

Introduction

Since 2017, the world of urban mobility has evolved significantly. The major change was triggered by the introduction of new light electric vehicles in the context of sustainable urban transport. The most evident consequence of this new trend has been the diffusion of shared micromobility short-term rental services and, in particular, of electric scooters (e-scooters).

The offer of shared micromobility services in European cities has raised several questions on how these vehicles and the related shared rental services should be regulated. For example, cities are still evaluating how to ensure the safety of shared micromobility operations, how to reduce the impact on urban decorum, notably, in relation to parking, and how they should authorize/select providers for offering short-term rental services. As things stand, EU cities seem to struggle to solve those same issues and ensure legislative coherence at both the national and local levels. In fact, the aforementioned matters are generally addressed by EU Member States in varying manners and with an *ad hoc*/tactical approach. Cities' legislative interventions often are based on the desire to quickly solve specific issues (such as pavement littering) without having a clear vision of the purpose of shared micromobility and how these services should be integrated in urban contexts. The result is a normative confusion that often translates into the adoption of rules that aim to disincentivize shared micromobility operators and that could lead to the exit of most providers from the market.

As will be argued below, a way to ensure greater certainty for the whole sector would be to provide it with an EU horizontal framework. This would have the effect of preventing the adoption at the national level of divergent rules, which are often discriminatory and harmful to shared micromobility. However, it must be noted that the intervention of the European legislator might come too late when the whole structure of the micromobility industry will have changed. In fact, with the current regulatory conditions, the business model is becoming economically unsustainable, and this could pave the way for the birth of a "micromobility 2.0," in which municipalities take charge directly, or through contractors, in providing shared micromobility services.



Regulatory Issues Relating to Traffic Rules

One of the most debated topics in the shared micromobility sector is the traffic rules, notably, the rules that should be applied to e-scooters. Added to this debate is a near universally implicit expectation on the part of municipalities that micromobility providers are responsible for enforcing road rules, even when those rules, such as the prohibition to ride on the sidewalk, are not included in the highway codes of the relevant countries.

In this context, it should also be noted that one cannot expect legislative intervention at the European level. In fact, EU member states hold exclusive competence in the setting of traffic rules, which are established at the national or local levels in the 27 EU countries. When it comes to transport rules, the EU is only responsible for the adoption of "common rules applicable to international transport to or from the territory of a member state or passing across the territory of one or more member states" [Art 91 (1a) of the Treaty on the Functioning of the European Union (TFEU)]. Although the EU also is responsible for the adoption of "measures to improve transport safety" [Art. 91 (1c) TFEU], its role is one of guidance, while the final decision still lies on the single Member States.

Therefore, it is unlikely that the circulation rules throughout Europe will ever be the same, since national legislators have wide freedom of action in this sector. It does, in fact, occur that across the EU, the use of helmets by riders of e-scooters or e-bikes are mandatory in one country (for example in Finland) and not in another (such as in most EU countries), or that electric scooters have different maximum permitted speeds. So, in terms of road traffic rules, regulatory uniformity is not the goal, and it is not expected.

Against this backdrop, national governments should aim to achieve as much regulatory consistency as possible at the internal level. At the moment, users are often confused about where to drive these vehicles, at what speed, from what age, etc. This uncertainty often translates into noncompliance with traffic rules and a consequent reduction in road safety for both micromobility and other road users. Therefore, it is considered necessary for Member States to clarify, with urgency, the applicable rules for these vehicles and to put in place the conditions under which these rules should be enforced. Placing this responsibility on micromobility operators, as seems to happen in several states, in addition to being inappropriate, creates an ineffective mechanism and is destined to exacerbate the already intense regulatory confusion.



Regulatory Issues Relating to the Technical Requirements for E-scooters

Another issue that is creating uncertainties for both the micromobility industry and the cities is the absence of a European law that defines the category of vehicles under which e-scooters (and e-bikes) fall. Indeed, when the European legislation on the approval and market surveillance of two-wheeled vehicles (Regulation 168/2013) was adopted, e-scooters did not yet exist. This legislative gap is leading to fragmentation at the national level with two main consequences: (1) all Member States can currently set their own technical specifications to authorize e-scooters to circulate, and (2) the lack of a clear categorization of these vehicles, which are treated as bicycles in some Member States (for example, in Italy) and sometimes as motor vehicles (for example, in Germany).

The implications in both cases are significant. In the first case, the consequence is that the same model of e-scooter may be authorized to circulate in one EU country but not in another. This, in addition to entailing enormous costs for micromobility providers, which are forced to adapt models according to each market in which they operate, is not in line with the European single-market principles. In the second case, the lack of classification, clarification would be necessary regarding how such vehicles should be treated from a broader regulatory perspective; for example, on topics such as vehicle registration, insurance and license plates. Currently, a limited number of countries (i.e., Germany) categorize light electric vehicles as motorized vehicles, while in most EU countries, e-scooters are treated as bicycles. These differences are not immaterial; the legal classification of micromobility vehicles can have significant cost implications for providers, which, in turn, can result in making the entire sector uneconomical in the long run.

Therefore, it is imperative that the EU clarifies the type of category to be assigned to these vehicles and, if a new category is created, it should also specify which rules Member States should apply to it.

Conclusions and Future Developments

As explained above, the main regulatory issues in the micromobility sector are linked to the absence of a reference legislative framework. This, for different reasons, has implications both on the traffic rules to be observed and on the other rules applicable to this vehicle type. Further, the lack of an EU framework, in combination with the poor reputation of the industry, is leading to regulatory interventions at the national and sub-national levels that are increasing fragmentation across Europe and are setting disadvantageous regulatory conditions for shared micromobility operations. Although the EU has already announced its intention to adopt horizontal legislation, the EU legislative intervention is not expected until two years from now. However, this period of time could be too long for a sector that runs very fast and that requires significant and centralized interventions immediately, especially considering that Member States are adopting, more and more frequently, measures such as mandatory parking, compulsory car insurance and high fees for vehicles occupying public space, that involve very high costs. The lack of a horizontal framework, combined with harmful national regulations, probably will result in most of the providers leaving the market, as their activities no longer will be economically sustainable.

The exit of numerous micromobility operators will lead to governments reconsidering the shared micromobility provision schemes and could pave the way for a shared micromobility 2.0 era. In fact, if the sector proves not to be economically advantageous for private operators, the municipalities that are willing to continue to offer shared sustainable mobility services will have to do so at their own expense and under their responsibility, as is already the case in many cities for bike sharing. This could happen in two ways: first, through conceding the service to private operators through tenders in which the municipality would offer the service through private operators or, second, through the purchase of mobility services in sharing by municipalities from selected private operators.

In this case, the latter would be paid to provide the service by the municipalities, not by users. What both hypotheses have in common is that the operators would be selected with tenders regulated under the EU public procurement directives (Directive 2014/24/EU and Directive 2014/25/EU). Having this regulatory framework as a legal basis would solve some of the current issues, including the impossibility of applying a fee for the occupation of public space and avoiding the risk of selecting operators who do not have sufficient technical-financial requirements to provide the service. Furthermore, if shared micromobility will be (at least partially) financed by the state, regulatory measures involving costs would no longer endanger the continuation of the shared micromobility industry, while ensuring that there is an increase in road safety and public order.

With that said, it should also be noted that it is still too early to tell whether the micromobility 2.0 era will ever begin. At the moment, we are still in phase one, in which micromobility operators, albeit with increasing difficulty, are trying to survive the adverse regulatory framework to which they are subject. The challenges for micromobility are many and, at the moment, the worst enemies are the poor reputation of the industry and the lack of a uniform regulatory framework. If, for the former aspect, the role of the legislator (national and European) is limited for the latter, the hope is that the inaction of the EU will end because it is exacerbating the problem while increasing regulatory divergences at the level of the member states.

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