

Protection for Traffic Accidents Victims Caused by Drivers of Electric Scooter in Serbia

Dragan Obradović*

Abstract

Electric scooters have become a reality in everyday life in Serbia. People who operate electric scooters can be seen driving them on roads, sidewalks, and bike paths.

There have already been traffic accidents with various consequences involving drivers operating electric scooters. A special problem consists in the situation when those persons caused traffic accidents injuring other participants in the traffic or causing material damage to them. All these persons are victims of electric scooter drivers. However, the increase in the number of electric scooters in traffic in Serbia is not accompanied by adequate legal or by-law regulations, because they are still not legally regulated. This is an additional problem faced by the victims of those traffic accidents because they do not have the necessary legal certainty as to whom they should turn to with a request for compensation for damages that occurred as a result of such a traffic accident.

The aim of the paper is to present the current situation in this regard in the Republic of Serbia and to indicate possible solutions to this situation.

Keywords: *electric scooters, traffic accidents, road users, victims*

I. Introduction

Different aspects of security are discussed around the world every day. As a matter of fact, safety is a global phenomenon. Defined in this manner, security not only involves the protection against traditional and serious threats, such as armed conflicts or terrorism, but also concerns the broader framework of providing the adequate quality of life, including the functioning of urban transportation infrastructure¹. The reason for that is that traffic occurs every day around the world, using a wide variety of means of transportation. However, what was almost unimaginable in road traffic before is now becoming a reality. New types of vehicles are appearing – electric and hybrid vehicles. In the last ten years, road traffic in terms of the development of micromobility through a diversity of small means of transportation is occurring in the

* PhD, Singidunum University in Belgrade, Republic of Serbia, associate professor at the Faculty of Health and Business Studies Valjevo. Contact: dr.gaga.obrad@gmail.com.

¹ A. Paraušić, *Bezbednost u gradovima van granica nacionalnog i lokalnog – Politike urbane bezbednosti evropskih organizacija [Security in the cities beyond national and local: Urban security policies of European organizations]*, *Revija za kriminologiju i krivično pravo [Journal of Criminology and Criminal Law]*, 57(2), 2019, pp. 99-111.

world. One of these small means of transportation is electric scooters (hereinafter: e-scooters). E scooters have become a widespread means of transport globally, especially in large metropolitan cities.

In addition, the development of micromobility has different aspects, and there is talk of a positive impact on environmental protection. However, there are also the aspects that have not yet been completely clearly defined which refer to the safe use of some of these means of transportation in road traffic.

In Serbia, of all the small means of transportation that belong in the sphere of micromobile vehicles, electric bicycles are gradually appearing in traffic. This, however, does not exclude other types of micromobile vehicles occurring in traffic on the roads of certain cities. On the contrary, in the last few years, in Serbia, as well as in numerous countries in Europe, and throughout the USA as well as on other continents, there has been a noticeable increase in the number of e-scooters in road traffic. Furthermore, they are not only appearing in the biggest cities in Serbia – Belgrade, Novi Sad and Niš, but also in smaller towns and villages.

In the world, there are already numerous research papers and studies regarding various aspects of the arrival of e-scooters in traffic in various cities. They have also been identified as a threat to the safety of pedestrians, other drivers and public transportation in general, as well as being the cause of a significant number of traffic accidents and injuries². Unfortunately, as a by-product, e-scooter-related accidents have increased drastically in numerous countries³.

In addition, with the increase in the number of e-scooters on the roads, there is still insufficient thought about the dangers that they, or the persons using them, represent on a daily basis, primarily from the aspect of traffic safety. In contrast, some domestic authors point out that one of the biggest problems with e-scooters is that the users of this means of transportation represent another group of vulnerable road users⁴.

Persons who use e-scooters and thus participate in traffic have already been involved in traffic accidents in Serbia, not only as victims of other traffic participants, but also as persons who had caused injuries to others by their dangerous behavior in traffic, regardless of the status in which those persons took part in the traffic. In connection with the participation of electric scooters in road traffic and how to regard them appropriately, especially in regard to the traffic accidents in which their users were involved, the police and competent judicial authorities are also in a quandary.

The aim of the paper is to point out the possibility of protecting victims of traffic accidents caused by the dangerous behavior of those using e-scooters in traffic. It is necessary for the relevant state authorities to recognize and define electric scooters and the most important road safety regulations in the legal norms and by-law regulations as soon as possible.

² L.M. Kobayashi, E. Williams, C.V. Brown, B.J. Emigh, V. Bansal, J. Badiee, J. Doucet, *The e-merging e-pidemic of e-scooters*, *Trauma Surgery & Acute Care Open*, 4(1), 2019, e000337.

³ K.X. Farley, M. Aizpuru, J.M. Wilson, C.A. Daly, J. Xerogeanes, M.B. Gottschalk, et al., *Estimated Incidence of Electric Scooter Injuries in the US From 2014 to 2019*, *JAMA Netw Open*, 2020, 3(8), DOI: <https://doi.org/10.1001/jamanetworkopen.2020.14500>.

⁴ D. Graovac, M. Marković, V. Arsić, A. Josić, I. Stokić, *Research of attitudes of electric scooter drivers about traffic participations*, 15th International Conference "Road Safety in Local Community", Serbia, 2020, Vrnjačka Banja 24-27 June 2020, Serbia, pp. 195-204.

II. E-Scooters and Injuries in Europe

In August 2019, one of the world's most prestigious media outlets, the BBC, announced that since January 2018, at least 11 deaths have been linked to the scooters in cities including Paris, Brussels, Barcelona, Stockholm and London. In August 2018 in Barcelona, an e-scooter user crashed into a 92-year-old woman while she was walking, resulting in her death. In May 2019, a 27-year-old man was killed in Stockholm while using an electric scooter along a bicycle lane. In June 2019, a young man driving an e-scooter was killed in Paris in a collision with a truck. In fact, hundreds of people have been injured in road traffic incidents involving electric scooters⁵. In Britain, the Royal Society for the Prevention of Road Accidents announced that Emily Hartridge, a well-known British presenter and YouTuber, was the first person to die while using an electric scooter. This occurred on 12 July 2019 in South London in the morning hours, when a truck crashed into the electric scooter that Emily was using in a busy street⁶. In early June 2021, the driver of an electric scooter hit and killed a pedestrian in Paris and fled the scene, still was identified after 10 days and charged with manslaughter. This was the third death from electric scooters in the capital of France since 2019⁷. In addition, according to the statistics of the British Home Office, during 2021, some 223 pedestrians were injured by electric scooters, including 63 with serious injuries, which is almost four times the number of injured pedestrians than in 2020, when 57 pedestrians were injured, 13 of which received serious injuries⁸. In 2019, 7 traffic accidents involving electric scooters were reported in Montenegro, in which 7 people were injured although there were no fatalities, according to data from the Police Administration⁹.

Recently, The DfT's annual report – *Reported Road casualties Great Britain, annual report: 2021* – reveals that there were 1,434 casualties involving e-scooters, of which 10 people were killed, 421 were seriously injured and 1,003 were slightly injured. This is in stark contrast to the DfT's 2020 statistics, which recorded 484 casualties involving e-scooters, including one death, 128 serious injuries and 355 slight injuries¹⁰. Almost 40% of injuries involving e-scooters across England, Scotland and Wales last year happened in London, according to new government figures. The Met Police recorded 510 casualties in the capital during 2021, more than double the number in 2020¹¹.

Traffic accidents in which persons using e-scooters were involved and the injuries that occurred in these traffic accidents are directly related to the issue of compensation

⁵ <https://www.bbc.com/news/world-europe-49248614>, Electric scooters: Europe battles with regulations as vehicles take off, Published 6 August 2019 (accessed on 3.12.2021).

⁶ <https://www.propisi.net/elektricni-trotineti-ce-biti-regulisani-zakonom-od-iduće-godine/> (accessed on 10.10.2021).

⁷ <https://www.fleeturope.com/en/last-mile/europe/features/e-scooter-rules-still-varied-and-changing-across-europe?a=FJA05&t%5B0%5D=e-scooter&t%5B1%5D=legislation&curl=1>, published 5 July 2021 (accessed on 13.11.2021).

⁸ <https://rs.n1info.com/auto/skoro-cetiri-puta-veci-broj-pesaka-povredjenih-u-sudaru-s-trotinetima-u-britaniji/> from Srna, 25 May 2022 (accessed on 13.08.2022).

⁹ <https://www.pobjeda.me/clanak/protekle-godine-sedam-nezgoda-sa-elektricnim-trotinetima>, published: 29 June 2020 (accessed on 13.08.2022).

¹⁰ <https://www.smarttransport.org.uk/news/latest-news/government-report-shows-e-scooter-deaths-on-the-increase>, updated: 30/09/2022 (accessed on 1.12.2022).

¹¹ <https://www.bbc.com/news/uk-england-london-61591789>, E-scooters: More than 500 injuries recorded in London last year, published: 26.05.2022 (accessed on 1.12.2022).

for damages, not only to those most often injured in those accidents, but also to third parties who suffered damages by persons who used e-scooters.

One study was conducted in Finland during 2021, including all e-scooter-related injuries presented in the three adult emergency departments in Helsinki in 2021. In total, 446 e-scooter injuries were identified and taken into the analysis. In 434 cases, the injured person was the rider, whereas in 12 cases, a pedestrian or a cyclist was injured. The median age of the patients was 26 (IQR 22–33) for riders, and 59% were male. The most common injury mechanism was a fall (n=374), followed by collision (n=40). 257 (58%) of the of the injuries were minor, whereas 155 (35%) were moderate, 30 (7%) serious, 3 (0.7%) severe, and one (0.2%) critical. Including the cost of the hospital care and follow-up and the prescribed sick leaves, the cumulative cost of the e-scooter injuries was approximately 1.71 million euros, with a median cost of 1148 € (IQR 399–4263 €) per patient¹².

III. E-Scooters and EU Regulations

Regardless of the differences in the legislation of individual countries of the European Union (hereinafter: EU) and the still insufficiently precise definition of e-scooters, there are still some regulations that at present can precisely define e-scooters.

Namely, European Union Directive no. 2009/103/EU of 16 September 2009 on civil liability insurance for damage from the use of a motor vehicle and enforcement of the liability insurance obligation determines the meaning of the term of a vehicle which must be insured¹³. This regulation defines a motor vehicle as “any vehicle intended for use on the road, which is driven by mechanical power and which does not move on rails”¹⁴. A member state of the European Union is obliged to take all appropriate measures to ensure that civil liability for damages caused by the use of such a defined vehicle, which is typically located on its territory, is covered by mandatory insurance¹⁵. From the above definition, it is clear that an electric scooter has the status of a motor vehicle given that it meets the above criteria, as well as that it moves on its own by electric power and it is intended for the transporting of people and does not move on rails.

This Directive represents the so-called Codified Directive, which combines five directives adopted in the period from 1972 (N.72/166/CEE) – 2005 (2005/14/EC). The main goal is to harmonize the rules in the field of motorist liability insurance in the EU member states. The directives also had an impact on countries that are not members of the EU (formerly the EEC), as they contributed to the protection of persons injured in traffic accidents.

Amendments to this Directive were adopted on 24 November 2021, published in the Official Journal of the European Union on 2 December 2021 (SL EU L 430/1) – EU

¹² H. Vasara, L. Toppari, V.P. Harjola, K. Virtanen, M. Castrén, A. Kobylin, *Characteristics and costs of electric scooter injuries in Helsinki: a retrospective cohort study*, Scandinavian Journal of Trauma, Resuscitation and Emergency Medicine 30/2022, p. 57.

¹³ Directive 2009/103/EC of the European Parliament and Council of 16 September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and enforcement of the obligation to insure against such liability, OFL 263.

¹⁴ Directive, Article 1.1.

¹⁵ Directive, Article 3.1.

Directive 2021/2118, and entering into force on 22 December 2021 (hereinafter: the 6th EU Directive). Amendments to Directive 2009/103/EC are in the part that relies on civil liability insurance with regard to the use of motor vehicles and the enforcement of the obligation to insure against such liability, which is important for the topic of this paper.

The first innovations introduced by the 6th Directive relate to the definition of the terms 'vehicle' and 'use of vehicle' in the context of mandatory automobile liability insurance, as well as the rights of injured parties to compensation and the possibility of regulating the resulting damages. From the 1st EU Directive in 1972 to the entry into force of the 6th Directive, and in relation to the term 'vehicle,' many new types of motor vehicles have appeared on the market. Some of them use solely electric motors and battery power, while others use hybrid power, and the 6th Directive of the European Union defines the term 'vehicle' so that it is in fact any motor vehicle that uses exclusively mechanical power on land, and yet which does not move on rails and with:

- a. a maximum design speed of more than 25 km/h *or*
- b. a maximum net mass of more than 25 kg and a maximum design speed of more than 14 km/h,
- c. any trailer used with the vehicle from the above point, whether it is connected or not.

The definition of the term 'vehicle' within the 6th EU Directive is based primarily on the general characteristics of such vehicles, including their highest design speeds and net masses, and it includes only vehicles that use mechanical power for propulsion, regardless of the number of wheels on the vehicle.

Light electric vehicles that are not covered by the definition of the term 'vehicle' are excluded from the 6th Directive, although in fact nothing in that document prevents member states from requiring motor vehicle insurance under their national law, subject to the conditions that they determine, in respect of any motor equipment that is used on land and that is not included in the definition of the term 'vehicle' from the Directive.

The 6th Directive defines '*vehicle use*' as follows: "Vehicle use means any use of the vehicle that is consistent with the vehicle's function as a means of transportation at the time of an accident, regardless of the characteristics of the vehicle and irrespective of the terrain on which the motor vehicle is being used, or whether it is at rest or in motion." However, the 6th Directive cannot be applied if, at the time of an accident, the usual function of such a vehicle is "being used other than as a means of transport."

States are given a period of two years after the entry into force of the Directive to implement it, with a period of 18 months for harmonization and the establishment or setting up of the authority for the establishment of an Insolvency Body. This means that the Directive will start to be applied on 23 June 2023. Also, the Directive provides for the establishment of a Compensation Insolvency Body for member states. These bodies are established in order to protect the functioning of Mechanism IV of the EU directive, which stipulates that claimants can receive compensation in their home country for damages sustained while they were abroad.

After the expiration of the 18-month period, a new deadline of an additional 6 months has been approved for the full and complete implementation of all the provisions of the 6th EU Directive into the national legislation of each member state. The 24-month deadline for harmonizing the national legislation with the provisions of the Directive is considered the final deadline for establishment harmonization, for putting into

operation, and the implementation of the provisions of the Directive, but also for the conclusion of mutual agreements between the newly established Insolvency Bodies whose establishment is foreseen by this Directive as well as between the Insolvency Bodies for the protection of travelers.

IV. The Most Relevant Serbian Regulations on Road Traffic Safety

The Law on Road Traffic Safety (hereinafter: RTSA or Road Traffic Safety Act)¹⁶, which has been in effect in Serbia since 10 December 2009, has failed to define electric scooters, due to the fact that that time they were practically unknown. All subsequent changes and additions, including the most recent ones from 2019 which followed from the beginning of the implementation of the RTSA¹⁷, failed to recognize not only electric scooters but also not micromobile vehicles too, or to define them in any way.

This is also confirmed by the works of some domestic authors, who have analyzed valid world experiences regarding the involvement of electric scooters in traffic¹⁸. Other domestic authors in papers published in 2021 also state that electric scooters are still not legally defined in the Republic of Serbia, which has the consequence that road traffic accidents involving this means of transportation have not yet been recorded and there is no official data regarding the number of such means of transport¹⁹.

The most important by-law relating to vehicles in Serbia is the Rulebook on the Classification of Motor and Trailer Vehicles and Technical Conditions for Vehicles in Road Traffic (hereinafter *Rulebook*)²⁰. Even this Rulebook for now, regardless of all amendments and additions, fails to contain any provision which refers to any category of micromobile vehicles, and therefore, lacks to mention e-scooters as the most represented category of these vehicles in Serbia.

V. E-Scooters and Injuries in Serbia

There is scant information about road traffic accidents involving drivers of electric scooters in the Serbian media. One of the rare facts published in the media was that from the beginning of 2021 until the month of August, some 150 e-scooter users were seriously injured, that they were treated by trauma doctors almost daily for injuries

¹⁶ Road Traffic Safety Act, RS Off. Gazette no. 41/2009.

¹⁷ Law on Amendments to the Road Traffic Safety Act, RS Off. Gazette nos. 53/2010, 101/2011, 32/2013 (Decision of the Constitutional Court), 55/2014, 96/2015, 9/2016 (Decision of the Constitutional Court), 24/2018, 41/2018 (other law), 41/2018, 87/2018, 23/2019 – cf. Article 7.

¹⁸ D. Bogičević, M. Vujanić, K. Lipovac, N. Čerčić, *Electric scooters in traffic – overview of current experience worldwide with suggestions for higher traffic safety*, 15th International Conference “Road Safety in Local Community” Serbia, 2020, Vrnjačka Banja 24-27 June 2020, Serbia, pp. 185-194.

¹⁹ F. Živković, I. Velić, *Analysis of attitudes of road users on the use of electric scooters – comparative analysis on the example of Belgrade and Novi Sad*, 16th International Conference “Road Safety in Local Community” Serbia, Kopaonik, 16-19 June 2021, pp. 59-68; D. Obradović, G. Krstajić, Z. Belencan, *Electric scooters – challenges of the new time for the judiciary of Serbia*, XX Symposium “Expertise of Traffic Accidents and Insurance Fraud” Belgrade, University of Belgrade – Faculty of Transportation, Traffic Safety Group d.o.o. Divčibare, 18-20 November 2021.

²⁰ Rulebook on the Classification of Motor Vehicles and Technical Conditions for Vehicles in Road Traffic, RS Off. Gazette no. 40/2012, ... 64/2021, Article 6 and 15.

caused by falls, and that the most common cause of injuries was that they use their e-scooters without protective equipment²¹.

For now, in Serbia, there are no official data on the number of casualties involved with electric scooters, although injuries have been recorded in road traffic accidents involving users of electric scooters. One of those cases happened on 8 September 2021, when a 30-year-old man crashed into a vehicle with an electric scooter at 10:54 p.m. in Voždovac, Vojvode Sime Popovića Street, and was taken to the ER for resuscitation due to his serious injuries²². The last reported traffic accident involving a female user of an e-scooter took place on 10 November 2022, in the evening hours in Banatsko Novo Selo, when a woman in her eighth month of pregnancy, while using an e-scooter, was involved in a traffic accident with a passenger vehicle driven by a driver with a probationary driver's license²³.

Based on the request for free access to information of public importance to obtain data regarding, the author received on 11 January 2022 from the RS MIA the response that until the adoption of the new RTSA, which will define the concept of a scooter as well as the rights and obligations of e-scooter users, a e-scooter user in accordance with the current regulations is considered a pedestrian, given that the RTSA has no definition for an electric scooter, nor does it prescribe the rights and obligations of e-scooters users.

In accordance with the definition of a road traffic accident by the binding RTSA, an e-scooter user is// logged in road traffic accident records only in the event that, while using an e-scooter, the user had participated in an event that occurred on the road or started on the road and in which another road traffic user had participated with one of the vehicles prescribed by the Law (passenger vehicle, cargo vehicle, bus, etc.), but even in such cases// it is logged that the user had participated in a traffic accident as a pedestrian (without any data on the e-scooter itself). The MIA keeps no separate records of events in which users of e-scooters were injured or had caused injuries to another person²⁴.

It was recently announced in the media that a proposal to amend the Law on Traffic Safety has been prepared, which could soon be in the parliamentary procedure, which act will regulate the usage of the means of transport which experts call "micromobility". According to the proposal, e-scooters will be defined as a light means of transportation, whose maximum speed on the road will be 25 kilometers per hour, and they will use the same paths and lanes as cyclists. Only in special situations will they be able to use the road²⁵.

²¹ https://www.b92.net/automobili/aktuelno.php?yyyy=2021&mm=08&nav_id=1909331 How (un)safe are electric scooters?, Thursday, 19 August 2021 (accessed on 3.08.2022).

²² <https://www.rts.rs/page/stories/sr/story/135/hronika/4505720/beograd-trotinet-muskarac-nesreca.html><https://www.rts.rs/page/stories/sr/story/135/hronika/4505720/beograd-trotinet-muskarac-nesreca.html>četvrtak, 9 September 2021, Source: Tanjug, RTS, Turbulent night in Belgrade – scooter runs into vehicle, stabbing, cyclist with 4.8 blood alcohol level (accessed on 3.10.2021).

²³ <https://www.politika.rs/scc/clanak/524561/saobracajna-nesreca-trudnica-elektricni-trotinet-vozac-probna-dozvola-banatsko-novo-selo>, Thursday, 10.11.2022, Driver with a probationary license hits a pregnant woman – woman loses baby.

²⁴ The RS MIA of the RS Police Directorate Traffic Police Directorate response by the person authorized for acting on the request for free access to information of public importance 03.4 no. 07-422/21, dated 30 December 2021.

²⁵ <https://www.novosti.rs/drustvo/vesti/1174645/elektricnim-trotinetom-kolovozu-25-sat-mikrovozila-struju-konacno-zakonski-okvir>, Speed Limit up to 25 Km/Hour For Electric Scooters on the Roads: Micromobile vehicles using electricity finally regulated by law, S. Vidačković 21.11.2022, uploaded on 3.12.2022.

VI. The Need for the Regulation of E-Scooter Usage in Serbian Law

In the media and on social networks in Serbia, there is much discussion about e-scooters and their users. In this connection, the papers of individual authors have appeared, who have explored the connection between the use of e-scooters and the challenges of urban security, viewed in the light of newspaper reporting, as well as the views of Twitter users in Serbia²⁶.

Bearing in mind the response of the RS MIA and the data on the different categories of road users as reported by TSA in the last published annual report on the state of road traffic safety in Serbia for the year 2020²⁷ and before, as well as the mentioned data from the media about the casualties of users of electric scooters during the first eight months of 2021, the only appropriate conclusion is that there is an inaccurate and imprecise way of keeping data on certain categories of traffic road users in Serbia, as well as any injuries or casualties therein. The fact that there are no data on the injuries of e-scooter users for 2019 and for 2020 may be acceptable as their emergence in road traffic throughout Serbia is just beginning and in effect, spreading. However, the number of injured and killed users of electric scooters in less than eight months of 2021 – some 150 persons – deserves that in the 2021 RS MIA annual report, these road users should be labelled correctly and not as pedestrians.

According to the current regulations, it is not possible or acceptable to treat e-scooter users as pedestrians according to the meaning of the term *pedestrian* from Article 7 (69) of the RTSA.

The provision of Article 7 (69) of the RTSA, defines a *pedestrian* as a person who travels on the road, i.e. who pulls or pushes a vehicle on the road under his own power, or a handcart, a child's pram, a wheelchair for disabled persons or a child in a pram or a person in a wheelchair who move under their own power or by the power of an engine, not including persons on the road who skate, ski, use a sled or skate on roller skates, skateboards etc.

The current position of the RS MIA that the user of the electric scooter belongs to the pedestrian category, as road traffic participants, is unacceptable. An electric scooter user does not travel using his/her own power but rather, stands on a vehicle with two wheels which is driven by the power of its own engine and can move at different speeds depending on the power of the engine, which vehicle also has certain mechanisms for steering, braking, light signaling devices and which can travel on the road as well as on different surfaces off the road.

Also, it is not acceptable that in the case of an event in which the user of an electric scooter and another participant, regardless of who it was (if that event is a criminal offense by its consequences) the user is considered to be within the category of road traffic accident with the participation of a pedestrian pursuant to Article 7 (82) of the RTSA, as stated by the RS MIA in its response.

This is also valid when bearing in mind the definition of the term *traffic accident* from the RTSA, as follows: an accident that occurred or started on the road, in which

²⁶ For more data about this research, see: Kolaković-Bojović, Milica, and Ana Paraušić, *Electric Scooters – Urban Security Challenge or Media Panic Issue*, Teme 43, no. 4, 2019, in press.

²⁷ Road Traffic Safety Agency, *Statistical report on the state of road traffic safety in the Republic of Serbia in 2020 – Representation of different categories of participants in road traffic accidents*, Republic of Serbia, from 2016 to 2020, p. 15, published on 24 December 2021.

at least one moving vehicle was involved and in which at least one person was killed or injured, or material damage had occurred (Article 7 (82)). In the case of such an event in which the user of an electric scooter had been involved, *such an event cannot be considered and recorded in official statistics as a traffic accident involving a pedestrian.*

VII. Some Possibilities of Protecting Traffic Accident Victims Involving E-Scooters

Due to their speed, e-scooters are difficult to stop in time, and due to their size, it is difficult to notice them soon enough. Most often, injuries occur to persons using e-scooters. However, the number of cases in which injuries to third parties have occurred is not negligible. For now, in Serbia, however, the ultimate consequence of all traffic accidents in which an electric scooter user appears as one of the participants is the discrimination of other participants who were using other means of transportation. In this way, the second participant in the traffic accident, even though essentially a victim, is fundamentally discriminated against due to the basic constitutional principle that everyone is equal before the Constitution and thus, the law is violated²⁸.

This is so especially bearing in mind that after the concluded criminal proceedings, two more proceedings await the injured party in order to eventually be able to collect damages resulting from the criminal proceedings²⁹. These involve non-litigation proceedings in an attempt to reach an agreement with the competent insurance company without court proceedings or litigation proceedings before the competent court if no agreement is reached with the insurance company.

The possibility of the e-scooter injuring a third party, e.g. pedestrian, raises the issue of liability for damages caused by such a scooter and the obligation to insure against that liability. The most significant feature of e-scooters, from the point of view of mandatory insurance and a guarantee fund, is the fact that e-scooters are powered by their own motor.

Due to this fact, an e-scooter can qualify as a motor vehicle in the sense of the Serbian Law on Road Traffic Safety. Such a solution would be in accordance with the current 2009 Directive. The issue of insurance for an e-scooter and compensation for damages caused by it depends on the legal qualification of that means of transportation – a vehicle or a motor vehicle, that is, a light means of transport (as stated in the proposal for amendments to the above Law).

The Law on Compulsory Traffic Insurance of the Republic of Serbia defines that for every motor vehicle that uses the roads, a liability insurance contract must be concluded. Therefore, liability insurance would have to be taken out for e-scooters as well³⁰. If an uninsured e-scooter causes damages, the injured party has the right to compensation from the Guarantee Fund of the Association of Serbian Insurers³¹.

²⁸ The Constitution of the Republic of Serbia, RS Off. Gazette 98/06, Article 21.1.

²⁹ D. Obradović, *Respect for the right to human dignity of victims of criminal offenses during criminal proceedings in Serbia*, Republic of Serbia Autonomous Province of Vojvodina Provincial Protector of Citizens – Ombudsman Institute of Criminological and Sociological Research, Yearbook human rights protection the right to human dignity, No. 3, Novi Sad, 2020, p. 229.

³⁰ The Law on Compulsory Traffic Insurance of the Republic of Serbia, Official Gazette RS, 51/2009, 78/2011, 101/2011, 93/2012 i 7/2013, Article 2, Article 18.

³¹ *Ibid.*, Article 74, para. 1.

It is realistic to expect that e-scooters, after the adoption of amendments to the Law on Road Traffic Safety, will become an equal participant in traffic, and just like all other participants, it will have to have mandatory liability insurance, so that in the event of a traffic accident, the injured third party has the right to adequate compensation for the damages suffered. In this way, this obligation would be transferred from the Guarantee Fund to the insurance company. While waiting for the aforementioned amendments to the Law on Road Traffic Safety, the question arises as to whether a mandatory liability insurance policy for an e-scooter can be concluded within the existing conditions and tariffs of mandatory liability insurance. The technical characteristics of the e-scooter place it in the category of a moped or a motorcycle. According to the valid tariff system, there is a possibility of mandatory insurance for both mopeds and motorcycles. Therefore, we believe that it is not necessary to change the regulations on mandatory traffic insurance.

In the judicial practice in the Republic of Serbia, there are still no verdicts on compensation for damages caused by e-scooters.

VIII. Conclusion

The regulations of the European Union stipulate that electric scooters belong to the category of motor vehicles, although in most European countries there are still significant differences when it comes to the usage of electric scooters, as well as the traffic user category, and the given conditions. The 6th EU Directive, the implementation of which begins in 2023, will bring somewhat different, even more precise solutions regarding the definition of the term vehicle, and therefore e-scooters.

In the current Serbian Road Traffic Safety Act, as well as in the consequent legislation in Serbia, electric scooters and electric scooter users are not yet recognized as an independent category of road traffic users, nor are the regulations that determine the rules of behavior of electric scooter users in traffic in place. In the upcoming amendments to the Law on Road Traffic Safety, which are being announced, it is proposed to regulate e-scooters as a light means of transportation, with the understanding that only after the adoption of these amendments and amendments to this law will it be possible to view all the solutions that are related to e-scooters.

In addition to the issues that currently exist in Serbia when it comes to e-scooters and which relate to the participation of persons using them on public roads, the participation of these persons in certain traffic accidents as injured persons, i.e. as persons who have caused the traffic accident in that way causing damage or caused injuries to third parties, and therefore the issue of criminal liability of persons using e-scooters, another problem is also mentioned more and more often: the issue of compensation for damages and responsibility for compensation of damages caused to third parties by persons using e-scooters.

Due to an absence of judgments from the domestic judicial practice, the author's opinion is given in the paper as to how this issue can be resolved in accordance with the currently valid regulations in the field of compensation for damages.

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