

SAFESPOT INTEGRATED PROJECT - IST-4-026963-IP

DELIVERABLE



SP6 – BLADE – Business models, Legal Aspects and DEployment

Analysis of legal aspects

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EXECUTIVE SUMMARY

This document describes an analyses legal issues of introducing SAFESPOT systems, with a strong focus on liability issues and insurance practices. The successful development and implementation of SAFESPOT-systems may not only (or even primarily) be influenced by the state of technology but also by a variety of social and institutional issues. This is the reason why in Task 6.4.2 legal issues are explored. Exploration of legal issues of SAFESPOT-systems relates to the following general research question:

- What are the legal implications of introducing SAFESPOT -systems?
- May these implications hinder or slow down their deployment?
- Do current legal frameworks need to be amended to support the unobstructed and successful introduction of SAFESPOT-systems?

The objectives of the legal research within Task 6.4.2 are to describe relevant legal frameworks with a strong focus on liability issues and insurance practices to identify potential gaps and barriers for the implementation of SAFESPOT-systems and to formulate recommendations to support the unobstructed and successful introduction of SAFESPOT -systems.

In order to be able to make a really useful analysis of liability issues, it is necessary to have a clear picture of the functionality and the technical and organizational embedding of the SMA-applications. What is the exact functionality of the system and, more importantly what are the inherent limitations (for example: influence of performance due to bad weather, implications of a mix of equipped and non-equipped cars, etc.)? What will be the technical and organisational embedding in terms of infrastructure support, division of intelligence between cars and/or the infrastructure? Which parties are involved in the collection and processing of data (governments, road authorities, service providers, etc.) and how is this process organized?

Although some useful results can already be abstracted from deliverables from other SAFESPOT SP's and from Blade, the information available so far does not allow for drawing up the detailed picture that should be the preferred starting point for a legal analysis.

To structure the analyses in this stage two incident scenario's have been described based on to example SAFESPOT-application. Liability issues are first of all be described at a very general level, indicating the most important legal mechanism and the similarities and differences between European jurisdictions based on comparative law literature. This will be followed by a more in-depth analyses of an incident scenario under Dutch and English law. The Netherlands and the United Kingdom represent two different families of legal regimes. The first is representative of the codified law systems, where the United Kingdom represents the common law system.

This report can only be regarded as a first – although very important – step in the exploration of the legal aspects of the introduction of SAFESPOT-systems. As more results from other research activities within the project become available (especially in relation to the architectural and organizational embedding) the findings of these report should be reevaluated and fine tuned in the light of the information becoming available in later stages of the project.

Finally, we would like to thank mr. Coda from EUCAR for his willingness to reflect on our work and his valuable remarks which have been included in the report.