

At a glance

Small Series Limitation for Automated Vehicles

What is this about?

In two initiatives, namely a Delegated Act amending Annex II to Regulation 2018/858 and an Implementing Act for Regulation 2019/2144, the European Commission is currently updating type-approval requirements and introducing technical specifications for fully automated vehicles. The initiatives restrict type-approval for automated vehicles to small series.

Bitkom's view

Goes in the right direction: Overall, Bitkom welcomes the EU's initiative to set out clear requirements for the type-approval of automated vehicles. However, the limitation to small series threatens to hamper innovation and the acquisition of valuable experience.

Core points

Bitkom proposes the following:

- Insert an opening clause to ensure national flexibility.
- Increase the quantity limits of the small series regulation.
- Set out a timeline to move from small series to unlimited series type approval.

Key figure

62 percent

can imagine using a self-driving private car, mini-shuttle bus or self-driving cab (according to a study by [Bitkom Research](https://www.bitkom.org)).

Small Series Limitation of the Type-Approval of Fully Automated Vehicles in the proposed amendments to Regulations (EU) 2018/858 & 2019/2144

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General Remarks

Overall, Bitkom welcomes the EU Commission's Draft Delegated Regulation amending Annexes I, II, IV and V to Regulation (EU) 2018/858 ('Draft Delegated Regulation') and the Draft Implementing Regulation laying down rules for the application of Regulation (EU) 2019/2144 ('Draft ADS Regulation'). Both initiatives aim at setting out the requirements for fully automated vehicles to allow for a progressive but quick introduction of the technology, thereby paving the way for innovative mobility concepts throughout the EU. However, in its current version, the legislative framework limits the type approval of fully automated vehicles equipped with Automated Driving Systems (ADS) to small series, allowing each manufacturer to only deploy up to a maximum limit of 1,500 vehicles per year per vehicle type across the EU and at 250 per Member State. Especially at the beginning of the deployment of use cases such as robo taxis and shuttles, the number of vehicles registered will be higher than the caps currently foreseen in the general type-approval regulation but only a limited number of types will be used. Therefore, it will not be possible to work properly under the small series model.

Given the timeline of the ADS Regulation having to be implemented by July 2022, the decision to limit the type approval to a small series appears comprehensible at first. However, considering the fact that some Member States, first and foremost Germany, already have a national regulatory framework setting out clear rules for the operation and approval of autonomous vehicles¹, the EU's ADS Regulation applies serious constraints to deployment on a national level and thus to improving safety and mobility. Germany has set a blueprint that allows to move innovative technologies from field tests to real-world operations. A limitation to 250 vehicles per year would not only hamper the uptake of innovation, but also significantly narrow the scope of valuable knowledge that could be gained by a larger deployment of autonomous vehicles in the field. It would pose a distinct constraint to AV deployment in European member states that does not exist in other regions or countries of the world today. It could also have a chilling effect on investment in

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¹ The corresponding Ordinance "Autonome-Fahrzeuge-Genehmigungs-und-Betriebs-Verordnung (AFGBV)" is currently being finalised and will most probably be adopted by the Bundesrat before summer.

European member states for the development of AV tech, which continue to have fewer companies developing and testing this technology than either the United States or China.

Bitkom therefore proposes the following solution:

1. **Insert an opening clause** in the relevant EU ADS regulations to the effect that these do not conflict with national type approvals (without quantity limits) in the area of automated/autonomous vehicles and allow for parallel applicability of the EU and national regulatory frameworks until a future point in time when the EU establishes regulations for unlimited series approvals of ADS-equipped vehicles.
2. **Increase the quantity limits** of the small series type approval legislation for automated/autonomous vehicles to a higher number through delegated act as foreseen by the regulation.
3. **Establish a reliable and short-term timeframe in the EU ADS regulations** for the transition of the EU small-series regulation into an unrestricted regulation for series approval. In doing so, the Commission should set out the legal process that will be required. This process and timeline should not be constrained by timelines at the United Nations Economic Commission for Europe, where issues of vehicle volumes and numbers are out of scope of future regulations, and timelines may or may not align well with EU member state needs.

In respect to the opening clause, we would like to propose the following amendment to the current legislative proposal of the implementing act to Regulation EU (2019/2144) Recital (7):

Subject to the provisions of Article 6 (5) of Regulation 2018/858 and any relevant EU legislation, this regulation is without prejudice to the right of Member States

- to regulate a national basis for the approval of fully automated vehicles (e.g. national individual vehicle approval, national type-approval of vehicles produced in small series and national type-approval of vehicles produced in unlimited quantities) with effect for their territories that exists as alternative to the EU type approval of fully automated vehicles produced in small series.
- and to test and validate that the safety of operation of fully automated vehicles in traffic is given in the foreseen national or local operating area.

Furthermore, we would also like to suggest to move the text of Recital 7 with the indicated modifications and insert it before Table 2 of the Annex III of the Regulation modifying the 2018/858 (and possibly additionally at the end of Article 1 of the Regulation modifying the 2019/2144 as a new second paragraph).

Justification:

- Opening clause: The suggested opening clause for automated/autonomous vehicles would allow for a parallel applicability of the EU small series type approval framework on a European level as well as for national approval on a purely national level.
- Recital 7, in its current form, could be misunderstood as to allow for additional national requirements to be placed on already EU type approved vehicles under the small series regulation. It should therefore be clarified that such requirements would only address the approval of operational areas.
- Since the legal effect of Recitals is limited, we would suggest including the aforementioned proposal to the legally binding text of the regulation.

Bitkom represents more than 2,700 companies of the digital economy, including 2,000 direct members. Through IT- and communication services alone, our members generate a domestic annual turnover of 190 billion Euros, including 50 billion Euros in exports. The members of Bitkom employ more than 2 million people in Germany. Among these members are 1,000 small and medium-sized businesses, over 500 startups and almost all global players. They offer a wide range of software technologies, IT-services, and telecommunications or internet services, produce hardware and consumer electronics, operate in the digital media sector or are in other ways affiliated with the digital economy. 80 percent of the members' headquarters are located in Germany with an additional 8 percent both in the EU and the USA, as well as 4 percent in other regions of the world. Bitkom promotes the digital transformation of the German economy, as well as of German society at large, enabling citizens to benefit from digitalisation. A strong European digital policy and a fully integrated digital single market are at the heart of Bitkom's concerns, as well as establishing Germany as a key driver of digital change in Europe and globally.