

## AN ANALYSIS OF THE LEGAL, ECONOMIC AND TECHNICAL ASPECTS OF CARPOOLING SYSTEMS

Zdzislaw POLKOWSKI<sup>1\*</sup>, Jakub DYSARZ<sup>2</sup>

<sup>1</sup>Adjunct Professor, Jan Wyzykowski University, Poland, [z.polkowski@ujw.pl](mailto:z.polkowski@ujw.pl)

<sup>2</sup>National School of Public Administration in Warsaw, Poland, [dysarz.jakub@gmail.com](mailto:dysarz.jakub@gmail.com)

***Abstract:** The paper contains a brief description of analysis done in literature addressing the problem of using carpooling systems. Significant economic, technical and legal aspects have been discussed. It may be observed that certain possibilities and financial profits lead to the fact that carpooling solutions are commonly used, especially by young people. After a short introduction into the subject, examples of carpooling systems such as BlaBlaCar, Inonecar, Autem.pl, JedziemyRazem.pl have been characterized and analyzed. The next part consists of a presentation of the economic aspects. Part three consists of the technical aspects. In part four there is a description of the legal situation of the passenger and of the driver from the corporate, civil, insurance, tax and criminal law perspectives. Finally, a case study has been presented. The authors have used a selected system to travel to conferences in countries in Europe: Poland, Slovakia, Hungary, Serbia, Bulgaria, Romania, Germany, Sweden. Brief conclusions end the paper. The main method used in this research was case study. In addition, the work contains assumptions regarding the further development of carpooling systems, both among individuals and business people. Carpooling systems may be used by individuals and business people to save money and time, however the disadvantages should be taken into consideration as well.*

**Key words:** carpooling, law, business travel, e-tourist

**JEL Classification Codes:** A10, C80, C88, C89, K10, K22.

### 1. INTRODUCTION

This paper aims at describing the economic, technical and legal aspects of carpooling. As carpooling is not a codified legal contract, only general rules can be in use. For that purpose, firstly, the definition of carpooling to assess its most characteristic aspects has been presented. Secondly, the possible market in Poland and the main players have been described. Afterwards, a description of the legal situation, both of the passenger and of the driver in the light of corporate, civil, insurance, tax and criminal law. The paper ends with the conclusion.

The paper focus primarily on the legal situation in Poland, but it is worth mentioning that Polish law is in compliance with EU law and shares common roots of Roman Law with many other civil law countries. Also, some issues (e.g. some aspects of taxation or consumer protection) are regulated at the EU level, leaving the national legislator only the role as an implementer. Thus, it can be used for comparative assessment with other EU countries. Legal texts are up to date as for May 2016.

---

\* Adjunct Professor

## 2. TYPES OF CARPOOLING AND THE DEFINITION

Carpooling as an idea of sharing petrol and other expenses between passengers, has its origins in the 1920s with the emergence of the first cheap, affordable cars, WWII petrol shortages and the 1979 oil crisis in the US (Cozza, 2012) [1]. After the oil prices dropped in the 1980s and the 1990s, so did the popularity of carpooling. In recent years, thanks to increased oil prices, ecological concerns, open borders and better connectivity via social media, carpooling has become popular again, also in Poland.

It is important to distinguish carpooling from hitch-hiking (when the passenger bears no costs and the decision on sharing the trip is usually spontaneous), carsharing (when the shared commodity is not a trip, but a car itself), the transport services of persons (when the driver aims at profit-making, not only covering costs – that includes both Uber and traditional taxi) or slugging (when there is no money exchange, but other benefits are obtained – e.g. using the HOV lanes<sup>†</sup>). Carpooling is also not typical transport (where the passenger pays the whole cost of the petrol and for the service) or courier services (the primary object of the contract is transporting the persons, not the luggage). The authors will also not focus on the fam-pooling, where users have familial links or are close friends who live together and have no need to organise rides via social media.

By highlighting the key elements, it can be concluded that carpooling is a method of lowering the costs of travelling by sharing the costs of petrol, highway tolls, paid parking spaces and other expenses. The flexibility of contract is high as long as it is not for profit – the money is supposed to cover the costs but nothing more than that. The relation between driver and the passenger is usually started by social network (but also in other ways, such as workplaces, manned carpooling agencies or apps) where one person advertises the will to travel (a passenger) or the will to take passengers (a driver) at a designated time and route.

Carpooling can be a form of long-distance travelling (both national and international) and everyday commuting from home to work (so called “urban carpooling”). The difference lies however not in the distance, but in the frequency of the journey and the composition of passengers. Usually, the long-distance journeys are creating a different set of people in the car, whilst local rides (i.e. more periodical) are usually a set of the same people from Monday to Friday. Most of the agents focus on one of two abovementioned forms.

As the carpooling does not have a strict legal definition, for this paper the authors will refer to carpooling as a contract that has following traits:

The object of the contract is the transport of persons;

There are at least two users: the driver(s) and the passenger(s);

It has pecuniary, but not for profit character;

There is usually no written contract between parties, but there are rules established by the agent (if one takes part) and the customs.

It is worth mentioning that in general, companies are not restricted from carpooling, as long as it is not their source of income (Ministry of Finance answer to parliamentary question no. 32705, 2015)<sup>‡</sup>.

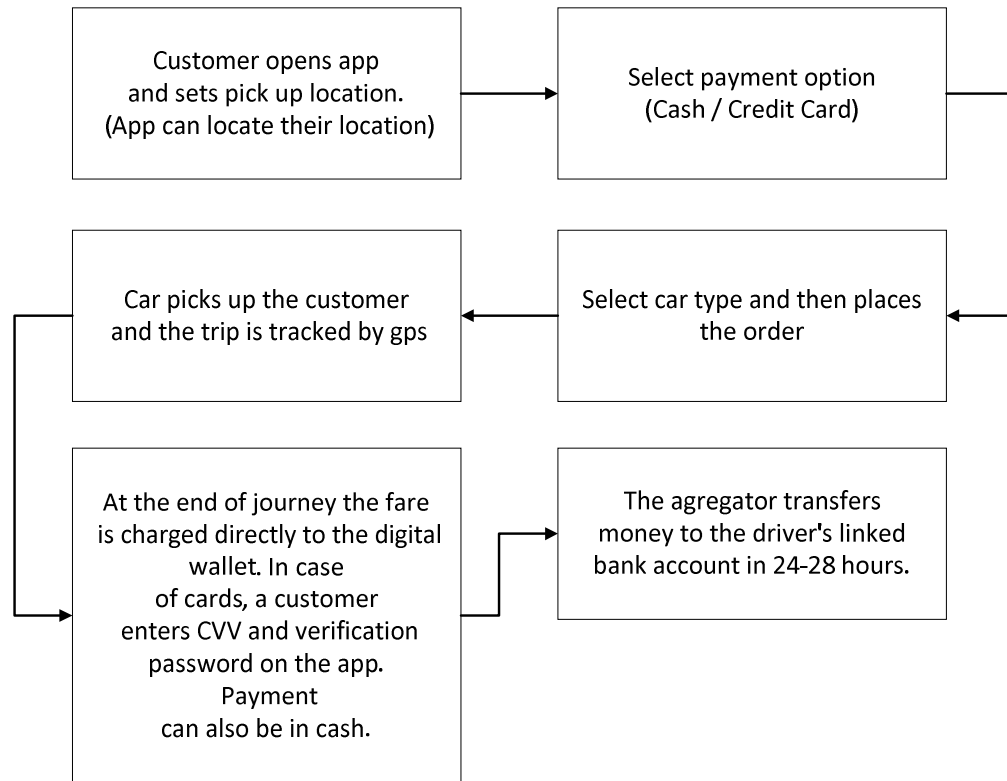
There are different ways to establish a connection between parties for carpooling. In many cases the parties know each other (already mentioned “fam-pooling”), but in this paper authors will focus on the carpooling between strangers. In this case, when the parties do not know each other personally, there is some agent between them. Today, it is usually on-line services.

---

<sup>†</sup> HOV or High-Occupancy Vehicle lanes are restricted traffic lanes reserved for cars with more than one person inside.

<sup>‡</sup> However, according to Poland’s Ministry of Finance answer to parliamentary question no. 32705, carpooling is available only for natural persons. Using a company car excludes the possibility of carpooling, available at: <http://www.sejm.gov.pl/sejm7.nsf/InterpelacjaTresc.xsp?key=7C65148B>, accessed 2016.

The general rules for the functioning of the carpooling systems have been presented in the figure below.



**Figure 1:** How on demand carpool work, elaboration based on [2].

### 3. THE MARKET IN POLAND

As it has already been mentioned, there are different ways to contact the parties of carpooling. The most popular one is via social media.

There are different websites that offer such a service. In Poland, the most popular one is Blablacar [3] (a France-based company present in twenty two countries) and Yanosik [4] Autostop [5] (service from Neptis S.A. [6], based in Poland). The latter has started in different fields of services (navigation and transport community), but it has recently moved to carpooling as well.

Carpool.pl, the second-largest carpool service in Poland, run by Germany-based Carpooling.com, was acquired by Blablacar in 2015 (Dillet, 2015) [7]. There are also other, smaller players, such as jazdazagrosze.pl<sup>§</sup> and autem.pl<sup>\*\*</sup>, however their significance is marginal.

Some websites that were offering carpooling services are not operative or obviously neglected. For instance, these are nastopa.pl (empty website), autem.pl, jedziemyrazem.pl (minor activity, last forum input in January 2015, last update from administrator in 2012) and wspolnedojazdy.pl (last ride offered in May 2015) to name a few.

There are also websites that offer rides for companies (usually large corporations) or clusters. For instance, Capgemini, Onet.pl & Partners, PZU, Trans.eu, Wroclaw Technology

<sup>§</sup> Branch of Ride4Cents.org

<sup>\*\*</sup> Minor activity of administrators; last update of the Rules of Procedure was in 2006.

Park, WSB in Wroclaw are using InOneCar.com (previously - Otodojazd.pl). The service is open also for private persons, but the interface and offers are aiming clearly for commuters.

It is worth noting that Blablacar in Poland started as a company-only carpooling agent, but then moved to everyday rides for all users, whilst InOneCar (then Otodojazd) started as a competitor for Blablacar and only last year changed its business model into B2B only.

Drivers and passengers also announce themselves on Facebook, Gumtree, GoldenLine and so on. The contracts established in this way are strictly private, mostly in verbal form and paid by cash, thus very difficult to analyse.

#### **4. TESTING A CARPOOLING SYSTEMS - A CASE STUDY**

As an example of how one can travel using carpooling systems, an analysis of a specific case study is presented here: a selected trip done by one of the authors in 2014. Cases are intended to confront readers with specific real-life problems that do not lend themselves to easy answers. Case discussion demands critical and analytical skills and, when implemented in small groups, also fosters collaboration (Pimple 2002 191-205). An empirical inquiry concerns a contemporary phenomenon (e.g., a “case”), set within its real-world context - especially when the boundaries between the phenomenon and context are not clearly evident (Kimmel 2009a: section 12). The case study method has its strengths and weaknesses. For the purpose of this study only one trip and one system has been used. Carpooling systems are considered to have similar features. Thus the value of the information obtained increases with the number of the carpooling systems analyzed.

The case study method involves detailed, holistic investigation and it may utilize a range of different measurement techniques. Research was conducted in 2014 by the author experienced in international travel with his own car.

In this research the case study involves an analysis of small data sets –only one international trip, which may lead the researcher to gain some insights about trends in relevant carpooling systems. In this research the authors had certain limitations such as: target countries (Bulgaria, Romania), limited funds and time limit.

##### **Research questions**

During the study the following aspects were checked:

1. Who uses carpooling systems and why?
2. Is the carpooling system profitable for drivers and passengers?
3. Which terms and conditions exist in the selected carpooling systems?
4. Is travel using a carpooling system legal?

To deal with the first and second issue, the blablacar.pl system was examined. To find an answer for the next two research questions, an analysis of accessible documents has been conducted.

The factors that led to the decision to conduct the study include the following : the need to participate in a conference in Varna (Bulgaria) and the desire to use the need to travel perform tests using the carpooling system. The first step before taking the trip was to prepare the notice about the trip. Immediately after posting the information on the date and destination of the trip, people from different cities contacted the author via telephone and e-mails for detailed travel information.

Our research has shown that a carpooling system is mainly used by people aged 20-35 with a higher education degree and students. Men predominated. In one case, a woman was travelling alone, in a second case with her boyfriend. It is worth noting that the passengers in the present case were people from Poland, Switzerland, Australia, United States, Canada and Mexico. Passengers were travelling mainly for the tourist reasons. However, some of them (4 people)

were travelling by carpooling to participate in business and scientific conferences. The greatest interest in the common journey was seen in Poland, Czech Republic, Hungary and Serbia, but minimal in Romania and Bulgaria. It is worth mentioning that the study revealed significant economic benefits for both driver and passengers. Another important advantage of this form of travel was a big time saving compared to using train, bus or plane. The most surprising was that the passengers turned out to be fascinating people with intriguing professional and personal interests. Details of the case study were presented in tables 2, 3 and figure 2 and 3 below.

**Table 2:** A list routes with description related to: the number of visitors to the portal, number of passengers, cost in PLN, own elaboration

Date	Route	The number of visitors to the portal	number of passengers	Cost in PLN
14.10.2014	Lubin-Katowice-Bratysława-Budapeszt-Belgrad	46	4	200
15.10.2014	Belgrad-Sofia	24	3	50
16.10.2014	Sofia- Warna	8	0	68
19.10.2014	Warna-Pitesti	0	0	62
27.10.2014	Pitesti- Budapest	20		
28.10.2014	Budapest-Praga-Legnica	20	3	126

**Table 3:** A list of routes with description of passengers, own elaboration

	Route	Purpose	Nationality	Occupation	Age	Gender
1	Katowice - Bratislava	Studies	Polish	Student of film academy	>30	Male
2	Katowice - Budapest	Visiting friends	Polish	Manager	30-35	Female
3	Katowice - Belgrade	Scientific conference	Polish	Law student	>30	Male
4	Katowice - Belgrade	Scientific conference	Polish	Management student	>30	Female
5	Belgrade - Sofia	Conference	USA	Reżyser	30-35	Male
6	Belgrade - Sofia	Conference	Swiss	Movie director	30-35	Man
7	Belgrade - Sofia	Tourism	Australian	Freelancer (health)	>30	Man
8	Budapest - Bratislava	Tourism	Canadian	Student	>30	Man
9	Budapest - Prague	Tourism	Mexican	Student	>30	Man
10	Budapest - Prague	Tourism	Mexican	Student	>30	Man

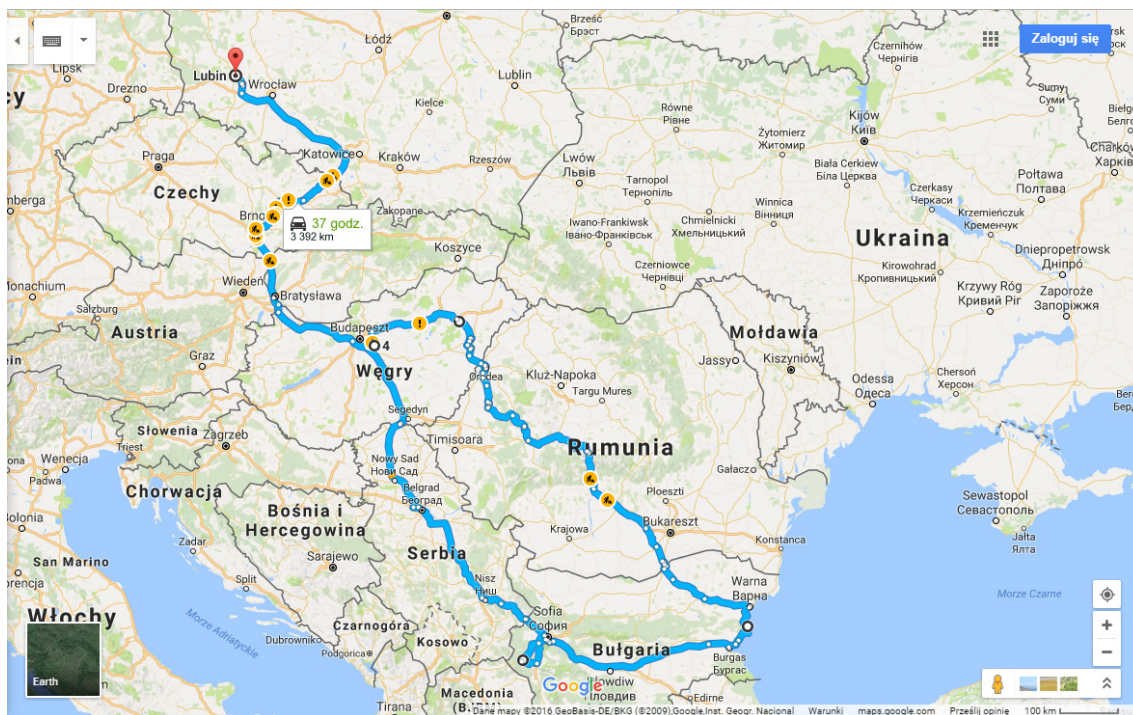


Figure 2: The route travelled by the author in order to conduct research on carpooling systems. Own elaboration based on Google Maps route planner.

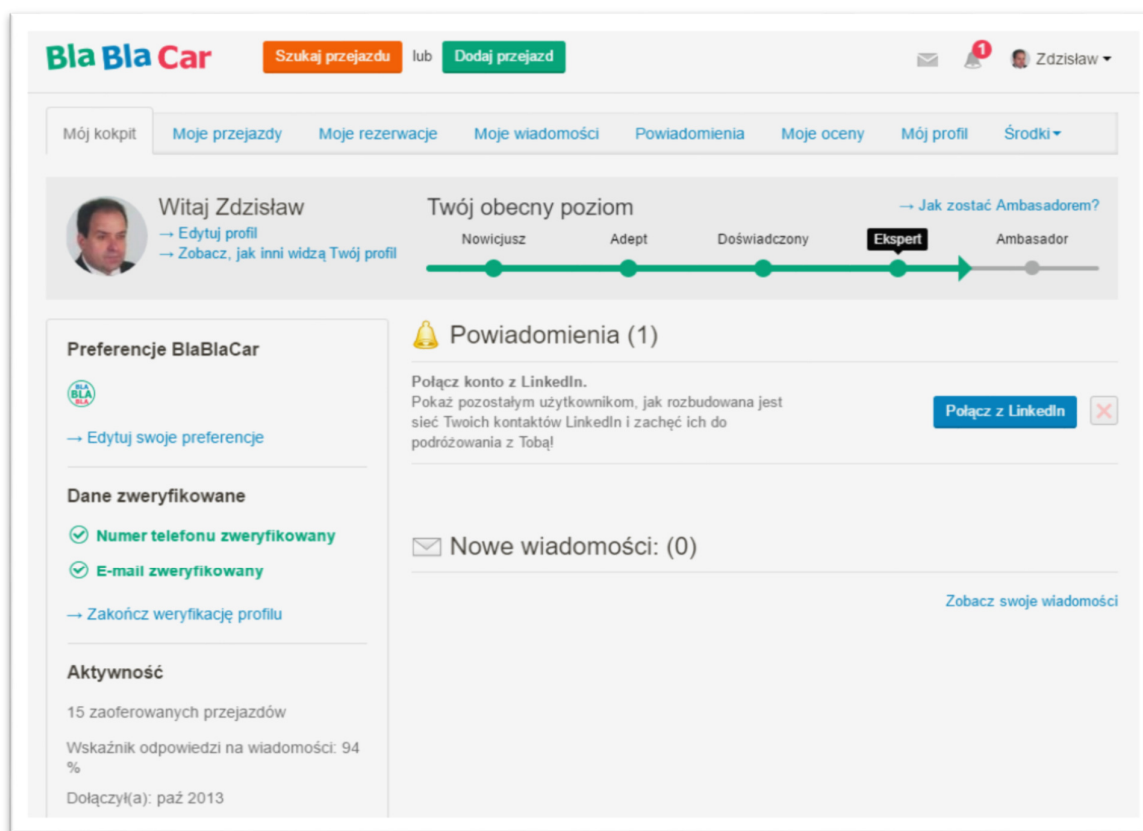


Figure 3: The screenshot of the author's profile in Blablacar system, own elaboration.

## **DIFERENCES IN TERMS AND CONDITIONS**

This part will focus on the terms and conditions of services offered by three main players in the Polish carpooling market. In the beginning, an overview of relevant documents will be provided, followed by a comparison of offers.

### **BLABLACAR.PL**

Blablacar's terms and conditions define "car sharing" as the sharing of a vehicle for a trip by a driver carrying a passenger for that trip in exchange for a cost contribution. It also defines the driver, the cost contribution and other key notions. It demands full acceptance of the conditions set out by the website, both for driver and passenger. Terms and conditions vary depending on the country.

Blablacar sets out the rights and duties of the driver as following: meeting the passenger at the agreed place and time in an offered vehicle and waiting for him not less than 30 minutes; immediately informing all the passengers about any changes in the itinerary and getting permission from all of them for this (passenger not agreeing to the changed terms should get a refund); having a valid driving licence; having valid civil liability insurance; having a working vehicle with valid documents and servicing that guarantees the necessary safety and comfort for the passengers, according to law; the driver is also obliged to show necessary documents proving the meeting of the abovementioned requirements to the passengers (Part IV point 8 and part IX of Terms and conditions).

On the other hand, the passenger is obliged to meet the driver at the agreed place and time and wait for the driver for not less than 30 minutes; immediately informing the driver or the Blablacar service about resignation; paying the share of the costs; checking the car and the driver on the safety issues (Part IV point 9).

In the situation of not complying with the terms and conditions, the agent (i.e. Blablacar) holds the right to keep the information about such a situation, publish it on the account of such user and even to suspend or remove his or her account (Part IV point 10).

All users are explicitly forbidden from using Blablacar for profit or in their economic activities. The price should be calculated in a way that allows the passengers to partake in the costs of the journey, without bringing any profit to the driver or other persons. The driver pick ups the passenger in his own name and at his own risk and inadvertently frees the agent from any claims by the passengers or third persons. Any additional paid services (transport of additional luggage, additional stops, transporting packages etc.) are impossible. All agreements on costs, time and place of departure and arrival must be done via the agent's website. Crucially, Blablacar excludes itself as a side in the travel agreement between the driver and the passenger (Part V)

Its services are, in general, free of charge for drivers (no registration fee etc.), however since 7 March 2016 Blablacar has started requiring a small service charge from passengers for every trip longer or equal to 75 km. It is added to the basic fee for the driver<sup>††</sup>, but it goes directly to Blablacar's account (Part VII).

### **INONECAR**

InOneCar, successor of OtoDojazd, is a company clearly focused on companies and B2B contracts. Its terms and conditions describe what services they are delivering, technical requirements, liability issues, conditions of starting and terminating a contract, complaint procedure and, finally, the rights and duties of users, service provider and customer.

---

<sup>††</sup> The fee is dependent on the cost of the trip and varies from 12% to 20% of the trip's cost.

This final division is special for this website, as according to the terms and conditions, there are three parties to this contract (§ 2.1 and § 2.6-7 of terms and conditions) – the service provider (i.e. InOneCar), a customer<sup>‡‡</sup> (a company – it must be a legal or a natural person engaged in economic activity) and a user (usually the employee of the abovementioned customer – both driver and passenger).

Crucially, all costs and specific terms are regulated by individual contracts between InOneCar and a customer. According to general terms, the user cannot be charged any fees for using the service (§ 7) – they can only be issued to a customer (§ 9). InOneCar also allows the possibility of widening the service with new functionalities (for example, but not limited to, promoting carpooling in a company, marketing support, aid with organisation and special software features), but reserves that for individual negotiations (§9.6).

### YANOSIK AUTOSTOP

Neptis, well-known for its navigation gear and software for private and professional drivers issued at the beginning of 2014 its own app to assist networking between drivers and passengers. Currently emerging as the only competitor for Blablacar, Yanosik Autostop<sup>§§</sup> is benefitting from its owner's other apps and giving thus access to thousands of users all over Poland.

Its terms and conditions are very concise and say very little about the system of reservations. It focuses mainly on the legal issues of on-line services, general rules on using the app, liability issues and termination of service.

There is a reason for it – the app offers the minimal service of only allowing the members to offer the ride (start, destination, date, time and, optionally, price). It does not even have the inside communicator – the drivers need to call or text each other. There is also no algorithm fixing the price. Additionally, the service is available only through the app and not the website.

**Table 1.** Comparison of players

Name of the service and of the owner	Blablacar	InOneCar	Yanosik Autostop
Owner	ComutoSA	InOneCar.com sp. z o.o.	Neptis SA
Established	2006	2001	2014
Country of origin	France	Poland	Poland
External funding or sponsorship	Yes (i.a. Index Ventures, Accel Partners, ISAI, Lead Edge Capital)	Yes (Co-financed by European Regional Development Fund 2007-2013 for Innovative Economy and private partners: i.a. Login-Trans and RST)	No (however, the app is not the only product of the company)
Commission	From 12% to 20% on long-distance rides	Not from users, only from customers	None
Regulation of payments	Payment must fit in a range calculated by the website	Dependent on individual contract	Not regulated

<sup>‡‡</sup> This is not a customer in accordance with European customer protection law.

<sup>§§</sup> In Polish, „*autostop*” means hitch-hiking; however, the app is clearly designed for carpooling.



## REGISTERED COMPANIES

The question arises – is carpooling an economic activity? If so, should it be registered?

The Act on Freedom of Economic Activity (Dziennik Ustaw, 2004) [8] sets out general rules of starting, maintaining and ending any economic activity in Poland. Article 2 of that act defines economic activity as “a profit-making activity (...) performed in an organized and perpetual way”.

A “Profit-making” activity is any activity that aims at making any profit; irrelevant is the fact that the entrepreneur is successful in achieving that goal or not (Administrative Court, 2009) [9]. The activity will be “organized” if the entrepreneur is in possession of the necessary devices to perform the activity and if the activity is performed in a planned, methodical and systematic manner (Kosikowski, 2013)<sup>\*\*\*</sup>. The “necessary devices” will vary according to the needs of the economic activity. Finally, “perpetual” is the same as “not occasional” (Judgment of the Regional Administrative Court in Gdańsk of 09 March 2010) [10].

Additionally, transport of persons in Poland is regulated by the Act on Road Transport (The Act of 6 September 2001 on road transport) [11], which sets out a number of requirements that a person must meet to start transport-based economic activity (i.e. registering a company, finishing necessary courses and state examination, providing additional insurance, obtaining licence). Performing such services without meeting those requirements will end with a fine up to 8000 PLN (approx. 1900 euro)(Appendix III to the Act,<sup>†††</sup>.

In the light of this, one must consider this: is carpooling an economic activity? It is organised, in many cases perpetual, it also demands particular devices (cars). However, all requirements must be met jointly – and they are not, as the last one – profit-making – is missing. The Ministry of Finance has stated that sharing the costs cannot be interpreted as profit making (Answer of the Ministry of Finance to parliamentary question no. 32705)<sup>†††</sup>. Thus, carpooling as such is not economic activity, as long as there is no profit. It is extremely important then to remember about not exceeding a certain threshold when negotiating the price for the ride.

## INSURANCE ISSUES AND CIVIL LIABILITY

Crucially important for the drivers is the matter of civil responsibility for the damages occurring during the ride. There are two main kinds of responsibility in this matter: risk-based responsibility and guilt-based responsibility, regulated by Articles 415, 435 and 436 of the Civil Code.

For most of the cases, Polish law has established the general rule of culpability – i.e. the person responsible for the illegal behaviour is liable (Article 415 of the Civil Code). However, Article 436 § 1 in connection with Article 435 of the Civil Code established an exception. Briefly, in the case of an accident made by a moving vehicle, the driver of the car is responsible for damages (from the civil law standpoint), even if his actions were not intentional.

*Example: A driver got blinded by the lights of the other car and hit a pedestrian walking on the side of the road. Although he is not culpable (he did not hit the pedestrian intentionally), he has the civil liability to pay damages.*

This exception from the general rule of culpability was established due to the increased danger of travelling by moving vehicles. However, article 436 § 2 of the Civil Code sets out that

---

<sup>\*\*\*</sup> More on this issue in: C. Kosikowski, *Ustawa o swobodzie działalności gospodarczej. Komentarz*, Warszawa 2013, Available at: [http://cyfroteka.pl/ebooki/Ustawa\\_o\\_swobodzie\\_dzialalnosci\\_gospodarczej\\_Komentarz-ebook/p0205377i020](http://cyfroteka.pl/ebooki/Ustawa_o_swobodzie_dzialalnosci_gospodarczej_Komentarz-ebook/p0205377i020), accessed 2016

<sup>†††</sup> Appendix III to the Act. It is worth mentioning, that this provision is currently invoked by Police against Uber drivers, available at: <http://isap.sejm.gov.pl/Download?id=WDU20011251371&type=1>, accessed 2016.

<sup>†††</sup> Answer of Ministry of Finance to parliamentary question no. 32705, Available at: <http://www.sejm.gov.pl/sejm7.nsf/InterpelacjaTresc.xsp?key=7C65148B>, accessed 2016.

in the case of two vehicles colliding with each other, the general rules (i.e. culpability) come into force.

*Example: Two cars collide. Drivers must establish who is culpable of this collision, to rule who pays the damages.*

This also applies to the “passengers transported out of courtesy” (Article 436 § 2, second sentence) – such passengers will get no compensation. This rule evolved from the general rule of continental civil law, that activities performed free of charge should not be extra protected. However, over the years, the definition of a passenger transported out of courtesy has been narrowed down. According to the ruling of the Supreme Court of Poland, carpoolers do not fit in this category (because they partake in costs, thus giving the driver benefit) since 1970s (Judgment of the Supreme Court, 1978) [12]. Therefore, they are subject to wider civil law protection of Article 436 § 1.

It is also important to mention that Article 435 demands the vehicle to be “moving”. However, the courts have already expanded this expression far from its literal meaning – the vehicle is “moving” also when it stays in one place, but it is ready to drive (Judgment of the Supreme Court, 1975) [13], during short stops (Judgment of the Supreme Court, 2003) [14], emergency stops (Judgment of the Supreme Court, 2005) [15] etc.

As for the insurance, General Third Party Liability (later: civil liability) is one of the obligatory insurances in Poland. It is compulsory for everyone possessing a car (or other vehicle) to have such insurance. Civil liability insurance covers all damages made in connection to the movement of a vehicle (Article 23 of the Act of 22 May 2003) [16]. Carpoolers count as passengers, so they are covered by the driver’s civil liability to the sum up to 5m euro. In case of the occurrence of any damages, the insurance company is obliged to cover them.

The insurance company holds the right to recourse from the driver, but only when he or she was driving under the influence of drink or drugs, did the damage intentionally, when he obtained the vehicle illegally or when he fled the site of the accident (Article 43 *ibid.*) [17]. In every other situation, both driver and passengers are covered by the civil liability insurance and any other type of insurance is not necessary.

## TAX ISSUES

According to Poland’s Ministry of Finance, the division of costs is not a profit, as only surplus of income over costs can be subject to taxation (Answer of the Ministry of Finance to parliamentary question no. 32705)<sup>§§§</sup>. Thus, money obtained during carpooling, as long as the driver also bears part of the costs of the ride, are tax exempted. However, as carpooling is not a strictly defined activity, there is a possibility that a profit will appear – for example, if someone pays over his share. Under no circumstances can a driver ask the passengers to pay more than their share of the costs. If he does and he travels with passengers regularly, then it is not only subject to taxation, but also the registration of transport services.

The other issue is the value added tax (VAT)<sup>\*\*\*\*</sup>. According to the Ministry of Finance, art. 15 of VAT act (The Act of 11 March 2004 on tax on goods and services) [18] (implementing art. 9 point 1 of directive 2006/112/EC (Council Directive 2006/112/EC of 28 November 2006) [19]), any person who, in any place, independently carries out any economic activity, whatever the purpose or results of that activity, is a VAT tax-payer (European Court of Justice judgment of 29 October 2009)<sup>††††</sup>. Thus, as the Ministry argues, if the driver regularly performs services of

---

<sup>§§§</sup> Answer of Ministry of Finance to parliamentary question no. 32705 and article 9 section 2 of PIT Act, Available at: <http://orka2.sejm.gov.pl/INT7.nsf/klucz/088552EF/%24FILE/i32705-o1.pdf>, Accessed 2016

<sup>\*\*\*\*</sup> In Poland it is also known as tax on goods and services (“podatek od towarów i usług” - shortly “PTU”)

<sup>††††</sup> It is also in compliance with European Court of Justice judgment of 29 October 2009, C-246/08 *Commission v. Finland*, Available at:

carpooling in a way that brings him or her any profit, his actions can be subject to taxation. However, there is a threshold that is difficult to cross for a casual driver – art. 113 section 1 of VAT Act exempts the sales below 150 000 zł (approx. 35 000 euro) from taxation.

Agents use different methods to prevent their users from using carpooling as economic activity. For example, when planning the trip on Blablacar.pl, the driver needs to state what type of car he uses and how many people he will take on board. After that, a special algorithm will approximate the cost of the trip and divide it between passengers. This prevents drivers from asking for money in excess of the costs of the ride.

## CRIMINAL LIABILITY

The criminal liability of a driver in commercial transport and in other kinds of transport differs. The liability of a professional driver is of a more complex nature and will not be dealt with here as carpooling, done in proper manner, is not a commercial activity. That means that the driver who carpools is answerable to general rules. Thus, Articles 173-180 of the Criminal Code and Articles 84-103 of Petty Offences Code are applicable.

During international trips carpoolers must remember about possessing valid passports (or others IDs) and visas, if necessary. Additionally, the driver should check the luggage for illegal products and the passengers should know the limits of restricted products when travelling abroad<sup>\*\*\*\*</sup>. No legal act points to the single responsibility of a driver, but in case of any difficulties he will be at least questioned by the Border Guard (Rzeczpospolita, 2014)<sup>\*\*\*\*</sup>.

## 5. CONCLUSION

The market in Poland seems to be dominated by one service, namely Blablacar, creating a community of drivers and passengers. However, both of the other players seem to have found a niche for their operations. InOneCar focused on business partners and short-distance rides and Yanosik uses carpooling just as another feature of their profile, aimed at drivers in general. Thus, all three have different legal situations.

Blablacar pays attention to maintain an image of a community of safe travellers, therefore it has to monitor its users and rides. The main actions in this field are many legal disclaimers, developed system of public notices, private messages, opinions and extensive company support in case of technical problems or other issues.

InOneCar works with different customers and thus in a different way. It established only general terms, leaving the rest to individual negotiations. It formed a new structure of the contract by engaging it between itself, a customer (employer) and its undefined group of users (employees of a customer), thus forming a more formal version of carpooling.

Yanosik is a side service of a larger company, thus it will thrive on the large number of users of its others services and not on creating a community like Blablacar.

It is also worth reviewing previous comments on the legal definition of carpooling. After reviewing the terms and conditions offered by key players, it can be stated that the definition

---

<http://curia.europa.eu/juris/document/document.jsf?jsessionid=9ea7d0f130d58840fbdc15254427b422cc590a0437bc.e34KaxiLc3eQc40LaxqMbN4Pah0Oe0?text=&docid=73368&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=593303>, Accessed 2016.

<sup>\*\*\*\*</sup> Most crucial products, according to Polish Border Control, are alcohol, tobacco products, medicine, animals, animal products, endangered species, guns and ammunition, food, objects of cultural heritage and cadavers.

<sup>\*\*\*\*</sup> Such a situation happened in August 2009, when a Czech driver carpoled two passengers on his way from Romania to Germany. His passengers, two Afghans, were in fact illegal immigrants and got arrested on the Czech-German border. The driver himself faced charges of trafficking human beings (source: *Niebezpieczny carpooling – sprawdź kogo podwozisz*, *Rzeczpospolita*, 24.08.2014), available at: <http://www.rp.pl/artykul/1135399-Niebezpieczny-carpooling---uwazaj-kogo-podwozisz.html#ap-1>, Accessed 2016.

stands. The contract between driver and passenger remains the same, it is only the form of the agent and scope of his services that change.

In all analysed cases, the driver and passenger can use carpooling for limiting costs, if they do not meet the criteria of business activity, do not exceed the limits for VAT, do not charge passengers above the costs of a ride, conform to civil, insurance and criminal norms and use the agent that obeys the law in providing its services.

The regulation of carpooling will not happen in the foreseeable future. However, it is worth noting that present market players will shape the future regulations when the time comes. Thus, the market of carpooling is definitely worth further analysis and monitoring.

## LITERATURE

- [1] J. Cozza, *The History of Carpooling, from Jitneys to Ridesharing*, [www.shareable.net](http://www.shareable.net), 7 February 2012, Available at: <http://www.shareable.net/blog/the-history-of-carpooling-from-jitneys-to-ridesharing>, [access of 25 April 2016].
- [2] Rushin Shah, *Taxi Wars*, 2015, Available at: <http://www.slideshare.net/RushinShah/taxi-wars-in-india-ola-cabs-vs-uber-53918573>, Accessed 2016
- [3] Blablacar, available at: [https://www.blablacar.pl/pojedz-tanio?comuto\\_cmkt=PL\\_GB\\_ACQ\\_ALL\\_DES\\_DOM\\_EZPR&utm\\_source=GB&utm\\_campaign=PL\\_GB\\_ACQ\\_ALL\\_DES\\_DOM\\_EZPR&gclid=CMAEqf\\_GjNACFUOzcgod3IQDwQ](https://www.blablacar.pl/pojedz-tanio?comuto_cmkt=PL_GB_ACQ_ALL_DES_DOM_EZPR&utm_source=GB&utm_campaign=PL_GB_ACQ_ALL_DES_DOM_EZPR&gclid=CMAEqf_GjNACFUOzcgod3IQDwQ), accessed 2016.
- [4] Yanosik, available at: <http://yanosik.pl/>, accessed 2016
- [5] Autostop, available at: <http://www.autostop.pl/>, accessed 2016
- [6] Neptis SA. Available at: <http://www.neptis.pl/>, accessed 2016
- [7] R. Dillet, *BlaBlaCar Acquires Its Biggest Competitor Carpooling.com To Dominate European Market*, TechCrunch, 15 April 2015, Available at: <https://techcrunch.com/2015/04/15/blablacar-acquires-its-biggest-competitor-carpooling-com-to-dominate-european-market/> [access: 23 April 2016].
- [8] The Act of 2 July 2004 on freedom of economic activity Ustawa z dnia 2 lipca 2004 roku o swobodzie działalności gospodarczej (Dz.U. Nr 173 poz. 1807) Available at: <http://isap.sejm.gov.pl/Download?id=WDU20041731807&type=3>, accessed 2016.
- [9] Judgment of the Regional Administrative Court in Poznań of 28 April 2009 (signature III SA/Po 374/08). Available at: [http://www.orzeczenia-nsa.pl/wyrok/iii-sa-po-374-08/oplaty\\_eksploatacyjne/260d608.html](http://www.orzeczenia-nsa.pl/wyrok/iii-sa-po-374-08/oplaty_eksploatacyjne/260d608.html), accessed 2016
- [10] Judgment of the Regional Administrative Court in Gdańsk of 09 March 2010 (signature I SA/Gd 17/10) Available at: <http://orzeczenia.nsa.gov.pl/doc/BF93E8883D>, and C. Kosikowski, Ustawa....
- [11] The Act of 6 September 2001 on transport (Dz.U. Nr 125 poz. 1371 ze zm.), Available at: <http://isap.sejm.gov.pl/Download?id=WDU20011251371&type=1>, accessed 2016.
- [12] Judgment of the Supreme Court Civil Chamber of 11 January 1978, sygn. akt II CR 487/77 , available at: <http://www.pido.pl/orzecznictwo/wyrok-sadu-najwyzszego-izba-cywilna-dnia-11-stycznia-1978-r-ii-cr-48777/>, and Judgment of the Supreme Court Civil Chamber, sygn. akt I CR 73/70 Available at: [https://rf.gov.pl/art-436-posiadacz-pojazdu/wyrok\\_SN\\_z\\_dnia\\_1970\\_04\\_17\\_I\\_CR\\_73\\_70\\_\\_OSNC\\_1970\\_12\\_233\\_\\_924](https://rf.gov.pl/art-436-posiadacz-pojazdu/wyrok_SN_z_dnia_1970_04_17_I_CR_73_70__OSNC_1970_12_233__924), Accessed 2016 .
- [13] Judgment of the Supreme Court of 14 April 1975 sygn. akt II CR 114/75, Available at: [https://rf.gov.pl/art-436-posiadacz-pojazdu/wyrok\\_SN\\_z\\_dnia\\_1975\\_04\\_14\\_\\_II\\_CR\\_114\\_75\\_\\_OSNC\\_1976\\_2\\_37\\_\\_904](https://rf.gov.pl/art-436-posiadacz-pojazdu/wyrok_SN_z_dnia_1975_04_14__II_CR_114_75__OSNC_1976_2_37__904), Accessed 2016.
- [14] Judgment of the Supreme Court of 11 April 2003, sygn. akt V CKN 1522/00, Available at: <https://rf.gov.pl/art-819->

przedawnienie/Wyrok\_Sadu\_Najwyzszego\_z\_dnia\_21\_maja\_2009\_r\_\_sygn\_akt\_\_V\_CSK\_444\_08\_\_opu  
bl\_\_Lex\_nr\_627255\_\_21524, Accessed 2016.

[15] Judgment of the Supreme of 7 April 2005, sygn. akt II CK 572/04, Available at:  
[https://mojepanstwo.pl/dane/sn\\_orzeczenia/30996,ii-ck-572-04](https://mojepanstwo.pl/dane/sn_orzeczenia/30996,ii-ck-572-04), Accessed 2016.

[16] Art. 23 of the Act of 22 May 2003. compulsory insurance, Insurance Guarantee Fund and Polish  
Motor Insurers' Bureau (t.j. Dz. U. z 2013 r. poz. 392 z późn. zm.), Available at:  
<http://isap.sejm.gov.pl/Download?id=WDU20130000392&type=1>, Accessed 2016.

[17] Art. 43 *ibid*, page 22, available at:  
<http://isap.sejm.gov.pl/Download?id=WDU20130000392&type=1>, Accessed 2016.

[18] The act of 11 march 2004 about tax on goods and services (t.j. Dz.U. 2011 nr 177 poz. 1054),  
Available at: <http://isap.sejm.gov.pl/Download?id=WDU20111771054&type=1>, Accessed 2016

[19] Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax,  
available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:347:0001:0118:en:PDF>,  
accessed 2016