

A COMPARATIVE ANALYSIS OF SELECTED POLISH ROAD TRAFFIC REGULATIONS IN RELATION TO THE VIENNA CONVENTION AND SAFETY PRINCIPLES

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Reviewed positively: 16.12.2025

Information about quoting an article:

Murzyński D., Krzemień P. (2026). A comparative analysis of selected polish road traffic regulations in relation to the Vienna Convention and safety principles. *Journal of civil engineering and transport*. 8(1), 53-62, ISSN 2658-1698, e-ISSN 2658-2120, DOI: [10.24136/tren.2026.004](https://doi.org/10.24136/tren.2026.004)

Abstract – In this article, the authors undertake to demonstrate the differences for three selected road scenarios, which are described by citing the relevant provisions of the Road Traffic Law and the Vienna Convention, i.e., the Convention on Road Traffic and the Convention on Road Signs and Signals. The difference is shown for three situations: entering an intersection on a green arrow signal at a traffic light S2, making a left turn, and yielding to a vehicle traveling straight on a road that the turning vehicle is leaving. An analysis of conformity was conducted, and a flaw in Polish solutions was shown, particularly with regard to foreigners driving on Polish roads.

Key words – Road Traffic Law, Vienna Convention, left turn, green arrow signal, cycle path intersecting the carriageway

JEL Classification – R41, N44, K33

INTRODUCTION

Certain provisions of the Road Traffic Act of 20 June 1997 [1] and the Regulation of the Ministers of Infrastructure and Internal Affairs and Administration on Road Signs and Signals of 26 November 2019 [2] are inconsistent with the provisions of the Vienna Convention on Road Traffic of 8 November 1968, ratified by Poland on 1 June 1984 [3], and the Vienna Convention on Road Signs and Signals of 8 November 1968 [4]. These discrepancies can lead to a risk that foreign drivers may unknowingly fail to comply with Polish regulations. In some cases, the provisions of the Conventions are more precise and less subject to interpretation. The aim of the article was to demonstrate that discrepancies in the interpretation of specific regulations have a negative impact on road safety. However, this cannot be proven quantitatively, as a comparative statistical analysis is impossible due to the methodology used in data compilation. These discrepancies also violate the guarantee function of the law, as restrictive provisions must not be interpreted extensively to the detriment of the defendant.

1. THE SELECTED PROVISIONS OF POLISH ROAD TRAFFIC LAW

To illustrate the problem, three Polish road traffic regulations that are inconsistent with the provisions of the Vienna Convention have been selected. It must be emphatically stated, and this applies to all examples provided, that pursuant to the Constitution of the Republic of Poland, the Convention on Road Traffic and the Convention on Road Signs and Signals, as ratified international treaties, take precedence in the event of a conflict with Polish law. There is one exception to this rule: when the Convention, under a specific regulation, states that the contracting parties may individually establish a more stringent or more lenient provision for a particular group of road users, or when a given state (in this case, Poland) has made a reservation to the Convention,

indicating that it is not bound by a particular provision of the Convention. As an example, the regulations governing pedestrian crossings allow for more stringent provisions for pedestrians, and the United Kingdom has reserved the right not to be bound by certain regulations concerning signals for pedestrians. Additionally, a key aspect of the problem is the fact that punishment in Poland can only be imposed on the basis of domestic law, which raises the hypothesis, to be verified by legal experts, that the provisions of the Convention may have a defensive function but cannot serve as a basis for punishment if they are more stringent than domestic law. In each case, therefore, in accordance with the principle of the Polish Criminal Code, the provision that is more favourable to the accused shall apply

2. GREEN ARROW AT S2 SIGNAL

This signal, also known as a conditional turn arrow, authorizes a change in direction at an intersection towards the direction indicated by the green arrow. The provisions governing this maneuver are contained in Articles § 96 section 1, § 96 section 2, and § 96 section 3 of the Regulation of the Ministry of Infrastructure and Internal Affairs on Road Signs and Signals [2], which stipulate that a red signal combined with a green arrow signal at an S2 signal means that turning in the direction indicated by the arrow at the intersection is permitted, provided that the driver stops before the signal and does not impede the movement of other road users. Moreover, in the case of a green arrow allowing a left turn, it is also possible to make a U-turn from the leftmost lane, unless prohibited by sign B-23.

Considering the Vienna Convention, the situation with a green arrow signal is described in Article 23 section 10 of the Convention on Road Signs and Signals [4], which states that if a signal system has additional green lights in the form of one or more arrows, the lighting of these additional arrows, regardless of which light in the three-color system is lit, indicates permission to continue moving in the direction(s) indicated by the arrows, provided that priority is given to vehicles moving in the direction into which the vehicle with the green arrow signal is entering and does not endanger pedestrians. Such a turning vehicle may proceed in the indicated direction, especially if stopping would impede the movement of vehicles behind it in the same lane.

Considering that Polish law mandates a complete stop at traffic signals, while the Vienna Convention does not impose such a requirement and even mandates driving without stopping when there is no need to yield to pedestrians or drivers moving on the road into which the vehicle with the green arrow is turning, the Polish provision is inconsistent with the Convention and can lead to different behaviours in identical road situations. As an example, a foreign driver unfamiliar with the Polish requirement might unknowingly violate the provisions of the Regulation of the Ministry of Infrastructure and Internal Affairs [2] on road signs and signals, resulting in an unjustified fine and penalty points, despite not committing an offense under the Vienna Convention. This also applies to Polish drivers.

A review of Polish literature has not revealed any discussion of this discrepancy, although it has been noted by Damian Iwanowicz and Jonatan Hasiewicz [5-7].

3. THE MANEUVER OF TURNING LEFT

The maneuver of turning left, that is, changing the direction of travel, is described in Article 22 of the Road Traffic Act [1]. When turning left, a driver is obliged to exercise special care (Article 22 section 1 of the Road Traffic Act), to approach the center (axis) of the roadway or the left edge of a one-way street (Article 22 section 2 of the Road Traffic Act), and to yield to vehicles approaching from the opposite direction or turning right (Article 25 section 1 of the Road Traffic Act). On the other hand, Article 22 section 4 of the Road Traffic Act, concerning a change in direction or lane, requires yielding to a vehicle traveling in that lane and to a vehicle entering that lane from the right, signalling the intention to change direction or lane in advance with a turn signal, and immediately ceasing signalling after the maneuver (Article 22 section 5 of the Road Traffic Act). As will be justified later, Article 22 section 4 does not apply to left turns.

In the case of the Vienna Convention, the maneuver of turning left is subject to the requirement of ensuring that other road users traveling behind or in front or intending to overtake are not endangered, taking into account their position on the roadway, direction of travel, and speed (Article 14 section 1). The Convention thus includes a kind of extended special care, known in Polish law as *qualified*, which is linked to the obligation to ensure [8]. Additionally, the driver is obliged to signal their intention clearly and sufficiently early and throughout the maneuver using a turn signal, or by hand if there is no turn signal, and to immediately end the signal after completing the maneuver (Article 14 section 3). Additional conditions that must be met are described in Article 16, including the need to approach the edge of the roadway corresponding to the direction

of the maneuver, enter the roadway of the other road on the side corresponding to the direction of travel, and yield to vehicles approaching from the opposite direction on the roadway (including mopeds and bicycles traveling on a cycle path crossing the roadway onto which the vehicle intends to travel), and not to violate Article 21 of the Convention concerning pedestrians.

The Vienna Convention [3] strictly defines the conditions under which a left turn can be executed. In contrast, the Road Traffic Act [1] does not explicitly state that a driver intending to make such a maneuver must ensure they are not being overtaken at that moment. The removal of the previously applicable provision in Article 19 of the Road Traffic Act of February 1, 1983 [9], which made the possibility of changing direction contingent on not cutting off other drivers, has led to conflicting court rulings regarding who is at fault in such incidents — the turning driver or the overtaking driver.

When analyzing an incident involving a driver turning left and another driver overtaking a vehicle or vehicles at the same time or overtaking the driver intending to turn left, one must also consider how the regulations govern the overtaking maneuver. The Road Traffic Act [1], Article 24, provides detailed guidelines for the intention and execution of an overtaking maneuver. Article 24 section 1 of the Road Traffic Act requires the driver to ensure that they have sufficient visibility and space to undertake the overtaking maneuver without hindering other road users, that another road user following them has not begun an overtaking maneuver, and that the driver ahead in the same lane has not signalled an intention to overtake another vehicle, change direction, or change lanes. Article 24 section 2 of the Road Traffic Act imposes on a driver intending to begin an overtaking maneuver the obligation to exercise special care and maintain a safe distance from the overtaken vehicle, while Article 24 section 5 of the Road Traffic Act permits overtaking a road user signalling an intention to turn left only from the right. In the situation under consideration, an overtaking driver who notices that the driver in front has signalled an intention to turn left, has slowed down and moved to the center of the roadway, should abandon the overtaking maneuver or overtake the moving vehicle from the right. The situation becomes more complicated when a driver wants to overtake a convoy of vehicles, as there is a possibility that they will notice too late the properly signalled intention to turn left by the road user ahead, and therefore, taking into account the requirement of special care, they should perform this maneuver with a slight excess of speed so that they can interrupt it if necessary. Although overtaking a line of vehicles is not prohibited, it is best not to attempt an overtake at all if there is a likelihood of limited visibility of any of the vehicles. Additionally, both drivers are obliged to comply with Article 3.1 regarding the exercise of caution or, where the law so requires, special care, and Article 4, i.e., the principle of "limited trust (principle of relative trust)", which in practice makes it the principle of adjusting trust¹. The lack of a requirement for the turning driver to ensure that they are not being overtaken, combined with the principle of exercising special care and adjusting trust, as well as the regulations regarding lane changes, causes significant discrepancies in the interpretation of events. This is clearly evident in the judgments of courts ruling on such situations.

The Supreme Court ruling of 2020 [10] stated: "The requirement to exercise special care, as defined in Article 22 section 1 of the Road Traffic Act, for a driver changing direction to the left, does not include the obligation to ensure, at the time of performing this maneuver, that they are not cutting off a vehicle overtaking them improperly (from the left). Imposing on a road user the obligation to foresee, without exception, all, even the most irrational, behaviours of other road users would directly lead to their paralysis."

Another example is the Supreme Court ruling, case number V KK 211/12 from 2013 [11]: "In numerous judgments, the Supreme Court has addressed the assessment of the behaviour of a driver who is about to change direction by turning left. It has been accepted that the requirement to exercise special care, as defined in Article 22 section 1 of the Road Traffic Act, for a driver changing direction to the left, does not include the obligation to ensure, at the time of performing this maneuver, that they are not cutting off a vehicle overtaking them improperly (from the left) (see: judgment of December 1, 2005, KK 151/05, OSNwSK 2005/1/2287, Lex no. 174662). Imposing on a road user the obligation to foresee, without exception, all, even the most irrational, behaviours of other road users would directly lead to their paralysis. Moreover, to justify the opposite position, one cannot rely on the principle of limited trust provided for in Article 4 of the Road Traffic Act, which obliges one to take into account the improper behaviour of other road users only when the circumstances indicate the possibility of behaviour other than that provided for by the provisions of this Act (judgment of October 19, 2005, IV KK 244/05, Lex no. 183099)."

¹ Since the colloquial name of Article 4 can be misleading, suggesting that trust should always be limited, the more appropriate name seems to be: the principle of adjusting trust.

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Similarly, the District Court's 2018 judgment [12] stated: "Although the defendant — as the driver performing the turn — was also obliged to exercise special caution, the requirement to do so does not mean that in the event of an accident during this maneuver, responsibility for it always falls on the driver making the turn. This responsibility is excluded if the cause of the accident is the improper behaviour of another road user. A driver performing a turn correctly (i.e., with an appropriately early and clear signal) has the right to assume that the lane intended for traffic from the opposite direction is not being used by a vehicle traveling in the same direction as the turning vehicle. This would only happen if a vehicle was improperly attempting to overtake, which is prohibited. According to Article 24, paragraph 5 of the Road Traffic Law, overtaking a vehicle or road user that is signalling a left turn may only be done on its right side. When several vehicles are being overtaken, the driver of the overtaking vehicle, upon noticing that one of the vehicles is signalling a change of direction, should either overtake that vehicle on the right (if possible) or abandon the maneuver. The defendant cannot be held responsible for the fact that the injured party, by more than doubling the speed limit, made it impossible for themselves to effectively brake, which they could have done if they had maintained the permissible speed. At the same time, it should be noted that none of the regulations obliges a driver intending to turn left to ensure they are not being overtaken. This duty is imposed on the driver of the vehicle before they overtake." There are many such judgments, and they are more recent than those presented below, which indicates a consolidation of legal precedent that confirms the absence of the described obligation².

An opposing stance was presented in the judgment of the District Court in Radzyń Podlaski of 2002, case file no. II K 87/02: "W. O. is accused of violating the principles of safety in road traffic at the same time and place in such a way that, while driving an "Autosan" brand bus, he began a left-turn maneuver without first ensuring the possibility of its execution, as a result of which he cut off the path of a "Mercedes" brand car that was overtaking the bus, driven by J. A., thereby causing a collision of both vehicles, resulting in the effects described in point 1 and bodily harm to J. A. lasting for a period exceeding 7 days." A similar conclusion was reached in the judgment of the Regional Court in Lublin on February 28, 2003, case file no. V Ka 1429/02, upholding the above judgment. However, in the Supreme Court Judgment III KK 151/05 [13], the previous judgments were overturned, arguing that, "The requirement to exercise special caution, as defined in Article 22(1) of the Road Traffic Act, by a person changing direction of travel to the left, does not include the obligation to ascertain, at the moment of executing this maneuver, whether they are obstructing the path of a vehicle that is improperly overtaking them (from the left side)." Another court judgment showing an opposing stance was issued by the District Court in Drawsko Pomorskie in a 2012 ruling in case II K 110/2011 [14]: "(...) on June 4, 2008, in S., he unintentionally violated the principles of safety in road traffic by failing to exercise special caution when performing a left-turn maneuver, he did not make sure whether he was being overtaken by another vehicle at that time, and did not stop the F. (...) vehicle with registration no. (...) that he was driving, having the opportunity to observe in the rear view mirror the S. (...) motorcycle with registration no. (...) traveling behind him, leading to a collision of the vehicles, thereby unintentionally causing an accident (...)."

However, as a result of an appeal filed by the accused, the Regional Court in Koszalin in 2013 [14] changed the contested judgment, acquitting the accused, justifying it as follows: "Finally, it must be stated firmly that it was M. U. who caused the accident by clearly violating the provisions of Article 24(1)(1) and (5) of the Act. He performed his maneuver either without adequate visibility and sufficient space to overtake without hindering anyone's movement and attempted to overtake the accused's vehicle from the left side, whereas such a maneuver towards a road user correctly signalling their intention to turn left can only be performed from their right side, or by behaving in this way, he completely ignored the intention signalled by the accused. Lastly, it is necessary to recall the place where the collision occurred; it happened in the final phase of the turn, when the front wheels of the accused's car were already off the roadway. These circumstances clearly point to M. U. as the perpetrator of this tragic accident for him and his father."

As can be seen from the examples provided, the left-turn maneuver and the regulations describing it, along with those that specify the procedure for the overtaking maneuver, arouse much controversy, which is also reflected in the literature concerning road traffic regulations.

It's worth quoting some of the arguments from the commentaries on Article 22 of the Road Traffic Law.

² The following judgments are also relevant: District Court in Koszalin, of 29.04.2013, case V Ka 757/12; District Court in Konin, of 30.09.2016, case II Ka 28/16; District Court in Konin, of 20.02.2015, case II Ka 14/15; District Court in Łódź, of 02.11.2017, case V Ka 1165/17; Judgment of the District Court in Bydgoszcz, 4th Criminal Appeals Division, of 26.03.2014, case file IV Ka 104/14; Judgment of the District Court in Piotrków Trybunalski, of 6 May 2022, IV Ka 241/22; Judgment of the Supreme Court, of 8.01.2013, III KK 109/12; Decision of the Supreme Court - Criminal Chamber, of 20 February 2014, V KK 382/13.

In his book [15], Wojciech Kotowski comments on Article 22 of the Road Traffic Law as follows: "Collisions often occur between two vehicles, one of which is overtaking while the other is changing its direction by turning left to enter a property. A common error in judgment is to blame the driver changing direction, even though correctly signalling such a change explicitly excludes the possibility of an overtaking maneuver from the left (Article 24, paragraph 5, of the Road Traffic Law). A fair assessment of the drivers behaviour can only be made after clarifying:

- whether the driver turning left had previously engaged the left turn signal;
- whether the driver attempting to overtake, with adequate visibility, could and should have noticed the preceding vehicle's left turn signal;
- where the initial impact between the vehicles occurred (...).

If the collision took place at the moment when the driver was finishing the left turn and, for example, half of their vehicle's length was off the roadway, i.e., on the access road to the property, it becomes clear that the driver of the overtaking vehicle is at fault for the collision. It is known that engaging the turn signal and moving closer to the center of the road with the intention of making a left turn simultaneously — in the context of the directives of Article 3 in conjunction with Article 24, paragraph 5, of the Road Traffic Law — makes it impossible for another driver to begin or complete an overtaking maneuver from the left side of the vehicle signalling its intention to turn with the left turn signal. The general directive specifying the conditions for overtaking clearly prohibits initiating and carrying out such a maneuver without first ensuring that the preceding vehicle (i.e., one moving in the same lane and in the same direction) is not signalling its intention to change direction (Article 24, paragraph 1, point 3, of the Road Traffic Law). The obligation of a driver who intends to overtake another vehicle also includes the need to be certain that the maneuver phase will not impede the movement of another road user, which is a consequence of good visibility that allows for a full assessment of the situation on the road section required for the safe execution of the maneuver. In turn, the correct behaviour of a driver making a turning maneuver requires appropriate signalling with the turn signal. This situation entitles them to initiate and carry out the maneuver of changing direction after first ensuring that no vehicles are approaching from the opposite direction. However, they are not obligated to predict — on the basis of Article 4 of the of the Road Traffic Law — that during this time another driver will fail to comply with the statutory safety requirements and attempt to overtake."

This view has been supported in two subsequent Commentaries [8], [16].

A similar commentary on Article 22 of the Road Traffic Law is presented in many publications and in his book by Ryszard A. Stefański [17]: "Special caution involves ensuring that a change of direction or lane can be made without impeding or endangering traffic. In other words, a driver must be attentive enough to be able to abandon a change of direction or lane if continuing it would create a danger to road traffic or force another road user to take an evasive maneuver. The requirement for a driver changing direction to exercise special caution does not mean that, in the event of an accident during this maneuver, liability for its occurrence always falls on the driver making the change of direction. This liability is excluded if the cause of the accident is the improper behaviour of another road user. (...) A driver who is performing a change of direction maneuver correctly (i.e., with appropriately early and clear signalling) has the right to assume that no vehicle traveling in the same direction as the turning vehicle is moving in the lane designated for oncoming traffic. (...) If multiple vehicles are being overtaken, the overtaking driver, upon noticing that one of the vehicles is signalling a change of direction, should either overtake that vehicle on the right (if possible) or abandon the maneuver. Although this latter course of action is not explicitly stated in the Road Traffic Law, it can be derived from the principle of special caution required of a driver when overtaking (Article 24, paragraph 2, of the Road Traffic Law). (...) A driver changing direction must exercise greater care than another road user; they are, after all, behaving in an atypical manner. A driver making a left turn with a turn signal engaged in advance can be accused of violating traffic safety rules if they fail to yield the right-of-way to a vehicle traveling in the same direction in the lane they intend to cross, but only if they saw (or could have seen) the vehicle moving in that lane and continued the turning maneuver regardless."

On the other hand, Michał G. Węglowski [18] and Krzysztof L. Paprzycki [19] drew opposing conclusions. In the authors' opinion, the left-turn maneuver should be defined similarly to the provisions of the Vienna Convention, as the differences can create a hazard, which can be considered using the example of the aforementioned hypothetical foreigner driving on Polish roads. When attempting to overtake, they will be certain that the vehicle(s) ahead of them will check their mirror to ensure they are not being overtaken before making a left turn (in accordance with the Vienna Convention). However, according to the Road Traffic Law

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in force in Poland, a driver intending to turn left does not have such an obligation, which creates a risk of a vehicle collision. This leads to the conclusion that the Polish legislator's move to remove the requirement for a driver intending to turn left to check if they are being overtaken, so as not to cut off the overtaking vehicle, was not a sound one and likely did not improve safety. It also did not simplify the reasoning in such cases, because definitively establishing whether the turning driver signalled the maneuver in advance and moved toward the center of the road is most often impossible based on material evidence, but only on personal testimony, which is usually contradictory, as a result of the different procedural interests of the parties [20]. The argument of Jan Unarski should be supported, that in situations involving left turns and overtaking, there are so many typical circumstances, e.g., temporary visibility limitations, signs informing about an intersection being obscured by large vehicles, that the elimination of the obligation to check in Polish law was a mistake [21].

4. YIELDING THE RIGHT OF WAY TO A PARTICIPANT TRAVELING STRAIGHT ON THE ROAD THAT THE TURNING VEHICLE IS LEAVING

The regulations governing the behaviour of a driver approaching a bicycle crossing in the Polish Road Traffic Law [1] are contained in Article 27 of the Road Traffic Law. Article 27, paragraph 1a of the Road Traffic Law mandates that a driver turning into a cross road must exercise special caution and yield the right of way to a cyclist, an electric scooter rider, or a personal transport device user, as well as to a person using a mobility aid, who are traveling straight ahead on the road, bicycle lane, shared pedestrian and bicycle path, bicycle path, or any other part of the road that the turning driver intends to leave. A bicycle crossing is usually not located on the road the driver is leaving, an example of which is shown in Fig. 1, where the road in the sense of the Road Traffic Law is indicated by a rectangle.

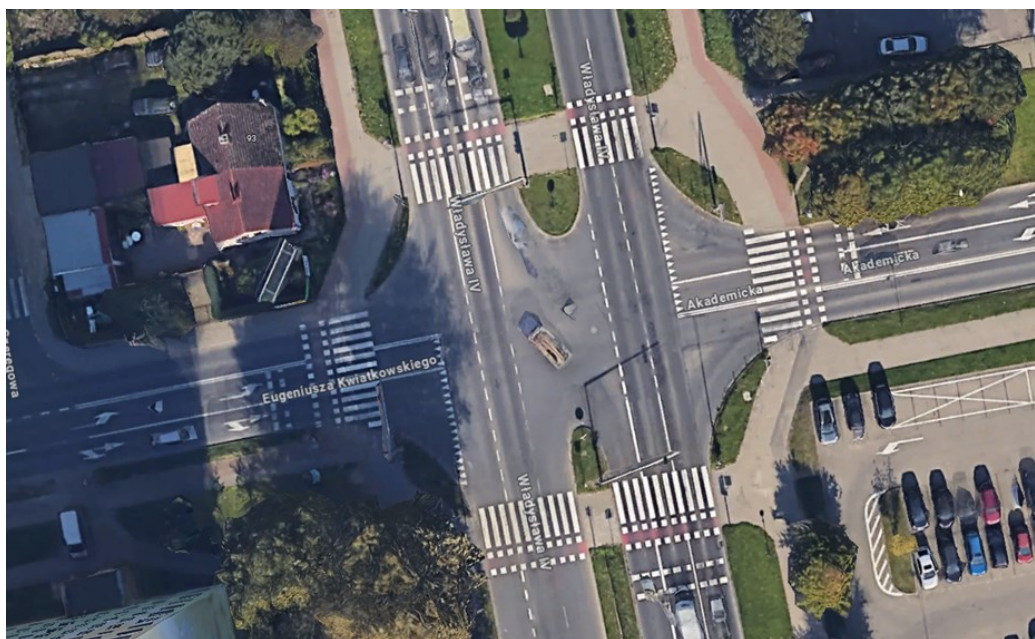


Fig. 1. A bicycle crossing designated on the road that the driver changing direction will enter, the area of the road vacated by the turning vehicle is marked with a rectangle [22]

This crossing is located on the cross road that the driver intends to turn into. Furthermore, according to its definition, a bicycle crossing is not a bicycle path; it is a part of the road (here, a subordinate road) on which it is designated. This crossing is not a bicycle lane, a bicycle path, a shared pedestrian and bicycle path, a roadway, or any other part of the road that the turning driver is leaving. Therefore, a bicycle crossing is a separate entity, and when it is set back from the priority road, it becomes part of the subordinate road. Article 5 of the Road Traffic Law discusses the hierarchy of road signs and signals. Road signs take precedence over other general

provisions of the law concerning (in this case) a specific method of traffic subordination, etc. A bicycle crossing is marked with the horizontal sign P-11 and often the vertical sign D-6a. This means that the right-of-way issues in this case are regulated by the bicycle crossing sign, not the general rule from Article 27, paragraph 1a of the Road Traffic Law. It can be seen that the two legal norms described above are completely consistent and lead to the conclusion that a cyclist acquires the right of way only when they are on the crossing, not when they are entering or approaching it, because such a provision (about entering) was recently removed from the Regulation on Road Signs and Signals (it exceeded the legislative delegation). Unfortunately, the general media message, and even that conveyed by driver training centers, is incorrect and leads to many tragic accidents involving vulnerable road users. Figure 2 shows an example of an intersection where a bicycle crossing is designated on the road that the driver changing direction is leaving, and therefore the cyclist has the right of way even when approaching the crossing.



Fig. 2. A bicycle crossing that is designated on the road that the driver changing direction is leaving [23]

To contrast this argument, we can use the example of a roundabout where a bicycle path runs around it, and the branches (the entry and exit cross-roads) of the roundabout are equipped with bicycle crossings. Furthermore, the bicycle paths approach these crossings at different angles (not just from the perimeter), and some of them are obscured by other infrastructure or vegetation. The requirement for drivers leaving such a roundabout to analyze exactly where a cyclist is coming from, whether they were previously traveling along the perimeter of the roundabout, or whether they came from a cross-bicycle path, and making the right-of-way dependent on whether they were traveling along or from another direction would lead to absurdity. An "ad absurdum" interpretation would lead to the conclusion that when we approach such a roundabout, the cyclist has the right of way only when they are on the crossing, but when we leave the roundabout, they have the right of way already when approaching on the bicycle path. The same would be true in the situation presented in Figure 1, for the driving direction of any car (Kwiatkowskiego Street to the priority road, i.e., Władysława IV Street) – the cyclist would have the right of way when on the crossing, whereas if the same vehicle, traveling from the south (opposite the cyclist), turned from Władysława IV Street into Kwiatkowskiego Street, the cyclist would have the right of way already when approaching the crossing. This, of course, does not mean that a cyclist can be hit, as this is prohibited by Article 3 of the Road Traffic Law, and Article 4 of the Road Traffic Law mandates limiting trust when we see that a cyclist is not reducing their speed and does not give signs of proper conduct, but these requirements are limited by the ability to perceive the situation – for example, by geometric and atmospheric visibility.

The question then arises whether we can talk about the right of way based on who was first at the crossing. The answer is absolutely not, because that is not the statutory definition of the right of way. It doesn't mean who will cross a certain area first, but rather which maneuvers we must refrain from if our movement would force another road user to make a significant change in speed. And that is from the moment he has priority, not sooner. In expert opinion, it also concerns the intensity of the necessary defensive maneuver. The right of

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way is therefore established before the critical point. Thus, the cyclist's duty is to adjust their speed in such a way that the turning driver, assuming a timely reaction, is not forced to brake suddenly and intensely, which in practice is accepted as half of the available braking intensity [24].

In specialized literature, the view has been established that both a pedestrian and a cyclist who move directly in front of a moving vehicle do not acquire the right of way, as it is conditional [24]. This is not changed by the fact that many years ago the prohibition for cyclists to enter directly in front of a moving vehicle was removed from the law (a bad move, of course, that caused many tragedies), because in a situation where directions of movement intersect (even outside an intersection - Article 25, paragraph 3, of the Road Traffic Law), every participant is still obligated to exercise special caution. It is from this obligation that the prohibition against entering directly in front of a moving vehicle is derived. Considering the rationality of the legislator assumed in interpretation and going through all stages of interpretation (linguistic, systemic, functional, and teleological), it is impossible to accept that the legislator has allowed cyclists to enter directly in front of moving vehicles, as this would obviously be contrary to Article 3 of the Road Traffic Law [25].

In the Vienna Convention [3], the regulations governing the behavior of a driver intending to turn into a cross road are contained in Articles 16, 7, and 14. The most significant article regarding bicycle crossings is Article 16, paragraph 2, which states that a driver, while changing direction, must not violate the provisions of Article 21 of the Convention concerning pedestrians and is obligated to give way to vehicles coming from the opposite direction on the roadway they intend to leave, as well as to mopeds and bicycles traveling on bicycle paths that cross the roadway they intend to enter [author's emphasis].

This article clearly indicates that cyclists and moped riders have the right of way when they are on a bicycle path located on the roadway of the cross road into which a driver is turning. In contrast, Polish law grants the right of way exclusively to those who are on the road that the driver changing direction is leaving. Therefore, in Poland, cyclists, etc., approaching a bicycle crossing that intersects the roadway of the road into which another driver is turning, must yield the right of way to that driver, and only have the right of way when they are already on the crossing.

The discrepancy between Polish Road Traffic Law regulations and the Vienna Convention in this case can also lead to hazards. Considering a hypothetical situation with our example foreigner, this time on a bicycle, they will assume they have the right of way when approaching the bicycle crossing, while a Polish driver may prioritize the directive of the sign regarding the cyclist only having the right of way when on the crossing, while simultaneously claiming that the cyclist was not traveling on the road that they, as the turning driver, were leaving.

The authors were unable to find any Polish literature that addresses this problem; however, court rulings in this area are inconsistent, and a dominant case law cannot be identified.

CONCLUSIONS

The examined discrepancies between Polish regulations contained in the Road Traffic Law and the Vienna Convention serve as a stark example of how such differences can create road safety hazards. This is particularly relevant for foreign drivers navigating Polish roads (e.g., an overtaking driver expecting a left-turning driver to verify safety, or cyclists expecting a driver to come to a full stop at a green arrow signal). Analogously, Polish drivers may pose a threat on foreign roads when performing left turns. The same applies to cyclist priority for Polish drivers abroad. Furthermore, it can be stated that the provisions contained in the Vienna Convention are often more precise and do not generate controversy regarding their interpretation. It is worth considering whether the legislator should take steps to harmonize regulations with divergent wording, with the aim of improving safety and reducing road traffic hazards. Additionally, the Regulation of the Prime Minister of June 20, 2002, on "Principles of Legislative Technique," Dz.U.2016.283, states that national laws (§ 4) do not duplicate the content of international agreements. Therefore, one should consider whether the Polish Road Traffic Law should focus exclusively on the differences between the Convention and the Polish legislator's views, while the unification should take place on the model of the British Highway Code [26-27]. The description of the issue, possible only in qualitative terms, aims to highlight the problem, particularly in the context of the guarantee function of the law. Irrespective of the effect of regulatory discrepancies (whether positive or negative), in a democratic state governed by the rule of law, differences that may be detrimental to the defendant are impermissible. Furthermore, the article indirectly aims to raise awareness among traffic engineers and legislators regarding the observed problem, as it is these individuals within the relevant ministry departments who influence changes in the scope of road traffic safety.

ANALIZA PORÓWNAWCZA WYBRANYCH POLSKICH PRZEPISÓW RUCHU DROGOWEGO W ODNIESIENIU DO KONWENCJI WIEDEŃSKIEJ I ZASAD BEZPIECZEŃSTWA

W artykule autorzy podjęli się wykazania różnic dla wybranych trzech sytuacji na drodze, które opisano przytaczając regulujące je przepisy w Prawie o ruchu drogowym oraz Konwencji Wiedeńskiej czyli Prawie o ruchu drogowym i Konwencji o znakach i sygnałach drogowych. Wykazano różnicę dla trzech sytuacji: wjazd na zielonej strzałce na sygnalizatorze S2, manewr skrętu w lewo oraz Ustąpienie pierwszeństwa uczestnikowi jadącemu na wprost po drodze, którą opuszcza skręcający. Przeprowadzono analizę zgodności, pokazano wadę polskich rozwiązań, szczególnie w oparciu o obcokrajowców poruszających się po polskich drogach.

Słowa kluczowe: Prawo o ruchu drogowym, Konwencja Wiedeńska, zielona strzałka, manewr skrętu w lewo, wyprzedzanie, droga rowerowa przecinająca jezdnię, zmiana kierunku jazdy, ustąpienie pierwszeństwa, rowerzysta.

AUTHOR CONTRIBUTIONS

- conceptualization, P.K. (Piotr Krzemień) and D.M. (Dawid Murzyński);
- methodology, P.K. and D.M.;
- software, D.M. and P.K.;
- validation, D.M. and P.K.;
- formal analysis, P.K. and D.M.;
- investigation, P.K. and D.M.;
- writing - original draft preparation, P.K. and D.M.;
- writing - review and editing, P.K. and D.M.;
- visualization, P.K. and D.M.;
- supervision, P.K. and D.M.;
- project administration, P.K. and D.M.

All authors have read and agreed to the published version of the manuscript.

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