations have not been enacted, only national rules are applicable to taxi licences.

Licenses

Taxi service is defined as the transport of one passenger or of a group of passengers by a motor vehicle which has, in addition to the driver's seat, a maximum of eight seats and which is carried out based on a single order and upon the payment of a fare. According to the Road Transport Act in order to provide taxi services to the public, it is mandatory to obtain a professional licence that is granted by the Chamber of Craft and Small Business of Slovenia and the Chamber of Commerce and Industry of Slovenia. Furthermore, at local level, a municipality or several joint municipalities may lay down conditions to obtain a permit for taxi services. In municipalities that have not introduced a permit for taxi services, such transport is performed based on a licence for taxi service. In this respect, an operator (who can be self-employed or a legal person) needs to meet the following conditions: a) to not having been convicted; b) to have good financial standing; c) to have professional competence; d) to be the owner of at least one motor vehicle or holding the right to use such a vehicle on the basis of a hire or leasing contract; e) to have no outstanding tax debts and social security contributions; f) to fulfil the conditions concerning the requirement of establishment as provided for under Article 5 of Regulation 1071/2009/EU. There is no cap to the number of licences that may be issued.

Technical requirements

Technical requirements are established by the municipal regulation, with the exception of the taximeter which is regulated at national level. More specific rules will be adopted by an amendment of the Road Traffic Act, which should be adopted before the end of 2016.

Organisational and professional requirements

The licence is issued at the national level. There is no obligation to be affiliated to a dispatch centre. Professional competence is one of the criteria to obtain the licence. This is proven through passing a test concerning driving and business knowledge. In Ljubljana, the applicant must pass a knowledge test of the municipal area.

Fares

There are maximum fares set under local legislation. For example, in Ljubljana, the maximum fare is EUR 1,65/km. Other than this, there are no other legal requirements.

Passenger rights

Taxi services are public services, as foreseen under the Road Transport Act. Passenger rights are foreseen under Municipality Regulations.

Labour rules

There are no specific labour rules applicable to taxi drivers. They are governed by the general labour rules applicable nation-wide. 60% of the drivers are self-employed, whereas 40% of the taxi services providers are companies with employed drivers.

Airports

There are no specific licences for airports. The agreement between the Ljubljana airport and the Ljubljana Airport Taxi Association has been sanctioned by the Competition Protection Agency of Republic of Slovenia as discriminatory; therefore, no new agreements have been concluded.

Enforcement

The inspectorate for Road Transport is in charge of enforcement.. Three inspectors carry out ground inspections and warnings, or decisions (both in terms of administrative fines and revocation of licences) can be adopted.

Hire cars with driver

Hire cars with driver in Slovenia are not regulated under the Road Transport Act. It is considered a commercial service and the rules applicable are those of the Civil Code. As a general rule, the licence from the Chamber of

Commerce is always required when the transport activity is carried out on a commercial basis; therefore, the professional transport permit is necessary for the hire car with driver activity.

Ridesharing

Ridesharing is not regulated, but as for any commercial transport, a licence for transport of passengers is required.

Market players

Intertours and Laguna are some of the major taxi players.

Capacity, growth and impact

The market is characterised by low entry barriers. There are no quantitative restrictions and no rigid indirect barriers (such as a particularly high financial standing requirement). The national licence for the transport of passengers allows to perform both taxi (on the conditions to obtain also the local permit where required) or the hire cars with drivers service. The same licence is necessary to perform professional ridesharing. Maximum fares have been introduced at the local level, such as in Ljubljana. The low entry barriers combined with the possibility to compete on prices are attractive for the innovative service providers.

Conclusions

In Slovenia, only taxis are regulated both at national and local level. Hire car with driver' services are based only on a contract between the service provider and the passenger but a professional transport permit is always necessary, as well as for the ridesharing activity when it is carried out for profit. The market is characterized by the absence of quantitative restrictions, which has created a competitive environment. Innovative service providers are entering the market. A reform, including an update of the current rules to take into account ridesharing and car sharing, is currently foreseen.

I. Introduction

In Slovenia, there is both national and local (Municipal or intra-Municipal) legislative framework applicable to taxi services. The rules concerning taxi transport are laid down in the Road Transport Act, which was last amended in 2015.¹⁴⁶³

Togther with the national licence, the taxi services are performed on the basis of a local permit issued by the municipality or jointly by several municipalities, if such obligation is introduced by means of a regulation of such a municipality or municipalities.¹⁴⁶⁴ In the absence of such regulatory framework, a national licence, issued in accordance with the criteria set in the abovementioned Road Transport Act, is the only condition to perform the taxi service in the territory of the Slovenian Republic.

Hire car with driver services exist but there is no dedicated legislation and they are subject to the general Civil Code provisions which regulate the contract between the operator and the passenger.

According to the information provided by the Ministry of Transport, a reform will be adopted in order to include also the new intermediaries and the ridesharing.

II. Legal Framework applicable to taxis

II.1.1 National legislation

¹⁴⁶³ <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4236>.

¹⁴⁶⁴ Reply of Slovenian Authorities to the stakeholder consultation, 27 May 2016.

Taxi service is defined by Article 56 of the Road Transport Act as the “*transport of one passenger or a group of passengers by a motor vehicle which has, in addition to the driver’s seat, a maximum of eight seats and which is fully carried out according to a single order for a single payment of a fare.*”

The right to perform the taxi service requires the possession of a professional licence, issued by the Chamber of Craft and Small Business of Slovenia and the Chamber of Commerce and Industry of Slovenia and of a municipal taxi permit, if the municipal authority has adopted a local regulation.

The national laws regulating taxi service are:

- The Road Transport Act;¹⁴⁶⁵
- The Rules on Licences for the Provision of Road Transport;¹⁴⁶⁶
- The Law on the Equalisation of Opportunities for Persons with Disabilities;¹⁴⁶⁷
- On enforcement aspects: the Minor Offences Act.¹⁴⁶⁸

II.1.2 Local Regulations

According to the Ministry of Transport, local Regulations have been issued by 6-7 Municipalities, including the Municipality of Ljubljana (MOL). The local regulations lay down the conditions for the provision of taxi (*avtotaksi*) transport in their area, including the conditions for the issuance of the licence.

In addition, local regulations, also discipline the following aspects:

- minimum standards of quality for taxi service;
- standards concerning the appearance of the taxis and the vehicle equipment (except for the taximeter, in relation to which the rules are set at national level);
- organisation of the public service (i.e. taxi service);
- taxi stands;
- maximum prices (which allows taxi services to be profitable);
- rules concerning the copy of the licence (format, use and price);
- offences and enforcement powers;
- data-collection and record keeping.

Among the local regulations, the most relevant is the Ordinance of the Municipality of Ljubljana (MOL), which has been amended in 2014.¹⁴⁶⁹ The 2014 Ordinance has

¹⁴⁶⁵ Zakon o prevozih v cestnem prometu (ZPCP-2):

<http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4236>.

¹⁴⁶⁶ Pravilnik o licencah za opravljanje prevozov v cestnem prometu, Stran 9529.

¹⁴⁶⁷ Zakon o izenačevanju možnosti invalidov (ZIMI), last revised on 2014.

¹⁴⁶⁸ Zakon o prekrških (ZP-1).

¹⁴⁶⁹ Ordinance amending the Ordinance on the taxicab transport (Official Gazette of RS, no. 9/2014 dated 02.05.2014

streamlined the procedures for obtaining the taxi permits and it has introduced some novelties compared to the previous regulation.

Another Municipality which has adopted a local taxi regulation is Bled.¹⁴⁷⁰ The regulation provides that the activity of taxi service in the Municipality of Bled shall be performed only by taxicab operators who have obtained the approval of the municipal administration in accordance with the provisions of the Municipal Ordinance. Taxi operators who do not have the municipal license, should not pick up passengers within the municipal area of Bled, but they can drop them off. The Municipal Ordinance also regulates the taxi stands.

II.2 Procedures for issuing licenses and applicable criteria

The procedures and requirements for issuing national licenses are regulated by the Road Transport Act and by the Rules on licences for the provision of road transports.¹⁴⁷¹

Article 12 of the abovementioned Rules provides that a legal entity or an sole entrepreneur must submit to the competent authority an application including the following information:

- Name of the company or of the sole entrepreneur, registration number, tax number and head office. In case of self-employed, the name, the personal identification number and the place of residence;
- Types of services for which the license is required;
- Name, personal ID number, tax identification number and place of residence of the person responsible for transport. The responsible person must prove to be appropriately trained and to have obtained the appropriate qualification. These information are provided by the certificate of professional competence;
- The total number of motor vehicles for which a copy of the licence is required.

The licence, which is conferred to an operator (who can be a natural self-employed person, but also legal entity), is issued by the Chamber of Craft and Small Business of Slovenia and the Chamber of Commerce and Industry and Slovenia.¹⁴⁷²

In addition, a local permit (*i.e.* an authorisation) is issued by the municipality or jointly by municipalities when such regulation exists. The local community may prescribe the conditions to provide the taxi service in their area.¹⁴⁷³

National legislation¹⁴⁷⁴ provides that undertakings wishing to provide services as road transport operator must:

¹⁴⁷⁰ <http://www.e-bled.si/wp-content/uploads/To%C4%8Dka-4-Osnutek-Odloka-o-avtotaksi-prevozih-na-obmo%C4%8Dju-ob%C4%8Dine-Bled.pdf>.

¹⁴⁷¹ Rules on licenses for the provision of road transport (Official Gazette of RS, no. 67/07).

¹⁴⁷² <http://eugo.gov.si/en/permits/permit/12263/showPermit/>. Reply of the Slovenian Authorities to the stakeholder consultation 27 May 2016.

¹⁴⁷³ Reply of Slovenian Authorities to the stakeholder consultation of 27 May 2016.

¹⁴⁷⁴ Articles 20-21-22-23 of the Road Transport Act.

- (a) Have a good reputation;
- (b) Be of appropriate financial standing;
- (c) Satisfy the conditions in terms of professional competence;
- (d) Own at least one motor vehicle registered in the Republic of Slovenia for performing individual types of transport;
- (e) Have no outstanding tax debts and social security contributions, with the conditions of this point has been established with the acquisition and renewal of licences;
- (f) Fulfil the conditions concerning the requirement of establishment as provided for in Article 5 of Regulation 1071/2009/EU.

The following documents are needed:

- Extract from the Business Register (AJPES) or any other suitable register;
- Copy of the vehicle registration certificate for all motor vehicles;
- Evidence of passing test of professional competence for transport operators;¹⁴⁷⁵
- Evidence of suitable financial situation;
- Certificate of no criminal record;
- Evidence of payment of procedure costs (for salaried carriers, the issuance of the basic licence costs EUR 176, each copy costs EUR 48 and EUR 16 costs the Tax code).

In this respect, with respect to the national licence, the procedure is as follows. Within fifteen days from the receipt of a complete application, the competent Chamber issues:

- a decision on the licence;
- a licence;
- a copy of such licence.

A copy must be kept in the vehicle and the operator can start providing the service the same day the licence is issued.

National licences and copies of the licence for individual vehicles (the licence is a unique one for the operator) cannot be transferred to another operator. Licences or their copies cannot be leased.¹⁴⁷⁶ At local level, other rules on transferability may exist, but they are a municipal competence.

There is no maximum cap to the number of licences.¹⁴⁷⁷ National licences are renewed every five years, whereas taxi permits issued at local level are renewed every year.

¹⁴⁷⁵ This test concerns accounting notions. Interview with Slovenian authorities, 30 May 2016.

¹⁴⁷⁶ Interview with competent Slovenian authorities, 30 May 2016

¹⁴⁷⁷ Reply of Slovenian Authorities to the stakeholder consultation.

In Ljubljana, a taxi operator must obtain a permit to perform taxiservices in the MOL area. The taxi operator must meet the following conditions:

- have a valid license for taxiservices; and
- having employed drivers who passed the exam on knowledge of the MOL area.

In Ljubljana, once the applicant has passed the MOL knowledge exam, he/she has to submit an application to the City Council. The competent authority shall issue, if the application is complete and subject to the conditions set out in Article 2 of Order, an authorization for the calendar year in which taxioperator acquires the right to perform taxi services in the MOL area. To obtain the permit, the taxi operator must pay the municipal tax indicated in the first paragraph of Article 10 of the Ordinance (EUR 200). During the period of validityof the license, the taxi operator must report to the competent authority any change concerning the the vehicle and the driver. The driver can start the taxi service when he/she receives the taxi driver card. Taxi services in the MOL area without the permit is prohibited.

According to Article 7 of the Ordinance, the competent authority shall issue, modify, renew or withdraw any permit issued on the basis of the ordinance and it keeps record of issued permits. The competent authority publishes the list of taxioperators on its website. To perform the service, the taxi operators have to pay a fee of 200 EUR a year for each vehicle, except for environmentally friendly vehicles and wheelchair accessible vehicles.

II.3 Technical requirements applicable to licensed vehicles (*taximeters, vehicles' technical specifications, accessibility, insurance, maintenance*)

Except for rules concerning the taximeter, technical requirements are established at issued at Municipal level. Concerning the taximeter, it currently has to comply with the EU rules on measuring instruments; however, some more specific rules will be provided during the revision of the Road Transport Act.¹⁴⁷⁸

The cars need to be serviced regularly in accordance with the prescriptions given by Municipalities. In addition, the taximeter and the lights of the taxi plate have to be functional at all times and must be repaired if damaged or malfunctioning.¹⁴⁷⁹

II.3.1. Accessibility

The taxi vehicle is not required to be wheelchair accessible.¹⁴⁸⁰ However, some rights of disabled persons stem from other pieces of legislation. More specifically, under the Law on Equal Opportunities for Disabled Persons, and the Regulation on the implementation of passenger transport services, issued in accordance with the Law Transport Act, disabled people must be guaranteed equal access to transportation in road transport. Therefore, municipalities may introduce a minimum number of wheelchair accessible taxis or promote alternative dial-a-ride transport services.

¹⁴⁷⁸ Interview with Slovenian authorities, 30 May 2016.

¹⁴⁷⁹ See, for rules on the taximeter, the Road Transport Act.

¹⁴⁸⁰ Interview with competent Slovenian authorities, 30 May 2016.

II.4 Qualitative Requirements *(fitness of the driver, knowledge and skills required, drivers' training)*

Conditions of morality need to be fulfilled. These entail the lack of criminal records.¹⁴⁸¹ To obtain the national licence, every aspiring operator (either employed at a company or self-employed) is required to pass the professional examination for taxi operators.

A business owner may only also employ drivers. The licence must be available in the vehicle at all times.¹⁴⁸²

II.5 Organizational requirements *(dispatch affiliation centre, minimum service)*

There is no national legislation on organizational requirements on how a taxi has to be hired but these can be set out through Municipal Regulations. Taxis can be dispatched from taxi centres based on customer requests via phone or mobile applications or hailed on the street or at taxi stand. There is no obligation to be affiliated to a dispatch centre.

In Ljubljana, in order to start the operations, the taxi operator must submit an application to the city council, indicating, among others, how many employed drivers passed the exam and how many vehicles are at disposal of the operator. The 2014 amendments lay down, among others, a procedure concerning the replacement of the vehicles during the year. If a taxi operator, which has paid an annual municipal tax for a vehicle, during the year, has to replace the vehicle with a new one, the municipal tax is not due, but the competent authority shall issue a new label for the replacement vehicle.

The driver must always keep the taxi driver card and a copy of the license in the vehicle.

II.6 Fares *(criteria for taxi fare setting, authority/body in charge of setting the tariffs, maximum tariffs and/or fixed tariffs, composition of the tariff and tariffs adjustment mechanism [minimum charge, additional charge for using the radio taxi or dispatch centre, increase of the tariff during certain hours, such as at night or on certain journeys, such as towards the airports, reductions for certain categories, such as elderly people])*

Maximum fares are foreseen by local (Municipal) Regulations. The starting rate is usually EUR 0.80- 1.50/km with fare of EUR 0.70-1.70/km, depending from the company, the time (day/night) and the number of passengers. The waiting time is around EUR 15-20 per hour.

In Ljubljana, the maximum fare is EUR 1.50/km, the maximum starting rate is EUR 2.00 and the maximum waiting hour EUR 20.00.

¹⁴⁸¹ Article 21 of the Road Transport Act.

¹⁴⁸² Road Transport Act.

II.7 Passenger rights

Passenger rights are foreseen in local (Municipality) Regulations, where they exist. At national level, taxi services are public services, which mean that the taxi operator cannot refuse to provide the service. In addition, under the Law on Equal Opportunities for Disabled Persons, and the Regulation on the implementation of passenger transport services, issued in accordance with the Law Transport Act, disabled must be guaranteed equal access to transportation in road transport. No additional charges can be levied for wheelchair transport or transport of a disabled person.¹⁴⁸³

According to Article 12 of the Municipal Ordinance of Ljubljana, the driver must perform the ride by the shortest possible route or by the routes defined by the customer, and he/she should behave politely. The Municipality Ordinance provides that a driver who is on duty and it is free, must stop the vehicle and pick up a passenger who is hailing the taxi, if this does not infringe the regulations on road safety. In the event that a driver is unable to complete the ride that he has started, he is obliged to provide, as soon as possible, another vehicle to the passenger. The driver can stop the vehicle, which has a sticker under Article 10 of this Ordinance, in each taxirank only when is in service. The driver must take passenger personal luggage, if size does not exceed the available trunk space. The driver can refuse to transport animals, except for guide dogs. The driver may refuse to transport persons if their belonging, clothes or actions may damage or contaminate the vehicle, except in the case of traffic or other accidents. The objects found in the vehicle must be brought by the driver to the competent offices, in accordance with the regulations concerning the found items.

II.8 Subsidies applicable to taxi sector (including public developed applications for taxi sector, geolocalisation, etc.)

Incentives are provided, at local level, for low impact vehicles and wheelchair cars. In Ljubljana, these two categories of vehicles are exempted from the local annual tax of EUR 200. Moreover, in 2014, the municipality launched a call for low impact taxis which are the only ones authorised to circulate in the pedestrian area. One of the conditions for the participation to the call was to be able to provide four vehicles of which one had to be wheelchair accessible.

II.9 Labour rules

Taxi service operators can be employed or self-employed. Around 60 % of the operators are self-employed, while 40% are companies with employed drivers. The general labour rules are applicable to employed drivers, in terms of contracts, social security, working hours, holidays, and sickness leave.

II.10 Supervisory enforcement tools

¹⁴⁸³ Reply of Slovenian Authorities to the stakeholder consultation, 27 May 2016.

Infringements of the Road Traffic Act and of the applicable legislation entail administrative sanctions. In case of minor offences, warnings are foreseen by the Minor Offences Act.¹⁴⁸⁴ The inspectorate for Road Transport, which is part of the Transport Ministry, is competent to enforce the applicable provisions.

The following statistics on enforcement actions were provided by the competent authorities:

Controls and measures/year	2010	2011	2012	2013	2014	2015	Total
Inspected entities on the ground	530	452	397	361	353	158	2251
Administrative prohibitions - (prevention of Undeclared Work and Employment Act)	9	8	12	6	11	4	50
Administrative - prohibition (for infringements of applicable regulation on licence, rules on technical equipment)	15	12	19	5	16	0	67
Inspections (prevention of Undeclared Work and Employment Act)	9	8	12	6	11	4	50
Inspections (for infringements of applicable regulation on licence, rules on technical equipment)	57	72	53	30	40	26	278
State warning (for minor offences listed in the Minor Offences Act)	25	25	14	42	38	18	162
Rules (decision) – infringements	0	4	8	4	3	1	20

III. Legal framework applicable to hire cars with driver

III.1. National/local municipal regulation

Hire car with driver service is not regulated by the transport act, but it is based on a contract between the carrier and the passenger. The service must be pre-booked at the place of business of the carrier and the fares must be agreed between the parties.

Future amendments to the Road Transport Act, which are expected to regulate these types of services, are expected to be adopted by the end of 2016. In Ljubljana, the taxi ordinance does not cover the hire cars with driver.

However, for what it concerns the provisions of the service, the activity, even if it is not regulated in detail by the legislation, requires the national licence issued by the Chamber of Craft and Small Business since this licence is mandatory in order to perform the transport of passengers in general. Moreover, the transport of passenger with hire cars with drivers is not included in the list of the activities for which the licence is exempted.¹⁴⁸⁵ Therefore, the procedures for the issuing of licences are the same than for taxi and described under s.II.3.

IV. Legal Framework applicable to ridesharing and car sharing

IV.1 Current regulations and legislative proposals

¹⁴⁸⁴ Article 53 of the Minor Offences Act.

¹⁴⁸⁵ https://www.gzs.si/skupne_naloge/javna_pooblastila/vsebina/Licence-za-opravljanje-prevozov-v-cestnem-prometu.

Ridesharing and car sharing are types of transportation not regulated by the existing legislation or by any other specific act.. Therefore the general provisions regarding hire cars with drivers apply. In case of for-profit ridesharing, a licence for the transport of passengers is necessary. As clarified by the Chamber of Craft and Small Business, the licence is not necessary only in case of personal use of the vehicle.

There are no regulatory hurdles to provide not-for-profit ridesharing, but the fee paid by the passengers must not exceed the costs of running the car.

Future amendments to the Road Transport Act are expected to regulate these types of service.

IV.2 National rules applicable to on-line platform and rules applicable to service providers

No legislation specific to online platform and intermediaries currently exist.

IV.3 Main operators and their business models

BlaBlacar, Carpoolworld and Karlzoo provide intermediation for pre-arranged long distance ridesharing in Slovenia. **Prevoz**¹⁴⁸⁶ is a local long-distance ridesharing intermediary for rides within Slovenia or international rides departing from or originating in Slovenia. It is only currently in Slovenian and also required registration to view drivers' contact info.

IV.4 Requirements Imposed upon non licensed activities (safety and technical requirements, insurance requirements, obligations relating to licenses and on-line platforms)

Not specific provisions are foreseen by the current legislation.

IV.5 Local incentives, subsidies and other form of promotion for ridesharing and car sharing (including, parking spots, use of preferential lanes, etc)

The promotion of car sharing and carpooling for environmental purposes may be envisaged in the upcoming revisions of the Road Transport Act.

With regard to ridesharing, **LPP**, the public transport company in Ljubljana, is providing a car sharing service (*kavalir*) with electric cars for free for people with reduced mobility to move within the centre of the city. A *kavalir* can take up to five passengers at the same time. There are two open cars for summer season and two for winter season. It is part of the new plans of integrated mobility services.¹⁴⁸⁷

¹⁴⁸⁶ <https://prevoz.org/>.

¹⁴⁸⁷ <http://www.lpp.si/en/information-bus-arrivals/kavalir>.

From September 2016, the service has been integrated with the on-call urban transport with electric vehicles (**EURBAN**) The EURBAN service is going to be provided in two ways: according to a predetermined published timetable and to an adjustable timetable. Passengers enter and exit vehicles at bus stops, and the vehicles follow the bus journeys. The only difference with the public bus transport is that passengers have to request the service in advance. The service is envisaged in areas where buses are driving less frequently or where there are fewer passengers on certain days or at certain times during the day.¹⁴⁸⁸

V. Relevant national case-law

In 2010, the National Competition Authority opened a procedure for the violation of the competition law against the Ljubljana airport management company (Aerodrom Ljubljana) and the Ljubljana Airport Taxi Association Taxi Association. The two companies had entered into an agreement by which they were setting additional conditions relating to the provision of taxi service from Airport Ljubljana, such as quality, class, age, colour of the vehicles, etc. In addition, the agreement provided that in order to pick up passengers at the airport, taxi drivers had to be members of the Taxi Association, thus restricting the access to the market and distorting competition between taxi operators. The Taxi Association imposed fixed fares to its members for rides from the airport. The procedure was closed in 2014 with the adoption of commitments by both the parties.¹⁴⁸⁹

VI. Country Market

Taxis and hire cars with drivers are two different sectors. Hire cars with drivers cannot pick up passenger on the streets and they may only accept orders made directly at the place of business. Moreover, they are not subject to maximum fares.

The geographical dimension of the market is local, if a municipal permit is provided. Otherwise, it is national

With regard to the market access, there are no quantitative restrictions to the taxis and hire cars with drivers' services. Only qualitative requirements must be complied with in order to exercise the activity of taxi operator. Since the licences are subject to the fulfilment of qualitative criteria, they are not tradeable. In the past, taxi operators have requested for a cap on the number of taxi licences, claiming that the current situation is "total anarchy". However, the Government has not contemplated this option, as this would be contrary to the principle of free economic initiative.¹⁴⁹⁰

VII. Main Players

Taxis

¹⁴⁸⁸ <http://www.ljubljana.si/en/living-in-ljubljana/focus/106341/detail.html>.

¹⁴⁸⁹ Competition Protection Agency of Republic of Slovenia, Trg OF 28, decision ref. No. 306-48 / 2010/112.

¹⁴⁹⁰ <http://www.zurnal24.si/le-102-taksista-sta-placala-clanek-112858>.

According to the Slovenian authorities taxi operators are mainly individual self-employed (60%). Some big taxi companies are Intertours, Laguna. Taxi metro, Taxi Rondo, Taxi Društvo Ljubljana.

Taxi drustvo Ljubljana¹⁴⁹¹

Taxi drustvo Ljubljana is the oldest taxi service in the city. The company has 65 vehicles. As declared by the company, affiliates are self-employed drivers. They charge around 1,10 EUR/km, EUR 30 to the [Brnik Airport](#) and around EUR 5 to BTC shopping centre. They also offer hire transport for contract with non-taxi cars (no tag), courier activities, children transport to school or other activities.

Intertours Taxi¹⁴⁹²

This company has around 150 vehicles. The fares 0,77 EUR/km pre-booked, 1.29 EUR/km if taken it from the street. The company provides:

- *"non-smoking and/or foreign speaking drivers;*
- *luxury vehicles or minivan (up to 8 persons); transportation of animals;*
- *transportation of bicycles, wheelchairs and prams; option of baby seats;*
- *quick response time;*
- *fuel delivery;*
- *jump starting vehicles with jumper leads;*
- *courier services;*
- *chauffeur hire (to drive your vehicle);*
- *the same tariffs 24 hours a day, 365 days a year (there are no special night or holiday tariffs, etc.)".*

Ljubljana Airport Taxi Association¹⁴⁹³

It is the main provider of hire transport services from the Ljubljana airport. All the members are independent licensed taxi drivers.

Hire car with drivers

Various companies' offers hire transport, especially to tourist from airport to touristic places and also crossing the borders. As indicated above, the largest taxi companies are offering chauffeured services at fixed fares.

Intermediaries

Uber is planning to launch in the Slovenian capital with UberX.¹⁴⁹⁴ According to the press release issued by the Slovenian Government on 23 September 2016, the Government and Uber signed a joint letter of intention representing the basis for the conclusion of a Memorandum of Understanding between the Government of the Republic of Slovenia and

¹⁴⁹¹ <http://www.taxi-ljubljana.si/storitve.html>.

¹⁴⁹² <http://www.studentski-taxi.si/eng/storitve.html>.

¹⁴⁹³ <http://airporttaxi.si/En/>.

¹⁴⁹⁴ <http://www.sloveniatimes.com/transport-company-uber-wants-to-take-on-slovenia>.

Uber by the end of 2016 in order to establish "a dialogue with the intention to exploit the social, environmental and economic potential of the growing collaborative and digital economy. Their efforts come from the common vision of Slovenia as the green reference state in digital Europe. (...) By doing so, Slovenia would accelerate the development of new activities, whereas Uber would be able to expand its operations at a faster pace".¹⁴⁹⁵

Recently, **Hopintaxi**,¹⁴⁹⁶ a taxi app, launched in Ljubljana offering intermediation service with registered taxi drivers.

Ridesharing

See s.IV.III

VIII. Barriers, limitations, incentives

The Slovenian market is characterised by low entry barriers. There are no quantitative restrictions and no particularly strong indirect barriers (such as particularly high financial standing). The national licence for the transport of passengers allows to perform both taxis (on condition to also obtain the local permit where required) and hire cars with drivers services. The same licence is required to perform professional ridesharing. Maximum fares have been introduced at local level, such as in Ljubljana. The low regulation combined with the possibility to compete on prices, may be attractive for the innovative service providers, as the Memorandum between the government and Uber demonstrates. However, taxi operators complain that taxi apps and also the EURBAN service are forms of unfair competition, since they have lower entry costs and compete on prices, offering rides at lower fares than taxis.¹⁴⁹⁷

Price competition is strong and below the maximum fares imposed by certain municipalities; the taxi companies have the right to set their own rates, which can vary widely. It is usually cheaper to call a cab than to take a cab waiting at a hotel or a taxi stand.¹⁴⁹⁸ Therefore, it seems that space is left for intermediaries and apps that provide the fare estimation in advance (or offer flat fares), reducing the asymmetry of information.

Long distance pre-arranged ridesharing operators, such as BlaBlaCar and Carpoolworld, have already entered the market. Taxi apps are starting to develop and providing services. A local ridesharing provider, Prevoz, which is active, mainly targets Slovenian customers, since the apps are only in Slovenian.

IX. Capacity, Growth, Impact

¹⁴⁹⁵http://www.vlada.si/en/media_room/government_press_releases/press_release/article/slovenia_and_uber_signed_a_letter_of_intent_to_promote_cooperation_58676/.

¹⁴⁹⁶ <https://hopintaxi.com/en>.

¹⁴⁹⁷ <http://www.rtv slo.si/news-in-english/a-mobile-taxi-app-comes-to-ljubljana/40062>.

¹⁴⁹⁸ Doing Business in SLOVENIA: 2014 Country Commercial Guide for U.S. Companies, http://photos.state.gov/libraries/slovenia/231771/pdf/CountryCommGuide2014_001.pdf.

While detailed country-specific data could not be gathered, a more general analysis based on publicly available data is reported in Chapter III of the main report.

X. Results

The competition is between the taxis and hire cars with driver as well as with innovative service providers which are entering the market and the innovative services provided by the public authorities. Up to now, the Government has not introduced to i additional barriers to access the market, such as the limitation to the number of operators or fixed fares.

XI. Conclusions

The Slovenian taxi market provides low entry barriers, which are making it attractive for new service providers. However, until recently, only taxi services were available. The market is opening to new business models and innovative service providers, in particular taxi apps and intermediaries, and the public authorities are introducing personal passenger services in direct competition with taxis. The larger cities are currently investing in integrated mobility and in the promotion of low emission transport. A reform is currently in the pipeline, including updating the current rules to take into account ridesharing and car sharing.

Bibliography

1. Road Transport Act <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4236>.
2. <http://eugo.gov.si/en/permits/permit/12263/showPermit/>.
3. Rules on licenses for the provision of road transport.
4. Competition Protection Agency.

26.SPAIN

General Legal Framework

Legal rules applicable to taxis operating within a specific region ("Comunidad Autónoma") are essentially part of the exclusive power of regional legislative bodies and, within each region, local (municipal) governments also have the power to promulgate and/or enforce legal rules applicable to taxis operating in their territories.

Licenses

In order to provide taxi services to the public, it is mandatory to obtain a licence (named "licencia de autotaxi"). The licence is granted by the corresponding local government (or by an entity grouping different municipalities) where the taxi activity is to be performed. To request a licence, an application along with the appropriate documentation must be filed before the competent authority. Each licence will refer to one specific vehicle which is identified in the licence. Maximum number of licences is imposed by each municipality.

Technical requirements

Applicable regional and/or local regulations are very strict and detailed with regards to licensed vehicles' technical requirements. Vehicles must be identified with a plate and must have passed the latest technical inspection according to the applicable legislation. Local authorities may recommend or suggest which vehicles' trademarks and models are the most suitable for performing taxi services. Local regulations also establish requirements related to the vehicles' painting and signs. Advertisements are allowed inside and outside the vehicle provided that they comply with road safety and advertisement regulations, and that they are aesthetically adjusted to the vehicle's characteristics.

Organisational and professional requirements

In order to get the licence, the driver must comply with certain requirements and pass an exam. As a rule, taxi licence holders must start providing services within 60 days after the licence is granted. Once the service is started, it cannot be suspended for more than 30 consecutive days (60 days in certain cases) without due cause. The legislation provides for precise resting days depending on a number in the driver's licence.

Fares

Regional authorities approve fares only after a proposal is made by the local authorities and after a consultation with the professional associations of the sector. Tariffs are divided into different categories. In Madrid, the basic tariffs are the following:

Tariff 1 (Monday to Friday, from 7am to 9pm): start EUR 2,4 + 1,05 per km (price per hour = EUR 20,5)

Tariff 2 (All days from 9pm to 7am and Saturdays, Sundays and holidays from 7am to 9pm): start EUR 2,90 (price per hour = EUR 23,5). VAT is included in all fares.

Passengerrights

Among the passenger rights there are: to obtain a printed invoice-like document containing the information requested by the regulations; choice of route, change for payment up to EUR 20, air conditioning in the summer, adjustment of radio volume, a zero fare applied in case of incidents and on return journeys to the perimeter area.

Labour rules

There are no specific labour rules applicable to taxi or hire car drivers. They are governed by the general labour rules applicable nationwide (Worker's Statute). National Collective Bargaining Agreements are also applicable to workers in the taxi industry.

Airports

An agreement must be concluded between the taxi company and the airport management company. However, certain autonomous regions allow the pick up of passengers at the airport only to taxis licensed in the same municipality of the airport.

Enforcement

Depending on the situation or type of infringement, regional or local authorities have the power to supervise and enforce by way of sanctions the application of regulations in the taxi sector. Regulations dealing with supervisory enforcement tools are a combination of national, regional and local rules. These rules make distinction between minor offences, serious offences and very serious offences. Each of these categories is attached to a different kind of sanction (also categorised as minor, serious and very serious sanctions). Sanctions are usually in the form of monetary fines although other types of sanctions are considered by the applicable legislation.

Hire cars with driver

In Spain hire car with driver (VTC) is regulated at the national level by the Ground Transport Law (LOTT), by the implementing Regulation (ROTT), and by the Ministerial Order (OM) implementing the ROTT. Regions have full competency to develop their own regulations on ground transportation and award licenses, however, at the time of writing, most of them (including Catalonia and Madrid) use national regulations despite being responsible for awarding and managing hire vehicle licences. A new ROTT was adopted in January 2015. Under the new ROTT, hire vehicle with driver licences allow urban and inter-urban hire car with driver services in all territories of Spain. However, at least 80% of the services must be provided in the region where the licence is granted.

Ridesharing

Ridesharing is not regulated but is allowed only for cost-sharing.

Market players

The majority of taxi drivers are self-employed. In the largest cities, there are various radiotaxi services. Various professional associations, such as Elite Taxis and Federación Profesional del Taxi de Madrid (FPTM) have been created recently that include up to 5,000 affiliates. Taxi intermediaries such as MyTaxi are operative in Spain. The main VTC intermediaries are Uber and Cabify, but in the main cities, various VTC operators provide flat fare rides especially to and from airports. The main long distance pre-arranged ridesharing operators are the international players such as BlaBlaCar and Carpool.org.

Capacity, growth and impact

The taxi and hire car with driver markets are two separate markets subject to stringent regulation and a cap on the number of licences. Both markets are geographically restricted to the area where the licence was issued. According to Ministry data, in March 2015, there were 66,499 taxi licences and 4,132 hire car with driver licences in Spain. The quantitative and qualitative restrictions are also combined with maximum fares which are agreed between the local authority and the taxi sector. In March 2016, the Spanish Competition Authority (CNMC) proposed, among other, to: eliminate regulated taxi fares, limit the power of associations of taxi drivers on the sector, grant greater freedom of access to the taxi market and VTC, eliminate territorial restrictions, eliminate the minimum technical requirements for vehicles used as VTC, and to eliminate mandatory schedules.

Conclusions

The Spanish market is heavily regulated with significant barriers to entry. Both the taxi market and the hire car with driver activities are regulated at the national and local level with stringent requirements, including geographical restrictions and a cap on the number of licences. The number of taxi licences did not change significantly in the last 15 years. No reform is currently foreseen, but the 2015 reform has introduced restrictions to the hire car with driver activity. In April 2016, the Spanish national Competition Authority (CNMC) challenged the modified ROTT rules before the court claiming that it hinders competition by creating unnecessary and discriminatory barriers. Long distance pre-arranged ridesharing is not regulated but is allowed only for cost-sharing. Various players are active in the market.

I. Introduction

The Spanish taxi and hire car with driver market has experienced great uncertainty and various changes. The arrival of new intermediaries has created new opportunities for hire transport, especially in the hire car with driver segment, but this led to the protests of the taxi operators.. Between 2012 and 2015, it is estimated that in Madrid more than 10,000 applications for hire car with driver licences have been submitted. Many of the applicants who were refused the licence appealed before the courts and new licences will

be release based on courts' decisions. In the last years, the government changed the legislation twice in order to limit the number of hire car with driver licences. The Spanish Competition Authority (Comisión Nacional de los Mercados y la Competencia - CNMC), in April 2016, brought an appeal before the Audiencia Nacional against the Real Decreto 1057/2015, which amended the law on transport introducing even more stringent requirements for the access to the hire car with driver profession. According to the CNMC, the new provisions unjustifiably restrict the competition between providers in the hire transport market at consumers' detriment.

II. Legal framework applicable to taxis

II.1 National/Local/municipal regulations

Spain is a quasi-federal state where the powers to produce and/or enforce legal rules are shared and distributed among the different levels of government (national, regional and local). Legal rules applicable to taxis operating within a specific region ("Comunidad Autónoma") are essentially under the exclusive power of regional legislative bodies (article 149.1.21ª Spanish Constitution and Constitutional Court decision 118/1996) and, within each region, local (municipal) governments also have the power to produce and/or enforce legal rules applicable to taxis operating in their territory within the legal framework set forth by the regional legislation. National legislation nowadays is applicable mostly on a default and/or complementary basis, particularly in the taxi sector.

At the **national level**, the relevant legal rules are contained in the following instruments:

- a. Ley 16/1987, de 30 de Julio, de ordenación de los transportes terrestres (hereinafter **LOTT**) (BOE n. 182, de 31 de Julio de 1987), which has been amended and updated regularly (the most recent amendment dates back to 2013);
- b. Real Decreto 1211/1990, de 28 de septiembre, por el que se aprueba el Reglamento de la Ley de ordenación de los transportes terrestres (hereinafter **ROTT**) (BOE n. 241, de 8 de agosto de 1990), which has been amended and updated regularly (the most recent amendment dates back to 2015);
- c. Real Decreto 763/1979, de 16 de marzo, por el que se aprueba el Reglamento nacional de los servicios urbanos e interurbanos de transportes en automóviles ligeros (BOE n. 89, de 13 de abril).

At the **regional level**, almost all regions have promulgated autonomous rules to regulate taxis within their territory. Spain is made up of seventeen (17) regions and two (2) autonomous cities.

Below, we will indicate the main legal instruments applicable to taxis in each region. Some of these instruments apply specifically, and exclusively to taxis and other instruments are applicable in general to urban transportation (including taxis, more or less specifically) and, in turn, have been completed in the taxi sector by lower-range legal instruments.

Andalucía

- Ley 2/2003, de 12 de mayo, de ordenación de los transportes urbanos y metropolitanos de viajeros en Andalucía (BOE n. 145 de 18 de junio).
- Decreto 35/2012, de 21 de febrero, por el que se aprueba el Reglamento de los servicios de transporte público de viajeros y viajeras en automóviles de turismo (BOJA n. 49, de 12 de marzo).

Aragón

- Ley 14/1998, de 30 de diciembre, de los transportes urbanos de la Comunidad Autónoma de Aragón (BOE n. 31, de 5 de febrero de 1999).

Asturias

- Specific regional legislation does not exist on this matter (national legislation applies).

Baleares

- Ley 2/2014, de 20 de junio, de transportes terrestres y movilidad sostenible de las Illes Balears (BOIB n. 88, de 28 de junio de 2014).

Canarias

- Ley 13/2007, de 17 de mayo, de ordenación del transporte por carretera de canarias (BOE n. 143, de 15 de junio de 2007).
- Decreto 74/2012, de 2 de agosto, por el que se aprueba el Reglamento del servicio de taxi (BOC n-. 157, de 10 de agosto).

Cantabria

- Ley de Cantabria 1/2014, de 17 de noviembre, de transporte de viajeros por carretera (BOE n. 301, de 13 de diciembre).

Castilla y León

- Ley 15/2002, de 28 de noviembre, de transporte urbano y metropolitano de Castilla y León (BOE n. 2, de 2 de enero de 2003).

Castilla-La Mancha

- Ley 14/2005, de 29 de diciembre, de ordenación del transporte de personas por carretera en Castilla-La Mancha (BOE n. 46, de 23 de febrero de 2006).

Cataluña

- Ley 19/2003, de 4 de julio, del taxi (BOE n. 189, de 8 de agosto).

Comunidad Valenciana

- Ley 6/2011, de 1 de abril, de la Generalitat, de movilidad de la Comunidad Valenciana (BOE n. 98, de 25 de abril).

Extremadura

- Decreto 277/2015, de 11 de septiembre, por el que se regulan, en el ámbito de la Comunidad de Extremadura, los servicios de transporte público interurbano de turismo y se fijan determinadas obligaciones relacionadas con los servicios de transporte público interurbano en autobús (DOE n. 188, de 17 de septiembre).

Galicia

- Ley 4/2013, de 30 de mayo, de transporte público de personas en vehículos de turismo (BOE n. 163, de 9 de julio).

Madrid

- Ley 20/1998, de 27 de noviembre, de ordenación y coordinación de los transportes urbanos de la Comunidad de Madrid (BOCM de 3 de diciembre).
- Decreto 74/2005, de 28 de julio, por el que se aprueba el Reglamento de los servicios de transporte público urbano en automoviles de turismo (BOCM n. 184, de 4 de agosto).
- Ley 5/2009, de 20 de octubre, de ordenación del transporte y la movilidad por carretera (BOE n. 307, de 22 de diciembre).

Murcia

- Ley 10/2014, de 27 de noviembre, reguladora del transporte público de personas en vehículos de turismo por medio de taxi de la Comunidad Autónoma de la region de Murcia (BOE n. 309, de 23 de diciembre).

Navarra

- Ley Foral 9/2005, de 6 de julio, del taxi (BOE n. 192, de 12 de agosto).

País Vasco

- Ley 2/2000, de 29 de junio, de transporte público urbano e interurbano de viajeros en automóviles de turismo (BOE n. 299, de 13 de diciembre de 2011).

Rioja (La)

- Ley 8/2005, de 30 de junio, reguladora del transporte urbano por carretera de La Rioja (BOE n. 178, de 27 de julio).

Regarding regulations applicable to taxis at the **local level** (municipal) (including the two autonomous cities), it would be a herculean effort to mention all of them here, so the regulations which are in force presently in the five biggest municipalities of Spain are mentioned below.

Madrid

- Ordenanza del Taxi, de 28 de noviembre de 2012 (BOCM n. 297, de 13 de diciembre).

Barcelona

- Reglamento Metropolitano del Taxi (BOPB, n. 216, de 8 de septiembre de 2004).

Sevilla

- Ordenanza municipal reguladora del servicio de transporte público de personas en automoviles de turismo en el municipio de Sevilla (BOPS n. 34, de 11 de febrero de 2014).

Valencia

- Reglamento regulador del servicio de auto-taxis y auto-turismos (27 de enero de 1983).

Bilbao

- Ordenanza municipal del taxi (BOB n. 62, de 31 de marzo de 2004).

Regional and local regulations applicable to taxis do not have the same contents in each region/municipality but they share many common features in some essential matters. The current report covers the local regulation of Madrid and Barcelona/Catalonia, which are also the areas with the largest concentration of taxis and hire cars with driver.

II.2 Procedures for issuing licenses and applicable criteria

In order to provide taxi services to the public, it is mandatory to obtain a licence, (named "licencia de autotaxi"), which is granted by the corresponding local government (or by an entity grouping different municipalities, if this should be the case) within whose territory the taxi activity is to be performed.

The licence holder will need to comply with the following general requirements:

1. To be a physical person (or, also, a legal person in Barcelona).
2. To have Spanish nationality or that of an EU Member State or of another State with which, according to any international agreements subscribed by Spain, no nationality requirement is needed or to have the labour permissions which according to Spanish legislation entitle the independent performance of transportation activities.
3. To be domiciled in the Region of Madrid (the regional domicile is not required in Barcelona)
4. To have complied with all tax, labour and social security obligations established by the current legislation.
5. To have the right to use vehicles to which the licences should refer. The title for use must be ownership or leasing, renting or other similar financial lease agreement.
6. To have at least one driver per licence.
7. To have subscribed a transportation civil liability insurance of at least EUR 50 million.
8. To simultaneously obtain an authorisation for inter-urban public non-scheduled transportation, except where the applicable regional regulations establish otherwise.
9. In Barcelona, the licence holder must provide evidence of the right to use the premises where the taxis is to be parked or where the taxi activities are carried out, when this is requested by the labour legislation.

The local authorities may determine specific requirements in addition to the general requirements mentioned above.

To request a licence, an application along with the appropriate documentation will have to be submitted before the competent authority by the applicant. The accompanying documentation relates to the compliance with the requirements established by those regulations (and specifically with the tax, labour and social security obligations of the applicant, along with the vehicle's conditions of fitness and the compulsory insurance).

The licence will be granted if the applicant meets the requirements mentioned above and if the application is in accordance with the qualitative and quantitative criteria established by the applicable legislation.

Qualitative criteria for the adjudication of licences will focus on the necessity and convenience of the requested taxi service, its quality and its economic viability and profitability.

As a rule (there are exceptions), the quantitative limitations (in Madrid) will be as follows:

1. Municipalities of up to 100.000 legal inhabitants: 1 licence per each 2.000 inhabitants.
2. Municipalities of 100.001 inhabitants to 500.000 inhabitants: 1 licence per each 1.500 inhabitants.
3. Municipalities of more than 500.000 inhabitants: 2 licenses per each 1.000 inhabitants.

In Barcelona, the local authorities determine the maximum number of licences to be awarded each time. Presently, there are 10.523 licenses in the metropolitan area of Barcelona.

Each licence will have to be referred to one licence holder and one specific vehicle, which will have to be identified as such in the licence.

Exceptions to the quantitative limitations may be determined by local governments but will need a favourable opinion of the corresponding regional government. Regional and local regulations specifically provide for the grounds for which an exception may be granted. These grounds are related to the quality and the coverage of the service, the geography and population of the municipality affected, the need for a better and larger service and the adequate coordination with other transportation services operating in the territory.

No more than three licences per person will be authorised in Madrid and as a general rule, a single person cannot hold more than the 10% of the total number of licences granted in a specific municipality. In Barcelona, the maximum number of licences per person is 50 with the same 10% limitation applicable.

Licences are granted without any expiration provided that the licence holder complies regularly with all the requirements established by the appropriate legislation. Local authorities will establish procedures for the regular control of those requirements.

Licences may be transferred with prior approval by the local authorities. Drivers (employed by the licence holder) will have a first-right option for the acquisition of the licence to be transferred. The party acquiring the licence will need to comply with the same requirements established by the regulations for the granting of the licence (see above). The transferor will not be allowed to acquire any other licence during a 2-year period (Madrid). The transferee will not be allowed to exceed the maximum number of licences per person established by the applicable regulations.

Licences will be extinguished in the situations provided for by the appropriate legislation, basically the renunciation by its holder, revocation by the local authority on the grounds established expressly by the applicable regulations and its cancellation by these authorities.

Also licences may be suspended for a period of up to one (1) year in circumstances prescribed by the regulations (professional disease, pregnancy, lactation, accident, etc.) with the appropriate approval issued by the local authorities.

Licence holders may also request a leave for a maximum period of five (5) years.

Each municipality will keep a Registry of Licences where all the information affecting each licence should be recorded in the terms prescribed by the appropriate legislation.

All licences must pass an annual administrative revision by the local authorities and all other specific ordinary and extraordinary revisions that may be requested by the applicable regulations.

II.3 Technical requirements applicable to licensed vehicles *(taximeters, vehicles' technical specifications, accessibility, insurance, maintenance)*

Applicable regional and/or local regulations are very strict and detailed with respect to licensed vehicles' specification requirements.

In the first place, vehicles must be identified with a plate and must have passed the latest technical inspection (maintenance) due in accordance with the legislation applicable to this matter.

Vehicles have a maximum of five (5) seats (driver included) except in Madrid where six (6) will be allowed when the vehicle is prepared for transportation of a wheel chair. In Barcelona, the exception might lead to the allowance of vehicles of up to nine (9) seats. This maximum seat capacity will have to be recorded in the vehicles documentation.

Vehicles will have to have all the characteristics requested by the regulations referred to the vehicle's trunk, dimensions and requirements of the vehicle's interior, windows, lighting, power, heating, air conditioning systems and fire extinction. Modifications of the vehicles' characteristics need the approval of the local authorities.

Local authorities may recommend or suggest which vehicles' trademarks and models are the most suitable for the performance of taxi services.

Local regulations also establish requirements related to the vehicles' painting and signs.

Advertisements will be allowed inside and outside of the vehicle provided that they comply with road safety and advertisement regulations and are aesthetically adjusted to the vehicle characteristics.

All vehicles must be provided with a lighted taximeter having the characteristics established by the regulations regarding their placement within the vehicle and their

visibility. However, this requirement may be exempted in small municipalities where a fixed route tariff system is approved by the local authorities.

Security dividers or screens will only be allowed by specific approval of the local authorities.

Local regulations assure and control that adequate taxi services are available for disabled clients.

Vehicles will need to travel with the specific documentation requested by the regulations.

II.4 Qualitative requirements (*fitness of the driver, knowledge and skills required, drivers' training*).

Drivers of licensed taxi vehicles must be in possession of a local driver permit and hold a driver identification card. Local authorities will issue both documents. The driver identification card will have to be visibly shown in the vehicle operated by the driver and will comply with the formal requirements established by local regulations.

In order to get the permit, the driver will have to comply with certain requirements and pass an exam.

The requirements are:

1. To have a B class driver's licence (for a minimum of one year);
2. To be free of diseases or physical incapability, which might affect driving;
3. To be exempted of criminal convictions;
4. To hold a high school degree;
5. To comply with any other conditions required by traffic or road safety regulations.

Regional and local regulations may add other requirements to the above mentioned ones.

The exam will have the contents prescribed by law and specifically will measure, among others, the applicant's knowledge of the geographical scope of performance of the services, applicable legislation, Spanish language proficiency (basic level) and the quality requirements for attending client's with particular disabilities.

Holders of taxi licences must have at least one driver per licence. Drivers may be the licence holder, other persons or family members of the licence holder (up to the second degree).

Local regulations establish a list of drivers' duties towards users when providing services.

II.5 Organizational requirements (*dispatch affiliation centre, minimum service*)

As a rule, taxi licence holders in Madrid will have to start providing services within a period of 60 days after the licence has been granted. In Barcelona, the period is of 10 days. Once the service has been started it cannot be suspended for more than 30 consecutive days (or 60 alternative days) without due cause.

Licence holders will be subject to the following rest period rules (applicable in Madrid but similar in criteria with Barcelona):

- a) From Monday to Friday: one day, with the following distribution:
 1. Licences with number ending in 7 or 8: Mondays
 2. Licences with number ending in 9 and 0: Tuesdays
 3. Licences with number ending in 1 and 2: Wednesdays
 4. Licences with number ending in 3 and 4: Thursdays
 5. Licences with number ending in 5 and 6: Fridays.
- b) Saturdays and Sundays, with the following distribution:
 1. Licences with a last even number: Saturdays and Sundays, which are uneven days;
 2. Licences with a last uneven number: Saturdays and Sundays, which are even days.

Maximum rest period will be of 24 hours within 6am of one day to 6am of the following day.

The local authorities may grant exceptions to the above rules on exceptional dates and situations (holidays, special events, specially-adapted vehicles etc.).

Notwithstanding the mandatory rest periods, taxis must provide services from Monday to Sunday for a minimum of 6 hours daily and a maximum of 24 hours. This period will be computed from 6am and 6am of the following day.

Taxis will provide services on a full capacity of the vehicle contractual basis.

Drivers cannot refuse to provide services except in the situations expressly determined in the regulations.

Service will start when the user is accepted into the vehicle. Taximeters will have to be turned on when the vehicle starts to move after the user indicates the destination. When the service is contracted through telephone or other on-line instrument, the service will be considered started at the place where the vehicle is located.

Drivers must follow the route indicated by the user or, alternatively, the most direct one unless exceptional circumstances concur.

A special regime is applicable to situations where the user temporarily leaves the vehicle or where an accident or vehicle break down takes place.

Local authorities may authorise the creation of permanent or temporary taxi stands. No taxi will be allowed to pick up passengers with a 100 meters range from a taxi stand unless the user is a reduced mobility person.

II.6 Fares (*criteria for taxi fare setting, authority/body in charge of setting the tariffs, maximum tariffs and/or fixed tariffs, composition of the tariff and tariffs adjustment mechanism [minimum charge, additional charge for using the radio taxi or dispatch centre, increase of the tariff during certain hours, such as at night or on certain journeys, such as towards the airports, reductions for certain categories, such as elderly people]*)

Regional and/or local authorities approve fares after a proposal made by local authorities and a consultation with the professional associations of the sector.

Tariffs are divided into different categories. The basic tariffs in Madrid are the following two:

- Tariff 1 (Monday to Friday, from 7am to 9pm): start EUR 2,4 + 1,05 per km (price per hour = EUR 20,5);
- Tariff 2 (All days from 9pm to 7 am and Saturdays, Sundays and holidays from 7am to 9pm): start EUR 2,90 (price per hour = EUR 23,5).

There are also special tariffs in Madrid for transportation to the airport (within certain geographical areas) (i.e., a fixed tariff of EUR 30) and for inter-urban transportation services. In Madrid since January, 2014, there is a flat taxi fare to and from the airport which is EUR 30. This applies going from the airport to the M-30 loop or from the M-30 loop to the airport. No add-ons are permitted for the taxi, such as an extra charge for luggage.

Tariffs in Barcelona are similar in structure and content as to those in Madrid. They are revised annually (latest revision became in force on 19 December 2015).

Barcelona Taxi Fares from 1 January 2016

Fares	EUR
T-1 (weekdays, 8-20h)	2,10
T-2 (weekdays, 20-8h) (Saturdays, Sundays and holidays, 8-20h)	2,10
T-3 (Saturdays, Sundays, and holidays, midnight to 6 am, and 8-12pm)	2,30
T-4 (Moll Adossat to Barcelona El Prat airport and	39,00

viceversa)	
T-1/km	1,10
T-2/km	1,30
T-3/km	1,40
T-4/km	0
T-1/1 hour waiting time	21,27
T-2/1 hour waiting time	21,70
T-3/1 hour waiting time	21,70
T-4/1 hour waiting time	0
Airport entrance/exit fee	3,10
Maritime Station Moll Adossat (entry/exit)	
Fira Barcelona-Gran Via-Montjuïc 2 (l'Hospitalet), Estació de Sants (exit)	
Vehicles with 7 places with more than 4 passengers	3,10
Festivnights (20-8 h)	3,10
23/VI-24/VI	
24/XII-25/XII	
31/XII-1/1	
Luggage (max 4)	1,00

Taximeters will start to run when the passenger is in the vehicle or when the taxi proceeds to move if the service is arranged by phone or by on-line services.

As indicated in the table, the fare system contemplates special supplements in certain situations (special origins or destinations or special holidays).

Spanish Consumer Association FACUA has carried out an analysis on taxis fare across of 45 cities in 2014, which shows how costs can vary as much as 131,7% for similar journeys.¹⁴⁹⁹

Tarragona was found to be the most expensive for taxi fares followed by San Sebastian, Gerona and Pamplona. The cheapest cities were Las Palmas (Gran Canaria), Arrecife (Lanzarote) and Santa Cruz (Tenerife).

The biggest cost variations were observed on the shortest day rides (minimum fare plus a km or minimum charge), which vary from the EUR 5,33 charged in San Sebastian to the EUR 2,30 charged in Arrecife - showing a difference of 131,7%.

The report also found that 10 of the 45 cities analysed increased their evening rate at weekends, referring to this as the 'special tariff', with Bilbao, Barcelona, Granada, Pamplona and Seville. The report analysed journeys of 1, 5 and 10 Km, during the day, night and weekend nights (IVA included) to allocate points for each criteria (the higher

¹⁴⁹⁹ http://www.facua.org/es/noticia_int.php?idioma=1&Id=8992 (last access, 5 September 2016).

the points, the higher the typical cost). Madrid and Barcelona were among the most expensive.¹⁵⁰⁰

A number of analysed cities also have flat rates - in many cases with a supplement and/or minimum fare to and from airports. In Seville, the tariff for this type of journey averages EUR 22,20 on days and EUR 24,75 on nights.

With regard to cities with Airport charges, Madrid and Badajoz have the most expensive minimum fare (applied to rides starting on airports) at EUR 20, followed by Malaga at EUR 15,21 for days and EUR 19,01 on nights.

The report also notes that fares across all cities have increased an average of 1,5% from 2013, with the largest individual increases seen in Cuenca (14%), Badajoz (4.3%) and Murcia (3.9%) - The Region of Murcia approved two different tariff changes in 2014 - the last one repealing the minimum fare.

II.7 Passenger rights

Passenger rights are regulated by the national and regional legislation applicable to consumers and, additionally by the local regulations applicable specifically to taxis.

Local regulations usually cover the following passenger rights:

¹⁵⁰⁰ The following results are therefore shown in order of most expensive to cheapest: Madrid (44); Murcia (44); Castellón (43); Ourense (43); Granada (42); Lugo (42); Sevilla (42); Ávila (41); Barcelona (41); Burgos (41); Gijón (41); Oviedo (41); Palencia (41); Pontevedra (41); Salamanca (41); Segovia (41); Valladolid (41); Badajoz (40); Bilbao (39); Ciudad Real (39); Málaga (39); Córdoba (38); Santander (38); Logroño (37), A Coruña (34), Palma de Mallorca (32), Cuenca (31), Zaragoza (31), Huelva (27), Almería (26), Jaén (23), Melilla (23), Cádiz (19), Ceuta (11); Santa Cruz de Tenerife (0); Arrecife (Lanzarote) (0) and Las Palmas (0).

To obtain a printed invoice-like document containing the information requested by the regulations.

- To pay the taxi fare in cash or debit or credit card.
- To request that luggage be transported in the taxi and that the driver picks up, stows and delivers it to the user after the service ends.
- To choose the most appropriate route.
- To receive the provision of services with vehicles in good conditions.
- To request that the volume of radio, music or other devices within the taxi is turned up or down.
- To request that the vehicle's inner light is turned on when the user has visibility difficulties either when entering into, or getting out of, the vehicle and when paying the fare.
- To the free transportation of guide dogs.
- To be treated respectfully by the driver.
- To open and close the back doors of the vehicle, when this is not moving, to request that the windows are open or closed and that the air conditioning systems are turned on or off. If this system does not work at the origin of the service, the user may abandon the vehicle without cost.
- To choose the taxi in the taxi stands.
- To request a complaints book on which the user may write any claim on the service provided.
- To receive an answer to complaints.

In addition to the above-mentioned rights, local regulations also establish passenger duties.

A basic set of passenger duties is the following (from Barcelona regulations):

- Pay the price of the service according to the established tariff system and in a manner that facilitates the smooth development of the service.
- Behave correctly during the service without interfering in the vehicle's driving and avoid any behaviour which may be considered as irritating or offensive or which may create harm to the vehicle, its occupants and the rest of the vehicles and persons on the street.
- Make sure minors in the vehicle behave correctly and do not create harmful situations or damage the vehicle.
- Use the vehicle's elements correctly without manipulating or harming them, which includes the prohibition to eat or drink within the vehicle without the previous approval of the driver.
- Avoid carrying in the vehicle objects or materials, which might affect its safety or situation.
- Respect driver's instructions unless they go against passenger's rights.
- Receive the service in the order requested.
- Not to discriminate without a justified reason when choosing a taxi at a taxi station.
- Inform driver of the destination at the beginning of the service and in a clear way.
- Do not request a destination or stop the vehicle in non-safe places.
- Respect the non-smoking policy.
- Allow baggage to be placed in the trunk of the vehicle when according to its dimensions is subject to special pricing or when according to its characteristics or nature the vehicle might get dirty, deteriorated or damaged.

II.8 Subsidies applicable to taxi sector *(including public developed applications for taxi sector, geolocalisation, etc.)*

As a rule, and on a regular basis, regional authorities approve subsidy programs to help taxi entrepreneurs in the innovation regarding the use of more energy-efficient vehicles (see, i.e., Orden 327/2015, of April 23rd, of the Region of Madrid) or in the necessary adaptation of vehicles and/or their equipment to improvements in the service. These regional subsidies are compatible with other nationwide subsidies applicable in general to the renovation of car fleets and vehicles (MOVELE, PIVE5, etc.).

II.9 Labour rules

There are no specific labour rules applicable to taxi drivers. They will be governed by the general labour rules applicable nationwide (Worker's Statute). National Collective Bargaining Agreements are also applicable to workers in the taxi field. Around 90% of the taxi drivers are independent taxi drivers ("autónomos") and the rest are drivers employed ("empleados") by the licence holder.¹⁵⁰¹

Certain local authorities, such as Barcelona, Madrid and Malaga, the local government has imposed maximum working hours. In Madrid, a taxi licence cannot work more than 16 hours a day and five days a week, independently from the number of drivers

¹⁵⁰¹ <http://www.economista.es/gestion-empresarial/noticias/48261/07/06/Ganarse-la-vida-con-un-taxi-requiere-paciencia-para-recuperar-la-inversion.html>.

employed by the company. This has forced various taxi companies to reduce the number of their drivers because it was not economically viable to employ various drivers.¹⁵⁰²

The Government has recently passed a reform on an income taxation system which includes relevant changes to the self-employed. One of the most notable changes is the "Improvement of Self-Employment Act"¹⁵⁰³ which came into force at the end of 2015. This new law permits to receive unemployment benefits while being registered as self-employee for a maximum of 9 months. New self-employees entering the RETA (Special System for Freelance Workers) for the first time will apply in their invoices a tax withholding of 7% for the first three years of their activity. They can also benefit from a 20% deduction on the output of their business activity.

The new law¹⁵⁰⁴ reduces the circumstances under which freelance workers can determine their income tax through an objective-estimation system. For this reason, many of them will have to move to a direct-estimation system.

In 2016, self-employed drivers can deduct in this year up to 50% of their expenses related to their business activity as long as they are able to justify such expenses.

- Self-employed workers: new withholding scale, with the minimum rate being 19.5% and the maximum 46% (until July 12 the scale will be the same as since January 1, that is, minimum rate 20%, maximum rate 47%).
- Hired workers: the withholding percentage drops for self-employed workers to 15% (instead of 19% as it has been since January 1). Furthermore, the applicable withholding rate or payment on account drops to 7% during the first three years of starting a professional activity.

According to public sources, the average salary for a taxi driver is around EUR 2,000.¹⁵⁰⁵ However, it has been reported that in the touristic places and during the summer season, there is an increase in turnover. During summer in Palma de Majorca, according to the information published by the Majorca's association of self-employed taxi drivers,¹⁵⁰⁶ revenues may increase up to EUR 6,000 per month before taxes. The main business cost is fuel which may be up to EUR 1,000 a month during the peak of the activities.

II.10 Supervisory enforcement tools

Depending on the situation or type of infringement, regional or local authorities will have the power to supervise and enforce by way of sanctions the application of regulations in the taxi sector.

¹⁵⁰² Information provided by one respondent to the stakeholder consultation.

¹⁵⁰³ Act 31/2015 of 9 September 2015 on Self-Employment.

¹⁵⁰⁴ Royal Decree-Law 9/2015 of 10 July 2015, featuring urgent measures to reduce the tax burden weighing on taxpayers from the Personal Income Tax (IRPF) and other economic measures.

¹⁵⁰⁵ <http://www.salaryexplorer.com/salary-survey.php?loc=203&loctype=1&job=20&jobtype=1>.

¹⁵⁰⁶ <https://majorcadailybulletin.com/news/local/2016/08/20/45018/palma-taxi-drivers-earn-000-euros-month-summer.html>.

Regulations dealing with supervisory enforcement tools are a combined mix of national, regional and local rules.

These rules distinguish between minor offences, serious offences and very serious offences. Each of the categories of offences is attached to a diverse kind of sanction (also identified as minor, serious and very serious sanctions). Sanctions are usually in the form of monetary fines although other types of sanctions are eventually considered by the applicable legislation.

Liability will be enforced against the taxi licence holder without prejudice to his right of recourse against the taxi driver if the latter would be the person finally responsible for the infringement.

On a different level, breaches of the contractual relationship between the taxi services provider and his clients will be governed by the rules applicable to contractual matters (or passenger's rights) contained in the taxi regulations and in the general commercial and/or civil legislation (including consumer protection rules) in force in Spain. The enforcement of these rules will be in the hands of the courts or of the special arbitration courts for transportation ("Juntas Arbitrales del Transporte") in the situations prescribed for by the applicable legislation.

III. Legal framework applicable to hire cars with driver

III.1. National/local municipal regulation

Hire car with drivers is regulated at the national level while the enforcement of the national legal rule is entrusted to regional authorities.

Legal regulations applicable to hire car with driver are the following:

- a. **Ley 16/1987, de 30 de Julio, de ordenación de los transportes terrestres** (LOTT) (BOE n. 182, de 31 de Julio de 1987) (amended and updated regularly), especially after modifications introduced on this matter by **Ley 9/2013, de 4 de julio**, (BOE n. 160, de 5 de julio de 2013).
- b. **Real Decreto 1211/1990**, de 28 de septiembre, por el que se aprueba el Reglamento de la Ley de ordenación de los transportes terrestres (BOE n. 241, de 8 de agosto de 1990) (amended and updated regularly), especially after modifications introduced on this matter by **Real Decreto 1057/2015**, de 20 de noviembre (BOE n. 279, de 21 de noviembre).
- c. **Orden FOM/36/2008**, de 9 de enero (BOE n. 19, de 22 de enero de 2008) as modified by **Orden FOM/2799//2015**, de 28 de diciembre de 2015 (BOE n. 307, de 24 de diciembre de 2015).

Amendments introduced regarding hire car with driver activities in the Spanish legislation have had mainly the aim of considering these activities discretionary passenger transport activities subject to their specific regulation as expressed in article 99.4 LOTT.

III.2 Procedures for issuing licenses and applicable criteria

The hire car with driver service is allowed only to persons having obtained previously a licence for *Vehículo de Turismo con Conductor* - (VTC).

The issuing of VTC licences is entrusted to the regional or (eventually) national authorities that, according to the applicable legislation, have competences to issue authorisations for inter-urban discretionary passengers' transportation.

As a rule, VTC licences will allow providing urban and inter-urban hire car with driver services in all territories of Spain. However, at least 80% of the services will have to be provided in the region where the licence was granted.

Licences must be domiciled in the same place as the vehicles' circulation permit is domiciled.

The requirements for obtaining a licence are basically the same requirements for performing public transportation services with specific additions introduced by the regulations applicable to hire car with driver services.

These requirements are the following:

- a) To have Spanish nationality or from another EU Member State or, otherwise, to have an authorisation to provide independent transportation services under the applicable foreigners legislation. Having a Spanish ID, passport or foreigner ID or work permit will accredit this requirement. Also a tax ID number will be requested in all cases.
- b) To be a physical or legal person (personality). In case of a legal person, this requirement will be accredited with the presentation of the incorporation deed and the appropriate registry certificate.
- c) To have a domicile in Spain, where all the documents related to the activity must be kept.
- d) To have the right of use under the title of ownership or leasing of at least seven vehicles. Vehicles over the number of seven will also be allowed to use under rental contracts.
- e) To have an electronic address and signature, as well as the appropriate hardware.
- f) To comply with all applicable tax, labour and social security obligations.

In order to request a VTC licence an application will need to be filed before the competent authorities along with documentation evidencing the requirements of nationality and legal personality. Other requirements will need to be evidenced at a later stage in the proceedings.

When the requirements mentioned below are met, the authorities will have to grant the requested licence. However, if in a region (or in a municipality within such region) taxi licences are limited in quantity, the VTC licence maybe denied with the purpose of maintaining an equilibrium between the two means of transport (taxi and hire car with driver) within the region. When the ratio of 1 VTC licence per 30 taxi licences is not maintained then there is an imbalance and as a consequence, the VTC licence may be denied.

Licences will be issued in a card (hard format) containing the basic information requested by the legislation.

Every two years the authorities will control that the licence holder meets the requirements mentioned above and a new card will be issued as a result thereof. Eventually, this control may be performed at any other time.

Licences may be transferred in the conditions prescribed by the applicable legislation. The price for a VTC licence is around EUR 30,000-50,000 in the largest cities.

III.3 Technical requirements applicable to hire cars with driver

Vehicles assigned to VTC licences will have the following technical characteristics:

- a) No more than 9 seats (driver included).
- b) Motor with power of or over 12 fiscal horsepower.
- c) Minimum exterior length equal or superior to 6,60 metres. [Some special powered vehicles (i.e., electric) will not need to meet the two requirements above].
- d) No more than 10 years old, with the exception of vehicles with a motor with a power of or over 28 fiscal horsepower or historic vehicles as they are defined as such in the applicable legislation.

Hire cars will not be allowed to be identified externally in such a way that it may create confusion with taxi services. Authorities may specifically request that those vehicles are identified distinctively.

Vehicles assigned to the licence may be substituted in the conditions prescribed by the applicable legislation.

III.4 Qualitative requirements

Drivers of hired cars must hold a driver's permit in accordance with the applicable traffic legislation. Drivers may be either independent drivers holding the VTC licence or employees hired by the VTC licence holder.

III.5 Organisational requirements

VTC licences only allow the carrying of passengers who have previously agreed to hire the vehicle with driver (except if the passengers are persons related to the VTC licence holder). A copy of the contract (or a so-called "route paper") has to be on board the vehicle and be kept by the licence holder for a period of 1 year to the disposal of the authorities.

Vehicles assigned to VTC licences will not be allowed to drive around in search of passengers.

The VTC licence holder must have one or more insurance policies in order to cover civil liability derived from damages suffered by passengers.

Hire car with driver services are not subject to fares. The service provider will determine prices freely.

The two main VTC intermediaries Uber and Cabify, in Madrid offer the following fares for their basic services (CabifyLite and UberX).

Cabify Lite

Price per Km (0-20)	EUR 1,65
Price per Km (20-80)	EUR 1,10
Price per Km > 80 km	EUR 1,05
Waiting time per minute	EUR 0,45
Minimum fare	
- Immediate request centre/outskirts	EUR 6/EUR 12
- Reservation centre/outskirts	EUR 10/EUR 15
Extra cost	EUR 5,00
Cancellations in immediate request are free of charge until 7 minutes before the driver accepts the journey. In advance reservations are free of charge up to two hours before the journey starts.	

Uber X

Base fare	EUR 0
Price per min	EUR 0,20
Price per KM	EUR 1,15
Minimum fare	EUR 5
Cancellation fee	EUR 5

III.6 Passenger rights

No special rules are applicable to passenger rights under this transportation alternative. Therefore, general consumer protection legislation and civil and commercial law rules will be applicable.

Passengers have the right to be informed about the prices charged for the services provided.

III.7 Labour rules

There are no specific labour rules applicable to drivers of hired cars, either independent or employees. However since ROTT imposes, among the requirements for a VTC authorisation, the availability of a fleet of 7 cars, this should call for the creation of a company employing licensed drivers.

They will be governed by the general labour rules applicable nationwide (Worker's Statute) and the same rules on income taxation of taxi drivers are applicable.¹⁵⁰⁷

III.8 Local incentives, subsidies provided by the administration in order to carry out certain services (such as mini-van service for people with reduced mobility, elderly, schools)

¹⁵⁰⁷ In Spain, labour law applies both to independent (self-employed) drivers (so called "autónomos") and to employees. A physical person holding a VTC license who also drives the vehicle, is considered an "autónomo" and therefore subject to labour law. In addition, of course, to other obligations arising out of the condition as a self-employed person from the fiscal and commercial legislation.

There are no special incentives applicable to this kind of transportation.

III.9 Supervisory enforcement tools

Regional (and eventually) national authorities will be in charge of the enforcement of the rules applicable to hire car with driver services. National general rules defining infringements and sanctions in the performance of public transportation of passengers are applicable to those services.

In November 2015 changes in the LOTT has been adopted which allowed the immediate seizure of the vehicles without authorisation and the imposition of pecuniary sanctions.

The 2016 Inspection Plan adopted by the Ministry of Economic Development (Ministero del Fomento), with regard to vehicles up to 9 seats, instruct to inspect airports, ports, train and bus stations and surrounding areas and in places where there is a greater concentration of demand.

IV. Legal framework applicable to ridesharing and car sharing

IV.1 Current regulations and legislative proposals

There are no current regulations applicable specifically to ridesharing and car sharing services, except where "car sharing" services could fall under the regulations applicable to hire of vehicles without a driver, which are contained in national legislation mentioned above (LOTT and ROTT).

No legislative proposals are anticipated so far.

On October 15, 2015, the Plenary of the Spanish Competition Authority (CNMC) took a decision to promote a research on sharing economy activities, which was open to public consultation. This study is now pending final approval by this Authority and may have an impact on the future regulation of these new types of services in Spain. In the meantime, the CNMC has challenged in court the recent legislative changes introduced on ROTT and the OM regulating hire cars with drivers on the grounds that these legislative amendments hinder competition by creating barriers which are unnecessary and discriminatory.

IV.2 National rules applicable to on-line platform and rules applicable to service providers

There is no single set of legal rules applicable in Spain to on-line platform rules and service providers. On the contrary, there is a myriad of rules applicable to these matters from different perspectives (data protection, electronic commerce, etc.).

"The most important rules applicable here will be the following:

- a. Ley 34/2002, de 11 de julio, de servicios de la sociedad de la información y de comercio electrónico (BOE nº 166, de 12 de julio de 2002).
- b. Ley Orgánica 15/1999, de 13 de diciembre, de protección de datos de carácter personal (BOE nº 298, de 14 de diciembre de 1999).
- c. Real Decreto Legislativo 1/2007, de 16 de noviembre, por el que se aprueba el texto refundido de la Ley General para la defensa de los

consumidores y usuarios y otras leyes complementarias (BOE nº 287, de 30 de noviembre de 2007).

- d. Ley 17/2009, de 23 de noviembre, sobre el libre acceso a las actividades de servicios y su ejercicio (BOE nº 283, de 24 de noviembre de 2009)".

IV.3 Main operators and their business models

1. **Blablacar**, operated by Comuto, S.A. is an on-line application offering ridesharing services to users. According to its business model, this on-line platform offers a channel for people looking for sharing costs on a particular trip by car.

2. **Cabify**, operated by Maxi Mobility Spain, S.L., is an on-line application offering transportation services under the legal framework of VTC licences (hire cars with driver).

3. **Uber X** is the latest attempt by Uber to offer services in Spain (so far in Madrid), now under the legal framework of VTC licences.

4. In the car sharing business, there are several operators: **Car2go, Avancar, Bluemove, ClickCar, Cochele, Ibilek** and **Respiro**. A Spanish Association of Car-Sharing (AECar-sharing) has been recently established by the most important companies operating in this sector.

IV.4 Requirements imposed upon non-licensed activities (safety and technical requirements, insurance requirements, obligations relating to licences and on-line platforms)

There are no requirements which are imposed for these services. However, the 2016 Inspection Plan of the Ministry of Economic Development sets the Ministry guidelines for monitoring for-profit intermediaries offering professional ridesharing. The Ministry calls for regulation of this activity. In its opinion, these intermediaries should be considered as professional hire car with transport services and they should fulfil all the requirements for the VTC authorisation.¹⁵⁰⁸

IV.5 Local incentives, subsidies and other forms of promotion for ridesharing and car sharing (including, parking spots, use of preferential lanes, etc.)

There are no incentives.

V. Relevant national case law

Supreme Court No 427/2010 of 14 February 2012

The decision of the Supreme Court of 14 February 2012, on the application of UNALT and UNAUTO, annulled the provisions contained in the single article, para 14, of the Real Decreto 919/2010 which modified the ROTT, imposing restrictions on the access to VTC profession (premises dedicated to the VTC activity, minimum 4 vehicles of high standing,

¹⁵⁰⁸ Ministerio de Fomento, PLAN DE INSPECCIÓN DE TRANSPORTE POR CARRETERA 2016, p. 22 http://www.fomento.gob.es/NR/rdonlyres/901F29D7-04EB-4C70-AEBE-2F0D820D965C/135282/PLAN_INSPECCION_2016.pdf.

two drivers every three vehicles). The annulment, which was disposed with immediate effect, temporarily liberalised the VTC service.

The Supreme Court motivated the annulment of the Real Decreto 919/2010 on the ground that the decree introduced certain provisions that were already repealed by the Law 25/2009. The repealed articles included the obligation for the VTC operator to have a minimum number of vehicles, available premises, licences for each vehicle and a minimum number of professional drivers with a full employment contract. The Supreme Court considered that the provisions of the Real Decreto 919/2010, and in particular its Article 181, which imposed the abovementioned requirements, found their legal basis in the provisions of the LOTT that had been repealed. Therefore, they had to be annulled. As provided by the Supreme Court *"Set forth in the above legal basis leads to partial acknowledgement of the appeal, annulling the single provision, point fourteen, of Royal Decree 919/2010, of 16 July, as it redrafts sections 1.a) article, b) f) of Rule 181 of the Transport Act (Royal Decree 1211/1990, of 28 September), which are left without content. Indeed, we must take into account that the reform redrafts the provision in its entirety; therefore those paragraphs are to be cancelled without the possibility, for the provisions repealed by the Royal Decree, of being able to revive"*.

The restrictions to the VTC activity, introduced in 2015 with the Real Decreto 1057/2015, have been introduced amending the ROTT, in order to change the legal basis.

Preventive measures against intermediaries

Three relevant court decisions have been issued recently in this area dealing with preventive measures by the aggrieved party (and potential plaintiff).

The first decision ("Auto") was issued on **December 2014** by the Commercial Court number 2 of Madrid in a preventive measures proceeding (Medidas cautelares previas 707/2014) requested by a Madrid taxi association against Uber Technologies, Inc. The court granted the requested preventive measures and suspended the on-line application managed by Uber.

The two other decisions were issued in **November 2015**. In one of them, the professional federation of taxis of Madrid requested the Commercial Court number 12 of Madrid to grant preventive measures against Maxi Mobility Spain, S.L., and owner of the application Cabify. The court rejected the petition. In the second decision, the Commercial Court number 2 of Madrid also rejected preventive measures requested by bus companies' organization (Confibus) against Blablacar, the ridesharing application owned by Comuto, S.A.

In addition to the above mentioned interlocutory rulings, it is worth also noting the case heard before the Barcelona Commercial Court nº 3 in the matter of Asociación Profesional Elite Taxi against Uber Systems Spain, S.L. (Procedimiento ordinario 929/2014D2) where claimant argued defendant was developing unfair competition activities. Proceedings reached up to the stage of the main hearing and at then the Court decided to file a preliminary ruling petition to the EUCJ on August 7, 2015 in order to determine whether the activities of defendant could be considered as transportation or

as an electronic intermediation service within the context of Directive 2006/123/CE (OJ C 363/21). The EUCJ has not yet issued a decision.

VI. Country Market

The taxi market is currently fragmented across the various licensing areas. Taxis and hire cars with drivers are two separate markets. Both markets are geographically restricted and characterized by quantitative barriers. As clarified by the Spanish Competition Authority (CNCM), the national legislation allows the taxis to be active in the rank, hailing and pre-booked services (via phone or web applications), but the hire car with driver service is active only on the last segment.

The technological developments narrowed down the distinction between the two segments and according to the CNCM, the users, at least in the largest cities, do not wait or call the taxi but they search for it with applications.

VII. Market players

Taxis

The majority of the operators are self-employed. In the Spanish largest cities, there are various radio taxi services which also provide their own applications (such as Pidetaxi Radiotelefono in Madrid and Radio taxi 033 in Barcelona which has the largest number of affiliated taxis). In recent years, the taxi operators have started to aggregate around "professional associations" such as **Elite taxis**,¹⁵⁰⁹ which are lobbying the Government and have also brought court cases against Uber and Cabify.

The radio taxi services also provide apps to book a taxi, however one of the most used taxi IT intermediaries is **Mytaxi** which is owned by Daimler AG.

Hire cars with driver

On 30 March 2016, Uber launched its fully licensed **UberX** in Madrid. The driver must be a self-employed driver to become a partner-driver with Uber.

Cabify¹⁵¹⁰ is a Spanish IT intermediary that is also expanding in Latin America. Cabify's apps allow users to order a chauffeur-driven car for immediate use or an advanced booking with payments taken via credit card or PayPal. The journey price is fixed at the time of the booking and vehicle types offered include Executive (Mercedes Class E or Audi A6), Luxury (Mercedes Class S) and Group (Mercedes Viano minivans) classes. It currently operates in Madrid, Barcelona, A Coruña, Malaga, Bilbao and Vitoria in Spain; and Lima, Santiago de Chile and Mexico City. Spain is its biggest market but growth for the startup is accelerating the fastest in Latin America. "As with Uber, Cabify's focus is on providing an on-demand car service that offers a better class of vehicle than a typical taxi, so although it competes with MyTaxi and Hailo in Spain, its proposition is to

¹⁵⁰⁹ <http://www.elitetaximadrid.org/>.

¹⁵¹⁰ <https://www.cabify.com/>.

provide more premium services. In Europe, Cabify charges a minimum price per journey of EUR 10".¹⁵¹¹

In April 2016, the platform raised \$120 million from investors (of which \$96 million from Japanese web power Rakuten) to expand¹⁵¹² in Latin America and Spain.

VIII. Barriers, limitations, incentives

In Spain, access to the taxi market is subject to quantitative restrictions combined with qualitative barriers (such as the need to pass an exam before applying for a licence). Licences may be issued to individuals or companies but the same person cannot hold more than a certain number of licences (3 in Madrid and 50 in Barcelona, provided they do not represent more than the 10% of the total available licences).

For taxis, the law provides minimum working hours and mandatory resting days which depend on the number issued on the licence. Therefore, if a company exploits a licence with various drivers, the drivers cannot cumulatively work more than the prescribed hours for each licence. Certain municipalities, such as Madrid and Barcelona, also impose certain car models to be used as taxi vehicles.

The geographic market for taxis is local, and taxis cannot pick up passengers outside their designated area (municipality). Moreover, certain municipalities also impose a residence requirement upon the applicant for a taxi licence.

VTCs

The 2015 ROTT, which was adopted following the 2012 Supreme Court decision which annulled the former restrictions to the VTC activity included in the LOTT, has introduced limitations to the number of VTCs based on the need to ensure the proportionality between taxis and VTCs. The new regulation imposes a limitation on the number of VTC licences. Regional governments can only grant 1 VTC licence for every 30 taxi licenses.

The new ROTT introduces restrictions on the minimum size of fleets. The new regulation requires a minimum of 7 vehicles to provide the service (in the 2009 version, a fleet consisted in four vehicles) and introduces technical specifications for the vehicles (i.e. minimum size, and minimum engine power). This provision, in practice, excludes self-employed operators from the market. This reduces the possibility for VTC intermediaries to find a large number of affiliated operators (or partner-drivers), since they have to work with small companies only and not with self-employed operators. Moreover, for operators, this restriction requires a significant up-front investment. It is no longer possible or profitable to sell a single vehicle; the sale must rather concern the entire fleet.

Certain autonomous regions require precise vehicles models or impose a minimum price for the acquisition of the VTC vehicles. The regional governments may add additional specifications for the vehicles used, such as the Canary Island, which requires that the

¹⁵¹¹ <https://techcrunch.com/2014/04/01/cabify-series-a/>.

¹⁵¹² <http://www.geektime.com/2016/04/21/cabify-raises-120-million-to-fight-uber-in-spain-and-latin-america/>.

cars used have to be luxury models with proof of an invoice of at least EUR 50-62,000 depending on the number of seats.

In some areas such as Barcelona, the local requirements are so stringent that no VTC licences are issued; this makes it almost impossible to start the activity in a profitable manner.¹⁵¹³ From a geographical point of view, the VTC licences are valid nationally but the operators are required to carry out 80% of their services within the region that granted the licence. Article 182 ROTT as amended, provides for the requirement that VTCs may only circulate on public streets if they have passengers on board with the justification that they are providing a service (with proof of the contract in the vehicle). The return to garage rule has been abolished in November 2015 and the VTC may always circulate or stop on the public street upon the condition that they are soliciting the service. The Ministry of Development has interpreted the provision in the sense that the VTCs cannot park near crowded places, such as train stations, airports, hotels, shopping malls.¹⁵¹⁴

Finally, a contract for the service must be entered between the parties in order to perform the service and VTCs must always have with them a proof of a contract with a client in case they are stopped for inspections.

CNCM

In March 2016, the Spanish Competition Authority (CNMC) proposed: to eliminate regulated taxi fares, to limit the power of associations of taxi drivers on the sector, to grant greater freedom of access to the taxi market and VTC, eliminate territorial restrictions, to eliminate the minimum technical requirements for vehicles used as VTC, and to eliminate mandatory schedules. Among the various obstacles, the CNCM proposed to eliminate the obligation for hire cars with driver to be reserved with a contract. According to CNMC, these barriers are unjustified, hamper effective competition in the market for urban passenger transport services throughout the national territory, limit innovation and, as a consequence, reduce general welfare. According to CNMC their removal would promote a better functioning of the Spanish economy.

On 7 April 2016, the CNCM submitted an action before the administrative court and the Supreme Court asking for the removal of the barriers mentioned above.

According to the CNCM, *"Regulatory duality between taxis and VTC is largely explained by the intention of the legislator of shielding and maintaining the monopoly of the taxi sector. This scheme is not justified by the principles of economic efficient regulation. In essence, the goal is to prevent that VTC can compete intensely and effectively with taxis. That is why the legislator has decided to limit the number of VTC vehicles, preventing them from serving in certain market segments, hindering their operation in the segment of pre-booked, establishing unjustified requirements on the characteristics of the vehicles and on the minimum size of the fleet, and limiting the freedom to provide services in national territory, among others"* [courtesy translation].¹⁵¹⁵

IX. Capacity, growth, impact

¹⁵¹³ <https://infotur.barcelona/2016/04/18/uber-sin-suficientes-licencias-vtc-para-operar-en-barcelona/>.

¹⁵¹⁴ Interview with UNAUTO.

¹⁵¹⁵ *INFORME ECONÓMICO SOBRE LAS RESTRICCIONES A LA COMPETENCIA INCLUIDAS EN EL REAL DECRETO 1057/2015 Y EN LA ORDEN FOM/2799/2015, EN MATERIA DE VEHÍCULOS DE ALQUILER CON CONDUCTOR – UM/085/15 Y ACUMULADOS*, p. 4.

Data provided by the Ministry of Transport in the response to the stakeholder consultation included the following:

- Total number of taxi licenses (22/03/2016): 66,499.
- Total number of hire cars with driver licences (22/03/2016): 4,132.

There are around 16,000 taxi licences in Madrid and 10,000 in Barcelona.

Number of permits issued annually:

- 2010: taxi 1158; VTC 59.
- 2011: taxi 1072; VTC 40.
- 2012: taxi 772; VTC 30.
- 2013: taxi 895; VTC 67.
- 2014: taxi 804; VTC 784.
- 2015: taxi 807; VTC 986.

Transfer of licences between 2010 and 2015:

- 2010: Taxi 2294; VTC 76.
- 2011: Taxi 2604; VTC: 116.
- 2012: Taxi 2471; VTC: 64.
- 2013: Taxi 3335; VTC: 108.
- 2014: Taxi 3060; VTC: 306.
- 2015: Taxi 2854; VTC: 1247.

As reported above, a recent survey showed that there is a large difference in fares across the various Spanish cities; in particular it showed that costs can vary as much as 131.7% for similar journeys.

As of May 2016, there are 1,624 VTC licenses in Madrid. 72 new licences were issued on January 2016.¹⁵¹⁶ It is expected that a further 1,000 new licences will be issued in 2017 as the courts are ruling in favour of applicants who have had their requests for VTC licences denied.

However, according to the press, in May 2016 the Federación Profesional del Taxi de Madrid (FPTM), which regroups 5,000 taxi operators, has submitted a request for 5,000 VTC licences to the Madrid City Council (almost the total of the Spanish licences). From the press reports, FPTM justifies this application with the intention to avoid any other VTC licence from entering into circulation affecting the profitability of the taxi sector; however, other taxi operators fear that the FPTM intends to develop a new VTC service in competition with Uber and Cabify or to exploit the value of the licences, which are issued for free by the Madrid Municipality by reselling on the market - where the price is around EUR 25,000-30,000.¹⁵¹⁷

¹⁵¹⁶ www.elconfidencial.com/tecnologia/2016-05-19/taxi-taxistas-uber-cabify-fptm-julio-sanz_1202057/.

¹⁵¹⁷ <http://www.motorpasion.com/industria/los-taxistas-piden-5-000-licencias-vtc-pero-eso-no-es-lo-mas-relevante-sobre-el-tema>.

In Madrid, between 2009 (when the hire cars with driver service was liberalised) and 2015, after the adoption of the new ROTT, around 10,000 applications for VTC licences were submitted.

In Barcelona, according to one respondent to the stakeholder consultation, the number of VTC licences is too small for intermediaries to be able to launch a profitable service.

¹⁵¹⁸

From the information provided by one respondent to the stakeholder consultation, the Spanish hire car with driver sector in 3 years has grown from 5,000 to 30,000 workers, divided between employees and self-employed with a current turnover of EUR 1.2 bln which is expect to grow up to EUR 3 bln in 2017. The 2015 data from the Ministry of Economic development are reported below.

¹⁵¹⁸ <https://infotur.barcelona/2016/04/18/uber-sin-suficientes-licencias-vtc-para-operar-en-barcelona/>.

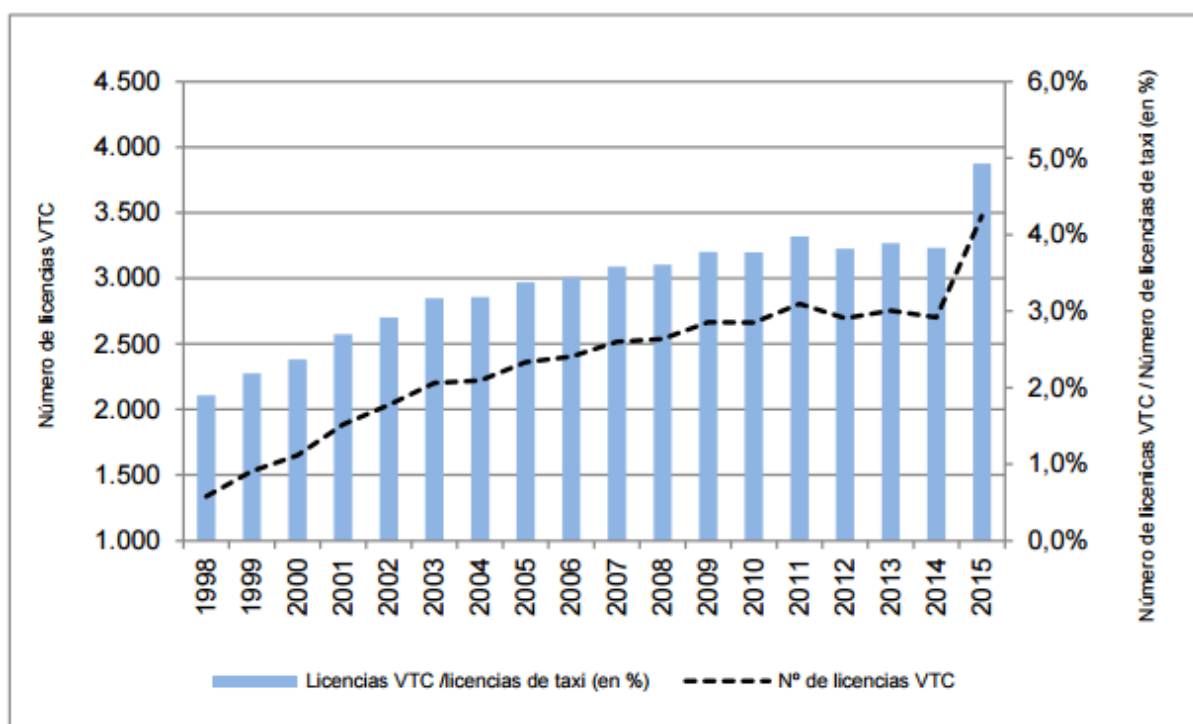
Provincia	Taxi		Alquiler con conductor	
	VT-N	VT-A	VTC-N	VTC-A
A CORUÑA	1.522	0	76	0
ALAVA	240	0	28	0
ALBACETE	227	0	5	0
ALICANTE	1.424	0	55	0
ALMERIA	517	0	27	0
ASTURIAS	1.422	0	117	0
AVILA	104	0	10	0
BADAJOS	528	0	7	0
BARCELONA	11.073	0	565	0
BIZKAIA	1.268	0	29	0
BURGOS	329	0	20	0
CACERES	384	0	14	0
CADIZ	1.152	0	41	0
CANTABRIA	527	0	119	50
CASTELLON	238	0	33	0
CEUTA	1	0	0	0
CIUDAD REAL	283	0	10	0
CORDOBA	797	0	28	0
CUENCA	170	0	10	0
GIPUZKOA	668	0	24	0
GIRONA	576	0	42	0
GRANADA	870	0	33	0
GUADALAJARA	116	0	10	0
HUELVA	425	0	14	0
HUESCA	253	0	6	0
I. BALEARS	2.482	0	221	0
JAEN	422	0	3	0
LA RIOJA	174	0	6	0
LAS PALMAS	3.163	303	30	119
LEON	534	0	7	0
LLEIDA	460	0	0	0
LUGO	555	0	13	0

X. Results

With regard to taxis, the number of taxi licences issued over the last five years has progressively decreased. In the main cities, the number of licences has remained almost unchanged from many years and the value of the licence has increased up to EUR 140,000 in Madrid. The average gross turnover of a taxi driver is around EUR 2,000 per month but, in touristic areas such as the Balearic Islands and during the touristic season, the turnover may increase up to EUR 6,000.

In **January 2016**, according to the Spanish Competition Authority, the number of VTC licenses in Spain was 4,296. Between 1998 and 2016, these numbers were multiplied by 3.2 going from 1,336 to current 4,296. This contrasts with the observed market development in taxi service, where the number of licenses has remained virtually constant between 1998 (70.373) and 2015 (70.509), mainly due to the existence of quantitative limits that prevent entry into the sector.

The number of VTC licenses over the total number of taxi licenses has grown progressively from 1.9% in 1998 to 4.9% in 2015. The percentage exceeds the 3% at the national level and many autonomous communities can grant additional authorisations or have them imposed by the courts.



Fuente: elaboración propia a partir de datos del Instituto Nacional de Estadística y del Ministerio de Fomento. Nota: para taxi se utilizan los datos del INE a 31 de julio de cada año, y para VTC los datos a 1 de enero de cada año obtenidos del Ministerio de Fomento. [CNCM INFORME ECONÓMICO SOBRE LAS RESTRICCIONES A LA COMPETENCIA INCLUIDAS EN EL REAL DECRETO 1057/2015, p.6].

According to the CNCM, the existence of a quantitative limit restricts price competition since it reduces the number of operators. While for taxis the price is usually regulated, for hire cars with driver the price is free and is one of the main drivers of competition in the pre-booked segment.

According to one respondent to the stakeholder consultation "Taxis are very costly because of high administrative fares set out at local level that translate into low occupancy of vehicles (taxis are empty more than 60% of the time). In fact, less than 30% of Spanish citizens are able to use taxi services more than once per month".

An exercise carried out in April 2016 that involved a journey in Madrid using the basic options of Cabify and Uber and comparing them with taxis, found that for both Uber and Cabify offers were very similar in terms of price and quality but the waiting times were slightly higher than taxis due to the lower availability of VTC vehicles.¹⁵¹⁹

XI. Conclusions

The Spanish hire transport market is strictly regulated and segmented. Access to market, for both taxis and hire cars with driver, is hampered by the quantitative restrictions combined with high qualitative barriers. As concluded by the CNCM, the existence of quantitative barriers restricts price competition while reducing the number of operators. The barriers to entry in the VTC market prevent the creation of a competitive environment for hire transport alternative to taxis. Various rulings are pending both before the national courts and before the European Court of Justice.

Bibliography

1. INFORME ECONÓMICO SOBRE LAS RESTRICCIONES A LA COMPETENCIA INCLUIDAS EN EL REAL DECRETO 1057/2015 Y EN LA ORDEN FOM/2799/2015, EN MATERIA DE VEHÍCULOS DE ALQUILER CON CONDUCTOR – UM/085/15 Y ACUMULADOS.(Case C-434/15) Request for a preliminary ruling from the Juzgado Mercantil No 3 de Barcelona (Spain) lodged on 7 August 2015 — Asociación Profesional Élite Taxi v Uber Systems Spain,S.L.
2. <http://curia.europa.eu/juris/document/document.jsf?text=&docid=170871&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=1018770><http://curia.europa.eu/juris/document/document.jsf?text=&docid=170871&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=1018770>.
3. http://www.elconfidencial.com/tecnologia/2016-06-09/cnmc-taxi-uber-cabify_1214626/.
4. <https://www.competitionpolicyinternational.com/spain-podemos-party-to-interrogate-cnmc-president-over-uber-controversy/>.

¹⁵¹⁹ http://www.elconfidencial.com/tecnologia/2016-04-05/uber-taxi-cabify-car2go-alternativas-transporte-madrid_1178533/.

27. SWEDEN

General legal framework

Relevant Swedish legislation in the area of personal transport is the legislation pertaining to commercial transport, notably the Taxi Services Act and the Taxi Services Ordinance, as well as a number of regulations of the Swedish Transport Agency (Transportstyrelsen). There are no specific provisions on ridesharing services, but national legislation allows for ridesharing between private persons, for example colleagues sharing a ride to and from work. The current legislation is not easily applicable in peer-to-peer ridesharing. Therefore, the Government has appointed an inquiry into this new form of services.

Taxis

The Swedish taxi sector is regulated by a separate law (Taxitrafiklagen - SFS 2012:211) and a separate regulation (Taxitrafikförordningen - SFS 2012:238). These include provisions on licences for taxi services, licences for taxi drivers, taximeters etc. There is no further legislation at the local level. There is no special legislation for hire car with driver services. There are no provisions on dispatch centres other than a separate legislation clarifying that such centres are allowed notwithstanding current provisions on competition (Lag [SFS 2008:580] om gruppundantag för konkurrensbegränsande avtal om viss taxisamverkan). There are about 350 dispatch centres around Sweden; most of them have their own set of rules and regulations. The Swedish Taxi Union, which represents 70% of taxi service providers in Sweden, has a set of quality norms for good taxi tradition. The Swedish Board of Accreditation and Conformity Assessment issues regulations on the control and fixing of taximeters. There are no local/municipal regulations in this area.

Licences

The competent authority to issue a taxi licence is the Swedish Transport Agency, while the Swedish Transport Administration examines the applicants' driving skills and knowledge. An applicant first needs to pass three competence tests and a driving test. Once the applicant has passed the tests and obtained a medical certificate, he or she can apply for a taxi licence with the Transport Agency. A person who wants to drive a taxi must either drive for a taxi company that holds a taxi services permit or apply for such a permit if he or she wants to perform as self-employed.

Organizational and technical requirements

In order to obtain a taxi licence, an applicant first needs to pass three competence tests and a driving test within six months. The applicant must also pass a medical fitness check. In order to apply for a taxi services permit with the Transport Agency, the person or the operator needs to fulfil a number of criteria. These include having the necessary financial conditions, including 100,000 SEK (10,700 EUR) for the first car and 50,000 SEK (5,350 EUR) for each additional car (the amount is in addition to the car itself), knowledge of the relevant legal framework, knowledge of business management, financial management of a company, technical standards, operational conditions, and road safety. The applicant needs to pass a number of tests to attest his or her knowledge in these areas. Each taxi operating business needs a so called traffic manager (trafikansvarig). If the taxi driver is the permit holder he is his own traffic manager. With regard to technical requirements, a vehicle destined to taxi services has to be reported to the Transport Agency. The vehicle has to undergo a special inspection for taxi vehicles.¹⁵²⁰ Once the vehicle passes such inspection, it obtains special yellow licence plates. All vehicles used for taxi services are required to hold a taximeter. The taximeter needs to fulfil a number of requirements set out by law.¹⁵²¹

Fares

The Swedish taxi industry has been deregulated since 1990 and the taxi service providers are free to set their own tariffs. There are no minimum or maximum fares. However, each taxi vehicle has to keep stickers both on the inside and the outside the vehicle with the applicable tariff. Fare scams from taxis non-affiliated to a dispatch centre are still common. The tariff shall be structured in such a way that the price of the transport can be easily assessed before the ride, taking into consideration the distance and duration of the ride.

Passenger rights

Passenger rights include: the right to be informed about the price if the price is more than SEK 500; the right to choose the taxi which is not first in line; the right to travel in compliance with the law; the right to report a taxi driver in particular in case of taxi scams.

¹⁵²⁰ Chapter 4, Sections 2 and 4 of the Taxi Services Ordinance.

¹⁵²¹ Chapter 5, Section 1 of the Taxi Services Ordinance.

Labour rules

In Sweden, salaries and conditions of employment are regulated in collective agreements. When there is no collective agreement, labour legislation applies. The main labour legislation is the Employment Protection Act. The main trade union for taxi drivers is the Transport trade union. 54% of the employers in the taxi industry have signed the collective agreement for taxi services with Transport. One of the schemes is a commission-based scheme where the employer and the employee agree on the percentage. However, the salary may not be less than the guaranteed salary, which varies according to the geographical area. The second scheme is based on a fixed weekly salary with a small commission percentage. Most of the drivers use the commission-based scheme.

Enforcement

The Transport Agency is the licensing authority for taxi drivers and taxi companies. The Agency may withdraw a licence in case of irregularities. Street controls are left to the Police Authority.

Airports

There are no separate licences for airports. However, in case of Arlanda airport in Stockholm, drivers need to enter into an agreement with the Airport Authority. Only eco-taxis (mainly hybrid) are allowed at Arlanda. In order to avoid price scams, a maximum fare to Stockholm city centre of SEK 675 is imposed.

Hire cars with driver

There is no dedicated legislation in Sweden pertaining to hire cars with drivers. Until 1990, there was a "limousine" service in Sweden, but after the deregulation they were no longer allowed. The main reason to abolish PHV was that they were not equipped with taximeters and therefore it was too easy to evade taxes. From the date of the deregulation, only taxis equipped with taximeters are allowed. Exemption from the use of a taximeter must be asked to the Transport Agency and it is possible for a taxi company to get a taximeter exemption if the business solely relies on contracts with customers that are paying based on an invoice. Under Swedish legislation, taxi drivers are professional drivers and can therefore, in addition to the usual taxi services, also offer other services, such as school transport, medical transport, contract customers, and carrier services. Therefore, the legislation for taxis applies.

Ridesharing

There is no special legislation applicable to car sharing in Sweden. The national legislation allows for not-for-profit ridesharing e.g. colleagues sharing a ride to and from work. In 2015, the Swedish Government appointed a commission¹⁵²² to investigate how laws and regulations on taxis and ridesharing can be adapted to the new reality. The commission shall investigate if and how the use of a taximeter shall be made compulsory, if a new definition for taxi-like operations can be created, and look at the provisions on carpooling between private persons.

Market analysis

The taxis licences are issued by the National Transport Agency and in principle, they are valid for the whole national market. Taxis may be hailed on the street or pre-booked, also via apps. Intermediaries are considered as dispatch centres.

The main market players in the taxi market are:

- TaxiKurir, present in about 35-40 cities;
- Taxi Stockholm AB – a dispatch centre that operates in Stockholm, the largest, and has many licence holders connected to the centre with a total of about 1600 vehicles¹⁵²³ and a turnover of approximately 200 000 000 Euros;¹⁵²⁴
- Taxi 020, which operates in Stockholm, Gothenburg and Borås with about 1200 vehicles;¹⁵²⁵
- SverigeTaxi, which has about 40 dispatch centres in about 100 cities.¹⁵²⁶

¹⁵²² Press release on the Swedish Government's website, available at:

<http://www.regeringen.se/pressmeddelanden/2015/09/amy-rader-olsson-har-utsetts-till-sarskild-utredare-i-taxiutredningen/>.

¹⁵²³ www.taxistockholm.se.

¹⁵²⁴ Reply to the stakeholder consultation.

¹⁵²⁵ <http://www.taxi020.se>.

¹⁵²⁶ <http://www.sverigetaxi.se/index.php?lang=2>.

The main hire car with driver operator is Freys, the oldest and largest limousine and chauffeur service company in Stockholm, Sweden and Scandinavia.

Barriers to entry, limitations, incentives

The barriers to entry are low. Since the deregulation of the taxi market in Sweden in 1990, there is no limitation concerning the maximum number of licence licences and there are no geographical limitations.¹⁵²⁷ As explained by the respondents to the stakeholder consultation, the deregulation was introduced as a result of high political pressure put on the Swedish Parliament due to scarcity of taxis, especially during peak hours.¹⁵²⁸ Prior to the deregulation, the taxi market was strictly regulated with both quantitative and fare restrictions. Following the deregulation, it is no longer necessary to be affiliated to a dispatch centre. In addition, fares are no longer regulated.

Growth, capacity, impact

Taxi tariffs have grown at general price index's pace and deregulation brought a significant increase in supply. The effects of deregulation have been greater terms of benefits for the consumers in densely populated areas, even if the lower waiting times and the increase of supply were combined with higher fares. The positive effect of deregulations on employment started showing up after 1993, at the end of the recession period, and continued steadily bringing the employment level back to 1990 level only in 2007. According to the Swedish Taxi Association, the most noticeable improvement stemming from the deregulation is that it is much easier to get a taxi, especially in the larger cities of Sweden. The main disadvantage is that customers have to be selective and watch out for expensive taxi companies, sometimes with drivers who could not find their way in the cities. Despite the regulation and the increase in the number of taxis, the market remains profitable. It is reported that the annual gross revenue of a driver affiliated to Taxi Stockholm, the largest national company, is around EUR 150,000 and the national average gross revenue of a taxi driver is around EUR 83,000.

Conclusions

The Swedish market represents a very specific case both for the fact that is fully liberalised and for the relevance of the public services share in the sector. The effects of liberalisation of the taxi sector were the increase in the supply, reduced waiting times but accompanied by higher fares.¹⁵²⁹ According to a 2013 study, the overall quality of the service has improved. The risk of fare scams or of exorbitant fares still exists, especially from taxis not affiliated to a dispatch centre. The effect of liberalisation on employment has been positive. New innovative service providers have entered the market with few difficulties.

I. Introduction

Relevant Swedish legislation in the area of personal transport is the legislation pertaining to commercial transport, most notably the Taxi Services Act and the Taxi Services Ordinance, as well as a number of regulations of the Swedish Transport Agency (Transportstyrelsen). There are no specific provisions on ridesharing, such as Uber, and car sharing services, neither at national nor at local level,¹⁵³⁰ but national legislation allows for ridesharing between private persons, for example colleagues sharing a ride to and from work.

The Swedish Transport Agency is the competent authority entitled to issue taxi licenses and examine whether the applicants meet the required criteria, while the Swedish Transport Administration (Trafikverket) examines the applicant's driving skills and knowledge.

¹⁵²⁷ Reply to the stakeholder consultation provided by the Ministry of Enterprise and Innovation and The Swedish Transport Agency (Transportstyrelsen).

¹⁵²⁸ Reply to the stakeholder consultation.

¹⁵²⁹ Reply to the stakeholder consultation, 24 March 2016.

¹⁵³⁰ Reply to the stakeholder consultation provided by the Ministry of Enterprise and Innovation and The Swedish Transport Agency (Transportstyrelsen).

The current legislation is not easily applicable on ridesharing services such as UberPop, matching passengers with non-professional drivers. Therefore, the Government has appointed an inquiry into this new form of services.

II. Legal framework applicable to taxis

II.1 National/Local/municipal regulations

In Sweden, the relevant legislation regulating taxi services is set at national level in Acts and Ordinances issued by the Government and in Regulations issued by the Transport Agency. The Transport Agency has the overall responsibility for commercial transport (including taxi) in Sweden. The Swedish Board of Accreditation and Conformity Assessment issues regulations on the control and set up of taximeters. Neither local nor municipal regulations have been issued in this area. Roughly, 350 dispatch centres are displaced around Sweden; most of them have their own set of rules and regulations. The Swedish Taxi Union, which represents 70% of taxi service providers in Sweden, provided itself with a set of quality norms for good taxi tradition.¹⁵³¹

National legislation applicable to taxis consists of the following:

- The Taxi Services Act (*Taxitrafiklag (2012:211)*), Promulgation: 1 June 2012, Last amended: 4 December 2015;¹⁵³²
- The Taxi Services Ordinance (*Taxitrafikförordning (2012:238)*), Promulgation: 1 June 2012, Last amended: 19 December 2014;¹⁵³³
- The Employment Protection Act (*Lagen om anställninsskydd (1982:80)*), Promulgation: 1 April 1982, Last amended: 26 November 2015;¹⁵³⁴
- The Annual Leave Act (*Semesterlag (1977:480)*), Promulgation: 1 January 1978, Last amended: 28 May 2014;¹⁵³⁵
- The Ordinance on Respecting Rest Periods for Certain Inland Road Transports (*Förordning (1994:1297) om vilotider vid vissa vägtransporter inom landet*), Promulgation: 1 January 1995, Last amended: 11 September 2014;¹⁵³⁶
- The Transport Agency's Regulations on Taxi Services (*Transportstyrelsens föreskrifter om taxitrafik (TSFS 2013:41)*), Promulgation: 1 June 2013, Last amended: 9 December 2014¹⁵³⁷, hereafter **TSFS 2013:41**;
- The Transport Agency's Regulations on the Mandate to Conduct Tests (*Transportstyrelsens föreskrifter om förordnande att förrätta prov (TSFS 2012:61)*), Promulgation: 19 January 2013¹⁵³⁸, hereafter **TSFS 2012:61**;
- The Transport Agency's Regulations on Professional Knowledge for Taxi Services (*Transportstyrelsens föreskrifter om yrkeskunnande för taxitrafik (TSFS 2012:140)*), Promulgation: 19 January 2013¹⁵³⁹, hereafter **TSFS 2012:140**;
- The Transport Agency's Regulations and Guidelines on Driving Tests for Taxi Licence (*Transportstyrelsens föreskrifter och allmänna råd om körprov för taxiförarlegitimation (TSFS 2010:32)*), Promulgation: 1 April 2010, Last amended: 2 October 2014,¹⁵⁴⁰ hereafter **TSFS 2010:32**;

¹⁵³¹ Available at: <http://www.taxiforbundet.se/om-oss/verksamhet/styrdokument/god-taxitradition.aspx>.

¹⁵³² Available at: <http://www.notisum.se/Pub/Doc.aspx?url=/rnp/sls/lag/20120211.htm>.

¹⁵³³ Available at: <http://www.notisum.se/Pub/Doc.aspx?url=/rnp/sls/lag/20120238.htm>.

¹⁵³⁴ Available at: <https://www.notisum.se/rnp/sls/lag/19820080.htm>.

¹⁵³⁵ Available at: <https://www.notisum.se/rnp/sls/lag/19770480.htm>.

¹⁵³⁶ Available at: <http://www.notisum.se/rnp/sls/lag/19941297.HTM>.

¹⁵³⁷ Available at: https://www.transportstyrelsen.se/TSFS/TSFS%202013_41k.pdf.

¹⁵³⁸ Available at: https://www.transportstyrelsen.se/TSFS/TSFS%202012_61.pdf.

¹⁵³⁹ Available at: https://www.transportstyrelsen.se/TSFS/TSFS%202012_140.pdf.

¹⁵⁴⁰ Available at: https://www.transportstyrelsen.se/TSFS/TSFS%202010_32k.pdf.

- The Transport Agency's Regulations and Guidelines on Tests in Professional Knowledge for Taxi Licence (*Transportstyrelsens föreskrifter och allmänna råd om prov i yrkeskunnande för taxiförarlegitimation (TSFS 2010:33)*), Promulgation: 1 April 2010, Last amended: 5 December 2012¹⁵⁴¹, hereafter **TSFS 2010:33**;
- The Transport Agency's Regulations and Guidelines on Medical Requirements for the Possession of a Driving Licence etc. (*Transportstyrelsens föreskrifter och allmänna råd om medicinska krav för innehav av körkort m.m. (TSFS 2010:125)*), Promulgation: 1 September 2010, Last amended: 19 November 2015¹⁵⁴², hereafter **TSFS 2010:125**;
- The Road Administration's [now the Transport Administration] Regulations on Professional Knowledge for Taxi Licence (*Vägverkets föreskrifter om yrkeskunnande för taxiförarlegitimation (VVFS 2004:65)*), Promulgation: 1 November 2004, Last amended: 1 January 2009¹⁵⁴³, hereafter **VVFS 2004:65**;
- The Swedish Board of Accreditation and Conformity Assessment's Regulations and Guidelines on Taximeters (*Swedacs föreskrifter och allmänna råd om taxametrar (STAFS 2006:11)*), Promulgation: 30 October 2006, Last amended: 16 August 2012¹⁵⁴⁴, hereafter **STAFS 2006:11**;
- The Swedish Board of Accreditation and Conformity Assessment's Regulations and Guidelines on the Installation and Control of Taximeter Equipment (*Swedacs föreskrifter och allmänna råd om installation och besiktning av taxameterutrustning (STAFS 2006:19)*), Entry into force: 30 October 2006, Last amended: 10 February 2014¹⁵⁴⁵, hereafter **STAFS 2006:19**;
- The Swedish Board of Accreditation and Conformity Assessment's Regulations and Guidelines on Additional Devices to Taximeters (*Swedacs föreskrifter och allmänna råd om tillsatsanordningar till taxametrar (STAFS 2012:5)*), Adopted on: 1 October 2012¹⁵⁴⁶, hereafter **STAFS 2012:5**.

II.2 Procedures for issuing licences and applicable criteria

The competent authority to issue a taxi licence is the Swedish Transport Agency, while the Swedish Transport Administration examines the applicant's driving skills and knowledge. In order to get a taxi licence, the applicant needs to meet the following criteria:¹⁵⁴⁷

- Being 21 years old;
- Holding a category B driving licence for at least two years or a category D driving licence;
- Fulfilling the medical requirements necessary with regard to the safety of passengers and others in the traffic;
- being deemed appropriate to serve as a driver of taxi services in terms of professional competence and obedience to the law;¹⁵⁴⁸ and
- Holding a valid driving licence for taxi drivers.

The applicant first needs to pass three competence tests and a driving test. Once the applicant has passed the tests and obtained a medical certificate then he or she can apply for a taxi licence with the Transport Agency.¹⁵⁴⁹

¹⁵⁴¹ Available at: https://www.transportstyrelsen.se/TSFS/TSFS%202010_33k.pdf.

¹⁵⁴² Available at: https://www.transportstyrelsen.se/TSFS/TSFS%202010_125k.pdf.

¹⁵⁴³ Available at: <http://webapp.trafikverket.se/TRVFS/pdf/2004nr065.pdf>.

¹⁵⁴⁴ Available at: http://www.swedac.se/PageFiles/1391/STAFS%202006_11%20konsol.pdf.

¹⁵⁴⁵ Available at: http://www.swedac.se/PageFiles/1658/STAFS%202006_19%20konsol.pdf.

¹⁵⁴⁶ Available at: http://www.swedac.se/PageFiles/3743/STAFS%202012_5.pdf.

¹⁵⁴⁷ Chapter 3, Section 3 of the Taxi Services Act.

¹⁵⁴⁸ A criminal background check is performed.

The licences are not tradable.¹⁵⁵⁰ In this respect, the Swedish Transport Agency and the relevant competent ministry are both not aware of the existence of secondary markets to trade licences.¹⁵⁵¹ Nonetheless, one stakeholder in the consultation declared that in the event a taxi licence holder of Taxi Stockholm, one of the most profitable dispatch centres to be affiliated with, is going to retire he/she can sell his "connection" to the centre on an "unofficial stock exchange". This is however possible only in case the buyer is accepted by Taxi Stockholm. Even though prices of the transfer vary among one another, the average price nearly amount to EUR 50,000.¹⁵⁵²

The licences cannot be leased.¹⁵⁵³

A person who wants to drive a taxi must either be employed in a taxi company that holds a taxi services permit or independently apply for the permit. In order to apply for a taxi services permit with the Swedish Transport Agency, the person or the operator needs to fulfil a number of criteria. These include having the necessary financial conditions, including 100,000 SEK (10,700 EUR) for the first car and 50,000 SEK (5,350 EUR) for each additional car (the amount is in addition to the car itself),¹⁵⁵⁴ knowledge about the relevant legal framework, knowledge about business management and financial management of a company, technical standards and operational conditions, and road safety. The applicant needs to go through several tests to prove knowledge in these areas.

Below is summary table of the costs to obtain a licence. The following costs have been provided by the Swedish public authorities:

Costs of licence for taxi services	Theory test: 325 SEK	Application: 5700 SEK
Costs of licence for taxi drivers	Theory test: 325 SEK	Application: 1200 SEK

In addition, for a driver to obtain a licence there is a cost in terms of driving test (800 SEK) as well, foreseen as a fee to obtain a taxi driver licence of 150 SEK.¹⁵⁵⁵

Below is a summary table of prices to obtain a licence between the years 2010 and 2015. The chart has been provided by the Swedish public authorities as well:

Price for application in SEK, licence for taxi

¹⁵⁴⁹ Information available at:

<http://transportstyrelsen.se/sv/vagtrafik/Yrkestrafik/Taxi/Taxiforarlighetamtion/Kunskapsprov/>.

¹⁵⁵⁰ Reply to the stakeholder consultation provided by the Ministry of Enterprise and Innovation and The Swedish Transport Agency (Transportstyrelsen).

¹⁵⁵¹ Reply to the stakeholder consultation provided by the Ministry of Enterprise and Innovation and The Swedish Transport Agency (Transportstyrelsen).

¹⁵⁵² Reply to the stakeholder consultation.

¹⁵⁵³ Reply to the stakeholder consultation provided by the Ministry of Enterprise and Innovation and The Swedish Transport Agency (Transportstyrelsen) and another private stakeholder.

¹⁵⁵⁴ There are no limitations as to the vehicles one licence holder can have as long as the economic requirements are fulfilled. Reply to the stakeholder consultation provided by the Ministry of Enterprise and Innovation and The Swedish Transport Agency (Transportstyrelsen).

¹⁵⁵⁵ Reply to the stakeholder consultation provided by the Ministry of Enterprise and Innovation and The Swedish Transport Agency (Transportstyrelsen).

2015	2014	2013	2012	2011	2010
5700	3200	3200	3200	3200	1200

Price for application in SEK, licence for taxi driver

2015	2014	2013	2012	2011	2010
1200	1200	1200	1200	1200	700

Price for taxi driver licence in SEK (the document showing the competence)

2015	2014	2013	2012	2011	2010
150	150	150	150	150	150

Each taxi operating business is required to have a so-called traffic manager (*trafikansvarig*). If the taxi driver is the permit holder, he is the traffic manager. The traffic manager might be held accountable for the operations being conducted in accordance with existing rules.¹⁵⁵⁶

II.3 Technical requirements applicable to licensed vehicles
(*taximeters, vehicles' technical specifications, accessibility, insurance, maintenance*)

All vehicles used for taxi services are required to have a taximeter. The taximeter needs to meet a number of requirements set out by the law.¹⁵⁵⁷ Among these requirements is included fixing and sealing the taximeter in accordance with the provisions of the TSFS 2013:41¹⁵⁵⁸ and the relevant regulations of the Swedish Board of Accreditation and Conformity Assessment¹⁵⁵⁹ (STAFS 2006:11, STAFS 2006:19, and STAFS 2012:5).

It might be possible for a taxi company to get a taximeter exemption if the business solely relies on contracts with customers that are paying via invoice. In order to authorise the exemption, the relevant authority (Transportstyrelsen/The Swedish Transport Agency) needs to see a written contact/agreement between the taxi company and the customer. An exemption is valid for one year and only for the vehicle mentioned in the application. No payment by cash/card is allowed to take place in the vehicle. Today more than 90 percent of the taxi vehicles are equipped with taximeters.¹⁵⁶⁰

The taximeters are not only used to calculate the fares but they are also used for data storage.. The taximeter allows to read, for instance, the working hours for each driver, how many runs each driver have carried out, the total distance driven per shift and how much of this distance was travelled with a paying passenger and the total amount of money earned by the taxi driver (cash and charged). If the Swedish Tax agency is carrying out an audit, they base their calculations on data from the taximeter and compare with the tax declaration form of the taxi company.¹⁵⁶¹

¹⁵⁵⁶ Chapter 2 of the Taxi Services Act.

¹⁵⁵⁷ Chapter 5, Section 1 of the Taxi Services Ordinance.

¹⁵⁵⁸ *Ibid.*

¹⁵⁵⁹ Chapter 1, Section 2 of the TSFS 2013:41.

¹⁵⁶⁰ Reply to the stakeholder consultation.

¹⁵⁶¹ Reply to the stakeholder consultation.

From the early 2017 on, a new law provides that all relevant taximeter data should be transferred wirelessly to authorised audit centres to which the Swedish Tax agency should have full access.

A vehicle that is going to be used for taxi services has to be reported to the Transport Agency.¹⁵⁶² The vehicle has to undergo a special inspection for taxi vehicles.¹⁵⁶³ Once the vehicle has passed the inspection, it obtains special yellow licence plates. Vehicles used for taxi services, just as any other road vehicles, have to undergo inspection once every year.¹⁵⁶⁴

All road vehicles are required to be insured in Sweden in accordance with the Traffic Accident Act (1975:1410).¹⁵⁶⁵ Following this, most insurance companies offer special insurance for taxi vehicles as well. The holder of the taxi permit (whether it is the taxi company or the individual driver) owns the car and is the insurance holder and is also responsible for any costs that may arise. There are no other mandatory insurances. The one in charge with the decision to equip its activities with extra insurance (for example property insurance, liability insurance and so on and so forth)¹⁵⁶⁶ is only the owner.

No other provisions have been identified with regard to the technical specifications of vehicles or accessibility.

Until 1990, there were "limousine looking" vehicles, which are now no more allowed. Hire cars with drivers were abolished mainly due to the fact that they were not equipped with taximeters and, thus, it was too easy to evade taxes. After the deregulation, only taxis equipped with taximeters are allowed to perform the service.¹⁵⁶⁷

II.4 Qualitative requirements (*fitness of the driver, knowledge and skills required, drivers' training*)

In order to obtain a taxi licence, the applicant needs to pass three competence tests and a driving test. The first test includes the assessment of applicant's ability in map reading. The second test covers the safety knowledge and behaviour, and the third test covers the knowledge of the applicable legislation. The applicant has six months to complete all tests.¹⁵⁶⁸ The driving test consists of the following elements: inspection of the vehicle, passenger safety, driving in urban areas and on rural roads, presence of mind, and judgement.¹⁵⁶⁹

¹⁵⁶² Reply to the stakeholder consultation provided by the Ministry of Enterprise and Innovation and The Swedish Transport Agency (Transportstyrelsen).

¹⁵⁶³ Chapter 4, Sections 2 and 4 of the Taxi Services Ordinance.

¹⁵⁶⁴ Information on the website of the Swedish Car Inspection Services, available at: <http://www.bilprovnningen.se/boka-besiktning/besiktningssperioder.html>.

¹⁵⁶⁵ Available at: <http://www.notisum.se/rnp/sls/lag/19751410.htm>.

¹⁵⁶⁶ Information available on the website of the Swedish Taxi Association: <http://www.taxiforbundet.se/taxi-som-yrke/taxifoeretaqare/fraagor-och-svar.aspx>.

¹⁵⁶⁷ Reply to the stakeholder consultation.

¹⁵⁶⁸ VVFS 2004:65 and TSFS 2010:33 as well as on the website of the Swedish Transport Agency, at: <http://transportstyrelsen.se/sv/vagtrafik/Yrkestrafik/Taxi/Taxiforlegitimation/Kunskapsprov/>.

¹⁵⁶⁹ TSFS 2010:32 and on the website of the Swedish Transport Agency at: <http://transportstyrelsen.se/sv/vagtrafik/Yrkestrafik/Taxi/Taxiforlegitimation/Korprov/>.

The driver also needs to submit a medical certificate stating he or she has been declared fit to drive a taxi, in accordance with TSFS 2010:125. The driver is tested for sight, hearing and balance, mobility, heart disease, diabetes, neurological diseases, epilepsy, kidney disease, dementia and other cognitive diseases, insomnia, use of substances affecting driving behaviour, mental illness, ADHD, autism and alike, and mental retardation.

The Transport Agency is also required to investigate the health of the driver, including whether the applicant has been convicted. In the event he has been convicted for a serious crime, including a serious economic crime, or has committed repeated offences under the Taxi Services Act and related legislation, legislation related to road traffic, or rules related to salaries and employment in the taxi business, he or she can be denied a licence.¹⁵⁷⁰

II.5 Organizational requirements (*dispatch affiliation centre, minimum service*)

Taxi services may only be carried out if the driver works for a taxi company which holds a taxi services permit, or has his or her own company which holds such a permit. The requirements for obtaining a taxi services permit have been described above in s. II.3.

The Swedish taxi industry was deregulated in 1990. Most taxi operators are organised in dispatch centres. After the liberalisation, it is no longer necessary to be affiliated.¹⁵⁷¹

There are no provisions on dispatch centres other than a separate legislation clarifying that such centres are allowed notwithstanding current provisions on competition (*Lag [SFS 2008:580] om gruppundatag för konkurrensbegränsande avtal om viss taxisamverkan*).¹⁵⁷²

There are about 350 dispatch centres in Sweden.¹⁵⁷³ The dispatch centres are associations of taxi companies and they are responsible, among others, for taking orders, managing traffic, complaints, and billing. The largest dispatch centre in Stockholm¹⁵⁷⁴ has 1,600 taxis and an annual turnover of approximately EUR 200,000,000.¹⁵⁷⁵

A dispatch centre could be run as a company which is owned by its affiliated taxi licence holders'/taxi companies. It could also be run as a company which is owned by one owner and where the owner owns all the taxi vehicles or could the owner of the dispatch centre choose to sign contracts with a number of taxi companies. After the deregulation, is

¹⁵⁷⁰ Chapter 2, Section 11 of the Taxi Services Act.

¹⁵⁷¹ Reply to the stakeholder consultation the Ministry of Enterprise and Innovation and The Swedish Transport Agency (Transportstyrelsen).

¹⁵⁷² Reply to the stakeholder consultation by the Ministry of Enterprise and Innovation and The Swedish Transport Agency (Transportstyrelsen).

¹⁵⁷³ Information available at: <http://www.taxiforbundet.se/om-oss/medlemmar/bestaellningscentraler.aspx>.

¹⁵⁷⁴ www.taxistockholm.se.

¹⁵⁷⁵ Reply to the stakeholder consultation.

possible to run the taxi business as self-employed without be affiliated to a dispatch centre.¹⁵⁷⁶

Most of the largest dispatch centres have developed their own web pages with online booking.¹⁵⁷⁷ Normally, a taxi company affiliated with a dispatch centre is not allowed to acquire customers via other means but those provided by the dispatch centre. It is a part of the agreement (a contractual competition clause) between the taxi company and the dispatch centre that all business should go through the dispatch centre, except for down flags on the street.¹⁵⁷⁸

II.6 **Fares** (*criteria for taxi fare setting, authority/body in charge of setting the tariffs, maximum tariffs and/or fixed tariffs, composition of the tariff and tariffs adjustment mechanism [minimum charge, additional charge for using the radio taxi or dispatch centre, increase of the tariff during certain hours, such as at night or on certain journeys, such as towards the airports, reductions for certain categories, such as elderly people]*)

As mentioned in s.II.7, the Swedish taxi industry is deregulated and the taxi service providers are free to set their own tariffs. There are no minimum or maximum levels. However, each taxi vehicle must have stickers both on the inside and on the outside with the applicable price tariff. The tariff shall be structured in such a way that the price of the transport can be easily assessed before the trip, taking into consideration the distance and duration of the trip. The tariff may not be structured in such a way that the basis for how the price is calculated changes during the trip. The holder of the taxi permit is required to inform the passenger before the trip if the expected price may exceed 500 SEK (54 EUR). In such case, the holder of the permit shall give the passenger information on the maximum amount for the trip. This shall be done at the time of the booking.¹⁵⁷⁹

For each tariff, the unit price shall be indicated, which must also include the VAT. The unit price is the price for a distance of 10 km and time lasting 15 minutes, including any basic charge. Tariffs shall also be indicated in Swedish crowns per hour (time fare). For distance, the tariff shall be indicated in Swedish crowns per kilometre (kilometre fare). A tariff shall also be indicated for a fixed price.¹⁵⁸⁰

Some taxi companies have fixed fares which can depend on the time of the day and whether it is a week day or weekend.

There are flat fares for airport cabs, with prices available on the respective company's website. According to the Swedish Taxi Association, while most of the rides to/from air and sea ports are at fixed prices, there is no regulation that this is mandatory.¹⁵⁸¹ There is normally no regulatory difference, but some of the ports (air/sea/train) require the taxi companies to sign contracts to be allowed to enter premises and pick up passengers. For example, at Arlanda airport, close to Stockholm, there is an airport

¹⁵⁷⁶ Reply to the stakeholderconsultation.

¹⁵⁷⁷ See www.taxi020.se. Reply to the stakeholder consultation provided by one stakeholder.

¹⁵⁷⁸ Reply to the stakeholderconsultation.

¹⁵⁷⁹ Chapter 1, Section 17 of the Taxi Services Act and TSFS 2013:41.

¹⁵⁸⁰ Chapter 1, Section 17 of the Taxi Services Act.

¹⁵⁸¹ Reply to the stakeholder consultation.

regulation (local regulation) which stipulates that a taxi driver is not allowed to enter the arrival hall in order to contact/search for customers, etc.¹⁵⁸²

II.7 Passenger rights

Passenger rights include:

- The right to be informed about the price if the price is more than 500 SEK (see s. II.8 above).
- The right to choose the taxi (e.g. the passenger is free to choose a taxi that is not first in line).¹⁵⁸³
- The right to travel in compliance with the law (e.g. it is the taxi driver's responsibility that there is a child seat available if there are children traveling).
- The right to report a taxi driver (e.g. if he cheats with the price).¹⁵⁸⁴
- The right to compensation for damage in accordance with applicable law and insurances.¹⁵⁸⁵

There are no special provisions on the right to taxi services for people with disabilities. However, people with disabilities fall under the anti-discrimination legislation. If a disabled person feels he or she has been discriminated against, he or she can report the taxi driver to the Discrimination Ombudsman. If the person does believe the taxi company has applied unfair conditions because of his or her disability, the person can report the taxi company to the Consumer Agency.¹⁵⁸⁶

II.8 Subsidies applicable to taxi sector (including public developed applications for taxi sector, geolocalisation, etc.)

In Sweden, the public administration provides support to the door-to-door transport of people with reduced mobility and elderly. Special Transport Service (STS) are special services available to people who are seriously disabled and require door-to-door transport and/or more personal assistance. The STS is mainly operated with taxis or multipurpose vehicles. Alternative services are "service routes, fixed routes or flexible routes" on demand. These are usually operated by smaller low-floor buses routed as closely as possible to where people live and to service centres and health facilities. This sort of service mainly serves older and disabled people who have difficulty using the ordinary public transport.

II.9 Labour rules

¹⁵⁸² Reply to the stakeholder consultation.

¹⁵⁸³ Information available at: <http://www.hallakonsument.se/tips-for-olika-kop/kopa-tjanster/resor/reseguide/valja-taxibolag/?isFromPreviousStep=true>.

¹⁵⁸⁴ Information available at: <http://www.hallakonsument.se/tips-for-olika-kop/kopa-tjanster/resor/reseguide/klaga-pa-taxiresan/?isFromPreviousStep=true>.

¹⁵⁸⁵ Information available at: <http://www.hallakonsument.se/tips-for-olika-kop/kopa-tjanster/resor/reseguide/skador-pa-passagerare-och-bagage/?isFromPreviousStep=true>.

¹⁵⁸⁶ Information available at: <http://www.hallakonsument.se/tips-for-olika-kop/kopa-tjanster/resor/reseguide/taxiresnar-med-funktionsnedsattning/?isFromPreviousStep=true>.

Taxi drivers could be employed by a taxi company (affiliated or not affiliated to a dispatch centre), and they also could be self-employed in their own business (sole proprietor or incorporated).¹⁵⁸⁷

In Sweden, salaries and conditions of employment are regulated in collective agreements. When there is no collective agreement, labour legislation applies. The main labour legislation is the Employment Protection Act. The provisions of the Act set minimum requirements for labour relations. This means that collective agreements may not offer worse conditions than the legislation.

The main trade union for taxi drivers is the Transport trade union. 54% of the employers in the taxi industry have signed the collective agreement for taxi services with Transport.¹⁵⁸⁸ There are two types of wage schemes in the collective agreement. One of the schemes is a commission-based scheme where the employer and the employee agree on the percentage. However, the salary may not be less than the guaranteed salary, which varies depending on geographical area. The second scheme is based on a fixed weekly salary with a small commission percentage. Most of the drivers have the commission-based scheme.¹⁵⁸⁹

Taxi drivers who work full time have the right to 5 weeks of vacation in accordance with the Annual Leave Act. In the event of illness, taxi drivers are covered by the social insurance scheme and are entitled to sickness benefits. When having a child, anyone is entitled to 18 months parental leave, including taxi drivers. Taxi drivers who have been working for a company are entitled to unemployment benefits. Certain restrictions may apply to those who are self-employed, who may not be entitled to unemployment benefits, depending on which unemployment insurance company the driver belongs to.¹⁵⁹⁰

The employer should pay VAT (6 percent) and withhold payroll/income tax for their employees and the self-employed should pay VAT, payroll tax and income tax based on the profit.¹⁵⁹¹

The Ordinance on Respecting Resting Periods for Certain Inland Road Transports provides that professional drivers, including taxi drivers, must have at least 11 hours of rest in a 24 hour period. The rest period may be divided into two periods, of which one must be at least 8 hours.¹⁵⁹² Each driver is required to have a personal time book where he/she records the resting periods. The drivers must have the time book with him or her during every transport.¹⁵⁹³

II.10 Supervisory enforcement tools

¹⁵⁸⁷ Reply to the stakeholder consultation.

¹⁵⁸⁸ Information available on the website of the Transport trade union:

<https://www.transport.se/Global/Centrala%20sidor/Aktuellt/Taxibranschen%20i%20Sverige%20%E2%80%93%20en%20rapport%20fr%C3%A5n%20Svenska%20Transportarbetaref%C3%B6rbundet.pdf>.

¹⁵⁸⁹ Information available on the website of the Transport trade union: <https://www.transport.se/dina-rattigheter/Ditt-kollektivavtal/630/>.

¹⁵⁹⁰ Information available on the website of the Taxi Union: <http://www.taxiforbundet.se/taxi-som-yrke/taxifoeretagare/fraagor-och-svar.aspx>.

¹⁵⁹¹ Reply to the stakeholder consultation.

¹⁵⁹² Section 3 of the Ordinance on Respecting Rest Periods for Certain Inland Road Transports.

¹⁵⁹³ Section 5 of the Ordinance on Respecting Rest Periods for Certain Inland Road Transports.

The Transport Agency is the licensing authority for taxi drivers and taxi companies. The Agency may withdraw a licence in case of irregularities. A person who wants to submit a complaint against a taxi driver or a taxi company can do so either to the police or to the Transport Agency. Taxi drivers who wish to submit a complaint against their employer turn to their trade union, which then represents the taxi driver. Trade unions have a legal right to represent their members.

The Swedish Transport Agency has the responsibility to supervise the licence-holder and the taxi driver. Among others, they act upon information from the police about reported infringements.

The Swedish Transport Authority has provided information concerning licences revoked or which have received a warning between 2010 and 2015, on a yearly basis, for both taxi services and taxi drivers:

Licenses for taxi services

	2015	2014	2013	2012	2011	2010
Revoked	795	819	774	831	834	305
Warning	24	13	23	27	61	43

Licenses for taxi drivers

	2015	2014	2013	2012	2011	2010
Revoked	169	94	246	314	301	196
Warning	101	64	189	214	247	150

III. Legal framework applicable to hire cars with driver

There is no dedicated legislation in Sweden pertaining to hire cars with driver. Under Swedish legislation, taxi drivers are professional drivers and can therefore, in addition, to the usual taxi services also offer other services, such as school transport, medical transport, contract customers, and carrier services. Hence, the same legislation as for taxis applies.

IV. Legal framework applicable to ridesharing and car sharing

There is no special legislation applicable to car sharing in Sweden. The national legislation allows for ridesharing for cost-sharing, e.g. colleagues sharing a ride to and from work.

In July 2015, the Swedish Government appointed a commission¹⁵⁹⁴ to investigate how laws and regulations on taxis and carpooling can be adapted to the new reality. The commission shall investigate if and how the use of a taximeter shall be made compulsory, if a new definition for taxi-like operations can be created, and look at the provisions on ridesharing between private persons.¹⁵⁹⁵

IV.1 Main operators and their business models

Ridesharing platforms, especially for long-distance pre-arranged journeys, are active in Sweden, including Blablacar, Carpoolworld. An important Swedish player is Samanking.¹⁵⁹⁶

Car sharing is starting to develop in the largest cities such as Stockholm and Goteborg, as partnership between large cars manufacturers and the municipalities. For example, the City of Gothenburg has been involved in efforts to promote car sharing both within the city and outside it for a number of years. In 2000, the City of Gothenburg's City Council decided that the City of Gothenburg Urban Transport Administration, along with other central administrations, should take a more active approach to its own car sharing solutions, including creating a car sharing pool for official travel for council employees in and around Traktören.¹⁵⁹⁷ In addition, the City of Goteborg has launched a plan to increase the number of shared vehicles in the city: in 2003, the Traffic Committee adopted the following the goal of reaching 10,000 members of car sharing services in Gothenburg within five years. The used cars are all low-environmental impact. Similarly, in Stockholm, the city has adopted various initiatives for car sharing and bike-sharing in order to reduce the use of private cars and the congestion of the city centre. The main car sharing operators are **Drievenow**¹⁵⁹⁸ and **Sunfleet**.¹⁵⁹⁹ The both offer electric vehicles and free-floating car sharing in various cities included the main airports.

SunFleet uses only green vehicles and, according to its website, it operates Sweden's largest carpool fleet, with more than 1,000 cars in 40 cities across Sweden. Members can choose between two membership plans and then pay for cars based on time and kilometers driven, for example, SEK 35/hour and SEK 2/kilometer for the smallest car. Bookings are made online and the car is unlocked using a mobile app. SunFleet has been active in creating partnerships and today participates in 11 partnerships with firms including Airbnb and mathem.se.

Another operator, **GoMore** offers carpooling, peer-to-peer car rental, and private car leasing with a lease and rent out model.¹⁶⁰⁰

Flexi Drive, another for-profit car sharing firm, was bought by Schibsted Tillväxtmedier in 2013. Its slogan is "Rent a neighbor's car", and its platform is used to rent cars, motor homes, and caravans among peers. Bookings are made on the site by the drivers and

¹⁵⁹⁴ Press release on the Swedish Government's website, available at: <http://www.regeringen.se/pressmeddelanden/2015/09/amy-rader-olsson-har-utsetts-till-sarskild-utredare-i-taxiutredningen/>.

¹⁵⁹⁵ Reply to the stakeholder consultation provided by the Ministry of Enterprise and Innovation and The Swedish Transport Agency (Transportstyrelsen).

¹⁵⁹⁶ <http://www.samanking.se/>.

¹⁵⁹⁷ <https://goteborg.se/wps/wcm/connect/311e4659-1189-4f18-99bb-f226b36eb6e4/Bilpoolsm%C3%A5len+eng+2013-12-16.pdf?MOD=AJPERES>

¹⁵⁹⁸ <https://se.drive-now.com/en/>.

¹⁵⁹⁹ <https://www.sunfleet.com/>.

¹⁶⁰⁰ <https://itunes.apple.com/dk/app/gomore-ridesharing-peer-to/id671759668?mt=8>.

owners, who enroll through Facebook or the Flexi Drive site, and the transaction is completed between the individuals, who then rate each other. The firm takes a 10-20 percent commission, depending on the vehicle, and the price includes full insurance on the car. The firm has experienced slow growth, with earnings of SEK 69,000 and SEK 100,000 in in 2012 and 2013.

Local car sharing organizations are active in Sweden, the oldest of which is **Sambil**, a non-profit organization now in its 36th year that operates in a growing number of cities, including, as of May 2014, Västerås, Gothenburg, Norrtälje and Sala. Members lend their cars to one another and the association facilitates agreements between members. There are also cooperatives such as Bilcoop, which operates in Stockholm, Uppsala, Lund, Gothenburg and Oslo. Bilcoop facilitates and manages bookings and provides administrative and other services.¹⁶⁰¹

IV.2 Requirements imposed upon non-licensed activities (*safety and technical requirements, insurance requirements, obligations relating to licences and on-line platforms*)

None

IV.3 Local incentives, subsidies and other forms of promotion for ridesharing and car sharing (*including, parking spots, use of preferential lanes, etc.*)

None

V. Relevant national case law

According to the Swedish Transport Agency, there have been about 20 first instance court cases against UberPop drivers. There is also one recent case from the Svea Court of Appeal¹⁶⁰² from 2015, which can still be appealed to the Supreme Court. The case concerned an UberPop driver who has been found guilty of providing illegal taxi services (*olaga taxitrafik*) and of violating the Taxi Services Act. The driver was sentenced to 50 days fines á 200 SEK (21 euros), i.e. a total of 1050 euro. The driver had been working for UberPop for two days and had provided 3-4 rides before he was stopped by the police. The main considerations of the Court of Appeal were whether the driver had provided the taxi services in a professional capacity and whether the vehicle and the driver had been available to the public against payment. The Court found that this was the case and subsequently found the driver guilty.

The Swedish Police, the Economic Crimes Authority and the Tax Authority are currently investigating Uber and whether it constitutes illegal taxi services and whether there are cases where tax has not been paid for the income generated. The Transport Agency is awaiting the finalization of the investigations before deciding on any next steps. For now,

¹⁶⁰¹ ENTREPRENÖRSKAPSFORUM, THE SHARING ECONOMY – EMBRACING CHANGE WITH CAUTION, 2015, p. 32, http://entreprenorskapsforum.se/wp-content/uploads/2015/06/Sharing-Economy_webb.pdf.

¹⁶⁰² Case number B 9078-15.

the Transport Agency is not authorised to supervise services offered by UberPop as Uber claims the services pertain to car sharing.¹⁶⁰³

An important decision concerned the abuse of dominant position of Swedavia, the manager of the Stockholm Arlanda airport by imposing by imposing unfair fees on taxi operating at Arlanda airport. Two different judgements were rendered by the Market Court¹⁶⁰⁴ and by the Stockholm District Court which are discussed in the City Report (Annex IV, s. VI. 3).

VI. Country Market

The Swedish authority has to date only considered the taxi market. However, a respondent to the stakeholder consultation considered that, in case of companies providing hire cars with drivers or limousine, there may be separate markets, despite both taxis and hire car with driver services are subject to the same regulation.¹⁶⁰⁵

With respect to future expected legislative proposals, the Swedish authorities confirmed that the committee in charge of the reform is considering some modifications to the current regulation including possibly derogating to the need to operate with the taximeter (which would rule on services being operated via an app).

In the last years, an increase in the environmentally friendly vehicles used by the tax industry has been observed.¹⁶⁰⁶ Some dispatch centres have started to buy environmentally friendly vehicles on their own initiative to boost their brand awareness.¹⁶⁰⁷

Taxi companies generate 5 billion SEK (approximately EUR 545,000,000) in year in payroll taxes and VAT.¹⁶⁰⁸

With regard to intermediaries use both services such as Uber compete with taxi developed apps.¹⁶⁰⁹

VII. Market players

➤ *Taxi*

The main market players in the taxi market are:

¹⁶⁰³ "The National Road Administration on UberPop: This constitutes taxi services" (*Transportstyrelsen om Uber pop: Det rör sig om taxitjänster*), article in Sveriges Radio on 2 July 2015, available at: <http://sverigesradio.se/sida/artikel.aspx?programid=83&artikel=6203789>.

¹⁶⁰⁴ MD 2011:28, Uppsala Taxi 100 000 AB v Swedavia AB and EuroPark Svenska AB, 23 November 2011. Swedish Competition Authority Press release 9 June 2016, <http://www.konkurrensverket.se/nyheter/dom-om-skyltavgift-for-taxi-pa-arlanda/>

¹⁶⁰⁵ Interview with Swedish Competition Authority, 30 March 2016. According to the Authority, precedents refers to the traditional taxi market, but none on the hire car with driver market. If there were such a case in the future, nothing impedes the Competition Authority from making a finding that these markets are indeed separate despite they are subject to the same regulation."

¹⁶⁰⁶ Reply to the stakeholder consultation.

¹⁶⁰⁷ Reply to the stakeholder consultation.

¹⁶⁰⁸ Reply to the stakeholder consultation.

¹⁶⁰⁹ For example, Caboline's app. Electronic payment is accepted.

- **TaxiKurir**, present in about 35-40 cities;
- **Taxi Stockholm AB** – a dispatch centre that operates in Stockholm, the largest, and has many licence holders connected to the centre with a total of about 1600 vehicles¹⁶¹⁰ and a turnover of approximately EUR 200,000.000;¹⁶¹¹
- **Taxi 020**, which operates in Stockholm, Gothenburg and Borås with about 1200 vehicles;¹⁶¹²
- **SverigeTaxi**, which has about 40 dispatch centres in about 100 cities.¹⁶¹³

FVG Group (from February 2016, **Cabonline Group**), a leading technology and service provider for the taxi industry in Europe, is the parent company of, among others, TaxiKurir and Taxi 020. Its turnover is approximately EUR 500, 000 000.

There are approximately 6000 taxi vehicles in the Stockholm county area and around 1,500 of them belong to small taxi companies not affiliated to dispatch centres.¹⁶¹⁴

There is one standalone tax app, www.taxijakt.se, through which a taxi company (or a taxi driver) can sign a contract and get rides through an app provided in the smartphone.

➤ *Hire cars with driver*

As explained above, there are no relevant differences between taxis and hire cars with driver since the same legislation covers all the hire transport. The only relevant distinction related to the exemption from the use of taximeter for certain operators, which are mainly high-end luxury limousine operators. A big player is **Freys**, the oldest and largest limousine and chauffeur service company in Stockholm, Sweden and Scandinavia.¹⁶¹⁵

The second largest player in Stockholm is **Stockholm Limousine Service AB**.¹⁶¹⁶ Since 1967 this company has served visitors and residents with exclusive transportation. The primary users are those who need a private driver/limo service for special occasions or for business.

➤ *Intermediaires*

New and innovative mobility services have also developed in Sweden. Among the ridesharing intermediaries, **Uber** is one of the main players¹⁶¹⁷ with the options Uber X, Uber Black and UberLux.¹⁶¹⁸

¹⁶¹⁰ www.taxistockholm.se.

¹⁶¹¹ Reply to the stakeholder consultation.

¹⁶¹² <http://www.taxi020.se>.

¹⁶¹³ <http://www.sverigetaxi.se/index.php?lang=2>.

¹⁶¹⁴ Reply to the stakeholder consultation.

¹⁶¹⁵ www.freys.se.

¹⁶¹⁶ www.limousineservice.se/.

¹⁶¹⁷ Reply to the stakeholder consultation. provided by the Ministry of Enterprise and Innovation and The Swedish Transport Agency (Transportstyrelsen).

¹⁶¹⁸ <https://www.uber.com/it/cities/stockholm/>.

Uber and UberPop. Uber operates as any other taxi company, with licensed taxi drivers and vehicles with taximeters. There is a controversy concerning UberPop, which is not using professional drivers, and various drivers have been fined by the police for lack of taxi driver licence. In May 2016, Uber announced the suspension of the UberPop service, while the investigation of the Ministry of transport is pending.¹⁶¹⁹

The French ridesharing company **Heetch** announced the launch of the platform in Sweden on the same model used in France, i.e. directed to young people and available only at night and during the week-end

The main players in the ridesharing market are:¹⁶²⁰

- Skjutsgruppen.se¹⁶²¹
- GoMore.se
- samåkning.se
- Roadmate.se

The main players in the car sharing market are:¹⁶²²

- SunFleet Car sharing, which makes car pools of green cars only and can be found in 37 cities throughout Sweden;
- GoMore.se, Scandinavia's largest platform for carpooling and private car hire;
- Bilpoolen.nu, a Swedish platform for carpooling and car sharing;
- Bil.coop, a car sharing platform;
- SAMBIL.¹⁶²³

Another car sharing service, operative in Stockholm since October 2015, is Drive Now, a joint venture of BMW and Sixt that provides car sharing services in several cities in Europe (as well as North America).¹⁶²⁴ The initial launch fleet is comprised of 260 vehicles — mostly units of the BMW 1-series, the BMW 2-series Active Tourer, and the MINI Hatch (3- and 5-door). The DriveNow Stockholm service area is initially focused within a 50km² portion of the city.¹⁶²⁵

VIII. Barriers, limitations, incentives

In Sweden, barriers to entry are low. Since the deregulation of the taxi market in 1990, in Sweden there is no limitation concerning the licence, nor maximum licences or geographical limitations.¹⁶²⁶

¹⁶¹⁹ Some complaints made to the Swedish competition authority on Uber were dropped those as the Authority considered it was not competent to address them (they concerned tax issues).

¹⁶²⁰ Reply to the stakeholder consultation. provided by the Ministry of Enterprise and Innovation and The Swedish Transport Agency (Transportstyrelsen), p. 2.

¹⁶²¹ See, for more info: <http://magazine.ouishare.net/2013/09/started-sweden-now-global-movement-international-ridesharing-day/>.

¹⁶²² Reply to the stakeholder consultation. provided by the Ministry of Enterprise and Innovation and The Swedish Transport Agency (Transportstyrelsen).

¹⁶²³ See A. Felländer, C. Ingram, R. Teigland, "Sharing economy: embracing change with caution", available at: <http://www.slideshare.net/eteigland/sharing-economy-webb>.

¹⁶²⁴ <https://de.drive-now.com/>. Also see: <http://cleantechnica.com/2015/10/24/drivenow-launches-car-sharing-service-stockholm/>.

¹⁶²⁵ <https://de.drive-now.com/en/#!/carsharing/stockholm>.

¹⁶²⁶ Reply to the stakeholder consultation provided by the Ministry of Enterprise and Innovation and The Swedish Transport Agency (Transportstyrelsen).

As explained by one respondent to the stakeholder consultation, this deregulation was introduced as a result of high political pressure put on the Swedish Parliament due to scarcity of taxis, especially during peak hours.¹⁶²⁷ Prior to the deregulation, the taxi market had been strictly regulated with both quantitative and fare restrictions.

Subsequently to the deregulation, it is no longer necessary for taxi drivers to be affiliate to a dispatch centre.¹⁶²⁸ In addition, after the deregulation, fares are no longer regulated and taxis are free to compete on fares.¹⁶²⁹ However, a price information regulation was introduced, with taxis being obliged to have their prices displayed on stickers on each side of the vehicle.¹⁶³⁰ The relevant regulations do not allow for a modification of how the price is calculated during the trip.

As seen above, whoever wants to provide a taxi service must either be employed in a taxi company that holds a taxi services permit or independently apply for the permit with the Swedish Transport Agency. In order to apply for a taxi services permit, the applicant needs to fulfil a number of criteria which include, among others, the requirement to have the necessary financial conditions, including: 100,000 SEK (10,700 EUR) for the first car and 50,000 SEK (5,350 EUR) for each additional car (the amount is in addition to the car itself),¹⁶³¹ knowledge of the relevant legal framework, knowledge of business management and financial management of a company, technical standards and operational conditions, and road safety. The financial standing is particularly high and requires a considerable upfront investment.

A special sector is the public-financed taxi services (e.g. school trips and mobility services for the elderly and disabled people).

IX. Capacity, growth, impact

Quantitative data on the number of licences issued for both taxi companies and taxi drivers between 2010 and 2015 on a yearly basis are provided below.¹⁶³²

Licenses for taxi issued each year:

2015	2014	2013	2012	2011	2010
796	853	683	775	882	742

The total number of licenses for taxi is 7.598.

The licenses have unlimited duration.

¹⁶²⁷ Reply to the stakeholder consultation.

¹⁶²⁸ Reply to the stakeholder consultation.

¹⁶²⁹ Reply to the stakeholder consultation provided by the Ministry of Enterprise and Innovation and The Swedish Transport Agency (Transportstyrelsen).

¹⁶³⁰ Reply to the stakeholder consultation provided by the Ministry of Enterprise and Innovation and The Swedish Transport Agency (Transportstyrelsen).

¹⁶³¹ There are no limitations as to the vehicles one licence holder can have as long as the economic requirements are fulfilled. Reply to the stakeholder consultation. provided by the Ministry of Enterprise and Innovation and The Swedish Transport Agency (Transportstyrelsen).

¹⁶³² Reply to the stakeholder consultation. provided by the Ministry of Enterprise and Innovation and The Swedish Transport Agency (Transportstyrelsen).

Licenses for taxi driver issued each year:

2015	2014	2013	2012	2011	2010
2803	2924	3136	3601	3314	2964

The total amount of licenses for taxi drivers is 74.369. A licence for taxi driver is valid insofar as it is coupled with a valid driving licence. The taxi driver's licence has to be renewed every 10 years.¹⁶³³

Currently, there are 7.631 taxi business licenses issued, divided into roughly 16600 taxi vehicles in Sweden. Around 6,000 taxis are in Stockholm.

66 percent of the companies have one taxi vehicle, 14 percent have two vehicles, 17 percent have three to ten vehicles and three percent have eleven vehicles or more.

A taxi business might be run as a limited liability company, as a partnership or as a self-employed.

Roughly 4 500 taxi companies are run as self-employed, the rest is run as limited liability companies.

The total turnover in the taxi industry is approx. EUR 1,3 billion. About 50 percent of the revenues come from procured transports that are paid for by the public transport, such as transports for elderly or disabled people or children transported to and from school.¹⁶³⁴

➤ *Impact of deregulation on prices and quality of the service*

Sweden deregulated its taxi market in July 1990 by removing all barriers to entry, regulated fares and restricted areas of operation.¹⁶³⁵ More specifically, the reform consisted in: (i) changing from a price ceiling for taxi services to no price control; (ii) changing from regulated supply to free market entry; (iii) providing further requirements for the taximeter and a clear price information to the customers.¹⁶³⁶

From a microeconomic standpoint, the former taxi ceiling caused an excess in demand, i.e. the consumer waiting time.

In 2005, the Regulatory Reform Commission conducted an investigation, on behalf of the Government, on the effects of the deregulation in network industries, including the taxi sector.¹⁶³⁷ The study found that in the taxi sector the deregulation had a positive effect on employment and that prices increased relative to the consumer price index.

¹⁶³³ Reply to the stakeholder consultation provided by the Ministry of Enterprise and Innovation and The Swedish Transport Agency (Transportstyrelsen).

¹⁶³⁴ Reply to the stakeholder consultation.

¹⁶³⁵ Reply to the stakeholder consultation.

¹⁶³⁶ Reply to the stakeholder consultation.

¹⁶³⁷ <http://www.reforminstitutet.se/wp/wp-content/uploads/2014/03/Twentyfiveyearsofreform140301.pdf>, p. 18.

A subsequent study carried out by the Swedish National Road and Transport Research Institute (VTI) in 2013, called "Regulatory Changes in Sweden's Taxi Sector", confirmed the price increase for taxi services.¹⁶³⁸ According to this Study, the abolition of the price ceiling actually led to increased prices but also brought about shorter waiting times. However, no robust economic evidence allowed concluding whether consumer surplus increased or decreased as a result of the higher prices and the shorter waiting times.

The results of the Study were the following:

- The average yearly price increase of taxi services was around 4 % during the period 1990-2007, compared to the average CPI increase of around 2 % (Statistics Sweden, 2008).
- The number of taxis per capita increased by 22% during the period 1990-2007 (Swedish Competition Authority, 2007).
- The price of public-financed taxi services, e.g. school trips and mobility services for elderly and disabled people, increased by 18 % between 1989 and 1994, which is lower than the CPI (Nutek, 1996). As consumers in Sweden are public organizations, they have more market power compared to a single private customer. This may explain that the price increase was lower than the CPI. There has been no further assessment aiming at quantifying this effect for a longer time period.

Some evidence shows that the deregulation had different effects in the regions of Sweden compared to large cities. This is explained by the increased competition in large cities, where consumers have benefited from the deregulation more than in small cities (Nutek, 2007).

The absence of maximum fares and the price liberalisation has given rise, as a side effect, to sometimes exorbitant prices (fare scams) applied by the free-riders' taxis (not affiliated to dispatch centres) to passengers (in particular, tourists), especially in Stockholm. Despite the enforcement authorities' efforts to tackle these abuses, the risk that they occur has not been completely eliminated.

X. Results

As previously explained, regulation in Sweden only refers to a single category of hire transport, i.e. taxis, since the distinction between taxis and hire car with driver was abolished at the time of the reform. Few operators are exempted from the obligation to use the taximeter - these mainly provide high-end limousine services.

Licenses are the central element of the system: the dynamics of recent years has shown that, while licences for taxis are fluctuating (decreasing from 2011 to 2013, increasing in 2014 possibly due to the announcement of a raise in cost), licences for taxi drivers have been constantly decreasing since 2005.

Public services account for half of the sector's turnover; the value of the free market is calculated at around EUR 0,65 billion. This is a very specific aspect of the market, which must be taken into account.

¹⁶³⁸ VTI (Swedish National Road and Transport Research Institute):
<https://www.vti.se/en/publications/pdf/regulatory-changes-in-swedens-transport-sector.pdf>.

Concerning **market players**, the deregulation occurred in 1990 did not generate relevant **concentration** in property, as two thirds of companies have only one taxi, while 58% are run as sole proprietorship (the others are limited liability companies).

Official data concerning the status of the employment indicates that the majority of the taxi drivers are employees:

Status in employment	Number	Per cent
Employees	16 971	74,6
Self-employed persons	4 500	19,8
Self-employed persons with a joint-stock company	1 271	5,6

Källa: RAMS

The Swedish Transport Agency has analysed the data and compared them with the other data available. The Agency concluded that few large taxi operators employ a large number of taxi drivers. In Sweden, the majority of taxi companies work with self-employed persons. However, most drivers working in the taxi sector are not self-employed themselves, but rather employees of the taxi companies. This is because the companies can have many employees¹⁶³⁹ and the drivers' decision to work as employees rather than self-employed is often due to the up-front investment and financial guarantees that must be provided in order to start an activity as taxi operators.

There are 350 dispatch centres in Sweden, mainly belonging to large taxi operators. The biggest one, which is located in Stockholm, affiliates 1.600 vehicles. Other relevant dispatch centres operate in many other cities.

Uber operates with taxi licensed operators through its lines UberX, UberBlack and UberLux. UberPop was shut down in May 2016 after various drivers were found without a taxi driver licence and therefore fined for that. The reaction of the traditional market players towards the new intermediaries has not been particularly negative.¹⁶⁴⁰ Those reactions mainly focused on the need to comply with the taxi operators' obligations, in particular the use of the taximeter.

The good acceptance of new "disruptive" intermediaries by the traditional operators and the huge developments achieved in digital technologies has encouraged other players, such as Heetch, to enter the market.

With regard to **barriers, limitations and incentives**, the deregulation process (carried out in order to face a shortage of supply) eliminated direct entry barriers, and brought about free prices.

¹⁶³⁹ Reply to the stakeholder consultation provided by Swedish Transport Agency, 11 May 2016.

¹⁶⁴⁰ Reply to the stakeholder consultation provided by the Swedish Taxi Association of 21 January 2016.

In terms of **capacity, growth and impact**, taxi tariffs have grown at a general price index pace and, as mentioned before, the deregulation brought about a significant increase in supply both for market and public services. Dynamics on the effects of the deregulation show that this has benefited more consumers in densely populated areas; however the effect of higher prices and lower waiting times has contributed to the consumer surplus. The period immediately following the deregulation was characterised by a price surge but also by the entry of “freewheelers”, i.e. single operators who were not attached to any dispatch centres. Data indicated a surge of 22% in the offer of taxi services in the aftermath of the deregulation. The entry of new players such as Uber has brought about more price competition in large cities such as Stockholm; for instance the price of the basic service UberX is lower than the prices applied by major taxi companies in Goteborg and Stockholm (see VI.2).¹⁶⁴¹

Looking at the dynamics of employment, the deregulation started to show its positive effects after 1993, i.e. at the end of the recession period, and in 2007 it had contributed to reach the 1990 employment levels.

XI. Conclusions

The Swedish market is fully liberalised – there are neither quantitative barriers nor regulated fares – and the public services have a great relevance in the general economics of the sector. The liberalisation of the taxi sector has eliminated the dichotomy between taxis and hire cars with drivers. The latter category is coming back to stage due to the arrival of innovative service providers, but access to the market for hire cars with drivers is subject to the same rules as taxis. The liberalisation has brought about higher supply, reduced waiting times and improved services quality, with positive impacts on employment. However, the fares have increased and fare scams are still common, especially in Stockholm. The apps and booking platform are popular among customers, since they allow them to estimate the fares in advance. This in turn reduces the asymmetry of information, and makes it easier to avoid taxi scams.

Bibliography

National legislation

1. The Taxi Services Act (*Taxitrafiklag (2012:211)*), Entry into force: 1 June 2012, Last amended: 4 December 2015.
2. The Taxi Services Ordinance (*Taxitrafikförordning (2012:238)*), Entry into force: 1 June 2012, Last amended: 19 December 2014.
3. The Employment Protection Act (*Lagen om anställninsskydd (1982:80)*), Entry into force: 1 April 1982, Last amended: 26 November 2015.
4. The Annual Leave Act (*Semesterlag (1977:480)*), Entry into force: 1 January 1978, Last amended: 28 May 2014.
5. The Ordinance on Respecting Rest Periods for Certain Inland Road Transports (*Förordning (1994:1297) om vilotider vid vissa vägtransporter inom landet*), Entry into force: 1 January 1995, Last amended: 11 September 2014.
6. The Transport Agency's Regulations on Taxi Services (Transportstyrelsens föreskrifter om *taxitrafik (TSFS 2013:41)*), Entry into force: 1 June 2013, Last amended: 9 December 2014.
7. The Transport Agency's Regulations on the Mandate to Conduct Tests (*Transportstyrelsens föreskrifter om förordnande att förrätta prov (TSFS 2012:61)*), Entry into force: 19 January 2013.

¹⁶⁴¹ ENTREPRENÖRSKAPSFORUM, THE SHARING ECONOMY – EMBRACING CHANGE WITH CAUTION, quoted, p. 32.

8. The Transport Agency's Regulations on Professional Knowledge for Taxi Services (*Transportstyrelsens föreskrifter om yrkeskunnande för taxitrafik (TSFS 2012:140)*), Entry into force: 19 January 2013.
9. The Transport Agency's Regulations and Guidelines on Driving Tests for Taxi Licence (*Transportstyrelsens föreskrifter och allmänna råd om körprov för taxiförarlegitimation (TSFS 2010:32)*), Entry into force: 1 April 2010, Last amended: 2 October 2014.
10. The Transport Agency's Regulations and Guidelines on Tests in Professional Knowledge for Taxi Licence (*Transportstyrelsens föreskrifter och allmänna råd om prov i yrkeskunnande för taxiförarlegitimation (TSFS 2010:33)*), Entry into force: 1 April 2010, Last amended: 5 December 2012.
11. The Transport Agency's Regulations and Guidelines on Medical Requirements for the Possession of a Driving Licence etc. (*Transportstyrelsens föreskrifter och allmänna råd om medicinska krav för innehav av körkort m.m. (TSFS 2010:125)*), Entry into force: 1 September 2010, Last amended: 19 November 2015
12. The Road Administration's [now the Transport Administration] Regulations on Professional Knowledge for Taxi Licence (*Vägverkets föreskrifter om yrkeskunnande för taxiförarlegitimation (VVFS 2004:65)*), Entry into force: 1 November 2004, Last amended: 1 January 2009.
13. The Swedish Board of Accreditation and Conformity Assessment's Regulations and Guidelines on Taximeters (*Swedacs föreskrifter och allmänna råd om taxametrar (STAFS 2006:11)*), Entry into force: 30 October 2006, Last amended: 16 August 2012.
14. The Swedish Board of Accreditation and Conformity Assessment's Regulations and Guidelines on the Installation and Control of Taximeter Equipment (*Swedacs föreskrifter och allmänna råd om installation och besiktning av taxameterutrustning (STAFS 2006:19)*), Entry into force: 30 October 2006, Last amended: 10 February 2014.
15. The Swedish Board of Accreditation and Conformity Assessment's Regulations and Guidelines on Additional Devices to Taximeters (*Swedacs föreskrifter och allmänna råd om tillsatsanordningar till taxametrar (STAFS 2012:5)*), Adopted on: 1 October 2012.

Websites

1. The Swedish Car Inspection Service, available at: <http://www.bilprovningen.se/>
2. The Swedish Consumer Agency 'Hello Consumer', available at: <http://www.hallakonsument.se/>
3. The Swedish Government, available at: <http://www.regeringen.se>
4. The Swedish Transport Agency, available at: <http://transportstyrelsen.se/sv/vagtrafik/>
5. The Swedish Transport Administration, available at: <http://www.trafikverket.se/>
6. The Taxi Union, available at: <http://www.taxiforbundet.se/>
7. The Transport trade union, available at: <http://www.transport.se/>

News articles

1. "National Road Administration: UberPop is illegal" (*Transportstyrelsen: UberPop är olagligt*), article in Dagens Industri Digital on 6 July 2015, available at: <http://digital.di.se/artikel/transportstyrelsen-uberpop-ar-olagligt>.
2. "The National Road Administration on UberPop: This constitutes taxi services" (*Transportstyrelsen om Uber pop: Det rör sig om taxitjänster*), article in Sveriges Radio on 2 July 2015, available at: <http://sverigesradio.se/sida/artikel.aspx?programid=83&artikel=6203789>.

Other relevant studies

1. Swedish Competition Authority (2007) *Konkurrensen i Sverige 2007*, Konkurrensverket 2007:4.
www.konkurrensverket.se/globalassets/publikationer/rapporter/rapport_2007-4.pdf (No English summary).
2. Hanspers & Hensvik (2011), *Konkurrens och sysselsättning – en empirisk studie av fem Marknader*,
www.regeringen.se/contentassets/99e85f3abd7d4a29bd0aab4e6d20ed8e/forskningsrapport-konkurrens-och-sysselsattning---en-empirisk-studie-av-fem-marknader (including English summary).
3. Nutek (1996) *Avregleringen av taximarknaden – en analys av regionala effekter*, NUTEK R 1996:67. (Not found on the web).
4. Nutek (2007) *Effekter av avreglering och konkurrensutsättning. Med fokus på vård- och omsorgssektorn*, NUTEK R 2007:23. (Attached to this E-mail) (No English summary).
5. Regelutredningen (2005) *Regelreformer, regler och marknader*, SOU 2005:4.
www.regeringen.se/rattsdokument/statens-offentliga-utredningar/2005/01/sou-20054/ (Including English summary) .
6. Statistics Sweden (2008) *Taxinäringen i tiden*, I Fokus på näringsliv och arbetsmarknad våren 2008, SCB.
www.scb.se/Statistik/AM/AM9903/dokument/Taxinaringen-i-tiden.pdf (No English summary).
7. Statskontoret (2012) *Utvärderingar av om- och avregleringar – En kartläggning*, Statskontoret 2012:10.
www.statskontoret.se/globalassets/publikationer/2012/201210.pdf (No English summary).
8. J. Kreicbergs, Twentyfive years of Swedish Reforms, 5 March 2014:
<http://www.reforminstitutet.se/wp/wp-content/uploads/2014/03/Twentyfiveyearsofreform140301.pdf>.
9. VTI (Swedish National Road and Transport Research Institute), 2013, Regulatory Changes in Sweden's transport sector:
<https://www.vti.se/en/publications/pdf/regulatory-changes-in-swedens-transport-sector.pdf>.

28. UNITED KINGDOM

General legal framework

The legislation applicable to taxis and hire cars with drivers (called "private hire car or PHV") sector is scattered among various legislative acts due to the fact that there are three separate jurisdictions (plus London) and that the first piece of legislation for hackney carriages (which is the term used to indicate taxis) was adopted in 1600s and the reforms have layered for around 200 years. Private hire services legislation is more recent, dating from 1976 in most of England and Wales and 1998 in London.¹⁶⁴²

Taxis

The applicable legislation varies depending on the jurisdiction:

- In **England and Wales**, outside London, taxis are licensed by district councils under the Town Police Clauses Act 1847 or that Act as amended by the Local Government (Miscellaneous Provisions) Act 1976. All taxis and their drivers must be licensed. PHVs, drivers and operators are only subject to licensing if a district council has adopted Part II of the 1976 Act or has similar provisions contained in a local Act.
- In **London**, the taxis are licensed under the Metropolitan Public Carriage Act 1869 and the London Cab Order 1934 (SI 1934/1346). The minicab trade in London is licensed under regulations made under the Private Hire cars (London) Act 1998.¹⁶⁴³
- In **Scotland**, taxis and PHVs are licensed under Part II of the Civic Government (Scotland) Act 1982, as amended.
- In **Northern Ireland**, by the Taxi Licensing Regulations (Northern Ireland) 2015.

Airports do not constitute a separate market: the taxis do not need a separate licence, but they have to pay an entrance fee to the company managing the airport in order to be allowed to enter and ply for hire.

Licences

For taxis, three licences are required: a taxi driver licence, a taxi vehicle licence and a taxi operator licence for dispatch centres or taxi companies. The licensing authorities must provide that the number of taxi licences should be based on criteria of distance from certain points of the city and on the need to satisfy the unmet demand. The licencing authorities must indicate the characteristics of the vehicles which are considered fit for the carriage of persons".¹⁶⁴⁴ In order to obtain the taxi vehicle licence, a requisition must be signed by the applicant and by the proprietor/proprietors of the hackney carriage in respect of which such licence is applied for. In Northern Ireland,¹⁶⁴⁵ yellow-plated taxis (allowed to ply for hire in any area of Belfast) have to be wheelchair accessible, have taximeters installed and checked, and their fares are regulated by the Department of the Environment. This is the only category of licensed taxi that is subject to fare regulation in Northern Ireland.

Local regulations

The City councils are in charge of issuing licence and publish the instruction for the applications, the requirements for the applicants, the fees and the taxi fares. Licensing processes also follow a common pattern; the majority of authorities requiring the same underlying checks to both driver and vehicle licensing. These included a police check, criminal records checks, and vehicle standards. A number of licensing authorities set out the conditions and process for grounds for refusal.

In the city of London, Transport for London (TfL) licenses London taxis and taxi drivers under the Metropolitan Public Carriage Act 1869 and the London Cab Order 1934 (SI 1934/1346). TfL has a duty to ensure that licences are granted only to people who are 'fit and proper' and that taxis vehicles satisfy the metropolitan Conditions of Fitness.¹⁶⁴⁶ The requirements for drivers include a minimum age limit of 21 years (but no upper age limit); meeting the Group 2 standard of medical fitness to drive; criminal records and financial standing checks; and the Knowledge of London test.

¹⁶⁴² "Every wheeled carriage, whatever may be its form or construction, used in standing or plying for hire in any street within the prescribed distance shall be deemed to be a hackney carriage within the meaning of this Act"
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/314108/9781474104531_Print.pdf.

¹⁶⁴³ Department for Transport, Taxi and Private Hire Statistics 2013, at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/226355/taxiprivate-hire-statistics-2013.pdf.

¹⁶⁴⁴ Section 53(2) of the Local Government (Miscellaneous Provisions) Act 1976, as amended.

¹⁶⁴⁵ <http://www.nidirect.gov.uk/taxis-and-private-hire-services>.

¹⁶⁴⁶ for details, see: TfL, Apply for a taxi driver licence.

Organizational and technical requirements

In England and Wales, the licence may only be released when the city council is satisfied that the applicant is a "fit and proper person to hold a driver's licence."¹⁶⁴⁷ Currently, all standard-setting for taxi and private hire services is left to local licensing authorities. There are over 300 different standard setting in England and Wales. One of the current legislative proposals of the Law Commission reform is to establish common national safety standards for taxis and private hire cars. All the taximeters must comply with the regulation of The Measuring Instruments (Taximeters) Regulations 2006 which implements the EU Measuring Instruments Directive (MID), in relation to taximeters. In Northern Ireland, Part 3 of Taxi Licensing Regulations covers the fitness of taxis, including for Class A, B or D taxi licence, a total length of the taxi of no less than 3.96 metres. The bodywork, doors, upholstery and fittings of every taxi shall be soundly and properly constructed of suitable materials, and of such design as to be capable of withstanding the loads and stresses likely to be met within normal operation of the taxi and be maintained in a clean condition.

Fares

Section 65 Local Government (Miscellaneous Provisions) Act 1976, which is applicable to all the jurisdictions, provides that each city council has the power to fix the rates or fares.¹⁶⁴⁸ The changes in the fares are disciplined through a complex procedure, which involves all the stakeholders, public authorities and taxi operators and drivers and the notice must be made public. In all the three jurisdictions, it is possible for the "immediate hiring of taxis at separate fares". This may be used, by people travelling in the same direction (i.e. from a station to the city centre or vice versa) sharing the same vehicle. Each person may reach its spot in the centre paying a separate fare which would be less than the taximeter fare. In England and Wales this option is available also for pre-booking.¹⁶⁴⁹

Passenger rights

Passenger rights are not regulated by the legislation, except for accessibility. The Department for Transport, in 2010, has published a revised version Best Practice Guidance in October 2006 to assist those local authorities in England and Wales that have responsibility for the regulation of the taxi and private hire car (PHV) trades. Among these, a best practice is included in "Annex B Notice for taxi passenger: what you can expect from the taxi trade and what the taxi trade can expect from you."¹⁶⁵⁰

Labour rules

According to the statistics, in 2015, the United Kingdom has experienced an exceptional increase in self-employment, in particular in the hire transport, which seems to be the effect of the development of the new transport services, in particular ridesharing and intermediaries.¹⁶⁵¹ The majority of taxi drivers are self-employed. According to UK National Career Office, the taxi drivers are working around 40 hours a week and in a major city can earn between £12,000 and £20,000 a year. According to one stakeholder, the working hours are 15 hours a day, based on a 7 am – 6 pm working day with one hour breaks. Self-employed pay a flat rate of £2.65 per week followed by 9 per cent of all profits between £7,605 and £42,475 and 2 per cent on all profits over this amount.

Enforcement

As general rules, violation of the conditions attached to the licence constitutes an offence and may entail suspension or revocation. The Section 37 Taxi Act 2008 (Northern Ireland), in the version that will enter into force on 31 May 2016, provides for the service of an enforcement notice on a taxi operator who is considered to have failed to comply with certain duties imposed on him by the legislation. The local licensing authorities in the major cities have created enforcement teams in order to tackle offences committed by taxis. Other works together with the local police. In London, TfL directly funds 68 dedicated police cab enforcement officers, 41 TfL compliance officers, and 32 vehicle inspection staff. The operations also use Safer Transport Team officers and a group of 290 female police officers are called upon as part of covert anti-touting operations. In Portsmouth, the Licensing Committee approved the introduction of the "points system" in 1994 after detailed consultation with the taxi and private hire trades. It is intended as a "fast track" disciplinary

¹⁶⁴⁷ Section 59 Local Government (Miscellaneous Provisions) Act 1976: Qualifications for drivers of hackney carriages.

¹⁶⁴⁸ Section 65 Local Government (Miscellaneous Provisions) Act 1976: Fixing of fares for hackney carriages.

¹⁶⁴⁹ Section 10 Transport Act 1985: provides for immediate hiring of taxis at separate fares (The Licensed Taxis (Hiring At Separate Fares) Order 1986.

¹⁶⁵⁰ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/212554/taxi-private-hire-licensing-guide.pdf.

¹⁶⁵¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/456733/taxi-private-hire-vehicles-statistics-2015.pdf.

code whereby points are issued to licence holders for breaches of conditions, non-compliance of the law or because of unsatisfactory conduct.

Hire cars with driver

PHV drivers and operators are subject to licensing under Part II of the 1976 Act or other provisions contained in a local Act. About 95 per cent of councils, including all the larger ones, have adopted the provisions concerning PHVs licences. There is no control on the fares that may be charged. As PHVs have to be booked in advance, the customer is expected to agree the fare at the time of booking. PHVs are not permitted to ply for hire in the streets, or at a rank, like a taxi: they can only be hired through an operator, who usually controls their PHVs by means of radios. The owner of a PHV is usually referred to legally as its 'proprietor'; in practice most PHVs are owner-driven.¹⁶⁵² PHV drivers need an ordinary driving licence covering category B, and must also be a 'fit and proper' person. PHV drivers may be subject to the same criminal record checks as taxi drivers and a few councils insist on the same topographical knowledge tests as those required for taxi drivers. Most licensing authorities also require medical certificates. Vehicles have to comply with fitness requirements and be suitable in type, size and design for use as a PHV (Section 48 of the 1976 Act). Currently, standards for taxis and private hire cars and drivers and private hire operators are set by local authorities, which are responsible for the administration of the licensing system.

In Northern Ireland, private hire cars (those displaying green plates) are licensed only to collect passengers who have pre-booked. From 31 May 2016, the PHVs are allowed to ply for hire with the exception of certain areas of Belfast.

In Scotland, the vehicle and the driver each require to be separately licensed. The licence for the vehicle is referred to as "Operator's" Licence and each vehicle operated as a Taxi or a Private Hire Car requires a separate licence. The holder of an "Operator's" Licence must also obtain a Taxi or Private Hire Car Driver's licence in order to drive the vehicle to which his operator's licence relates. For London, the Private Hire cars (London) Act 1998, regulates the licensing of minicabs in London and applies to PHV operators, drivers and vehicles. For private hire cars with drivers, the main piece of legislation is the Private Hire cars (London) Act 1998 which has been recently amended by three TfL Regulations which came into force on 27 June 2016, which have introduced new enforcement procedure, new requirements for drivers and new obligations for the bookings operators, including the need to provide a confirmation of the reservation. Vehicles licensed as PHVs by TfL must be no older than five years and meet the Euro 4 standards for emissions at time of licensing (for new licenses) or be no older than 10 years at time of licensing (for existing licensees).¹⁶⁵³

Ridesharing

No specific ridesharing and car sharing legislation has been implemented by the U.K. authorities; however, various initiatives have taken place at national and local level to promote ridesharing, especially for shift workers. An example is National CarShare UK¹⁶⁵⁴, which was created in September 1998, which may be used also by employers to organize common shifts and which intends to amalgamate the sharing schemes run by individual companies. For car sharing, a national non-profit organization, Carplus, that promotes responsible car use,¹⁶⁵⁵ has introduced an accreditation system for car sharing operators which aims at providing a tool for organizations and authorities to assess operators when deciding who should be invited to submit proposals, supported or chosen for a contract.

Market analysis

The UK is one of the largest markets in Europe for hire transport, with fast growth in the last 25 years and a broad usage by all groups of society including by lower income groups and disabled people.

The UK market can be segmented according to the legislative framework into "plying for hire" operated by taxis in metropolitan areas, and pre-booked services where taxis and private hire vehicle (PHV) compete on a larger territorial scale. The exception is Northern Ireland where, from 31 May 2016, also PHV are allowed to ply for hire in certain areas of Belfast.

Concerning market players, the large majority of taxi and PHV drivers are self-employed. Companies providing instant booking of licensed cabs are considered as taxi companies. Gett is the main actor operating in 20 cities with 50.000 taxis, and claiming an annual growth of 300%. The main players in the PHV market are Addison Lee (9,5% market share), ComfortDelGro Corp (6,5%), and Radio Taxis Group (2,6%). Uber is an important player in several cities within the PHV services.

¹⁶⁵² Briefing paper, SN02005, 5 August 2015 Taxi and private hire car licensing.

¹⁶⁵³ Briefing paper, SN02005, 5 August 2015, quoted.

¹⁶⁵⁴ http://www.nationalcarshare.co.uk/ncs/how_it_works.

¹⁶⁵⁵ <http://www.carplus.org.uk/about/car-club-accreditation/>.

Barriers to entry, limitations, incentives

With regard to barriers, the majority of the licensed areas, (with the exception of London) are characterized by quantitative barriers (with a cap on the number of taxi licences). A qualitative barrier is represented by the knowledge test, especially in London, where the London Knowledge test requires up to 4 years of studying and is very expensive, having a success rate between 25% and 40%. Other local municipalities are less selective, and licenses are valid both for taxis and PHVs. Concerning the number of licenses, the situation is different by area. In London, the number is not limited, operating a natural selection through market mechanisms as well as the knowledge barrier described above, with some adjustments decided by TfL. England and Wales municipalities and boroughs outside London, and similarly Scotland, have a different approach, based on analyses of unmet demand by municipalities.

Capacity growth and impacts

The number of vehicles grew between 2013 and 2015 by 9,3% (31,2% since 2005). While the number of driving licenses in the same period has grown by 4,3% up to 297.600. The growth was less significant in London (+1,5%) than outside London (+5,3%).

At the same time, the number of PHV operators decreased by 3,6% (-10,8% from 2009, the peak year). The decline was more significant in London (-4,8%) than outside London (-3,3%).

Conclusions

In the UK, especially in the largest cities, there is a strong competition between taxis and hire cars with drivers in the pre-booked segment. The pre-booked segment is characterized by a combination of the non-discriminatory approach with high quality standards in a market where the demand is largely composed of low income citizens. In the recent years, the barriers to access to the taxi sector (both quantitative and qualitative) have boosted the PHV segment, which has experienced a strong increase in the number of operators, also thanks to the arrival of new innovative service providers. This seems to lead to a growing level of specialization.

I. Introduction

In the United Kingdom, both taxi and private hire legislation only covers transport services provided "for hire" excluding transport provided gratuitously. Taxis are defined by the legislation as "hackney carriages" which is derived by the 1654 *Ordinance for the Regulation of Hackney-Coachmen in London and the places adjacent* , which introduced licences for carriages.

In all the three jurisdictions, both the taxis and the PHVs must be licensed. The process may be slightly different but the relevant legislation requires licence for all the provided hire transport services. The main difference between the two is that PHVs can only fulfil journeys booked in advance. Taxis can ply for hire on the street or at ranks, but are also permitted to fulfil journeys booked in advance through a private hire operator.

As indicated above, United Kingdom has started to regulate hackney carriages in the seventeenth century and the taxi service in the nineteenth century. The previous legislation was subsequently amended thus resulting extremely fragmented. Private hire services legislation is more recent, dating from 1976 in most of England and Wales and 1998 in London. Nevertheless, even this comparatively modern legislation struggles to keep up with the radical changes which the internet has introduced in the way customers book private hire services.

In 2014, a Report of the Law Commission¹⁶⁵⁶ was published proposing a reform of the sector. According to the Report, the piecemeal evolution of the regulation of taxi and private hire services has resulted in a complex and fragmented licensing system. The relationship between taxi and private hire services is not clearly defined. *“The balance struck between national and local rules lacks an overarching rationale, resulting in duplication, inconsistencies and considerable difficulties in cross border enforcement. Mobile phones and the internet have revolutionised both the taxi and private hire trades, yet regulation has failed to keep pace. The outdated legislative framework has become too extensive in some respects, imposing unnecessary burdens on business and artificially restricting the range of services available to consumers; and insufficiently comprehensive in other ways, undermining the fundamental goal of protecting the travelling public”.*¹⁶⁵⁷

II. Legal framework applicable to taxis

II.1. National regulation

The national UK regulations for taxi transport are:

- The Town Police Clauses Act 1847 which applies only to the municipalities and districts of England and Wales;
- The Local Government (Miscellaneous Provisions) Act 1976 as amended by the Deregulation Act 2015.
- The Transport Act 1985;
- The Civic Government (Scotland) Act 1982, licensing provisions relevant to taxis (HCs) and private hire cars in Scotland
- Taxi Act (Northern-Ireland) 2008;
- The Taxi Drivers’ Licences Regulations (Northern Ireland) 2014;
- The Equalities Act 2010, containing a section applicable to taxi accessibility;
- The Road Transport (Working Time) Regulations 2005.

II.2 Municipal Regulation

The Local UK regulations for taxi transport are:

- The London Cab Order 1934;
- The Conditions of Fitness – construction and licensing of motor taxis for use in London (Transport for London);
- Heathrow Byelaw 2012;
- The Civic Government (Scotland) Act 1982 (applies also for Edinburgh).

II.2 Procedures for issuing licences and applicable criteria

II.2.1 England and Wales

Under current England and Wales law, taxi licensing covers *“every wheeled carriage, whatever may be its form or construction”* used in standing or plying for hire. Taxis (hackney carriages) are defined by section 38 of the Town Police Clauses Act 1847 in the following terms: *“Every wheeled carriage, whatever may be its form or construction, used in standing or plying for hire in any street within the prescribed distance ... shall be deemed to be a hackney carriage within the meaning of this Act”.*

¹⁶⁵⁶The Law Commission, Taxis and Private Hire Services, May 2014, Cm 8864
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/314106/9781474104531_web.pdf.

¹⁶⁵⁷The Law Commission, Taxis and Private Hire Services, above, p. 2.

Their exclusive right to ply for hire is the taxidefining characteristic under the current law, although the term is not defined in the legislation. Picking up passengers at ranks and in response to hailing is generally understood to be at the core of plying for hire, but these activities do not feature in the legislation. Instead, the case law refers to factors such as the “exhibition” of the vehicle which may indicate plying for hire, its availability to the general public and the “immediacy” of its availability. Parking a vehicle in a public place may or may not amount to plying for hire, depending on an assessment of these factors. The Section 48 (a) (ii) of the Local Government (Miscellaneous Provisions) 1976 requires that private hire cars are “(...) *not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage*”. The rather vague definition of hackney, and the absence of statutory definition of “ply for hire”, renders difficult the enforcement: since plying for hire without a taxi licence is a criminal offence is therefore critical in defining what private hire cars are not allowed to do.

The national legislation describes the powers of the local authorities and the procedure for the issuing of the licences. As a general rule, a taxi must operate in the area of licence for hail and rank segment. For the pre-booked segment, this is unclear. Taxis do not need a PHV licence for the pre-booked segment, which has paved the way for a significant number of taxis to work as private hire cars outside the area for which they hold a taxi licence. The tensions this creates are most apparent at the boundaries of large urban areas, which typically have more demanding standards than their surrounding areas.¹⁶⁵⁸ This issue has arisen most prominently in the when the Newcastle City Council’s unsuccessfully challenged the Berwick-upon-Tweed Borough Council’s preparedness to licencing taxis not based in the borough, with the consequence of enabling them to work as private hire cars in other parts of the country.¹⁶⁵⁹

There are three types of licences: taxi driver licence, taxi vehicle licence, and taxi operator licence (only for dispatch centre). If the driver is not the owner of the taxi, the owner of the vehicle must have the required licence.

Taxi driver licence

The combined Section 37 of the Town Police Clauses Act 1847 and Section 47 of the Local Government (Miscellaneous Provisions) Act 1976 provide that the number of taxi licences should be determined by the local authorities based on the criteria of distance from certain points of the city and the need to satisfy the unmet demand. The latter criterion is essential in order to refuse a demand of licence. The amendment introduced by Section 16 Transport Act 1985 provides that Section 37 must be interpreted as allowing the competent authority to refuse to grant the licence, “*for the purpose of limiting the number of hackney carriages in respect of which licences are granted, if, but only if, the person authorised to grant licences is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet*”.

This limitation does not apply when the applicant for the licence intends to drive a fully accessible taxi and the “*proportion of taxis licensed in respect of the area to which the licence would (if granted) apply that conform to the requirement in paragraph (b) is less*

¹⁶⁵⁸ The Law Commission, *Taxis and Private Hire Services*, above, p. 27.

¹⁶⁵⁹ R (on the application of Newcastle City Council) v Berwick upon Tweed Borough Council [2008] EWHC 2369 (Admin).

than the proportion that is prescribed by the Secretary of State" (Section 161(1)(c) Equality Act 2010).

The above mentioned rules is of difficult understanding, considered that the Section 163 of the same Act provides that "(1) A licence for a taxi to ply for hire must not be granted unless the vehicle conforms with the provisions of taxi accessibility regulations with which a vehicle is required to conform if it is licensed". It should be understood that the licence may be issued only if the taxi is fully accessible.

The applicant for the licence must submit to the licensing authorities all the document the authority considers necessary to be able to determine whether the licence should be granted and whether conditions should be attached to any licence (Section 57 Local Government (Miscellaneous Provisions) Act 1976). The district council may require to the applicant to provide information about driving licence, medical records, business records, and information related to the persons with whom the applicant intends to carry out the business. The district council may require information concerning previous suspended or not renewed licences, criminal records.

Some licensing authorities will issue specific licences for driving either a taxi or a PHV, each with specific requirements and fees. Other authorities issue dual licences, which can be used to drive either type of vehicle. The provisions concerning the driver's licence are included in the Article 53 and 55 of Local Government (Miscellaneous Provisions) Act 1976, s. 46, s.55.

Taxi vehicle licence

In order to obtain the licence, a requisition must be signed by the applicant and by the proprietor/proprietors of the taxi in respect of which such licence is applied for (Section 40 of the Town Police Clauses Act 1847).

The issuing of the licence is subject to the technical inspections of the vehicles which must respect the conditions of fitness set by the relevant licensing authority.

According to Section 41 Town Police Clauses Act 1847, every licence shall specify the name of the person who is the holder of the licence, the name of the owner of the vehicle for which the licence is granted, the number of such licence which shall correspond with the number to be painted or marked on the plates to be fixed on such carriage, together with such other elements that the authority in charge of issuing the licence considers appropriate. The licence must be registered in the registry book. Any suspension, revocation or offence committed by the holder will be registered in the same book in a separate column (Section 42). According to Section 43, the validity of the licence is one year from the date of issuing.

The release of the licence is subject to the payment of certain fees which are established by the city council according to certain parameters determined by Section 70 Local Government (Miscellaneous Provisions) Act 1976. The fees should be in an amount to cover the cost of inspections of the vehicles carried out by the city council for the purpose of determining whether any such licence should be granted or renewed, the costs of taxi stands, the cost of control and supervision. These fees shall not exceed £ 25

for the first grant of hackney or PHV licence; £25 per year for each licence. The city council may increase the fees when it considers that is reasonable and necessary, by way of publication of a notice on newspaper and in the city council office.¹⁶⁶⁰

Taxi operator licence

Article 55 of the Local Government (Miscellaneous Provisions) Act 1976 provides that the licence must be issued only if the applicant is a fit and proper person to hold an operator licence. If the applicant is a company, information related to directors and company's secretary, any previous application made by any such director or secretary for an operator's licence; and any revocation or suspension of an operator's licence previously held by such director or secretary.

According to Article 53 the operator licence shall be valid for three year or for a shorter period established by the operator.

The radio taxi circuits do not need any licence in order to operate.

II.2.2 Scotland

In Scotland, taxis and private hire licences are regulated by the Section 10 Civic Government (Scotland) Act 1982.

According to Section 23 *"taxi" means a hire car which is engaged, by arrangements made in a public place between the person to be conveyed in it (or a person acting on his behalf) and its driver for a journey beginning there and then; and "private hire car" means a hire car other than a taxi within the meaning of this subsection.*

The vehicle and the driver each require to be separately licensed. The licence for the vehicle is referred as "Operator's" Licence and each vehicle operated as a Taxi or a Private Hire Car requires a separate licence. The holder of an "Operator's" Licence must also obtain a Taxi or Private Hire Car Driver's licence in order to drive the vehicle to which his operator's licence relates.

The condition for issuing or renewing the taxi licence are that the vehicle *"is suitable in type, size and design for use as a taxi or private hire car, as the case may be, and is safe for that use, and that there is in force in relation to the vehicle such a policy of insurance or such security as complies with Part VI of the Road Traffic Act 1972"*.

¹⁶⁶⁰ (a) If a district council determine that the maximum fees specified in subsection (2) of this section should be varied they shall publish in at least one local newspaper circulating in the district a notice setting out the variation proposed, drawing attention to the provisions of paragraph (b) of this subsection and specifying the period, which shall not be less than twenty-eight days from the date of the first publication of the notice, within which and the manner in which objections to the variation can be made. (b) A copy of the notice referred to in paragraph (a) of this subsection shall for the period of twenty-eight days from the date of the first publication thereof be deposited at the offices of the council which published the notice and shall at all reasonable hours be open to public inspection without payment.

Section 10(3) provides for the condition for refusal of the licence: the authority may refuse the grant of a licence “for the purpose of limiting the number of taxis in respect of which licences are granted by them if, but only if, they are satisfied that there is no significant demand for the services of taxis in their area which is unmet”.

In case the vehicle is sold or disposed the licence must be returned within 28 days. The failure to comply with this obligation without a reasonable excuse is an offence punished in summary conviction with a fine of level 2 (Section 10(6)).

In order to obtain an operator licence, an application must be made to the City Council. Any person who wishes to obtain a driver licence must satisfy the following conditions: have held a full driving licence for the continuous period of at least 12 months immediately prior to the date of the application; be a fit and proper person to hold a licence; be 18 years of age or more; be physically fit and, if over 65 years of age, undertake and pass an annual medical examination; have undertaken and passed a knowledge test, which will include a general test of knowledge of the Highlands and relevant local road network, tourist facilities and the Highway Code. Section 13 of the Civic Government (Scotland) Act 1982 provides that the holder of a taxi licence do not need a PHV licence to carry out the PHV activity.¹⁶⁶¹ The authority may establish the fees for issuing the licence. Their amount is reviewed according to the needs of the administration for carrying out the functions related to the issuing of licences.

The competent authority may restrict the number of licences only if there is not “*unmet significant demand*” for the services of taxis in the concerned area (Section 10(3)). As clarified by Scottish Government Best Practices¹⁶⁶² the local authority must carry an in-depth assessment since there is the risk that the decision is challenged before the court the local authority will bear the burden of proof.¹⁶⁶³

The Scottish Government remains of the view that decisions as to the case for limiting taxi licences should remain a matter for licensing authorities in the light of local circumstances. “*Licensing authorities that presently restrict numbers of taxi licences are, however, encouraged to periodically review this policy and to examine the wider policy direction*”.

II.2.3 Northern Ireland

Northern Ireland has recently amended the Taxi Licensing Regulations (Northern Ireland) 2015. Concerning the release of the licence, the owner of the vehicle must make the request for the licence presenting the vehicle for inspection. There are three categories of licences.

Class of licence	Permitted use
------------------	---------------

¹⁶⁶¹ Hackney Driver Guidance Notes Sep 2013 4 2.

¹⁶⁶² Best Practices Taxi and Private Hire Car Licensing: Best Practice e Guidance for Licensing Authorities Second Edition, April 2012.

¹⁶⁶³ “5.31. Local licensing authorities will be aware that, in the event of a challenge to a decision to refuse a licence, the local authority concerned would be required to establish to the satisfaction of the court that it had first satisfied itself that there was no such significant unmet demand”. 15 5.32.

Column 1	Column 2
A	(a) in the Belfast Zone— (i) plying for hire or reward only on the days and hours specified in regulation 6; and (ii) carrying passengers for hire or reward; and (b) outside the Belfast Zone— (i) plying for hire or reward; (ii) carrying passengers for hire or reward; and (iii) standing at taxi stands
B	(a) plying for hire or reward; (b) carrying passengers for hire or reward; and (c) standing at taxi stands
C	Carrying passengers for hire or reward but only pre-booked
D	Carrying passengers for hire or reward only when the taxi— (a) is listed on a road service licence granted under Part II of the 1967 Act and used in accordance with that licence; or (b) is used in accordance with a service permit issued under Part 1 of the 2011 Act

Class A permitted use in Belfast Zone – days and hours 6. The days and hours specified for the purposes of the permitted use of a Class A licensed taxi in the Belfast Zone, referred to in column (2) of the Table in regulation 5(1), are: (a) every Friday and Saturday from 23.59 until 06.00 in the morning of the following day; (b) from 23.59 on the day preceding a public holiday until 06.00 in the morning of the day of the public holiday; and (c) from 23.59 on the day of the public holiday until 06.00 in the morning of the day following the public holiday.

Class D is only allowed for executive and touristic services, health services and school services. Licence B is for taxi fully accessible and complaint with the Taxi Accessibility Regulations (Northern Ireland) 2015 and it must have a wheelchair mark in accordance to Section 26. Schedule 3 contains the specifications for “Wheelchair Facilities – Class B Licensed Taxis”.

The reform that entered into force in May 2016 reduces the current “dual tier” area in Belfast from a 5 mile radius from Castle Junction to a new area of roughly 2 miles radius from the same point (the Belfast Zone*). Within this area only Class B taxis (wheelchair accessible) will be allowed to stand or ply for hire, except on Friday and Saturday nights from 23:59 to 06:00, when both Class A and B taxis will be able to ply for hire. The same relaxation will also apply on prescribed public holidays.

Section 8 provides the use of the taxi in accordance with the different licences,¹⁶⁶⁴ while Section 11 provides the conditions of the licence, which includes the proper maintenance of the vehicles. The plate indicating the different class must be fixed in the places prescribed by the regulation according to the different classes (fixed to the roof, fixed to the nearside front and nearside rear of the roof, the signs shall be fixed to the inside surfaces of the windows of both rear passenger doors and the nearside of the front windscreen with the licence details facing outwards).

¹⁶⁶⁴ Display of roof sign 27 - (1) Subject to paragraph (2), the owner or driver of a Class A or B licensed taxi, standing or plying for hire or reward or carrying passengers for hire or reward, shall not cause or permit it to be used for that purpose unless there is displayed a roof sign which complies with the requirements of regulation 25 and which is not obscured by any object. (2) Paragraph (1) shall not apply where the taxi is used to provide an executive service or a tour service and the requirement specified in regulation 9(1A) of the Taxi Operators Licensing Regulations is satisfied. (3) The owner or driver of a Class C licensed taxi shall not cause or permit the display of any roof sign or other external markings which advertises the taxi as carrying passengers for hire or reward. (4) The owner or driver of a licensed taxi shall not cause or permit the display of any wheelchair accessible logo, information or advertisement on the roof sign unless the taxi is a Class B licensed taxi.

According to a respondent to the stakeholder consultation, the licence may be traded and depending from the department the price may vary between £ 20,000 and £ 30,000. Current legislation does not permit the transfer of licences between individuals; the response suggested that a demand for licence transfer existed. Larger cities reported that they had received a number of applications in each year to add and remove partners/directors from companies holding licences, which is effectively a method of transferring licences by changing corporate ownership.

II.2.4 Local regulation on the issuing of licence

The City councils are in charge of issuing licences and to publish the instruction for the applications, the requirements for the applicants, the fees and the taxi fares.

Licensing processes also followed a common pattern; the majority of authorities requiring the same underlying checks to both driver and vehicle licensing. These included a police check, criminal records checks, and vehicle standards. A minority also wished drivers to undertake occupational health checks. Applicants would be refused a licence if they were demonstrated not to be "fit and proper". A number of authorities set out the process by which police objections would be considered a ground for refusal.

Most authorities defined similar minimum requirements in their application processes for driver and vehicle licences. This typically required completed application form, fees and certificates of insurance, roadworthiness and registration in the case of vehicle licences. A number of authorities required vehicle inspection in their facilities prior to issuing a licence.

London

Under current law, London has its own legislation governing taxis and private hire services, administered by Transport for London (TfL). This is separate from the legislation applying elsewhere in England and Wales, with the exception of Plymouth, which also has its own legislation. The 2014 Law Commission proposal intended to extend to London the reform of the taxis and private hire sector with driver. The current legislation will be analyzed in its general aspects due to the fact that London will be object of a separate case study.

There are two types of licences: a taxi driver licence and a taxi vehicle licence. Taxi drivers who obtain the taxi licence and they own their taxi must obtain also the taxi vehicle licence after an inspection of the vehicle. The majority of the 20,000 taxi vehicles currently licensed in London are owned and driven by individual licensed drivers. However, a significant number are owned and maintained by individuals and companies. They rent them out to licensed taxi drivers who do not own a vehicle. In this case the owner of the vehicle must apply to obtain a licence as taxi proprietor.

The legislation currently in force in London includes the London Hackney Carriage Act 1853, Metropolitan Public Carriage Act 1869, Metropolitan Public Carriage Act 1869, London Cab Act 1896, London Cab and Stage Carriage Act 1907, London Cab Act 1968 and the Transport Act 1985.

The London Cab Order 1934 (SI 1934 No 1346) contains detailed regulations for taxi owner and drivers in London. In 2000, with the establishment of the Greater London Authority and Transport for London, responsibility for London cabs was transferred from the Metropolitan Police to Transport for London (TfL).

In order to carry out the taxi driver activity, a person must be 21 year old and have a TfL driver's licence. There are two types of licence depending from the area of activity: inside London and outside London. For the latter, the application must be submitted to the local city council. The application of for a licence is subordinate to passing the knowledge test for London of the suburbs. The time necessary to become a licensed driver depends on whether the applicant chose to apply for All-London Knowledge or for a Suburban sector.

According to Section 14, the licence will remain valid for one year. If during the period of validity of the licence, the licensee has ceased to be the owner of the taxi to which the licence relates, he/she shall return the licence and the taxi plate to the TfL within 14 days. In case the taxi is sold, the licensee and the new owner may apply together to have the licence transferred to the new owner.

There may be limitations on taxi driver's licence (Order of 1934 paras. 27 & 31): a licence normally covers the whole of the Metropolitan Police District and the City of London but if TfL is not satisfied that the applicant has an adequate knowledge of a part or parts of the area it may attach a condition to the licence prohibiting the licence holder from plying for hire in such part or parts.

In order to run a taxi business in London, a taxi operator licence must be obtained. There two different types of operator licence: a small operator licence up to two vehicles, and a standard operator's licence for an undefined number of vehicles.

Finally, a taxi vehicle licence is required in order to carry out the taxi activity. The licence is issued if, after having booked a vehicle inspection, the vehicle passes the inspection.

Edinburgh

In Edinburgh, the Civic Government (Scotland) Act 1982 is integrated by the Licensing Conditions 2012, which contains provisions similar to the general act concerning the conditions for the licences, inspections of the vehicle, suspension of the licence and return of the licence and of the plate.

To apply for a licence, the driver will need to meet the following criteria:

- He must be at least 18 years old at the time of applying (although you cannot be licensed until he is 21 years old). There is no upper age limit, as long as the driver meets the other licensing requirements. He must hold a full DVLA, Northern Ireland, or other European Economic Area state driving licence; and he must have the right to live and work in the UK;

- The Council publishes on its website the information concerning the fees applicable to the issuing of licences.

II.3 Technical requirements applicable to licensed vehicles (*taximeters, vehicles' technical specifications, accessibility, insurance, maintenance*)

II.3.I England and Wales

Currently, all standard setting for taxi and private hire services is left to local licensing authorities. There are over 300 different standard-setting in England and Wales. One of the current legislative proposals of the Law Commission reform was to establish common national safety standards for taxis and private hire cars.

As a general rules, there are no specification of the standard for the vehicle in the legislation. Section 38 Town Police Clauses Act 1847 provides that taxi licensing covers "every wheeled carriage, whatever may be its form or construction" used in standing or plying for hire, and having thereon any numbered plate required by the act or a special act. Each city council regulates its technical requirements. For example, in London, TfL requires that:

1. All new vehicles or vehicles new to licensing must as a minimum meet the Euro 6 standards for emissions at time of licensing;
2. Vehicles already licensed by us must be no older than 15 years at time of licensing;
3. The vehicle must meet the design standards set out in our conditions of fitness document published by TfL;
4. All taxis must have a taxi meter.

All the taximeters must comply with the regulation of The Measuring Instruments (Taximeters) Regulations 2006 which implements the EU Measuring Instruments Directive (MID), in relation to taximeters. All taximeters must comply with these regulations and be approved by a notified body designated by the Secretary of State. The only exception is those taximeters that were approved by the London Public Carriage Officer prior to 30th October 2006, and have a ten year derogation period. It is an offence under Regulation 4(2) to place on the market, and put into use, a taximeter that does not comply with the regulations and which has not been authorised by a notified body (notified bodies are those designated by the Secretary of State as persons /organizations that meet the notified body criteria).

Taximeters are currently the standard 'pulse' type of meter. The meter counts the pulses generated from a transducer attached to the vehicle. Initially it is calibrated by a technician, who drives a measured distance (1 mile/km) where the number of pulses covering the distance is determined, this number is then hard coded together with a tariff injection to calculate price per mile and the waiting time charge.

In London, the vehicles used as taxis must conform to the "Construction and licensing of motor taxis for use in London conditions of fitness (1 January 2007)" which contains instructions to the car manufacturers. Since 2007, all the taxis must be capable to accommodate a person in wheelchair in the passenger section. From 1st January 2012, no licence will be issued to a vehicle over 15 years of age as "calculated from the date

on which the vehicle was first registered under the Vehicle and Excise Registration Act 1994.¹⁶⁶⁵

The taxis must comply with Euro 5 (now Euro 6) legislative emissions standards (gasoline), as a minimum. Documentary evidence of compliance with the relevant standards (i.e. meeting the limits for all the air pollutant emissions in the standard) will be required from a VCA approved emissions laboratory.

The vehicle must be able to facilitate the carriage of disabled persons and accommodate a disabled person in the passenger compartment. As to the technical requirements, the door and doorway must be so constructed as to permit an unrestricted opening across the doorway of at least 75cm, and the minimum angle of a hinged door when opened must be 90 degrees. d. The clear height of the doorway must not be less than 1.2 meters. With regard to the requirements for passenger comfort it is provided that *"When fitted, occasional seats must be at least 40cm in width, and the distance from the back of the upholstery to the front edge of the seat must be not less than 35.5cm. b. Occasional seats must be arranged so they rise automatically when not in use. They must be placed at least 4cm apart. When not in use, they must not obstruct doorways. A frame must be provided for the fare table fixed in an approved place. A position for an interior number plate is to be provided with the words 'The number of this taxi is...' shown immediately above the position of the plate. The driver's compartment should be designed so that the driver has adequate room, and so he can easily reach and quickly operate the controls."*

Cardiff

Cardiff Hackney Carriage Vehicle Licence conditions require that all the vehicles must be presented for inspection and comply with all current statutory requirements for road vehicles and with the non-statutory requirements imposed by the Council. The requirements cover the dimensions, the number of doors (four), the placement of the plates, the advertising on the vehicle. Vehicles presented for the first licence must not be older than 10 years in case of taxis or prestige vehicles and cannot be relicensed if more than 10 years old, 25 months in case of other vehicles. Older vehicles cannot be re-licensed.

In January 2012, the Cardiff City Council rejected the request of a taxi company to use a taximeter based on GPS system instead that the pulse system. According to the Council *"the MID of 2006 contains annexes for different types of meter devices. One of those is Annex 7 covering "Taximeters" and is clearly covering a device dedicated to counting signal pulses and displaying an associated fare based on internal calculations from a preprogrammed and sealed tariff. A Taximeter is expected to be a standalone device"*. According to the Council, the GPS taximeter could be used for PHV vehicles but not for hackney. However, some other councils have accepted this kind of taximeter, such as Sunderland, York, East Ayrshire, Gateshead, Carmarthenshire, Swansea.¹⁶⁶⁶

II.3.2 Scotland

¹⁶⁶⁵ <http://content.tfl.gov.uk/taxi-conditions-of-fitness.pdf>.

¹⁶⁶⁶ [http://cardiff.moderngov.co.uk/Data/Public%20Protection%20Committee/20120306/Agenda/Request%20for%20the%20Approval%20of%20the%20GPS%20Taximeter%20\(3.36M\).pdf](http://cardiff.moderngov.co.uk/Data/Public%20Protection%20Committee/20120306/Agenda/Request%20for%20the%20Approval%20of%20the%20GPS%20Taximeter%20(3.36M).pdf).

The Civic Government (Scotland) Act 1982 as amended does not include any provision on the fitness conditions of the vehicle. Each licencing authority is allowed to add conditions to the relevant act. As an example, the West Lothian Licensing Conditions 2012, which integrate the Act 1982, in its Schedule A contains the description of the elements that the taxi must have in order to be fit for purpose. The 2012 Conditions describe in detail the technical specifications of the vehicle; the lighting; the dimension of the advertising that can be displayed; the dimension of passengers' seats. Additionally, there is a list of vehicle models to be used as taxi.

From 1st February 2015, all taxis must be fully wheelchair accessible, which must include a retractable step; a hearing loop system; auto door locks which operate when the vehicle is moving.

Installation of electronic security system (CCTV) is indicated on the licence, and is submitted to previous authorization and complies with the requested specifications and installation. Taximeter must comply by the national rules and must be always visible for the passengers.

II.3.3 Northern Ireland

Part 3 of Taxi Licensing Regulations covers the fitness of taxis, including for Class A, B or D taxi licence, a total length of the taxi of no less than 3.96 meters. The bodywork, doors, upholstery and fittings of every taxi shall be soundly and properly constructed of suitable materials, and of such design as to be capable of withstanding the loads and stresses likely to be met within normal operation of the taxi and be maintained in a clean condition.

Section 25 provides that *"The taxi shall be fitted with a roof sign which is mounted on and fixed safely to the roof of the taxi. (2) The roof sign shall— (a) be a minimum of 125 millimeters high; (b) be capable of holding a plate which— (i) can readily be removed without damage to the roof sign, plate or vehicle component; and (ii) can be fixed to the nearside front and nearside rear of the roof sign so that it is not projecting higher, lower or longer than the roof sign"*.

Taximeter is regulated by the Taximeters Regulations¹⁶⁶⁷ and is mandatory for taxi licenses of categories A and B. Section 10 of the Taximeters Regulations provides *"1) Subject to paragraph (2), the driver of a taxi shall commence operation of the taximeter on commencement of the journey and shall cease operation of the taximeter immediately on completion of the journey"*.

In case of executive service or tour service with agreed fee or a health care service carried out under the conditions provided by the law, or other specific services, the taximeter fare is not applicable¹⁶⁶⁸. Among the obligations imposed upon the taxi driver

¹⁶⁶⁷ Taximeters, Devices and Maximum Fares) Regulations (Northern Ireland) 2015.

¹⁶⁶⁸ (2) Paragraph (1) shall not apply where the journey the taxi is used to provide is:

(a) an executive service or a tour service; or

(b) a service for

(i) a health and social care body as defined in section 1(5) of the Health and Social Care (Reform) Act (Northern Ireland) 2009 or

(ii) the Education Authority established under the Education Act (Northern Ireland) 2014.

the tariffs must not exceed those indicated by taximeter and the driver must avoid any unnecessary delay or take the longest route to destination.

II.4 Qualitative requirements (*fitness of the driver, knowledge and skills required, drivers' training*)

II.4.1 England and Wales

According to Section 59, Local Government (Miscellaneous Provisions) Act 1976: Qualifications for drivers of hackney carriages, the licence may only be released when the city council is satisfied that the applicant is a "*fit and proper person to hold a driver's licence*".

The applicant must hold a driving licence granted under Part III of the Road Traffic Act 1988 (not being a provisional licence), not having committed criminal offences, and must have passed a knowledge test. As for London, the applicant is required to pass the London Knowledge test. A medical fitness check must be passed.

II.4.2 Scotland

The Section 13 of the Civic Government (Scotland) Act 1982 leaves to the licencing authorities the definitions of the conditions and the need to pass knowledge exam and medical fitness check. A number of Scottish licensing authorities have, or are developing, minimum training requirements for taxi drivers which require to be met at first grant of a licence or at renewal. Such training typically covers matters such as customer care, disability awareness, managing conflict, road safety etc.

The Scottish Government introduced the Protecting Vulnerable Groups (PVG) Scheme with effect from 28 February 2011. The Scheme, delivered by Disclosure Scotland, replaces and improves upon present disclosure arrangements for people who work with vulnerable groups. The PVG Scheme can include taxi/private hire car drivers contracted to undertake regulated work in relation to the provision of transport to vulnerable groups.

As an example of a very detailed conditions are the West Lothian Licensing Conditions of 2012 which integrate the Civic government Scotland Act 1982. The Conditions provides that the driver must have a current certificate of medical fitness to drive a taxi. The driver must comply with the training scheme imposed by the licensing authority. The driver must report to the local council, within 10 working days, of any offence committed and sanctioned.

II.4.3 Northern Ireland

With regard to the driver, the applicant must give details of any condition likely to affect his fitness to drive a taxi (category B vehicle). A medical declaration is requested. All

new applicants and those who are renewing who are aged 45 or over, will be required to have a medical form (TLM1) completed by their doctor (GP).

Once licensed, anyone providing a taxi service will be expected to demonstrate that they remain a fit and proper person to continue to trade as a taxi operator and they comply with other legal requirements connected with running their business. Failure to remain a fit and proper person may lead to the suspension or revocation of taxi operator licence and of taxi driver's licence.

Taxi drivers who obtained their taxi licence on or after 1st September 2015 must complete a minimum of 35 hours periodic training every five years in order to retain their taxi driver's licence. For existing taxi licence holders the number of hours training will vary depending on the date of renewal. These courses have a minimum legal duration of 3 hours 30 minutes. Any course which does not comply with the legislation cannot be attributed to periodic training and uploaded against a driver's record. If the periodic training is not completed, the taxi licence will not be renewed.

The Taxi Drivers' Licences Regulations (Northern Ireland) 2014, provides the following periodic training:

Column (1) taxi driver's licence expires	Column (2) Periodic Training required
1 st September 2015 – 31 st August 2016	Nil
1 st September 2016 – 31 st August 2017	7 Hours
1 st September 2017 – 31 st August 2018	14 Hours
1 st September 2018 – 31 st August 2019	21 Hours
1 st September 2019 – 31 st August 2020	28 Hours
1 st September 2020 onwards	35 Hours (within 5 years immediately preceding the date of application for a taxi driver's licence)

II.5 Organizational requirements (*dispatch affiliation centre, minimum service*)

In England and Wales there is no obligation to be affiliated to a radio taxi or dispatch centre. In Northern Ireland taxis may be affiliated to only one dispatch centre, except those providing health and school transport.

There are no provisions, under the three legislations, to provide minimum services.

II.6 Fares (*criteria for taxi fare setting, authority/body in charge of setting the tariffs, maximum tariffs and/or fixed tariffs, composition of the tariff and tariffs adjustment mechanism [minimum charge, additional charge for using the radio taxi or dispatch centre, increase of the tariff during certain hours, such as at night or on certain journeys, such as towards the airports, reductions for certain categories, such as elderly people]*)

II.6.1 General national provisions

The general rule applicable to all the three jurisdictions concerning fares is Section 65 Local Government (Miscellaneous Provisions) Act 1976: Fixing of fares for hackney carriages which provides that *"A district council may fix the rates or fares within the district as well for a time as distance, and all other charges in connection with the hire of a vehicle or with the arrangements for the hire of a vehicle, to be paid in respect of the hire of hackney carriages by means of a table (hereafter in this section referred to as a "table of fares") made or varied in accordance with the provisions of this section"*.

The changes in the fares are disciplined through a complex procedure which involves all the stakeholders, public authorities, taxi operators and drivers and the notice must be made public. In case of no objections, the table will become final at the period specified. If there is an objection and is not withdrawn, the district council shall set a further date, not later than two months after the first specified date, *"on which the table of fares shall come into force with or without modifications as decided by them after consideration of the objections"*. Section 66 forbids a taxi driver with a licence for hackney and a taximeter, when hired for *"a journey ending outside the district and in respect of which no fare and no rate of fare was agreed before the hiring was effected"* to ask the passenger fares which are higher than those calculated by the taximeter or, in case of no taximeter, the maximum fare provided by the tables in force in the district would have authorized for that journey.

II.6.2 England and Wales

At national level, an important addition of the Section 10 Transport Act 1985 is the immediate hiring of taxis at separate fares introduced by the Licensed Taxis (Hiring At Separate Fares) (London) Order 1986.

The provisions allow the public authority to make a separate fares scheme *"if the holders of at least ten per cent of the current taxi licences issued by the authority request the authority in writing to do so"*. Once the separate fare scheme is in place, a group up to 8 people, depending from the size of the vehicle, may hire immediately the taxi and pay a separate fare. It may be used, for example, by people at travelling at the station and in need to reach the city centre in the same vehicle. Each person may reach its spot in the centre paying a separate fare which would be less than the taximeter fare. This option does not require pre-booking but it may be used also in case of pre-booked rides if the regulation provides it.

According to Section 11 Transport Act 1985, the separate fares are available also for advanced booking at the conditions that *"(a) all the passengers carried on the occasion in question booked their journeys in advance; and (b) each of them consented, when booking his journey, to sharing the use of the vehicle on that occasion with others on the*

basis that a separate fare would be payable by each passenger for his own journey on that occasion”.

II.6.3 Scotland

The taxi fares are regulated by Section 17 of the Civic Government (Scotland) Act 1982. The Section 17 provides for the duty of the licensing authority to fix from time to time the scales for fares and other charges and the review of the fares must be at an interval not exceeding 18 months from the date on which the scales came into effect (whether proceeding upon a review under this section or not).

Before fixing any scales or carrying out any review, the licensing authority shall consult with persons or organizations, and the taxis operators give notice of their intention by an advertisement in a newspaper circulating in their area. The authorities must consider any representation lodged with them.

II.6.4 Northern Ireland

Section 16 of the Taxis Act (northern Ireland) provides the competence of the Department of Environment (DOE) for fixing the maximum rates or fares to be charged for, and the maximum for all other charges in connection with, the hire of taxis or the carriage of passengers for hire or reward by taxis (including, without prejudice to the generality of the foregoing, charges in respect of any kind of damage to taxis caused by passengers). The DOE will set also the maximum separate fares. Before making any regulations on taxi fares, it shall take into consideration any recommendations made by the General Consumer Council for Northern Ireland.

The new provisions entered into force on 31st May 2016 limits the possibility for the taxi operators to add charges to the fare for the call, especially for rides towards rural areas.

II.6.5 Cities

London

Section 40 of The London Cab Order 1934 provides the following maximum fares for motor cabs:

The rates are:

a hiring charge of £1.80; and

which takes place between the hours of 6 am and 8 pm, on any day except a Saturday, Sunday or public holiday;

(i) during which the cab travels at a speed exceeding 4.65 metres per second, the rate of 20p for [129.9 metres] or, if the fare shown on the taximeter (exclusive of sums payable by virtue of sub-paragraph (4)) is [£17.00] or more, the rate of 20p for [91.1 metres];

(ii) during which the cab is stationary or travels at a speed not exceeding 4.65 metres per second, the rate of 20p for [27.9 seconds] or, if the fare shown on the taximeter (exclusive of sums payable by virtue of sub-paragraph (4)) is [£17.00] or more, the rate of 20p for [19.6 seconds];

(b) for any part of the journey that takes place on a Saturday or Sunday (other than a public holiday) between the hours of 6 am and 8 pm, or on any day (other than a public holiday) between the hours of 8 pm and 10 pm;

(i) during which the cab travels at a speed exceeding 4.65 metres per second, the rate of 20p for [105.4 metres] or, if the fare shown on the taximeter (exclusive of sums payable by virtue of sub-paragraph (4)) is [£20.40] or more, the rate of 20p for [91.1 metres];

(ii) during which the cab is stationary or travels at a speed not exceeding 4.65 metres per second, the rate of 20p for [22.7 seconds] or, if the fare shown on the taximeter (exclusive of sums payable by virtue of sub-paragraph (4)) is [£20.40] or more, the rate of 20p for [19.6seconds];

(c) for any part of the journey that takes place between 10 pm on any day and 6 am on the following day or at any time on a public holiday;

(i) during which the cab travels at a speed exceeding 4.65 metres per second, the rate of 20p for [85.0 metres] or, if the fare shown on the taximeter (exclusive of sums payable by virtue of sub-paragraph (4)) is [£24.80] or more, the rate of 20p for [91.1 metres];

(ii) during which the cab is stationary or travels at a speed not exceeding 4.65 metres per second, the rate of 20p for [18.3 seconds] or, if the fare shown on the taximeter (exclusive of sums payable by virtue of sub-paragraph (4)) is [£24.80] or more, the rate of 20p for [19.6 seconds].¹⁶⁶⁹

Special maximum fares are provided for public holiday period:

£4.00 for a hiring beginning or ending between the hours of 8 pm on 24 December and 6 am on 27 December or the hours of 8 pm on 31 December and 6 am on 2 January; £2.00 for a hiring arranged by telephone;

£2.40 for a hiring beginning at a rank at Heathrow Airport;

£40.00 if, during the hiring, the cab is soiled in such a way that it has to be taken out of service for cleaning;

12.5% of the total sum payable pursuant to sub-paragraphs (1) to (4)(d) or £1.00, whichever is the greater, if the hirer pays by credit or debit card.¹⁶⁷⁰

Manchester

The maximum fares applicable from 4 August 2015 reported in the table. The table is the reproduction of the public taxi fares and charges "Manchester green card" which is affixed inside the taxis.

Day (6 a.m. until 10 p.m.)	Night (10 p.m until 6 a.m.)
-------------------------------	--------------------------------

¹⁶⁶⁹ (3) Where the sum arrived at in accordance with sub-paragraphs (1) and (2)-- (a) is less than [£2.40] the fare shall be [£2.40]; (b) exceeds [£2.40] but is not a multiple of 20p, the fare shall be the sum so arrived at rounded up to the next highest multiple of 20p. (4) In addition to the fare for hiring a motor cab provided for in sub-paragraphs (1) to (3), the following amounts shall, subject to sub-paragraph (5), be payable by the hirer for the whole of the journey to which the hiring relates.

¹⁶⁷⁰ (6) In sub-paragraph (2) "public holiday" means Christmas Day, Boxing Day, New Year's Day, Good Friday, Easter Sunday and any other day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971 or by Royal Proclamation.

		Bank holidays and Good Friday 24hrs	
404.52 yards(370.81m)	£ 2.30	First 245.19yards (224.2 m)	£2.80
Then for every 190.45 yards (174.15m) or part	20p	Then for every 143.03 yards (130.79m)	20p
Waiting time every 38.89 seconds	20p	Waiting time every 29.29 seconds	20p
(£3.20 per ten minutes, £ 18.60 per hour)		(£4.00 per ten minutes, £ 24.60 per hour)	
Christmas new Year			
8pm on 24 December until 6 am on 27 December		Night rate plus 50%	
8pm on 31 December until 6 am on 2 January			
Extras			
For each passenger additional to hirer		20p	
For journeys through Piccadilly Station taxi rank barrier		40p	
For journeys from Manchester Airport trough barrier		£ 1.60p	
Fouling charge		£30	
Some taxis accept credit or debit cards typically with a surcharge of 5-10% to cover administration costs.			
Average costs (not including any waiting time)			
	DAY	NIGHT	
1mile (1.6 km)	£3.90	£ 5.10	7 miles (11.3 km)
3 miles (4.8 km)	£ 7.50	£ 7.50	9 miles (14.5km)
5 miles (8 km)	£ 11.20	£14.80	10 miles (16.1km)
Up-front payments, drivers may ask you to pay an estimated deposit fare/deposit up-front. If you do not agree, you may be refused travel.			
All fares should be charged at meter fare, UNLESS destination falls outside the Greater Manchester County or four miles from the nearest point of the city boundary. If the destination falls outside the above area, the fare should be negotiated with the driver before commencement of the journey. If the fare is not negotiated before commencement, the meter fare ONLY should be charged. FOR COMPLAINTS AND LOST PROPERTY, PLEASE CONTACT: Taxi Licensing Unit, PO Box 271, Manchester M18 8YU Telephone: 0161 234 5004 Email: taxi.licensing@manchester.gov.uk Fax: 0161 274 7036			

Cardiff

The taxi fares in Cardiff have been introduced in May 2011. In 2015 an application from two hackney companies to increase the tariffs have been one rejected and one accepted for 1 September but only for the average ride (£ 5.70 in place of £ 5.40). Cardiff is considered one of the cheapest cities in the United Kingdom.

First 140 yards (128.2 metres) or part thereof	£ 2
If distance exceeds 140 yards (128.2 metres) for first 140 yards (128.2 metres)	£ 2
For each subsequent 203 yards (185.62 metres)	£ 0.20
WAITING TIME:	
For each period of 46 seconds	£ 0.20
EXTRA CHARGES	
For hirings between midnight and 6.00 am and on Sundays, and Bank Holidays	£ 1
For hirings between 8.00pm Christmas Eve and 6.00am on 27th December and between 8.00pm New Year's Eve and 6.00am 2nd January	£ 5
For each passenger exceeding four	£ 1 each
For bicycles, cabin trunks (minimum size 36" x 24" x 18") and items of	£ 0.20

furniture	
For the fouling of a vehicle	£ 50

Liverpool

The Liverpool City Council taxi fares schemed is reported below.

THE CITY OF LIVERPOOL

HACKNEY CARRIAGE RATES OF FARE

WITHIN THE CITY OF LIVERPOOL AND UPTO 4 MILES BEYOND THE CITY BOUNDARY

OPERATIVE FROM 16 DECEMBER 2015

Tariff One or D (Day) rate

For journeys beginning after 06:00 hours and ending before 23:00 hours (other than when Tariffs Two or Three apply)

£2.40 for the first 330 yards (or less)

Then 20p each succeeding 232 yards (or less) up to 14080 yards

Then 20p each succeeding 300 yards (or less)

And 20p each 60 seconds waiting charge or (or less)

Tariff Two or N (Night) rate

For journeys beginning after 23:00 hours and ending before 06:00 hours or at any times on Easter Sunday and all bank holidays (other than the Xmas and New Year periods when the Tariff 3 (or X) rate should be charged – see below)

£3.00 for the first 330 yards (or less)

Then 25p each succeeding 232 yards (or less) up to 14080 yards

Then 25p each succeeding 300 yards (or less)

And 25p each 60 seconds waiting charge or (or less)

Tariff Three or X (Extra) rate

For journeys beginning (1) after 6.00pm on December 24 to 6.00am on 27 December and (2) after 6.00pm on 31 December to 6.00am on 2 January. This rate can also be charged if the journey taken is over four miles beyond the City of Liverpool boundary AND THE USE OF THIS RATE HAS BEEN AGREED IN ADVANCE

£3.60 for the first 330 yards (or less)

Then 30p each succeeding 232 yards (or less) up to 14080 yards

Then 30p each succeeding 300 yards (or less)

And 30p each 60 seconds waiting charge or (or less)

IMPORTANT

1. Unless a separate fare has been agreed in advance for a hiring to a destination beyond four miles of the city boundary, the fare payable is that shown on the taximeter for the appropriate day or night rate only.

2. The only extra charges permitted are Tunnel Tolls to and from destination, Motorway Toll Roads and Tolls charged at John Lennon Airport, appropriate electronic card handling charges and a £25 fouling charge.

IF YOU HAVE ANY COMPLIMENTS, COMPLAINTS OR ENQUIRIES PLEASE CONTACT:
LICENSING & REGULATORY SERVICE MUNICIPAL BUILDINGS DALE STREET
LIVERPOOL L2 2DH. TELEPHONE 0151 233 3015.

Edinburgh

Up to 2 passengers

TARIFF 1 Monday - Friday 6am – 6pm	TARIFF 2 Monday – Friday 6pm – 6am the following day 6am Saturday – 6am Monday
TARIFF 3 Monday - Friday 6am – 6pm during Christmas and New Year	TARIFF 4 Monday – Friday 6pm – 6am the following day 6am on Saturday – 6am Monday during Christmas and New Year
CHRISTMAS 6pm on 24 December to 6am on 27 December NEW YEAR 6pm on 31 December to midnight on 2 January	

CHARGES	TARIFF 1	TARIFF 2	TARIFF 3	TARIFF 4
Initial hire not exceeding 527m ♣ Initial 105 seconds of waiting time ♣ Combination of initial time and distance	£2.10	£3.10	£3.10	£4.10
Each additional 188m up until 2031m and thereafter each additional 217m ♣ Each additional 40 seconds of waiting time ♣ Combination of additional time and distance	£0.25	£0.25	£0.35	£0.45
EXTRA PAYMENT				
WHEN MORE THAN 2 PASSENGER Each £ 0.20				
Note: Only 2 children under 12 years will be reckoned as one passenger. No extra fare will be charged for one child under 5 years of age.				
Each passenger must be properly seated				
Hires ending at Edinburgh Airport Inner Drop-off Zone (See Note 4 below) £1.00				
Call Out Charge Applicable when pre-booked	£0.80	Airport Pickup For hires Commencing at Edinburgh airport	£0.80	
Cancellation Fee Applicable when taxi is pre-booked but not used £	£2.20	Payment Of Fare By Credit/Debit Card Extra applicable when fare paid by the above means	5.0 %	
Cleaning Fee Applicable when taxi is soiled (by travel sickness) £50.00				

II.7 Passenger rights

The Department for Transport, in 2010, has published a revised version Best Practice Guidance in October 2006 to assist those local authorities in England and Wales that have responsibility for the regulation of the taxi and private hire car (PHV) trades. Among the best practices there is a best practice in "Annex B Notice for taxi passenger:

*what you can expect from the taxi trade and what the taxi trade can expect from you.*¹⁶⁷¹

The driver will:

- Drive with due care and courtesy towards the passenger and other road users.
- Use the meter within the licensed area, unless the passenger has agreed to hire by time.
- If using the meter, not start the meter until the passenger is seated in the vehicle.
- If travelling outside the licensed area, agree the fare in advance. If no fare has been negotiated in advance for a journey going beyond the licensing area then the driver must adhere to the meter.
- Take the most time-efficient route, bearing in mind likely traffic problems and known diversions, and explain any diversion from the most direct route.

The Section 165 Equality Act 2010: Passengers in wheelchairs place o places duties on taxi drivers who have an accessible vehicle to, amongst other things, carry a passenger while in the wheelchair and not to make any additional charge for doing so, assist the passenger and help him to get in and out of the vehicle. Under Section 168 of the same Act there is the obligation for all the taxis (and PHV) also those non accessible, to accept assistance dogs in taxis.

II.8 Subsidies applicable to taxi sector *(including public developed applications for taxi sector, geolocalisation, etc.)*

In January 2015, the CJEU, on a preliminary ruling, declared that the possibility for the licensed taxi to use a bus lane were not state aids, since did not appear to be such as to involve a commitment of state resources or to confer on taxis (Black Cabs) a selective economic advantage for the purpose of Article 107(1) TFEU. However, this was for the referring court to determine. The court also ruled that it was conceivable that the practice of permitting taxis to use bus lanes on public roads could be such as to affect trade between Member States within the meaning of Article 107(1) TFEU. However, again it was for the referring court to determine.¹⁶⁷²

II.9 Labour rules

The majority of taxi drivers are self-employed. According to UK National Career Office, the taxi drivers are working around 40 hours a week and in a major city can earn between £12,000 and £20,000 a year. According to one stakeholder, the working hours are 15 a day, based on a 7 am – 6 pm working day with one hour breaks. Self-employed pay a flat rate of £2.65 per week followed by 9 per cent of all profits between £7,605 and £42,475 and 2 per cent on all profits over this amount.

II.10 Supervisory enforcement tools

¹⁶⁷¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/212554/taxi-private-hire-licensing-guide.pdf.

¹⁶⁷² [R \(on the application of Eventech Ltd\) v The Parking Adjudicator](#).

The local councils in charge of the issuing of the licences oversee the respect of the conditions imposed on the licence by the legislation or regulation. Violations of the conditions attached to the licence are offences and may entail suspension or revocation of the licence. In case a driver is convicted for any offence under any Act, the licence and the badge are revoked or suspended. A new offence of soliciting a taxi service (touting) has been introduced with the reform.

In the Northern Ireland, from 2016, an enforcement notice must be served to a taxi operator who has failed to comply with certain duties imposed upon him. The notice will indicate the remedial action that is considered necessary. Failure to comply with the notice is an offence but the operator may submit an appeal against the enforcement notice.¹⁶⁷³

In London, Section 19 London Cab Order 1934 provides that the licensing authority may revoke or suspend a taxi driver's licence in case of violation of the conditions attached to the licence or in case of a criminal offence. The criminal offences related to the taxi service service are the following:

- a) Acting as a taxi driver without a licence and badge;
- b) Transferring or lending a licence to another person;
- c) Permitting any other person to use or wear a badge;
- d) Plying for hire without a licence;
- e) Failing to display badge number and licensed area identifier when plying for hire.

With a few exceptions, fines are referred to as being at a certain level on the standard scale of fines introduced by s.37 of the Criminal Justice Act 1982 as amended. The scale is as follows:

- Level 1 = £200
- Level 2 = £500
- Level 3 = £1,000
- Level 4 = £2,500
- Level 5 = £5,000

The Courts have the ultimate power to pass a sentence of imprisonment upon those who fail to pay court fines.¹⁶⁷⁴

In Portsmouth, the Licensing Committee approved the introduction of the "points system" in 1994 after detailed consultation with the taxi and private hire trades. It is intended as a "fast track" disciplinary code whereby points are issued to licence holders for breaches of conditions, non-compliance of the law or because of unsatisfactory conduct. When assessing the weight of evidence available the authority works the "balance of probabilities" in determining whether or not to issue points and it will consider the representations of licence holders accordingly. There is no financial penalty associated with this system and the licence holders may continue to work even if points are awarded. The Licensing Committee have resolved that there will be a presumption in favour of a committee hearing (or suspension imposed) if more than a certain number of points are given against an individual licence in any one licensing year. Failures during vehicles technical inspections may lead to suspension.

¹⁶⁷³ Section 37 Taxi Act 2008 (Northern Ireland), amended in 2016.

¹⁶⁷⁴ General guidance on hackney carriage law for London's licensed taxi drivers, TfL, <http://content.tfl.gov.uk/taxi-drivers-abstract-of-laws.pdf>.

The local licensing authorities in the major cities have created enforcement teams in order to tackle offences committed by taxis. Other works together with the local police. In London, TfL directly funds 68 dedicated police cab enforcement officers, 41 TfL compliance officers, and 32 vehicle inspection staff. The operations also use Safer Transport Team officers and a group of 290 female police officers are called upon as part of covert anti-touting operations.

II.11 Airports

Airports are private land and their owners have discretion as to who to admit to their property. Some use byelaws to restrict access either to the airport as a whole or to parts of it. Some contract with individual taxi or private hire companies to provide services and restrict access for all other providers¹⁶⁷⁵. In case of the Heathrow airport, the Byelaw 2012 provides that in order to pick up passengers, the taxis must obtain an authorization from the airport company and it is waiting at an official airport stand (and not trying to ply for hire in other airport areas such as parkings). A special badge is issued for the taxis authorized to ply for hire at the airport stands.

III. Legal framework applicable to hire car with drivers

III.1. National/ regulation

The hire cars with drivers or private hire cars (PHVs) are mainly regulated by the same rules applicable to the taxi sector. England and Wales as well as Scotland have a two-tier system which include different provisions for taxis and PHV, Northern Ireland has introduced a one-tier system through amendments to the Taxis Act 2008 (Northern Ireland), since, as already explained above, from 31st May 2016 only one kind of licence is issued for taxis with different distinctive marks, depending from the service they are authorized to perform.

For PHVs, in England (including London) and Wales there are three types of licence: a vehicle licence, a driver's licence and an operator's licence. The operator is the person that accepts bookings and with whom the customer makes a contract for carriage which may be a different person from the PHVs driver. Differently than in the case of the radio taxi circuit, which are not licenced, the PHV dispatch centre are licenced as PHV operators. As explained by the Law Commission, the rationale for licencing has to be found in the fact that *"their dispatch role is key to maintaining the distinction between taxis and private hire cars. Second, operators play an important role in enforcing private hire licensing requirements. They can only dispatch appropriately licensed vehicles and drivers, and there needs to be an incentive for them to ensure that regulatory requirements are met"*.¹⁶⁷⁶

In Scotland and Northern Ireland there are two kinds of PHV licence: a vehicle licence and a driver's licence. There is no requirement for a PHV operator's licence.

¹⁶⁷⁵ The Law Commission, *Taxis and Private Hire Services*, above, para 4.104, p. 74.

¹⁶⁷⁶ The Law Commission, *Taxis and Private Hire Services*, above, para 3.123, p. 43.

Under Section 46 of the Local Government (Miscellaneous Provisions) Act 1976, for bookings for transport in a PHV to be lawfully fulfilled, the operator, driver and vehicle must all be licensed by the same licensing authority. However, certain authorities issue a separate licence for PHV while other a single licence covering both taxi and PHV, which has the consequence that a taxi driver licence (obtained after passing the knowledge test) is required for PHV driver activity.

III.2 Procedures for issuing licenses and applicable criteria

Section 80 of the of The Local Government (Miscellaneous Provisions) Act 1976 defines the private hire car as: "*... a motor vehicle constructed or adapted to seat [fewer than nine passengers], other than a hackney carriage or public service vehicle [or a London cab] [or tramcar], which is provided for hire with the services of a driver for the purpose of carrying passengers*".

This definition specifically excludes taxis and buses but does not make any distinction between chauffeur-type services and conventional PHV services. As a general rule, any vehicle that seats up to eight passengers and is available for hire with a driver requires a private hire car (PHV) licence. It is the responsibility of the vehicle owner to apply for a licence.

III.2.1 England and Wales

As general rules in England and Wales, PHVs drivers and operators are only subject to licensing if a district council has adopted Part II of the 1976 Act or has similar provisions contained in a local Act. The legislation provides a broad framework for the licensing of drivers, vehicles and operators but the detail of how this is done, including standards and conditions, is the responsibility of individual councils.

Currently, the small public vehicles, such as vehicle up to 9 passengers providing services at fixed post and at separate fares or in rural areas are subject to different licence regime provided by the Public Passenger Vehicles Act 1981, s 1(1)(b). However, the boundaries between the PHV legislation and the public passenger vehicles is not clear and, in some cases, there may be the risk that operators may escape taxi or private hire licensing by virtue of being licensed as a public service vehicle.¹⁶⁷⁷

The private hire car sector (or minicabs, as called in London) in London is licensed under regulations made under the Private Hire cars (London) Act 1998, revised in 2004, and most recently in 2016.¹⁶⁷⁸ It applies to PHV operators, drivers and vehicles.

On the basis of the 1998 Private Hire cars (London) Act 1998, TfL has adopted, in 2016, three sets of Regulations:

¹⁶⁷⁷ The Law Commission, Taxis and Private Hire Services, above, para 4.68, p. 67.

¹⁶⁷⁸ House of Common, Briefing Paper, Taxi and private hire car licensing, March 2015.

- Private Hire cars (London PHV Licences) Regulations 2004, as amended by means of the Private Hire cars (London PHV Licences) (Amendment) Regulations 2016, which came into force on 27 June 2016;¹⁶⁷⁹
- Private Hire cars (London PHV Driver's Licences) Regulations 2003, as amended by means of the Private Hire cars (London PHV Driver's Licences) (Amendment) Regulations 2016, which came into force on 27 June 2016;¹⁶⁸⁰ and
- Private Hire cars (London) (Operators' Licences) Regulations 2000, as amended by means of the Private Hire cars (London) (Operators' licences) (Amendment) Regulations 2016, which came into force on 27 June 2016.¹⁶⁸¹

TfL requires the PHV drivers to:

- be at least 21 years of age;
- hold a full GB, NI or EEA driving licence that is at least three years old;
- have the right to live and work in the UK;
- be of good character (established through an 'enhanced' criminal records check);
- meet the Group 2 medical standards; and
- undertake a topographical skills assessment.

Section 3(5)(6) of the Private Hire cars (London) Act 1998 provides that a London PHV operator's licence shall be granted for five years or for a shorter period as the licensing authority may consider appropriate in the circumstances of the case.

Vehicles licensed as PHVs by TfL must be no older than five years and meet the Euro 4 standards for emissions at time of licensing (for new licenses) or be no older than 10 years at time of licensing (for existing licences).

For the operator licence, TfL, according to Section 3, shall grant the licence if the operator is a fit and proper person, and all the prescribed requirements including those relating to the operating centres are met.

III.2.2 Scotland

According Section 10 Civic Government (Scotland) Act 1982, in order to licence the vehicle, the local authority must be satisfied that the vehicle is fit for the purpose and it complies with the use as a taxi or private hire vehicle, as the case may be, it is safe for that use, and that there is in force in relation to the vehicle such a policy of insurance or such security as complies with Part VI of the Road Traffic Act 1972. Section 23 clarifies, however, that a licensed taxis may be occasionally used as hire car with driver, but it must be ensured that there is no confusion between the two activities.

With regard to the PHV's driver licence, Section 13 provides that a licence is not necessary if the driver has already obtained a taxi driver licence.

¹⁶⁷⁹ <http://content.tfl.gov.uk/phv-ammendment-regs-2016.pdf>.

¹⁶⁸⁰ <http://content.tfl.gov.uk/phd-ammendment-regs-2016.pdf>.

¹⁶⁸¹ <http://content.tfl.gov.uk/pho-ammendment-regs-2016.pdf>.

III.2.3 Northern Ireland

As indicated above, the reform in the Northern Ireland has created a one-tier licence system. Under Section 13 of the Taxi Act 2008 (Northern Ireland) PHV are taxis of category 3, only for pre-booked journey and in order to be licensed drivers, operators and vehicles must respect the same conditions for licences provided by the Taxi Act, which are prescribed for plying for hire or to carry passengers for hire or reward.

Section 1 of the amended Taxi Act 2008 provides that a licence for a taxi operator is necessary for the activity to operate a taxi dispatch centre or any activity in connection with a taxi stand or ply for hire or reward or for to carry passengers for hire or reward.

III.3 Technical requirements applicable to private hire cars

At national level, Section 80 of the Act 1976 provides that, in order to be considered for the licence, a vehicle must meet certain requirements.¹⁶⁸²

Section 48 of the Act 1976, requires that, before granting a licence for a vehicle to be used as PHV, the authority must be satisfied that the conditions of fitness are met and the external aspect of the vehicle does not create any confusion with the taxis.

For example, it is expressly required that the model of the PHV vehicle must not be an Austin FX4 or be of similar appearance, which is the vehicle model used for the London taxis. No distinctive signs must be added which may create confusion with the licensed taxis.

Section 71 of the Local Government Act 1976 provides that the PHV should not be equipped with taximeters unless there is a specific approval and test by the district council where the PHV licence was issued.

When a licence is granted, the licence plate issued by the Council must be fitted and displayed on the vehicle in accordance with the licensing conditions.

The detailed requirements for PHV vehicles set by Section 48 are:

- a) *The vehicle must be of a four door saloon or estate car type but does not include a convertible or soft-top vehicle.*
- b) *If fitted with a sun roof and the vehicle was first registered prior to 1 September 2009 it must not exceed 50% of the roof area.*
- c) *Must have an engine capacity of a minimum of 1300 cc.*
- d) *Must have a minimum seat width of 41 cm per passenger.*
- e) *Passengers must have clear access and egress from every seat for which the vehicle is licensed.*
- f) *Each seat to have a 3 point lap and diagonal seat belt*
- g) *It is a requirement that MOT tests are undertaken at 6 monthly intervals once a vehicle is over 4 years old. You will be expected to produce a certificate at the time of vehicle licensing/re-licensing and at an interval of 6 months thereafter. A vehicle under 4 years old is required to have an MOT test annually at licensing/re-*

¹⁶⁸² Private Hire Licensing Requirements And Conditions, Nov 2014.

licensing. When licensing/re-licensing a vehicle the MOT test certificate should be obtained no more than five working days prior to licensing application date.

- h) *Vehicles must meet or must have met European and UK vehicle safety standards at the time of manufacture”.*

In case of left hand drive vehicles they will not be licenced except for limousines, providing they have been inspected by the Driver and Vehicle Standards Agency and have an approval certificate issued for Single Vehicle approval, or, from October 2014, a certificate for Individual Vehicle Approval carried out to the normal inspection standard.

London

Section 8 Private Hire cars (London) Act 1998 places obligations on the owners of licensed vehicles, including the presentation of the vehicle for inspecting and testing as required, which may be up to three times in a 12 month period. Section 9 provides that an authorized officer may decide to inspect the vehicle at any time for the purpose of ascertaining its fitness.

Section 11 of Act 1998 provides that no PHV licensed vehicle PHV shall be equipped with a taximeter. The violation of the provision is a criminal offence. The PHV vehicle must have the disc or plate issued by the licensing authority which identifies that vehicle as a vehicle for which such a licence is in force (Section 10): *“No vehicle to which a London PHV licence relates shall be used as a private hire car on a road in London unless the disc or plate issued under this section is exhibited on the vehicle in such manner as may be prescribed”.*

Northern Ireland

On 2 December 2015, the Department of Transport made six Statutory Rules which will further implement the Taxis Act (Northern Ireland) 2008 and that will enter into force on 31 May 2016.

A new requirement for all current private hire and public hire taxis to fit and use a taximeter and printer. The regulations will also make provision for the Department to inspect, test and seal approved taximeters and printers and set out the maximum fare and additional charges associated with the hiring of taxis and provide for the display of fares and production of receipts.

III.4 Qualitative requirements

Drivers’ fitness requirements vary from each local council. As general rules, the driver must be 18 or 21 years hold, have passed a medical DVLA test, hold a driving licence, have the right to work in UK, not having committed criminal offences. Some licensing authorities require the applicant to pass a test, such as the topographic test in London. It has been noted that issues have arisen concerning the English knowledge of the drivers. Some users’ associations advocated for the English knowledge test for PHVs drivers,¹⁶⁸³ a suggestion which was recently picked up by the TfL.

¹⁶⁸³ <http://www.taxiuser.org.uk/taxi-standards>.

In London, under the amended Private Hire cars (London PHV Driver's Licences) (Amendment) Regulations 2016, starting from 1 October 2016, all new applicant and existing private hire drivers renewing their licences who are not from an English speaking country will be required to meet a new English language requirement.¹⁶⁸⁴ According to TfL, applicants will be required to present a valid English language certificate with a B1 level of English on the Common European Framework (CEFR) as part of their new or renewal licence application.¹⁶⁸⁵

III.5 Organisational requirements

The PHV activity requires the driver to be affiliated to a dispatch centre which must be licenced as PHV operator. PHV operators are only allowed to work with drivers and vehicles licensed in the same licensing area. This requirement is known as the '*triple lock*'. For example, an operator licensed in Rotherham can provide PHV transport to passengers starting and ending a journey in Sheffield so long as the booking is taken in Rotherham and the driver and vehicle are licensed in Rotherham.¹⁶⁸⁶

Most PHV drivers pay a flat fee to the operator for a given period, e.g. per week or half-week (so-called '*radio rent*') in order to receive bookings. For the operator's cash customers (i.e. those who pay by cash or card at the end of their journey), drivers then retain the fares collected. For account customers (i.e. those who pay on an invoice basis, e.g. corporate customers), the driver is paid a percentage commission for all such bookings fulfilled. Under some new business models, drivers do not pay a flat fee but rather pay a percentage of all fares collected to the relevant operator.

Section 56 Local Government (Miscellaneous Provisions) Act 1976 provides that the transport contract is deemed to be made with the operator who accepted the booking for that vehicle even if it is not the subject driving the vehicle.

One of the most discussed issues concerns the possibility for an PHV operator licensed by a local authority to use or to employ drivers and vehicles licensed by a district council other than that in which the operator is licensed.

*Dittah v Birmingham City Council*¹⁶⁸⁷ the Court concluded that the definition of a "licence" under the Local Government (Miscellaneous Provisions) Act 1976, which ties it to the controlled district where it was issued (under s 80(2) of the 1976 Act) combined with the requirement that operators only work with such "licensed" vehicles and drivers "...so as to require private hire operators licensed under s 55 of the Act to make use only of vehicles and drivers licensed by the council of the district by which the operators are licensed when operating in that controlled district".

On the other side, taxis do not need a special licence to work as PHVs and many taxis work as PHV outside the area of their licence (the so-called *cross-border hiring*), as established by the judgement *Stockton-on-Tees Borough Council v Fidler*¹⁶⁸⁸ where the

¹⁶⁸⁴ <http://content.tfl.gov.uk/phd-amendment-regs-2016.pdf>.

¹⁶⁸⁵ <https://tfl.gov.uk/info-for/taxis-and-private-hire/new-private-hire-regulations>.

¹⁶⁸⁶ CMA, Completed acquisition by Sheffield City Taxis Limited of certain assets and business of Mercury Taxis (Sheffield) Limited, ME/6548-15, 13 October 2015.

¹⁶⁸⁷ *Dittah v Birmingham City Council and Choudry v Birmingham City Council* [1993] R.T.R. 356.

¹⁶⁸⁸ *Stockton-on-Tees Borough Council v Fidler* [2010] EWHC 2430 (Admin); [2011] R.T.R. 23.

court decided that a taxi, wherever it is licensed, may be used as if it were a PHV without the need of any further licence. The reasoning was based on the interpretation of the Local Government (Miscellaneous Provisions) Act 1976, s. 80(1). This is a problem in many areas because there are disparities in conditions on licences; a prospective driver in one council district may apply to be licensed as a driver in another district because there are lower standards in driver testing, cheaper licence fees or less rigorous/fewer pre-licence checks.

When a taxi is being driven for PHV purposes in another district, the local council has no powers to intervene if the driver contravenes any condition of the licence or provides a poor service to the passenger. It is also unfair on the trade in the local area, as they may face competition from drivers who may have paid cheaper licence fees or undergone less rigorous checks elsewhere.¹⁶⁸⁹

In order to allow the possibility to make use of PHV vehicles and drivers from another area, the The Deregulation Bill 2015 amended the former provisions of the Local Government (Miscellaneous Provisions) Act 1976 related to permitted subcontracting of private hire car bookings to another operator licensed by the same authority. Clause 11 inserted two new sections (55A and 55B) into the Local Government (Miscellaneous Provisions) Act 1976 in relation to the sub-contracting of bookings from one private hire car operator to another. It applies in England and Wales, but not in London or in Plymouth where different legislation applies.

In the new section 55A, subsection (1) allows an operator who accepts a booking for a private hire car to sub-contract it to four types of operator: (a) an operator licensed and located in the same district as the initial operator; (b) an operator licensed and located in a different district from the initial operator (a different district but one which is still governed by the same legislation – in practice this means a district in England or Wales but outside London or Plymouth); (c) an operator licensed and located in London; or (d) a person located in Scotland. Scenario (a) constitutes a re-statement of existing law – it is already lawful for a private hire car operator to sub-contract a booking to another operator licensed in the same licensing district. Scenario (a) was included since it was not stated under the previous version of the Act and the amendments intended to make the law clearer and easier to follow.¹⁶⁹⁰

London

The most comprehensive bulk of regulation concerning the PHV operators' organizational requirements is the Private Hire cars London Regulations, as recently amended in 2016:

- 2000 Private Hire cars (London) (Operators' Licences) Regulations 2000 (2000 Regulations), as amended in 2016 (see *supra*);¹⁶⁹¹
- Private Hire cars (London PHV Driver's Licences) Regulations 2003 (2003 Regulations), as amended in 2016 (see *supra*);¹⁶⁹²
- Private Hire cars (London PHV Licences) Regulations 2004 (2004 Regulations), as amended in 2016 (see *supra*).¹⁶⁹³

¹⁶⁸⁹ Local Government Association: Taxi and PHV Licensing Councilors' Handbook (England and Wales),

http://www.local.gov.uk/documents/10180/6869714/L15-87+Councillor+Handbook+-+Taxi+and+PHV+Licensing_06.pdf/c73bec4b-cd31-4bcd-be2c-f5fe3e87b4f4.

¹⁶⁹⁰ Explanatory note to Clause 11, Deregulation Bill.

¹⁶⁹¹ <http://content.tfl.gov.uk/phv-amendment-regs-2016.pdf>.

¹⁶⁹² <http://content.tfl.gov.uk/phd-amendment-regs-2016.pdf>.

The Private Hire cars (London) Act 1998 (1998 Act), the primary legislation governing private hire services in London, introduced the licencing of private hire operators, drivers and vehicles in London and it was followed by the abovementioned Regulations, which were revised in June 2016.

There are two types of operator's licence and both are normally granted for five years:

- 'Small' – the operator is unable to make use of any more than two vehicles at any time; and
- 'Standard' – the operator is able to make use of multiple vehicles.

Since the introduction of licensing, it has been an offence to make provision for the invitation or acceptance of, or accept, private hire bookings without an operator's licence and bookings must be accepted at a licensed operating centre within London. Operators can have one or more licensed operating centre(s) but must keep records of bookings, complaints and lost property at their licensed centre along with details of drivers and vehicles that are used to fulfil bookings. This includes retaining up to date copies of all documents that prove a driver and vehicle are licensed for private hire transport, copies of their DVLA driving licence and proof of valid hire and reward insurance. These records must be available for inspection by TfL staff.

In addition, under the revised Private Hire car (London) (Operators' Licences) (Amendment) Regulations of 2016, as of 27 June 2016 for new applicants and as of 1 October 2016 for existing licencees, private hire operators must provide a booking confirmation to a passenger before their journey starts. Indeed, Regulation 9(3) as recently amended, provides that before the start of each journey, the operator must agree the fare with the person booking the service or provide for an accurate estimate of the fare. TfL shall establish what constitutes an "accurate estimate".

In addition, before the start of each journey, the operator shall provide to the passenger particulars of the driver and the vehicle carrying out that booking. TfL shall specify from time to time the details of the confirmation. Additionally, at all times during the operator's hours of business and at all times during a journey, the operator shall ensure that the passenger is able to speak to someone in order to make a complaint or discuss any other matter concerning the booking. Finally, the operator shall provide to the licencing authority such particulars of drivers and PHV vehicles as may be specified by the licencing authority from time to time.¹⁶⁹⁴

TfL has interpreted these to mean that the booking confirmation must contain as a minimum: the vehicle registration mark; the first name of the driver; the driver's private hire licence number; the driver phone number; the details of the operating center which may be contacted during the journey.

In addition, PHV operators must ensure that passengers are able to verbally speak to someone if they want to file a complaint or discuss any other matter about their booking, at all times during the operator's business hours and at all times during the trip. The person must be someone other than the driver.

¹⁶⁹³ <http://content.tfl.gov.uk/pho-amendment-regs-2016.pdf>.

¹⁶⁹⁴ See Regulations 9(10) to 9(12) as added by Private Hire car (London) (Operators' Licences) (Amendment) Regulations of 2016.

Finally, operators will inform TfL about the details of the drivers and vehicles, and must keep records on bookings, drivers and vehicles, as well as complaints and lost property, for 12 months.¹⁶⁹⁵

Finally, two additional organizational requirements were introduced by means of the 2016 Amendments to the Private Hire cars (London PHV Licences) Regulations 2004:

- The vehicle must be insured to carry passengers for hire or reward at all times for the duration of the licence (including when the vehicle is not in use as a private hire car). New applicants must fulfill this criterion as of 27 June 2016, whereas existing licencees are expected to comply by July 2016. Failing this, a revocation of the vehicle licence may occur. Additionally, details of a London private hire car's insurance must be displayed in the vehicle at all times for the duration of the licence (either by placing the insurance details on the glovebox or by displaying them in the vehicle. A provision of such details verbally is not sufficient).
- Signs or advertising material must not be displayed from, in or on a private hire car unless they are exempt or approved by TfL.¹⁶⁹⁶

Separate fares

Similarly than for taxis, also PHVs may be booked in advance at separate fares up to 8 passengers (Section 11, Transport Act 1985): licensed taxis and PHVs can provide a service at separate fares for up to eight passengers sharing the vehicle. The operator takes the initiative to match up passengers who book in advance and agree to share the vehicle at separate fares (lower than for a single hiring).

III.6 Passenger rights

Equality Act 2010 also applies to PHVs if they decide to be fully accessible. However, differently from taxis, the PHVs have no obligations to be fully accessible.

The Department for Transport has issued guidelines which include passenger rights for taxis and PHVs. In case of PHVs, the driver will:

- o Ensure that the passenger has pre-booked and agrees the fare before setting off.
- o Drive with due care and courtesy towards the passenger and other road users.
- o Take the most time-efficient route, bearing in mind likely traffic problems and known diversions, and explain any diversion from the most direct route.¹⁶⁹⁷

III.7 Labour rules

General regulation on employer and self-employers applies. However, in some cases, the PHV drivers' status is not fully clear and issues have arisen concerning the fact that the PHV driver should be entitled to some form of employment protection.

¹⁶⁹⁵ <https://tfl.gov.uk/info-for/taxis-and-private-hire/new-private-hire-regulations>.

¹⁶⁹⁶ See addition to Schedule 2 of the 2004 Regulation, as done by the 2016 Amendment Regulations to the 2004 PHV (London PhV Licences) Regulations.

¹⁶⁹⁷ Department for Transport, TAXI AND PRIVATE HIRE CAR LICENSING: BEST PRACTICE GUIDANCE (2010), https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/212554/taxi-private-hire-licensing-guide.pdf.

In July 2016, two test cases were brought to the Central London Employment Tribunal to determine if Uber acted unlawfully by not providing its drivers with “basic workers’ rights”, such as holiday pay and a national minimum wage. The test cases followed previous hearings brought by drivers and trade unions against Uber.¹⁶⁹⁸ The main point concerned the net earnings of the affiliated driver: according to the claim, a driver was paid £5.03 an hour for the 234 hours he worked in August 2015. After costs and fees were deducted, his net hourly pay was £1.47 below the national minimum wage. The driver paid £2.65 per hour to Uber.

Other claims regarded the issue of whether the affiliated drivers were employed or self-employed, also on the basis of the fact that Uber requires drivers to follow particular routes; and it uses a ratings system to assess performance.¹⁶⁹⁹

III.8 Local incentives, subsidies provided by the administration in order to carry out certain services (*such as mini-van service for people with reduced mobility, elderly, schools*)

There are no specific provisions for PHVs which carry out certain services, in particular demand responsive transport services. PHVs vehicles may be used in rural areas to cover certain social needs, such as school transport or on-demand transport. However, the organization of these services and the public support depends from local municipality and it must be licensed as small public service vehicle under the Public Passenger Vehicles Act 1981, s 1(1)(b).

III.9 Supervisory enforcement tools

Under the Private Hire cars (London) Act 1998, an operator’s licence may be suspended or revoked for any reasonable cause including that the Licensing Authority is no longer satisfied that the licence holder is fit to hold such a licence or where the licence holder has failed to comply with any condition of the licence or other obligation imposed on him under the 1998 Act.

Where the Licensing Authority has decided to suspend or revoke a PHV operator’s licence, notice of that decision will be made to the licence holder and the suspension or the revocation of the licence takes effect 21 days from the date of the service of the notice to the licence holder. In the interest of public safety, the Licensing Authority may decide to suspend or revoke a PHV operator’s licence with immediate effect. Where this is the case, the Licensing Authority will include a statement of this in the decision letter and the reasons for the immediacy of the decision.

The suspension or revocation of the licence then takes effect when the notice is served on the licence holder. A licence holder whose PHV operator’s licence has been suspended or revoked may appeal to the Magistrates’ Court within the 21 day period against the decision to suspend or revoke the licence. With the exception of an immediate suspension or revocation of a PHV operator’s licence, where a licence holder whose PHV operator’s licence has been suspended or revoked exercises his right of appeal, the decision to suspend or revoke the licence will not be effective until the time for the appeal has lapsed, the appeal has been dismissed or withdrawn.¹⁷⁰⁰

¹⁶⁹⁸ <http://www.gmb.org.uk/newsroom/gmb-tribunal-for-workers-rights-at-uber>.

¹⁶⁹⁹ http://www.theregister.co.uk/2016/07/20/uber_uk_employment_tribunal/.

¹⁷⁰⁰ <http://content.tfl.gov.uk/private-hire-operators-abstract-of-laws.pdf>.

According to LGA Taxi and PHV Licensing Councillors' Handbook¹⁷⁰¹ *All councils should have a robust system for recording complaints, including analysing trends across the whole system as well as complaints against individual drivers. Drivers with a high number of complaints made against them should be contacted by the council and concerns raised with the driver and operator (if appropriate). Further action must be determined by the council, which could include no further action, the offer of training, a formal review of the licence, or formal enforcement action. The licensing committee should review the complaints procedure and records on at least a yearly basis, and always before a review of the licensing policy. The committee should also have oversight of the council's 'mystery shopping' and test purchasing checks on licensed vehicles to ensure that the council is properly carrying out its enforcement responsibilities.*

IV. Legal framework applicable to ridesharing and car sharing

Ridesharing, where only running costs are recovered and there is no element of commercial advantage, is not regulated. The participation in a community car scheme, or in any other form of car sharing, is subject to the normal rules and regulations which govern private motoring as well as being an exempted form of public transport operation.¹⁷⁰²

IV.1 Current regulations and legislative proposals

In May 2012, the Law Commission published a consultation paper seeking views on a number of proposed reforms to how taxis and PHVs operate, designed broadly to deregulate the industry.¹⁷⁰³ The Commission published its final report and a draft bill on 23 May 2014. The main recommendations in the report were as follows:¹⁷⁰⁴

- Retention of the two tier system that distinguishes between taxis and PHVs;
- Significant changes to the legal distinction between taxis and PHVs on the grounds that the current system relies heavily on the imprecise concept of 'plying for hire', which is not defined in statute and has become the subject of a body of case-law that is not wholly consistent;
- Freeing up cross-border working for PHVs;
- A single consolidated legislative framework throughout England and Wales, including London, and applying to any vehicle carrying one or more passengers, where the vehicle and driver have been hired for that purpose, excluding transport provided as part of a wider service (e.g. hotel courtesy cars or by carers) and transport provided in connection with weddings and funerals. Stretch limousines, pedicabs and other novelty vehicles would be brought within private hire regulation;
- Common national standards for vehicles, drivers and dispatchers;
- New criminal offences;
- Controls on transferability of licence plates in areas introducing new quantity restrictions;
- Improved equality and accessibility;
- Enhanced powers for licensing officers;
- A uniform hearings and appeals system involving a standardised procedure for statutory appeals across England and Wales (including London).

IV.2 Main operators and their business models

¹⁷⁰¹ http://www.local.gov.uk/documents/10180/6869714/L15-87+Councillor+Handbook+-+Taxi+and+PHV+Licensing_06.pdf/c73bec4b-cd31-4bcd-be2c-f5fe3e87b4f4.

¹⁷⁰² Information from the UK Community Transport Association Website:

http://www.ctauk.org/UserFiles/Documents/AdviceInformation/Car_Schemes_and_The_Law.pdf.

¹⁷⁰³ Law Commission, Reforming the law of taxi and private hire services: summary, May 2012.

¹⁷⁰⁴ Briefing paper, SN02005, 5 August 2015 Taxi and private hire car licensing.

BlaBlaCar is the world's largest long-distance ridesharing community, connecting people seeking to travel with drivers going the same way. They travel together and share the cost of the journey. The average journey is about 340 kilometers. BlaBlaCar drivers are only splitting the costs of a journey; they do not make a profit. The average cost-contribution suggested on BlaBlaCar is around EUR6 cents/km/passenger, which is at least 20 times less than the price paid for on-demand taxi-like service. Cost-sharing is strictly enforced by the BlaBlaCar platform through terms & conditions, recommended fares, maximum fare capped, limited number of seats that can be offered, and an 80-people Member Relations Team monitoring member interactions and ensuring that cost-sharing is enforced.

Liftshare was the first car sharing system provider in the UK and after 17 years in business remains the largest. Providing both public and private sector organisations with innovative technology which allows them to monitor and reduce their carbon footprint, make the best use of parking facilities, achieve sustainable travel plan targets and provide staff with a cost effective and environmentally friendly way of getting to work. Liftshare.com won a 2012 Eurostar Ashden Award for Sustainable Travel for its achievements in providing free access to a car sharing opportunity for everyone who wants one through its on-line database and tailored corporate lift share schemes.

IV.4 Requirements imposed upon non-licensed activities (*safety and technical requirements, insurance requirements, obligations relating to licences and on-line platforms*)

There are no requirements or conditions for non-licensed activities.

IV.5 Local incentives, subsidies and other forms of promotion for ridesharing and car sharing (*including, parking spots, use of preferential lanes, etc.*)

Some initiatives have been adopted at national level concerning the ridesharing without commercial advantage and for the development of car sharing (and bike sharing) in the urban areas.

➤ *Ridesharing*

In order to encourage ridesharing, a national website, National CarShare UK¹⁷⁰⁵, was created in September 1998, which may be used also by employers to organize common shifts and which intends to amalgamate the sharing schemes run by individual companies. National CarShare facilitates the practice of car sharing for:

- part time workers;
- shift workers;
- tele workers and those with irregular work patterns;
- those with "traditional" 9 to 5 jobs as well;
- people who do not own a car;
- people in rural or remote areas.

The person interested in ridesharing as driver or passenger must register on the website and the service matches the demand and supply.

¹⁷⁰⁵ http://www.nationalcarshare.co.uk/ncs/how_it_works.

➤ *Car sharing*

With regard to car sharing, Great Britain has one of the most dynamic growth in car sharing in recent years¹⁷⁰⁶. Modern car sharing began in March 1999 with the Edinburgh City Car Club (ERC 2007, p. 2). The service was established through grant funding of £250,000 from the city of Edinburgh, the British Ministry of Transport and the Scottish government.¹⁷⁰⁷ Currently 10 large commercial and 2 smaller car sharing providers are listed on the website of Carplus, a national non-profit organization that promotes responsible car use.¹⁷⁰⁸ Carplus has created an accreditation scheme which has been set up for the benefit of public bodies, and it was designed with their input. The aim is to provide a tool for organizations that helps to assess operators when deciding who should be invited to submit proposals, supported or chosen for a contract. The scheme is valuable for local authorities who are increasingly supporting car clubs with funding and provision of on-street parking. Carplus and Bikeplus provide technical support, best practice guidance and practical advice to car club and bike share operators, community groups, local authorities and transport authorities to assist in setting up and developing shared transport schemes.

V. Relevant national case law

- *Bristol Branch of the National Taxi Association and FIRST GREATER WESTERN LIMITED (April 2013) [2013] EWHC 1485 (Ch)*

The core issue in this case is whether the defendant, First Greater Western Limited ("FGW") - as the private lessee and station franchise operator of railway premises, namely Bristol Temple Meads ("BTM"), within which are located taxis stands fixed by local byelaws ("the taxi byelaws") - is lawfully entitled to introduce and enforce a permit scheme. This permit scheme requires taxi drivers to pay an annual fee of £ 400 for the privilege or opportunity of plying for hire from within the station forecourt or for standing for hire at those prescribed taxi stands, as well as requiring them to conform to certain standards of conduct whilst at BTM, on pain of having their permit revoked. The scheme, which came into practical effect on 1 March 2012, does not prevent (1) licensed taxi drivers without permits or PHVs from dropping off passengers at the station entrance; or (2) PHVs from picking up passengers who had pre-booked a private hire car to pick them up from the forecourt at Bristol Temple Meads.

The High Court considered that the permit scheme was lawful and justified and that was enforceable by injunction. The High court clarified that the position as private landowner, with power to control those who came on to its land, justified and rendered lawful the permit scheme. Moreover, the scheme was proportionate and included in a plan to ameliorate the traffic congestion and improve the station layout and the fees was appropriate considering that the taxis earning up to £24,500 a year at the station area and therefore, no prejudice could exist.

- *TfL v Uber & Others*¹⁷⁰⁹

Transport for London ('TfL') sought clarity from the High Court as to whether the Uber app constitutes a 'taximeter' which, if answered in the affirmative, would put Uber in

¹⁷⁰⁶ The State of European Car-Sharing Final Report D 2.4 Work Package 2, Intelligent Energy Europe, Grant agreement No.: IEE/07/696/SI2.499387. http://www.eltis.org/sites/eltis/files/tool/the_state_of_carsharing_europe.pdf.

¹⁷⁰⁷ The State of European Car-Sharing, p. 11.

¹⁷⁰⁸ <http://www.carplus.org.uk/about/car-club-accreditation/>.

¹⁷⁰⁹ <http://www.ashfords.co.uk/uber-wins-high-court-case/>.

breach of s11(1) of the Private Hire cars (London) Act 1998 ('the Act') which bans all private hire cars from being equipped with taximeters.

Taxi drivers had argued that the use of a smartphone to track a journey using GPS signals and subsequently using that data to calculate the cost of that journey deemed the smart phone a 'device used for calculating the cost of a journey' and satisfied the definition of 'taximeter'.

- *Berwick-upon-Tweed Borough Council (November 2008) [2008] EWHC 2369 (Admin)*¹⁷¹⁰

The Court considered that a licensing authority when deciding to issue a taxi licence in the proper exercise of its statutory discretion under section 37 of the Town Police Clauses Act 1847, is obliged to have regard to: (a) whether the applicant intends that the taxi if licensed will be used to ply for hire within the area of that authority, and (b) whether the applicant intends that the taxi will be used (either entirely or predominantly) for private hire remotely from the area of that authority. The licence authority may refuse to grant a licence in respect of a taxi that is not intended to be used to ply for hire within its area and/or is intended to be used (either entirely or predominantly) for private hire remotely from the area of that authority.

- *Benson v Boyce*¹⁷¹¹

The driver of a private hire car must hold the relevant driver's licence whether or not the vehicle is engaged on hire and reward.

- *Brentwood Borough Council v Gladen*¹⁷¹²

Hackney Carriages undertaking private hire work do not need an operator's licence under the LG(MP) Act 1976.

VI. Country Market

The market for hire cars in the United Kingdom has been the fastest-growing transport sector over the last 25 years. Turnover has risen 43% in real terms since 1994. Usage is higher among people in lower income groups, and disabled people.¹⁷¹³ Taxi and private hire sectors are also an important part of the British economy. In 2012, UK households spent about £2.7 billion on taxi and private hire journeys.

Market definition

In all the three jurisdictions, the activity of carrying passengers in a vehicle hired together with a driver is shared by taxi and private hire services. Taxis can pick passengers up at ranks and be hailed. In legal terms, these activities are currently referred to as "plying for hire" and only taxis can engage with passengers in these ways. Private hire cars, on the other hand, can only be pre-booked through a licensed operator, and are not allowed to "ply for hire". The regulatory distinction between taxi and private hire services both reflects and creates different markets. The relevant exception is the Northern Ireland when after the entry into force of the new reform; the PHVs are allowed to ply for hire with the exception of certain hours.

¹⁷¹⁰ <http://www.bailii.org/ew/cases/EWHC/Admin/2008/2369.html>.

¹⁷¹¹ <http://www.bailii.org/ew/cases/EWHC/Admin/1997/35.html>.

¹⁷¹² <http://www.bailii.org/ew/cases/EWHC/Admin/2004/2500.html>.

¹⁷¹³ The Law Commission, *Taxis and Private Hire Services*, above, para 1.1., p. 1.

Geographical definition

Taxis are allowed to “hail and rank” only in their licensing area. In general, the licensing area covers the metropolitan area of the city, however some licensing authorities are imposing conditions and limitations to the licence, restricting the catchment area. This may happen when the licensing authority is not satisfied that the applicant has an adequate knowledge of any part or parts of the area therefore prohibiting the licence holder from plying from hire in such areas.

The pre-booked segment is wider than a metropolitan area. Under the triple lock licence requirement, private hire operators are licensed within a district and must use only vehicles and drivers licensed by the same local authority which granted their operator licence. However, as clarified by the CMA in the Sheffield City Taxi Limited, PHV operators are allowed to accept bookings for journeys which go beyond the district or which are wholly outside the district. The Deregulation Act 2015, which applies to England and Wales with the exception of London and Plymouth, allows a PHV operator to sub-contract a PHV booking to another operator who is licensed in a different licensing district outside London or based in London or in Scotland.

Airports are not separate markets but the management company may apply conditions for the access to the airport area. The London licensed drivers are permitted to work anywhere in London, including central London and Heathrow Airport Cab drivers will have to register to work at the airport via the Heathrow Airport Licensed Taxis organization and pay an entry fee at the Taxi Feeder Park (TFP Levy). The levy is paid to the Heathrow Airport Licensed Taxis Limited (HALT). The right of HALT to raise funds for the provision of taxi information desks through the TFP Levy was established by the Competition Commission (CC) and the Civil Aviation Authority (CAA) in 2003, and was endorsed by such bodies as Unite (T&G), Licensed Taxi Drivers Association (LTDA) London Taxi Drivers Club (LCDC) and Heathrow Airport Consultative Committee (HACC).

Private hire car are allowed to pick up passengers at the airport only if pre-booked, but they can always drop off their passengers.

VII. Market players

The total number of licensed taxi and private hire cars in England reached record levels in 2015 according to the statistics published by the Department for Transport.¹⁷¹⁴ Total licensed vehicle numbers increased by 9.3% to 242,200 since 2013, the highest number since comparable records were first collected in 2005. In 2015, 69% of all licensed vehicles in England were private hire cars. Taxis are one third, (76,100) of all the licensed vehicles. Licensed vehicles in London accounted for 35% of all licensed vehicles in England and Wales.

There were 297,600 driver licences in 2015, 12,400 more than in 2013. The total number increased by 9.3% from 2013, a similar rate of increase seen between 2007 and 2009 (before the economic downturn). Overall, there has been a 31.2% increase in licensed vehicles since 2005.

¹⁷¹⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/456733/taxi-private-hire-vehicles-statistics-2015.pdf

Economic conditions and local licensing policies influence the number of licensed vehicles with considerable variation between areas. Since 2013, around two thirds of licensing authorities recorded an increase in vehicle numbers. There were 76,100 licensed taxis in 2015, a 4.2% increase from 2013 and a continuation of the long term increase in the number of taxis in England. A 1.5% increase occurred in London and a 5.3% increase in England outside London.

The number of licensed PHV operators decreased by 3.6% to 14,800 in 2015, and a 10.3% decline from the peak in PHV operators at 16,500 in 2009. PHV operators declined by 4.8% to 3,000 operators in London and by 3.3% to 11,800 operators in England outside London.

Wheelchair accessible taxis In England 58% of all taxis were wheelchair accessible in 2015, a small decline (2 percentage points) from 2013. However, the proportion of wheelchair accessible vehicles has remained similar across the last decade. All 22,500 London taxis were wheelchair accessible as required by Transport for London's 'Conditions for Fitness' taxi licensing policy. In England outside London, metropolitan areas had 84% wheelchair accessible taxis with a substantial decline in the proportion of accessible taxis in other urban (36%) and rural areas (13%) as shown in chart 3. Some 175 authorities (61%) required wheelchair accessible vehicles in all or part of their taxi fleet.

Taxis

Among the largest radio taxis (apps) there is **Gett**. Gett is a go-to app for instantly booking (electronic hailing) a licensed Black Cab. The application is available in London, Manchester, Liverpool, Birmingham, Edinburgh, Glasgow and other 20 UK cities. The company not only offers the possibility to e-hailing a taxi via a smartphones but it also owes "kiosk" in London. Kiosk is designed for hotels, restaurants, clubs, shopping malls and business offices where a taxi may be ordered with the tap of a button. It also provides a business service (Gett for Business). It claims a growth rate in UK of 300% a year and more than 50,000 taxis worldwide running with this technology. As indicated by CMA, taxi drivers registered with Gett could be independent or drivers which operate for other taxi operators.¹⁷¹⁵

Hailo (Mytaxi) is a mobile phone app which allows passengers to virtually hail a cab. It works in London, Leeds, Manchester, and Liverpool.

Private hire car

The largest operator in the Greater London area is **Addison Lee** plc, with 9.5% of the UK market, followed by **ComfortDelGro Corporation** (which runs Computer Cab in London, Liverpool and Scotland) with 6.4%. A London taxi company, the **Radio Taxis Group**, has 2.6%. Significant operators in the north and north east, for example include **Delta Taxis and Blueline**.

Name	UK Market Share	Area of operation
Addison Lee	9.5%	London
ComfortDelGro Corp	6.4%	London, Liverpool and Scotland
Radio Taxis Group	2.6%	London

Table 1

¹⁷¹⁵ CMA p.20.

Major Private Hire/minicab companies within the UK (Law Commission, 2012)

Uber is a large, international supplier of private hire transport services, with a well-established brand in several countries, and is present in several other cities in the UK, including London, Birmingham, Leeds, Manchester, Bristol, Newcastle and Liverpool/Merseyside. According to the CMA Uber has already successfully entered several UK cities, gaining a large market share [% undisclosed] from incumbent operators in at least two of those cities. Interestingly, CMA has noted that both Uber and Gett (in case of hackneys), with reference to the Sheffield market, "*are likely to expand further and that these operators will compete closely with the Parties for customers for whom scale, fast response times and geographic coverage are important. Uber and Gett may not be a credible alternative to the merged entity for customers that are reluctant to use apps for their bookings but, overall, particularly as these firms look to expand, they are likely to impose a considerable constraint on the Parties*".

VIII. Barriers, limitations, incentives

➤ **Taxi sector**

As general rules, local authorities in all the three jurisdictions (England and Wales, Scotland, Northern Ireland) currently have the power to restrict the number of taxis licensed in their area.

This power can only be exercised where it can be shown that there is "no significant unmet demand" for taxis in the area. PHVs also require vehicle licences issued by licensing authorities, but this number is not typically restricted:

- *England and Wales outside London*: a licensing authority can limit the number of taxi licences it issues. If a licensing authority wishes to limit the number of taxis in its area, it must satisfy itself that there is "*no significant demand for the services of [taxis within its licensing area] which is unmet*". To meet this requirement, those district councils that limit taxi numbers carry out 'unmet demand surveys'. For example, Sheffield City Council has limited the number of its hackney licences to 857.¹⁷¹⁶ Limited numbers exist in Birmingham, Bradford, Bristol, Cardiff, Leeds, Liverpool, Manchester, and Newcastle. The law does not place any requirements on licensing authorities wishing to remove limits on taxi numbers; they may remove it at any time.
- *London*: there is no quantitative restriction of taxis as TfL does not have any express power to limit the number of taxi vehicle licences.
- *Scotland*: under primary legislation: the grant of a taxi licence may be refused by a licensing authority with the scope of limiting the number of taxis in respect of which licences are granted by them if, but only if, they are satisfied that there is no significant demand for taxis in their area which is unmet.
- *Northern Ireland*: there is no quantity regulation of taxis, as the Department of the Environment does not have the power to refuse taxi vehicle licences in order to restrict taxi numbers.

The Study carried out by the OFT (now CMA) in 2003 on the taxis sector recommended to remove the legislative provisions that allow the licensing authority to restrict the number of taxis.

¹⁷¹⁶ CMA decision, para 30.

Although London has no limits on taxi vehicle numbers, the general view is that the stringent knowledge tests imposed on London taxi drivers, together with the high cost of purchasing a vehicle which satisfies the London Conditions of Fitness, constitute a significant barrier to entry to the market. In addition, TfL has set licensing policies which directly relate to the control of taxi numbers. For example, in 2011, Transport for London gave notice that it would no longer process new applications for suburban licenses in some areas due to significant increases in numbers and long waiting lists for licences.

With regard to the driver licensing policies and driver licensing renewal:

- 132 of 291 authorities (45%) required taxi drivers to be licensed every year and 79 authorities (27%) licensed every three years;
- 45% of authorities required PHV drivers to be licensed every year (131 out of 292) and 79 authorities (27%) every three years.

Disability training requirement:

- 34% of authorities (99) required disability awareness training for taxi drivers;
- 29% of authorities (86) had a requirement for PHV drivers.¹⁷¹⁷

With regard to qualitative barriers, the most relevant is the London Knowledge test. In 2014, the number of people studying for the Knowledge fell from 3,326 in 2012 to 2,159 in 2014. The training takes three up to four years and has high costs. This, combined with the fact that only between 25% and 40% of the applicants are licensed every year, provides an estimate of the difficulty to enter the profession in London. Other local councils are less selective with the knowledge test and provide a single licence valid both for taxis and PHVs.

According to the Law Commission, one obstacle is the difference among the standard setting decided by the local authorities. Standards for taxi and private hire car drivers and for private hire operators are set by local authorities, which are responsible for the administration of the licensing system. This leads to substantial regional variation, even in such critical areas as the treatment of past criminal convictions and medical conditions. It can have a very restrictive effect on business, by making it difficult to be licensed in more than one area as a means of expanding one's business.¹⁷¹⁸

➤ **Private hire cars**

Barriers are lower for PHVs than for taxis. A driver licence is required but the exam is less difficult in case of PHV-only driving licence. This may explain why in England and Wales, in the last years, the number of PHVs drivers and vehicles has increased and in 2015, 69% of all licensed vehicles in England were private hire cars.

The triple lock, i.e. the requirement that driver, vehicle and operator are all licensed by the same authority, creates difficulties in the inter-municipality or cross border service. As noted by the Law Commission, this requirement facilitates enforcement since it can provide licensing officers with a better knowledge of the private hire drivers and vehicles working in their area. However, at the same time, it restricts competition as it artificially restricts the pool of drivers and vehicles the operators may work with.¹⁷¹⁹

¹⁷¹⁷ [Taxi private hire vehicles statistics - 2015](#).

¹⁷¹⁸ The Law Commission, Taxis and Private Hire Services, above, para 1.32, p.7.

¹⁷¹⁹ The Law Commission, Taxis and Private Hire Services, above, para 7.68, p.115.

Similarly, the activity of PHV operator can be sub-contracted only between operators within the same licensing area (except for London licensed operators, who may subcontract anywhere) and the operator can invite and accept bookings within that licensing area only. These requirements prevent the operators from expanding their business in neighboring areas and also make it difficult to work with the internet bookings, thus reducing the possibility for the operators to provide additional service outside their licensing area.

IX. Capacity, growth, impact

England and Wales

At the end of March 2015: the total number of licensed taxi and private hire cars in England increased by 9.3% to 242,200 between 2013 and 2015. This was the highest number of licensed vehicles since comparable records were first collected in 2005:

- 69% of all licensed vehicles in England were private hire cars;
- 35% of the total number of licensed taxis and private hire cars in England were in London;
- an estimated 58% of licensed taxis are wheelchair accessible, this was 100% of taxis in London;
- there were 297,600 taxi or private hire car driver licences in England, 12,400 more than in 2013;
- 55% of licences were private hire car only, 21% taxi only and the remaining 24% dual licences.

Economic conditions and local licensing policies influence the number of licensed vehicles with considerable variation between areas. Since 2013, around two thirds of licensing authorities recorded an increase in vehicle numbers. There were 76,100 licensed taxis in 2015 - a 4.2% increase from 2013. This was also in line with the trend of long term increase in the number of taxis in England. A 1.5% increase occurred in London and a 5.3% increase in England outside London.

- *Number of licensed taxis and private hire cars per 1,000 people by urban/rural classification, England 2015*

In 2015, there were on average 4.5 licensed taxi and private hire cars per 1,000 people in England. The number of licensed vehicles per 1,000 people decreases as areas became more rural. In London there were 10 licensed vehicles per 1,000 people, more than double the national average, with 7.3 licensed PHVs and 2.6 licensed taxis per 1,000 people.

Overall there were 297,600 taxi-only, PHV-only and dual driver licences in England, over 12,400 (4.3%) more than in 2013. Of the total, 55% had PHV-only licences, 21% taxi-only licences and 24% had dual taxi/PHV licences, all similar proportions to 2013.

London accounted for the majority of the increase in the number of driver licences, with a 12.3% increase of 11,400 driver licences to 103,900 since 2013. PHV-only driver licences increased by 17.5%. The number of taxi-only driver licences decreased by 1.3% from 2013.

In England outside London, the total number of driver licences increased by 0.5%.

➤ *Per licensing authority*

The number of total licensed vehicles increased in 193 out of 293 licensing authorities in England. These areas accounted for 81% of all licensed vehicles. Taxi vehicles increased in 144 areas accounting for 66% of all vehicles. Private hire cars increased in 177 authorities, which accounted for 81% of all PHV.

The total number of licensed drivers increased in 153 out of 293 licensing authorities in England, covering 72% of all licensed drivers. The number of taxi-only driver licences increased in 46 out of 154 areas accounting for 75% of all taxi driver licences. The number of PHV licensed drivers increased in 95 out of 196 areas which accounted for 77% of all PHV drivers. The number of dual driver licences increased in 110 out of 221 areas accounting for 57% all dual licence drivers. Rossendale Borough Council had the greatest increase in both total licensed vehicles and driver licences in England. This is likely due to the fact that although taxis can only be driven by drivers licensed by Rossendale Council, once a vehicle becomes a licensed taxi, the law allows it to accept pre-bookings in any district in England and Wales.

Passenger satisfaction

The Department for Transport collects data on the number of licensed vehicles, drivers and private hire operators. The National Highways and Transport Public Satisfaction Survey collects public perspectives on, and satisfaction with, highway and transportation services on behalf of several local authorities to inform performance management and local transport plans. On average, in the areas surveyed in England in 2015, the overall public satisfaction with taxi and PHV was 68%, similar to previous years.

Rural areas tended to have the lowest overall satisfaction and in 2014 the average satisfaction was 5 percentage points below the England average. In London, overall satisfaction with taxis and PHVs increased from 67% to 69% between 2009 and 2014.

➤ **PHVs**

The number of licensed PHV operators decreased by 3.6% to 14,800 in 2015, and declined by a 10.3% from the peak in PHV operators at 16,500 in 2009. PHV operators declined by 4.8% to 3,000 operators in London and by 3.3% to 11,800 operators in England outside London.

These statistics cover licensed private hire car operators in England and Wales. This includes PHV operators, such as Uber, and enlisted drivers who use that app-based technology.

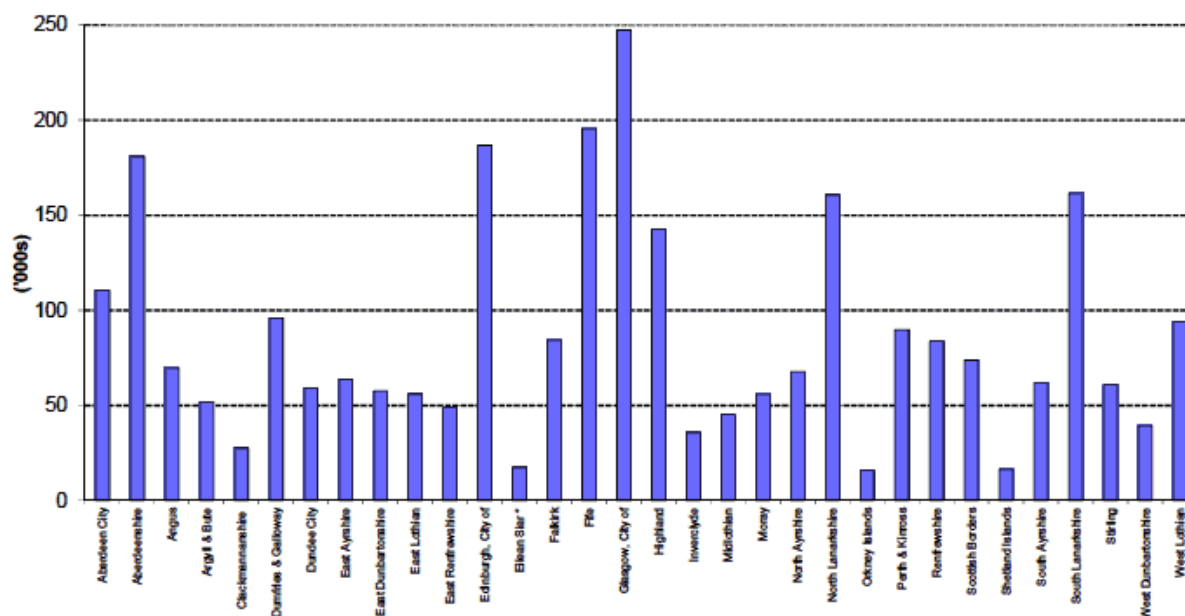
Scotland

➤ **Taxis and PHV**

In 2014, there were 10,500 taxis and 10,000 private hire cars licensed in Scotland based on figures provided by Scottish local licensing authorities during July-August 2014. These show a small decrease in the number of licensed taxis and a small increase in the

number of private hire cars when compared to figures for 2013. Latest figures show that, of the 10,500 licensed taxis, just under 5,000 (47%) are wheelchair accessible, a 3% increase in the overall proportion and a 5% increase in the total number of accessible vehicles from the previous year. The proportion of wheelchair accessible vehicles varies across different Authority areas.

Number of licensed vehicles at December 2013 by Council.



Source: Scottish Government - National Statistics

Council	Taxi vehicles	Private hire cars	Total	Taxi driver licenses	Private hire licences	Total	Wheelchair accessible taxis	Wheelchair accessible private hire cars
Aberdeen City	1,049	276	1,325	1,557	8	1,565	480	-
Aberdeenshire	488	277	765	1,751	102	1,853	35	15
Angus	132	53	185	228	78	306	10	3
Argyll & Bute	184	43	227	367	47	414
Clackmannanshire	40	70	110	164	9	173	6	-
Dumfries & Galloway	175	121	296	535	23	558	1	1

Council	Taxi vehicles	Private hire cars	Total	Taxi driver licenses	Private hire licences	Total	Wheelchair accessible taxis	Wheelchair accessible private hire cars
Dundee City	628	56	684	1,113	15	1,128	357	-
East Ayrshire	125	108	233	453	26	479	22	7
East Dunbartonshire	333	295	628	719	23	742	..	-
East Lothian 1	113	121	234			435	113	-
East Renfrewshire	62	420	482	82	479	561	2	2
Edinburgh, City of	1,316	954	2,270	3,519	1,442	4,961	1,316	..
Eilean Siar	83	14	97	160	15	175	1	-
Falkirk	437	83	520	558	89	647	101	13
Fife 1	454	334	788			1,822	43	54
Glasgow, City of	1,423	2,597	4,020	2,822	3,138	5,960	1,423	20
Highland	524	124	648	725	209	934	31	11
Inverclyde	239	57	296	680	-	680	22	-
Midlothian	50	145	195	102	300	402	50	-
Moray	220	20	240	518	16	534	11	-
North Ayrshire	214	55	269	584	3	587	32	-

Council	Taxi vehicles	Private hire cars	Total	Taxi driver licenses	Private hire licences	Total	Wheelchair accessible taxis	Wheelchair accessible private hire cars
North Lanarkshire	494	1,158	1,652	1,287	1,254	2,541	155	7
Orkney Islands	28	13	41	91	8	99	2	-
Perth & Kinross 1	103	156	259			574	5	15
Renfrewshire	214	768	982	428	889	1,317	210	21
Scottish Borders	212	83	295	337	39	376	9	22
Shetland Islands	89	57	146	323	54	377	5	3
South Ayrshire	116	159	275	469	75	544	116	-
South Lanarkshire	337	1,179	1,516	682	1,455	2,137	31	46
Stirling	69	110	179	352	21	373	22	24
West Dunbartonshire 1	336	7	343			452	209	1
West Lothian	174	288	462	278	535	813	140	25
Scotland	10,461	10,201	20,662	20,884	10,352	34,519	4,960	290

Northern Ireland

The DOE published the statistics of the vehicles passing the driving licences test. From these data, it emerges that the number of Taxi Driver Licences issued during the period July - September 2015 was down by nearly 12% when compared to the numbers issued during the same quarter in 2014. This confirms the generally declining trend, with numbers going down by one third during the period July - September 2009. This reduction may have been recently exacerbated by a new taxi driver theory and practical driving test which was introduced on 31st October 2014.

X. Results

The UK is one of the most relevant markets in Europe; it has fastly grown in the last 25 years and has been largely used by citizens of all groups, In particular lower income and disabled people.

The UK market can be segmented according to the legislative framework into “plying for hire” operated by taxis in metropolitan areas, and pre-booked services where taxis and Private Hire cars (PHV) compete on a larger territorial scale.

Concerning **market players**, the large majority of taxi and PHV drivers are self-employed. Companies providing instant booking of licensed cabs are considered as taxi companies. Gett is the main actor, operating in 20 cities with 50.000 taxis, and claiming an annual growth of 300%.

The main players in the PHV market are Addison Lee (9,5% market share), ComfortDelGro Corp (6,5%), and Radio Taxis Group (2,6%). Uber is an important player in several cities within the PHV services.

With regard to **barriers, limitations and incentives**, the main relevant reported one is represented by the **London Knowledge test**, whose preparation requires up to 4 years of study and is very expensive, having a success rate between 25% and 40%. Other local countries are less selective, and licenses are valid both for taxis and PHV.

Concerning the number of licenses, the situation is different by area. In London the number is not limited, as there is a sort of natural selection through market mechanisms such as the knowledge barrier described above, with some adjustments decided by the Transport for London Agency. England and Wales outside London, and similarly Scotland, have a different approach, based on analyses of unmet demand by municipalities. Northern Ireland has no regulatory power.

Looking at the **capacity, growth and impact** figures, the number of vehicles grew between 2013 and 2015 by 9,3% (31,2% since 2005), while the number of driving licenses in the same period has grown by 4,3% up to 297.600. The growth was less significant in London (+1,5%) than outside London (+5,3%).

On the contrary, the number of PHV operators decreased by 3,6% (-10,8% from 2009, the peak year). The decline was more significant in London (-4,8%) than outside London (-3,3%).

XI. Conclusions

In the UK, taxis and hire car with drivers mainly compete in the pre-booked segment, while hailing and the rank segment remain a monopoly of the licensed taxis. Quantitative limitations combined with different local standards have resulted in different geographic markets, while in London, qualitative standards for taxis are particularly strict but no

quantitative limitations exist. The London market access is based on the combination of a non-discriminatory approach with high quality standards. In recent years, the hire car with driver sector has experienced a rapid surge in the number of vehicles and drivers, due to the arrival on the market of innovative service providers and intermediaries. The difficulties to access the taxi market have caused a shift of many potential taxi drivers towards the PHVs, which provide high quality services in direct competition with pre-booked taxis. As also indicated by the authorities, intermediaries are experiencing a constant expansion and are earning a large clientele. Concerning innovative services, the UK has adopted various initiatives to support the ridesharing (no profit) among communities and has a very developed car sharing system.

Bibliography

1. The Law Commission Review (2012).
2. <http://www.pcoworld.com/faqs/the-importance-on-the-uk-economy-of-taxi-private-hire-industry/>.
3. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/456733/taxi-private-hire-vehicles-statistics-2015.pdf.
4. Local Government Association Taxi and PHV Licensing Councillors' Handbook (England and Wales).
5. http://www.local.gov.uk/documents/10180/6869714/L15-87+Councillor+Handbook+-+Taxi+and+PHV+Licensing_06.pdf/c73bec4b-cd31-4bcd-be2c-f5fe3e87b4f4.
6. Department for Transport, TAXI AND PRIVATE HIRE CAR LICENSING: BEST PRACTICE GUIDANCE (2010), https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/212554/taxi-private-hire-licensing-guide.pdf.
7. <http://www.national-taxi-association.co.uk/wp-content/uploads/2013/10/Jones-Anor-v-First-Greater-Western-Ltd-2013-EWHC-1485-Ch-25-April-2013.pdf>.
8. <http://www.londonreconnections.com/2015/fare-trade-breaking-down-londons-taxi-debate/>.

