

Commission interpretative communication on procedures for the registration of motor vehicles originating in another Member State

(Text with EEA relevance)

(2007/C 68/04)

1. INTRODUCTION

Buying a motor vehicle in, or transferring a motor vehicle to another Member State has become much easier than a few years ago, mainly due to three important developments.

- (a) The different national systems of type-approval were replaced by the EC whole vehicle type-approval (WVTA) system ⁽¹⁾ that has applied to most passenger cars and motorcycles on a mandatory basis since January 1998 and June 2003, respectively. As a result, these categories of motor vehicles must comply with all the relevant EC type-approval directives in order to be placed on the market, and Member States may not refuse the sale, registration or entry into service of such vehicles. A proposal for a new Framework Directive ⁽²⁾ is currently under consideration by the European Parliament and the Council. Once adopted, commercial vehicles (buses and coaches, vans and trucks) will be included in the EC whole vehicle type approval. A uniform EC type-approval throughout the European Union enables faster and easier registration in all Member States.
- (b) The new block exemption regulation on the application of the competition rules to motor vehicle sales and servicing ⁽³⁾ has further enhanced European consumers' possibilities to benefit from the single market in practice so that consumers can take full advantage of price differentials between the various Member States. For example, consumers can now use without limitation the services of intermediaries or purchasing agents to buy their motor vehicle where it suits them. Distributors have greater freedom to operate outside their home territory and sell vehicles to consumers in other Member States (so-called active sales in addition to passive sales where consumers take the initiative to approach the distributor).
- (c) The European Community (EC) has introduced a harmonised registration certificate for motor vehicles ⁽⁴⁾. Its main objective is to facilitate the free movement of vehicles registered in one Member State, on the roads of other Member States, and the re-entry into service of vehicles that have previously been registered in another Member State.

Nevertheless, a considerable number of citizens and enterprises still shy away from purchasing a motor vehicle in another Member State since they fear facing needless paperwork and extra costs in their home country. Moreover, the transfer of motor vehicles to another Member State is still a source of complaints, in particular due to burdensome type-approval and registration procedures. Currently, as many as up to 20 % of the ongoing infringement cases in the field of Articles 28 to 30 of the EC Treaty and 7 % of SOLVIT-cases concern registration of motor vehicles ⁽⁵⁾.

This Communication aims at providing a comprehensive and up-to date overview on the principles of EC law that apply to the registration of motor vehicles in a Member State other than the State of purchase, and to the transfer of registration between Member States, in the light of recent developments in European legislation and in the case-law of the Court of Justice. This communication, however, does not give an overview

⁽¹⁾ Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers (OJ L 42, 23.2.1970, p. 1). Directive as last amended by Directive 2006/40/EC of the European Parliament and of the Council (OJ L 161, 14.6.2006, p. 12).

⁽²⁾ Commission proposal for a Directive of the European Parliament and of the Council on the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, COM(2003) 418, amended by COM(2004) 738.

⁽³⁾ Commission Regulation (EC) No 1400/2002 of 31 July 2002 on the application of Article 81(3) of the Treaty to categories of vertical agreements and concerted practices in the motor vehicle sector (OJ L 203, 1.8.2002, p. 30). Regulation as amended by the 2003 Act of Accession.

⁽⁴⁾ Council Directive 1999/37/EC of 29 April 1999 on the registration documents for vehicles (OJ L 138, 1.6.1999, p. 57). Directive as last amended by Commission Directive 2006/103/EC (OJ L 363, 20.12.2006, p. 344).

⁽⁵⁾ http://europa.eu.int/solvit/site/statistics/index_en.htm

of the principles of EC law that apply to car registration taxes and circulation taxes ⁽¹⁾, which are currently governed by Articles 25 or 90 of the EC Treaty ⁽²⁾.

This communication replaces in its entirety Commission interpretive communication on procedures for the type-approval and registration of vehicles previously registered in another Member State ⁽³⁾. It should be noted, however, that only the European Court of Justice has the authority to rule definitively on the interpretation of Community law.

This communication is of particular interest to the authorities of Member States dealing with the approval and the registration of motor vehicles, and will help them to implement EC law correctly. The Commission will elaborate a guide for consumers, in which the transfer and registration of vehicles within the EU will be explained.

In any event, the Commission will continue to monitor attentively the correct implementation of the principles of EC law that apply to the registration and the transfer of motor vehicles.

2. TERMINOLOGY

This Communication covers the first registration of motor vehicles as well as the registration of motor vehicles previously registered in another Member State regardless of whether they are new or used.

For the purpose of this communication: A 'motor vehicle' is

- any powered vehicle intended for use on the road, being complete or incomplete, having at least four wheels and a maximum design speed exceeding 25 km/h, and its trailers, with the exception of vehicles which run on rails and of agricultural and forestry tractors, all mobile machinery and heavy-duty commercial vehicles ⁽⁴⁾, or
- any two or three-wheel motor vehicle, whether twin-wheeled or otherwise, intended to travel on the road ⁽⁵⁾.

A motor vehicle is 'previously registered in another Member State' when it has obtained the administrative authorisation for the entry into service in road traffic, involving its identification and the issuing of a registration number. This communication therefore also concerns motor vehicles that were subject to temporary or short-term registration, and motor vehicles that were subject to professional registration.

The length of the period during which a vehicle has been registered in one Member State before its transfer to another Member State is irrelevant.

3. REGISTERING A MOTOR VEHICLE IN THE MEMBER STATE OF RESIDENCE

3.1. What is the Member State of residence for the purpose of registration?

According to the Court of Justice, registration is the natural corollary of the exercise of the powers of taxation in the area of motor vehicles. It facilitates supervision both for the Member State of registration and for other Member States, since registration in one Member State constitutes proof of payment of taxes on motor vehicles in that State ⁽⁶⁾.

⁽¹⁾ The principles of EC law that currently apply to car registration taxes and circulation taxes are set out in an information document from the Commission on the rights and duties of the European citizen on the taxation of cars transferred within the Community or used regularly on cross-border journeys, published on: http://ec.europa.eu/taxation_customs/taxation/other_taxes/passenger_car/index_en.htm

⁽²⁾ The Commission adopted a proposal on passenger car related taxes (COM(2005)261 of 5.7.2006). This proposal provides for the gradual abolition of registration taxes over a transitional period of five to ten years, and a refund system for the residual car taxes when a car registered in one Member State is permanently moved for registration to another Member State.

⁽³⁾ OJ C 143, 15.5.1996, p. 4.

⁽⁴⁾ See Article 1 of Directive 70/156/EEC.

⁽⁵⁾ That is to say any motorcycle falling under the scope Article 1 of Directive 2002/24/EC of European Parliament and of the Council relating to the type-approval of two or three-wheel motor vehicles and repealing Council Directive 92/61/EEC (OJ L 124, 9.5.2002, p. 1). Directive as last amended by Commission Directive (OJ L 106, 27.4.2005, p. 17).

⁽⁶⁾ Judgment of the Court of Justice of 21 March 2002, *Cura Anlagen GmbH v Auto Service Leasing GmbH (ASL)*, Case C-451/99, ECR 2002, p. I-03193 (<http://curia.europa.eu/en/content/juris/index.htm>)

Every individual must register his vehicle in the Member State in which he is normally resident. Article 7 of Directive 83/182/EEC ⁽¹⁾ and Article 6 of Directive 83/183/EEC ⁽²⁾ set out precise rules for determining normal residence in situations where the persons concerned are respectively temporarily or permanently living and driving in a Member State other than their own. However, the case law of the Court of Justice holds that the quantitative criterion to which this article refers (having to live more than 185 days per year in a given place) cannot be taken as the main criterion if there are other factors which alter the situation.

According to the Court of Justice, where a person has both personal and occupational ties in two Member States, his normal residence, determined in the context of an overall assessment by reference to all the relevant facts, is that where the permanent centre of interests of that person is located; in the event that such an overall assessment does not result in its determination, primacy must be given to personal ties ⁽³⁾.

3.2. The different steps to obtain the registration of a motor vehicle

Current national legislation of Member States provides for (maximum) three different steps for registering a motor vehicle in the receiving Member State:

- **the approval of the technical characteristics of the motor vehicle**, which in many cases will be the EC-type approval. Some types of motor vehicles, however, are still subject to national approval procedures,
- **roadworthiness testing of used vehicles**, the objective of which is to verify for purposes of protecting the health and life of humans, that the specific motor vehicle is actually in a good state of repair at the moment of registration,
- **the registration of the motor vehicle**, i.e. the administrative authorisation for the entry into service in road traffic, involving the identification of the motor vehicle and the issuing to it of a registration number.

3.3. The approval of the technical characteristics of the motor vehicle

3.3.1. EC type-approval

All series-built passenger cars approved since 1996, motorcycles approved since May 2003 and tractors approved since 2005 are in principle subject to EC type-approval. This is a procedure whereby a Member State certifies that a type of vehicle satisfies all applicable European safety and environmental protection requirements. The EC type-approval is valid in all Member States.

Where the manufacturer of the motor vehicle submits, pursuant to Directive 70/156/CEE, his **application for EC type-approval** to the approval authority of a Member State, which grants EC type-approval to the vehicle if it complies with all the requirements of the relevant directives ⁽⁴⁾, the approval authority of that Member State sends to the approval authorities of the other Member States a copy of the vehicle type-approval certificate for each vehicle type which it approved or refused to approve, or for which it withdrew the certification.

The manufacturer, in his capacity as the holder of the EC type-approval, issues an **EC certificate of conformity** which shows that the vehicle has been manufactured in conformity with the approved vehicle type. The EC certificate of conformity must accompany each new EC type-approved vehicle. Moreover, applicable EC competition rules require manufacturers to issue EC certificates of conformity in a non-discriminatory timely manner regardless of the destination and/or origin of the vehicle (i.e., regardless of whether the vehicle is sold to a consumer in another Member State or acquired by the dealer from a distributor in another Member State).

⁽¹⁾ Council Directive 83/182/EEC of 28 March 1983 on tax exemptions within the Community for certain means of transport temporarily imported into one Member State from another. (OJ L 105, 23.4.1983, p. 23.4.1983, p. 59). Directive as last amended by Directive 2006/98/EC (OJ L 363, 20.12.2006, p. 129).

⁽²⁾ Council Directive 83/183/EEC of 28 March 1983 on tax exemptions applicable to permanent imports from a Member State of the personal property of individuals (OJ L 105, 23.4.1983, p. 64). Directive as last amended by Directive 92/12/EEC (OJ L 76, 23.3.1992, p. 1).

⁽³⁾ Judgment of the Court of Justice of 12 July 2001, Paraskevas Louloudakis v Elliniko Dimosio, Case C-262/99, ECR 2001, p. I-05547.

⁽⁴⁾ The applicable directives are listed in Annex IV, Part I of Directive 70/156/EEC.

Member States may only register and permit the sale or entry into service of new EC-type-approved vehicles on grounds relating to their construction and functioning, if they are accompanied by a valid EC certificate of conformity.

European legislation does not require that the certificate of conformity remain with the vehicle after registration. In most Member States the EC certificate of conformity is kept by the authorities once the vehicle is registered.

New EC-type-approved vehicles which are accompanied by a valid certificate of conformity may not be required to undergo a new approval of their technical characteristics or to comply with additional technical requirements concerning their construction and functioning, unless they have been obviously modified after leaving the manufacturer's factory. National legislation under which motor vehicles covered by a valid EC type-approval certificate cannot be registered unless a national certificate is produced attesting to their conformity with national requirements, for example concerning exhaust emissions, is therefore not allowed ⁽¹⁾.

3.3.2. National approval

Under current Community law the following categories of motor vehicles are not EC type-approved:

- commercial vehicles (buses, coaches, vans and trucks) and trailers,
- vehicles built in small series,
- vehicles approved on an individual basis.

A new motor vehicle that is not EC type-approved can be subject to national approval in the receiving Member State, before it can be registered. The national approval will result in a national certificate of conformity that will serve, among other purposes, for registering the motor vehicle.

National approval may either be national type-approval or national individual approval:

- **national type-approval** and national small series-type approval are intended to ensure compliance of the vehicle type with the applicable national technical requirements. It results in a national type-conformity certificate issued by the manufacturer, in which he confirms that the specific vehicle was manufactured in conformity with the approved vehicle type,
- **national individual approval** concerns the certification of compliance of a particular vehicle (whether unique or not) with the relevant national requirements. This procedure applies in particular to vehicles imported individually from third countries and which do not comply with European type-approval requirements, as well as to unique vehicles.

National type-approval and individual approval procedures for motor vehicles to be used or registered for the first time in the EU normally fall outside the scope of EC law.

However, national approval procedures for motor vehicles which have already obtained a national approval in another Member State and for motor vehicles that were already registered in another Member State, must comply with Articles 28 and 30 of the EC Treaty. According to the jurisprudence of the Court of Justice, the existence of such national procedures is, as such, not necessarily contrary to these Articles.

Yet, these approvals must at least fulfill the following procedural conditions to comply with Articles 28 and 30 of the EC Treaty ⁽²⁾:

- (a) the national approval procedures must, in any event, be based on **objective, non-discriminatory criteria which are known in advance**, in such a way as to circumscribe the exercise of the national authorities' discretion, so that it is not used arbitrarily;

⁽¹⁾ Judgment of the Court of Justice of 29 May 1997, Administrative proceedings brought by VAG Sverige AB, Case C-329/95, ECR 1997, p. I-02675.

⁽²⁾ Judgment of the Court of Justice of 22 January 2002, Canal Satélite Digital SL v Administración General del Estado, and Distribuidora de Televisión Digital SA (DTS), Case C-390/99, ECR 2002, p. I-00607.

- (b) such procedures **may not duplicate controls** which have already been carried out in the context of other procedures, either in the same State or in another Member State. It follows that national authorities are not entitled to require technical tests when those tests have already been carried out in another Member State and their results are available to the authorities, or at their request may be placed at their disposal. This requires an active approach on the part of the national body to which an application is made for approval of a motor vehicle or recognition, in that context, of the equivalence of an approval certificate issued by an approval body of another Member State. Further, such an active approach is also required, where appropriate, of the latter body, and in this respect it is for the Member States to ensure that the competent approval bodies cooperate with each other with a view to facilitating the procedures to be followed to obtain access to the national market of the importing Member State ⁽¹⁾;
- (c) the procedure must be one which is readily accessible and can be completed within a reasonable time, and, if it leads to a refusal, the decision of refusal must be open to challenge before the courts. The procedure must be expressly provided for in a measure of general application which is binding on the national authorities. Moreover, a national approval procedure does not comply with the fundamental principles of the free movement of goods if its duration and the disproportionate costs to which it gives rise deter the owner of the motor vehicle from seeking the approval of the motor vehicle.

The technical requirements of the receiving Member State must not unnecessarily require the motor vehicle to be modified. The fact that the motor vehicle was already registered in another Member State means that its competent authorities considered that the motor vehicle satisfied the technical requirements applicable there. The approval of a motor vehicle already approved in another Member State, whether the vehicle was already registered or not, may therefore only be refused by the competent national authorities if the motor vehicle poses a genuine risk to public health. According to the jurisprudence of the Court of Justice, the Member States, in exercising their discretion relating to the protection of public health, must comply with the principle of proportionality. The means which they choose must therefore be confined to what is actually necessary to ensure the safeguarding of public health or to satisfy overriding requirements regarding, for example, road safety, and they must be proportional to the objective thus pursued, which could not have been attained by measures less restrictive of intra-Community trade ⁽²⁾. Since Article 30 of the EC Treaty provides for an exception, to be interpreted strictly ⁽³⁾, to the rule of free movement of goods within the Community, **it is for the national authorities which invoke it to show in each case that the application of their rules is necessary to give effective protection to the interests referred to in Article 30 of the EC Treaty** and, in particular, that the approval of the motor vehicle in question poses a real risk to human health or road safety.

It cannot reasonably be argued that the mere fact that a vehicle has been approved according to the rules of another Member State and possibly (but not necessarily) has certain technical characteristics that differ from those laid down in the law of the Member State of destination or from those of the equivalent type approval in that State constitutes a serious risk to human health and life or to the environment.

In practice, this requires that the competent authorities of the receiving Member State take the following steps:

- (a) the technical characteristics of a motor vehicle previously approved and registered in another Member State should first be assessed in the light of the technical rules in force in the receiving Member State. However, not on the basis of the current rules in force, but on the basis of the rules which were in force (in the receiving Member State) at the moment of approval in the Member State of origin;
- (b) the competent authorities must take into account the test and certificates issued by the competent authorities of other Member States and by the manufacturer ⁽⁴⁾. Additional tests may only be imposed when they are necessary to provide the competent authorities with information that cannot be found on the certificates;
- (c) on that basis, competent authorities will determine on which points the motor vehicle is not in conformity with the technical rules applicable in the receiving Member State at the moment of the first approval of the vehicle in the EU;

⁽¹⁾ Judgment of the Court of Justice of 10 November 2005, Commission of the European Communities v Portuguese Republic, Case C-432/03, ECR 2005, p. I-09665.

⁽²⁾ Judgment of the Court of Justice of 5 February 2004, Commission of the European Communities v French Republic, Case C-24/00, ECR 2004, p. I-01277.

⁽³⁾ Judgment of the Court of Justice of 5 February 2004, Criminal proceedings against John Greenham and Léonard Abel, Case C-95/01, ECR 2003, p. I-01333.

⁽⁴⁾ Judgment of the Court of Justice of 16 October 2003, Commission of the European Communities v Italian Republic, Case C-455/01, ECR 2003, p. I-12023.

- (d) the competent authorities may then only apply national technical rules which are proportionate in the light of one of the imperative reasons recognised by the Court as mandatory requirements or mentioned in Article 30 of the EC Treaty. It should be emphasised that applying disproportionate national technical rules to the specific motor vehicle would infringe Community law which, in any event, takes precedence over national law.

3.4. Roadworthiness testing of used vehicles

The objective of roadworthiness testing is to verify that **the specific motor vehicle is actually in a good state of repair at the moment of registration**. However, the fact that a motor vehicle has been used on public roads since the last roadworthiness test may justify roadworthiness testing upon registration in another Member State.

According to the jurisprudence of the Court of Justice ⁽¹⁾, Member States may therefore require that **motor vehicles previously registered in the same or in another Member State undergo roadworthiness testing** prior to registration, provided that this inspection is obligatory for any transfer of ownership of any similar motor vehicle or for any change of holder of the registration certificate, regardless whether the motor vehicle was registered in the same or in another Member State. Roadworthiness testing prior to registration must at least fulfill the same procedural conditions as the approval of the technical characteristics of the motor vehicle, namely:

- (a) it must be based on **objective, non-discriminatory criteria which are known in advance**, in such a way as to circumscribe the exercise of the national authorities' discretion, so that it is not used arbitrarily;
- (b) roadworthiness testing **may not duplicate controls** which have already been carried out in the context of other procedures, either in the same State or in another Member State. When a vehicle has undergone roadworthiness testing in a Member State, the principle of equivalence and mutual recognition laid down by Article 3(2) of Council Directive 96/96/EC ⁽²⁾ requires all the other Member States to recognise the certificate issued on that occasion, without that preventing them from requiring any additional tests usually carried out for the purposes of registration in their territory, provided those tests are not already covered by that certificate ⁽³⁾;
- (c) the Commission is of the opinion that the roadworthiness testing procedure must be one that is readily accessible and can be completed within a reasonable time. To restrict roadworthiness testing for imported vehicles to specific and separately designated control stations can constitute an obstacle to trade between Member States.

3.5. The registration of the motor vehicle

By registering the motor vehicle, the Member State authorises its entry into service in road traffic, involving the identification of the motor vehicle and the issuing to it of a registration number.

3.5.1. First registration of motor vehicles

For new EC type-approved motor vehicles purchased in another Member State, the Member State of registration must request, besides specific personal data of the person or organisation seeking the registration under harmonised Community code C ⁽⁴⁾, the **EC certificate of conformity** ⁽⁵⁾.

For non EC type-approved vehicles, the Member State may request presentation of the relevant national type-approval or national individual approval certificates (see section 3.3.2).

⁽¹⁾ Judgment of the Court of Justice of 12 June 1986, *Bernhard Schloh v Auto contrôle technique SPRL*, Case C 50/85, ECR 1986, p. I-01855, points 14-16; Case C-451/99, points 62 — 64.

⁽²⁾ OJ L 46, 17.2.1997, p. 1. Directive as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

⁽³⁾ Case C-451/99.

⁽⁴⁾ As set out in Annexes I and II to Directive 1999/37/EC.

⁽⁵⁾ Article 7(1) of Directive 70/156/EEC.

The Commission holds the view that Member States are entitled to check at the moment of registration whether VAT has been correctly paid.

When a *professional trader* in another Member State sells a motor vehicle, he is obliged to issue an invoice. For VAT purposes, there are two possibilities:

- (a) the motor vehicle is 'new', where the supply takes place either within six months of the date of first entry into service or where the vehicle has travelled for no more than 6 000 kilometres. VAT will be due in the Member State to which the vehicle is moved according to Article 2 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ⁽¹⁾ (the VAT Directive). The supply of new means of transport is exempted in the Member State of origin where the trader is established (Article 138(2)(a) of the VAT Directive). According to this provision, to get this exemption, it will have to be justified that the new mean of transport is dispatched or transported to the customer, by or on behalf of the vendor or the customer, at a destination outside the Member State of origin but within the Community;
- (b) the motor vehicle is not 'new': when a private person goes to another Member State to buy the motor vehicle and transports it back himself (or arranges for this to be done) then he buys at the VAT rate of tax at the point of sale and the result is taxation at 'origin'. VAT will be due in the Member State where the trader is established. When the car trader has bought the car from an initial buyer who, in particular, did not deduct VAT included in the purchase price of the motor vehicle, the special scheme on second-hand goods (the margin scheme) will be applicable (Article 312 *et seq.* of the VAT Directive).

When a *private individual* sells his motor vehicle, it can be, for VAT purposes,

- (a) 'New' (for the definition of the new vehicle see in point a. above). In that case VAT will be due in the Member State to which the vehicle is moved. (Article 2 of the VAT Directive). To avoid double taxation, the private individual who has sold the 'new car' is entitled to deduct or to be refunded of VAT included in the purchase price in the Member State of origin, up to an amount not exceeding the amount of VAT which he would be liable if the supply were taxable in the Member State of origin (Article 172 of the VAT Directive).
- (b) Not 'new'. The transaction is outside the scope of VAT. No VAT will be due.

The Commission considers that national authorities may also require, at the moment of registration, **proof of insurance coverage**.

3.5.2. *Motor vehicles previously registered in another Member State*

For motor vehicles previously registered in another Member State, the Member State of registration may only request the submission of the following documents:

- (a) **The original or a copy of the non-harmonised registration certificate issued in another Member State:** Many vehicles registered before 2004 still carry the non-harmonised registration certificate. There is no obligation in Community law to transmit the original or a copy of this type of certificate issued in another Member State to the national registration authorities of the Member State of destination. The Commission takes the view, however, that national law may oblige the purchaser to submit a copy of the registration certificate issued in the Member State of origin before registering the motor vehicle, in order to avoid double administrative controls or to reduce vehicle crime.
- (b) **The harmonised registration certificate:** The harmonised registration certificate issued by a Member State must be recognised by the other Member States for the vehicle's re-registration in another Member State ⁽²⁾. When a buyer purchases a motor vehicle carrying the harmonised registration certificate, he will have received Part I of the previous registration certificate in every case and Part II if it was issued. Part I of the previous registration certificate and Part II (if issued) must be transmitted to the registration authorities in the Member State of destination in order for these authorities to be able to withdraw the part(s) of the previous registration certificate. They must, within two months, inform the authorities of the Member State which delivered the certificate of its withdrawal. In addition, they must return the certificate which they have withdrawn to those authorities if they so request within six months of its

⁽¹⁾ OJ L 347, 11.12.2006, p. 1. Directive as last amended by Decision 2007/133/EC (OJ L 57, 24.2.2007, p. 12).

⁽²⁾ Article 4. of Directive 1999/37/EC.

withdrawal. Where the registration certificate consists of Parts I and II ⁽¹⁾, and Part II is missing, the competent authorities in the Member State where the new registration has been requested may decide, in exceptional cases, to re-register the vehicle, but only after having obtained confirmation, in writing or by electronic means, from the competent authorities in the Member State where the vehicle was previously registered, that the applicant is entitled to re-register the vehicle in another Member State ⁽²⁾.

(c) The EC or national certificate of conformity:

- national authorities may not request the EC certificate of conformity for vehicles previously registered in another Member State if the previous registration certificate of the vehicle fully complies with the model in Directive 1999/37/EC. Pursuant to Article 4 of the Directive, the registration certificate issued by a Member State must be recognised by the other Member States for the re-registration of the motor vehicle in those States,
- however, national authorities may request the EC certificate of conformity for vehicles previously registered in another Member State when the non-harmonised registration certificate of the other Member State does not allow them to identify the motor vehicle with sufficient precision,
- if the motor vehicle has no EC certificate of conformity, the national authorities may request a national certificate of conformity;

(d) Proof of payment of VAT, if the vehicle is new for VAT purposes (see section 3.5.1.);

(e) A certificate of insurance;

(f) A **roadworthiness certificate** if roadworthiness testing is obligatory for all re-registrations of motor vehicles previously registered in the same or in another Member State, respectively.

4. TRANSFERRING A MOTOR VEHICLE TO ANOTHER MEMBER STATE

A motor vehicle can obviously be put on a trailer or on a truck and brought to another Member State. Yet many motor vehicles will be driven to the Member State of destination.

Most Member States specify that, as a general rule, a motor vehicle cannot be driven on public roads without displaying a registration number. The standard situation is the motor vehicle being driven with the registration plates of the Member State of origin or the Member State of destination.

Moreover, civil liability must remain covered by insurance ⁽³⁾ and it is advisable for motorists to keep the 'green card', i.e. the international certificate of insurance ⁽⁴⁾ with them while using their vehicle. However, following the signature of the Multilateral Agreement ⁽⁵⁾ in all Member States (as well as in Andorra, Croatia, Lichtenstein Norway and Switzerland), the vehicle licence plate is the equivalent of an insurance certificate. This allows motor vehicles having a licence plate from one of these countries to circulate freely in this area without any checks of the compulsory motor liability insurance certificate at the borders.

⁽¹⁾ According to recital 7 of Directive 1999/37/EC Member States use a registration certificate consisting either of one single part or two separate parts, and 'it is currently appropriate to allow both systems to coexist'. Consequently, Article 3(1) of Directive, the registration certificate consists of either a single part in accordance with Annex I or two parts in accordance with Annexes I and II. The reference to Part II only applies to Member States who follow the system of registration certificate with two separate parts (Part I and Part II).

⁽²⁾ Article 5(2) of Directive 1999/37/EC.

⁽³⁾ Council Directive 72/166/EEC of 24 April 1972 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles, and to the enforcement of the obligation to insure against such liability, as amended (OJ L 103, 2.5.1972, p. 1). Directive as last amended by Directive 2005/14/EC of the European Parliament and of the Council (OJ L 149, 11.6.2005, p. 14).

⁽⁴⁾ Any motorist can obtain a Green Card from the insurer who has issued for him/her the compulsory motor liability insurance. The Green Card System was introduced in 1953 under the aegis of the Economic Commission for Europe of the United Nations and is managed by the Council of Bureaux. The Green Card certifies that the motorist has at least the minimum compulsory third party insurance cover required by the laws of the countries visited (for more info, see: <http://www.cobx.org/public/NXhomeEng-Public.htm>).

⁽⁵⁾ Agreement between the National Insurer's Bureaux of the Member States of the European Economic Area signed on 30 May 2002, referred to in Annex to the Commission Decision 2003/564/EC of 28 July 2003 on the application of Council Directive 72/166/EEC of relating to insurance against civil liability in respect of the use of motor vehicles (OJ L 192, 31.7.2003, p. 23).

There are two ways to drive a motor vehicle lawfully to the Member State of destination: either the motor vehicle carries a professional registration plate or the motor vehicle carries a temporary registration plate.

4.1. Driving the motor vehicle with professional number plates

Professional registration schemes exist in most Member States in order to allow retailers to drive motor vehicles on public roads for a very short period without being obliged to formally register them. Professional registration schemes are reserved for manufacturers, assemblers, distributors and dealers, with respect to motor vehicles which they possess.

Most Member States do not issue professional registration certificates as such, involving identification of the motor vehicle. They usually provide another type of document, establishing the link between the registration plates and their holder, and/or require the holder to keep a logbook in which trips made with the registration plate are recorded.

Article 35(1)(a) of the Vienna Convention on Road Traffic ⁽¹⁾ specifies that the Contracting Parties may not prohibit the movement of motor vehicles that are registered by another Contracting Party, provided the driver carries a registration certificate. The Contracting Parties must also recognise registration certificates issued by other Contracting Parties in accordance with the Convention. However, there is no provision of the Convention which requires or permits the Contracting Parties to prohibit the free movement of vehicles not complying with the Convention.

Considering the freedom of transit of goods within the Community ⁽²⁾, the intra-Community movement of motor vehicles displaying a professional registration number issued in another Member State is governed by the EC Treaty ⁽³⁾, and in particular by its Article 28. Possible impediments must be justified in accordance with Article 30 of the EC Treaty or with one of the mandatory requirements accepted by the Court of Justice.

The principle that each Member State shall take all appropriate measures to ensure that civil liability in respect of the use of vehicles normally based in its territory is covered by insurance normally also applies to vehicles carrying professional registration plates. The extent of the liability covered and the terms and conditions of the cover are determined on the basis of these measures. However, Member States may exclude vehicles carrying professional registration plates from this obligation (i.e. derogate from the abovementioned provision), if such plates appear on a list drawn up by the Member State concerned and communicated to the other Member States and to the Commission. In that case, the other Member States retain the right to require that the person having custody of such a vehicle be in possession of a valid green card or that he conclude a frontier insurance contract complying with the requirements of the Member State concerned ⁽⁴⁾. However, a new amendment to Directive 72/166/EEC introduced by the fifth motor insurance Directive 2005/14/EC ⁽⁵⁾ states that vehicles exempted from the insurance obligation on the grounds of bearing a special plate should be treated in the same way as uninsured vehicles. Victims of accidents caused by such vehicles will have the right to apply for compensation to the compensation body of the country in which the accident occurred. This body should then have a claim against the guarantee fund established in the country in which the vehicle is normally based.

4.2. The motor vehicle carries a temporary registration plate

Many Member States have put in place a system of temporary registration so that the motor vehicle can be driven for a short period before it obtains final registration or before it leaves the territory. Temporary registration usually takes place in the Member State of origin of the vehicle. However, the Commission takes the view that the general principle of freedom of transit of goods and the directive on registration documents for vehicles entail that the Member State of origin should also accept the use — on its territory — of temporary registration plates and certificates issued by the Member State of destination.

⁽¹⁾ United Nations — Economic Commission for Europe, 8 November 1968, as amended.

⁽²⁾ Point 18 of the Judgement of the Court of Justice of 23 October 2003, *Administration des douanes et droits indirects v Rioglass SA and Transremar SL*, Case C-115/02, ECR 2003, p. I-12705, point 18.

⁽³⁾ See Judgement of the Court of Justice of 2 October 2003, *Criminal proceedings against Marco Grilli*, Case C-12/02, ECR 2003, p. I-11585.

⁽⁴⁾ Article 4(b) of Council Directive 72/166/EEC.

⁽⁵⁾ Article 1(3)(b) To be implemented by Member States by 11 June 2007 at the latest.

For temporary registration:

- Member States may issue a **temporary registration certificate that does not differ, or only slightly differs from the model set out in Directive 1999/37/EC**. In that case, other Member States are obliged to recognise the temporary registration certificate issued by a Member State for the identification of the vehicle in international traffic, provided that the driver carries Part I of the registration certificate pursuant to Article 5(1) of the Directive ⁽¹⁾,
- alternatively, the **temporary registration certificate may substantially differ from the model set out in Directive 1999/37/EC**. Other Member States must, in principle, recognise the certificate in accordance with Articles 28 and 30 of the EC Treaty.

The free movement of the motor vehicle carrying a temporary registration plate and certificate may only be impeded for reasons relating to road safety (such as the driving capacities of the driver, his compliance with the local rules of the road or the roadworthiness of the motor vehicle), in case of reasonable suspicion of vehicle theft or when the controlling authorities have reasonable doubts about the validity of the certificate.

In addition, motorists are recommended to carry the 'green card' confirming insurance coverage at least at the minimum compulsory level required by the laws of the country which is visited. During the journey and until its final registration in the Member State of destination, the vehicle has to be covered by an insurance policy issued by an insurer authorised to operate in the state of origin of the vehicle. However, a new rule ⁽²⁾ that has to be transposed by Member States by 11 June 2007 at the latest, specifies that where a vehicle is dispatched from one Member State to another, the Member State where the risk is situated shall be considered the Member State of destination, immediately upon acceptance of delivery by the purchaser for a period of thirty days, even though the vehicle has not formally been registered in the Member State of destination. This will enable the purchaser of the vehicle to obtain insurance cover in his Member State of residence even though the vehicle still bears a foreign registration plate (temporary plate of the country of origin). In practical terms, this means that insurance should be taken out in the country of destination. Such insurance can be offered by insurance undertakings established in the Member State of destination, or established in other Member States which provide services in the Member State of destination based on free provision of services or freedom of establishment.

5. REMEDIES

Any decision taken by national authorities refusing the type-approval of the motor vehicle or refusing its registration must be notified to the party concerned who shall, at the same time, be informed of the remedies available to him under the laws in force in the Member State concerned and of the time limits allowed for the exercise of such remedies ⁽³⁾.

Apart from the formal national remedies available to the person applying for registration, citizens and enterprises may seek a solution for vehicle approval or car registration problems through the SOLVIT network ⁽⁴⁾. The use of the SOLVIT system is free of charge.

It is also possible to turn directly to the European Commission and make a complaint against a Member State. The Commission — if it considers that a Member State has failed to fulfil its obligation under the EC Treaty — can initiate infringement proceedings against the Member State under Article 226 of the EC Treaty.

⁽¹⁾ Directive 1999/37 EC also applies to temporary registration certificates, which should be recognised by the Member States based on Article 1(2)(b), and Article 4 of the Directive.

⁽²⁾ The new Article 4ais inserted into Council Directive 90/232/EEC (OJ L 129, 19.5.1990, p. 33) relating to insurance against civil liability in respect of the use of motor vehicles by Directive 2005/14/EC.

⁽³⁾ Article 12 of Directive 70/156/EEC.

⁽⁴⁾ <http://europa.eu.int/solvit/>