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## Summary

# Legal opinion on pop-up bike lanes and further (preliminary) improvements to road infrastructure in favour of cycling and walking

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During the SARS-CoV-2 pandemic, cities across Europe implemented "pop-up bike lanes" as well as numerous other measures within a very short time, contributing to a redistribution of public space in favour of cycling and walking. Especially in Berlin, but also in many other German cities, these measures were adopted and implemented within a few weeks. This is remarkable as infrastructure planning processes usually take several years.

The question of the legality of "pop-up bike lanes" on the basis of the current German road traffic regulations is being intensively discussed. Irrespective of the urgent need to reform the German road traffic law, cities can already use their scope for action to promote cycling and walking and thus make road traffic more climate-friendly and urban-compatible. **The legal opinion commissioned by Deutsche Umwelthilfe states that the establishment of pop-up bike lanes is permissible regardless of infection control considerations.**

The order of pop-up bike lanes under German road traffic law follows the same rules as the order of other cycle lanes. In particular, they are exempt from the presentation of a "qualified danger" to the safety of road users and can be ordered quickly. It is only necessary to demonstrate the dangerousness of the previous traffic situation, which can be done, for example, on the basis of traffic volumes and/or accident statistics.

An equally simple traffic regulation order (without the need to demonstrate a situation of "qualified danger", without the need for a change in designation under road law and without the need for consent of the municipality) can be considered in the case of protective lanes for bicycle traffic, "non-genuine" bicycle boulevards (i.e. those in which motor vehicle traffic is still permitted) and a speed limit of 30 km/h in front of facilities requiring special protection. These measures can therefore be implemented with relatively low legal requirements and thus relatively quickly.

If sufficient information is available to demonstrate a "qualified danger", further measures such as the construction of zebra crossings or bus lanes or environmental lanes opened for bus and cycling can be considered. The prevention of car and lorry transit traffic by means of "modal filters" is already legally possible today and can be implemented by means of traffic signs (e.g. one-way traffic regulations), traffic facilities (e.g. diagonal barriers by means of barrier posts) as well as structural barriers (e.g. plant tubs). Despite high requirements for the demonstration of a qualified danger situation, these measures are suitable for accelerating the traffic transition due to their quick realisability.

The installation of bicycle parking spaces in the parking lane or on the roadway is also legally permissible. It is also possible to carry out traffic safety or traffic regulation measures on a trial basis. Such trial measures are exempt from the presentation of a qualified danger situation.

For the quick implementation of measures, the initially only temporary arrangement is suitable for the practical reason alone that the short-term construction is possible by means of yellow markings on the carriageway without the original white markings having to be removed directly.

The new report makes clear: the municipalities already have broad scope of action to reduce traffic noise, improve air quality and increase the quality of stay, which is also beneficial for the local trade and gastronomy. At the same time, these measures provide a good basis for the urgently needed, fundamental restructuring of urban mobility. The transport sector, which is the only sector that has so far failed to contribute to the reduction of greenhouse gas emissions, must now act quickly.



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