



**Background note**  
**on the re-registration of vehicles imported from other EU Member State**  
**when Part I of the registration certificate is missing**  
**Roadworthiness Committee 24/06/2019**

The Commission wishes to bring to your attention a matter which was raised by a business association in a Member State. The problem concerns the interpretation and application of Article 5(2) of Council Directive 1999/37/EC on the registration documents for vehicles (hereinafter referred to as 'the Directive') and has significant effect on the cross-border trade of second-hand vehicles.

According to the letter the Commission received, where Part I of the registration certificate gets lost or stolen after the de-registration of the vehicle in the Member State of origin but before the re-registration in the Member State of destination, the authorities in the latter refuse the re-registration of the vehicle based on Article 5(2) of the Directive.

Concerning the mandatory submission of Part I of the registration certificate, the wording of Article 5(2) of the Directive seems rather clear:

*"With a view to re-registering a vehicle previously registered in another Member State, the competent authorities shall require the submission of Part I of the previous registration certificate in every case and the submission of Part II if it was issued. [...]"*

*Where the registration certificate consists of Parts I and II, 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."*

However, when looking at the overall purpose of the Directive as explained in its recitals, the aim of the harmonisation of the form and the content of the vehicle registration document is to facilitate its comprehension and thus help towards the free movement (recital 3) and in particular **to facilitate** the re-entry into service of vehicles which have previously been registered in another Member State (recital (6) and see also judgment of 6 September 2012, *Commission v Belgium*, C-150/11, EU:C:2012:539, paragraph 74).

Based on the interpretation of the authorities in the Member State of the current case, the loss or the theft of Part I of the document would by contrast appear to lead to a situation where a vehicle could not be re-registered in any Member State taking into account also that the replacement of the lost document is not possible in the Member State of origin once the vehicle has been de-registered for export. However, in view of the overall objectives of the Directive, it is clear that Article 5(2) was not intended to potentially

obstruct or make the re-registration of vehicles impossible in the very lifelike situation when the document is lost or stolen. Thus the interpretation of Article 5(2) which would allow for the re-registration of a vehicle also in the absence of Part I of the registration certificate would seem to be in line with the overall objectives of the Directive, namely to facilitate the re-entry into service of vehicles previously registered in another Member State.

It should also be emphasised that in order to limit potential cases of fraud and illegal trade, the Directive requires Member States to actively cooperate with one another. According to recital (9) *"in order to facilitate those checks specifically intended to combat fraud and the illegal trade in stolen vehicles, it is appropriate to establish close cooperation between Member States, based on an effective exchange of information;"*

This requirement is reflected in Article 9 which expressly states that ***"Member States shall assist one another in the implementation of this Directive. They may exchange information at bilateral or multilateral level in particular so as to check, before any registration of a vehicle, the latter's legal status, where necessary in the Member State in which it was previously registered. Such checking may in particular involve the use of an electronic network, comprising data from national electronic databases to facilitate the exchange of information."***

There does not seem to be any question related to a lost or stolen Part I of the registration certificate that could not be clarified with the assistance of the Member State of origin via its national contact point in the same manner as it is done for Part II. The list of national contact points is maintained and regularly circulated among the Member States' representatives by the Commission to facilitate the cooperation obligation set out by Article 9. The active cooperation between the Member States concerned both before and after the re-registration (i.e. the notification of the letter after the re-registration) could prevent the fraud cases while being in line with the overall goal of the Directive to facilitate the re-entry into service of vehicles previously registered in another Member State.

Nevertheless I would like to address another aspect of the case which is related to the mutual recognition obligation of the registration certificate set out by Article 4 of the Directive.

According to Article 4 of the Directive, *"the registration certificate issued by another Member State shall be recognised by the other Member States for the identification of the vehicle in international traffic or for its re-registration in another Member State"*.

As the Court expressed in its decisions, the presentation of the registration certificate during the re-registration procedure creates a 'privileged situation', where the basis of the re-registration has to be the registration certificate, the technical characteristics have to be ascertained on the basis of this document and no other or further document may be requested for the purpose of the re-registration (judgment of 6 September 2012, *Commission v Belgium*, C-150/11, EU:C:2012:539, paragraphs 73, 75-76).

Thus if the registration certificate was presented for the re-registration, the Member State can only *"identify that vehicle and [to] require for that purpose that the vehicle be presented for a physical examination, in order to verify whether that vehicle was actually present on its territory and corresponded to the data mentioned in the registration certificate"* (judgment of 20 September 2007, *Commission v Netherlands*, C-297/05, EU:C:2007:531, paragraphs 54, 55 and 57 to 63).

However in a case where the registration certificate has been lost or stolen, the vehicle cannot benefit from the 'privileged situation' flowing from the mutual recognition of the registration certificate and the technical characteristics of the vehicle necessary for the re-registration will have to be ascertained by other means. The use of the periodic technical inspection regime might seem a suitable solution. However, I would like to stress that according to Article 8(3) of Directive 2014/45/EU<sup>1</sup> if the vehicle has a valid roadworthiness certificate (also in terms of the frequency intervals of the re-registering Member State), it cannot be submitted to an additional periodic roadworthiness test. Consequently if the vehicle has a valid roadworthiness certificate, the periodic roadworthiness test cannot be used to ascertain the technical information required for the re-registration and which would have been otherwise retrieved from the missing registration certificate.

To sum up, re-registering a vehicle which was previously registered in another Member State when Part I of the registration certificate has been lost or stolen is in line with the overall objective of the applicable EU rules, namely to facilitate free movement and the re-entry into service of vehicles that have previously been registered in another Member State. Nevertheless to prevent fraud cases, Member States' authorities would have to exercise due caution and cooperate with one another. Finally, in the absence of the registration certificate the technical characteristics of the vehicle have to be ascertained by other means. For these purposes, the periodic roadworthiness test can only be used in certain situations.

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<sup>1</sup> Directive 2014/45/EU of the European Parliament and of the Council of 3 April 2014 on periodic roadworthiness tests for motor vehicles and their trailers and repealing Directive 2009/40/EC, OJ L 127, 29.4.2014, p. 51.