Reports of Cases

OPINION OF ADVOCATE GENERAL
WAHL
delivered on 20 September 2018[1]

Case C-326/17

Directie van de Dienst Wegverkeer (RDW)
X and Y
other party:
Z

(Request for a preliminary ruling from the Raad van State (Council of State, the Netherlands))

(Directive 1999/37/EC — Registration certificates issued for vehicles first registered before implementation of the directive — Material inaccuracies and omissions in registration certificates — Mutual recognition — Directive 2007/46/EC — Approval of technical characteristics of vehicles — Vehicles predating EU harmonisation of technical requirements — Modifications having an impact on the technical characteristics of the vehicle)

1. In 1908, Henry Ford revolutionised the world economy by moving away from the individual assembly of cars, custom built for the client, towards mass production of standard models along an assembly line. The economies of scale and streamlining of the manufacturing process drastically reduced the production costs of his famous Model T, thereby turning the car, at that time a luxury product, into a commodity.

2. Such standardisation also allows for simplified regulatory oversight. In order to ensure road safety and to protect the environment, Member States require vehicles to meet minimum technical requirements. Due to the uniform characteristics of standardised vehicles, it suffices to test the technical characteristics of one model of each type to ascertain that all vehicles conforming to that type meet the technical requirements ('type-approval'). In the European Union, that regulatory approval is granted by reference to technical requirements, harmonised by the EU legislature.

3. The standardisation of vehicles also facilitates free movement of those vehicles within the European Union. As long as a vehicle conforms to the EU approved type, there is no need to call into question the compliance with the technical requirements upon re-registration in another Member State. In this case, the Court is invited to rule on whether that also holds true where a vehicle does not conform to an EU approved type.

1 Original language: English.

I. Legal framework

A. EU law

1. The Registration Documents Directive

4. Article 1 of Council Directive 1999/37/EC of 29 April 1999 on the registration documents for vehicles [2] ('the Registration Documents Directive') provides:

'This Directive shall apply to the documents issued by the Member States at the time of registration of vehicles.'

5. In accordance with Article 2 of the Registration Documents Directive:

'For the purposes of this Directive:

(a) "vehicle": shall mean any vehicle as defined in Article 2 of 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 and in Article 1 of Council Directive 92/61/EEC of 30 June 1992 relating to the type-approval of two or three-wheel motor vehicles;

(b) "registration": shall mean the administrative authorisation for the entry into service in road traffic of a vehicle, involving the identification of the latter and the issuing to it of a serial number, to be known as the registration number;

(c) "registration certificate": shall mean the document which certifies that the vehicle is registered in a Member State;

…'

6. Article 3 of the Registration Documents Directive reads as follows:

'1. Member States shall issue a registration certificate for vehicles which are subject to registration under their national legislation …

2. Where a new registration certificate is issued for a vehicle registered prior to the implementation of this Directive, Member States shall use a certification model as defined in this Directive and may limit the particulars shown therein to those for which the required data are available.

…'

7. Article 4 of the Registration Documents Directive provides:

'For the purposes of this Directive, the registration certificate issued by a 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.'

2 OJ 1999 L 138, p. 57.

8. Article 9 of the Registration Documents Directive states:

‘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 …’

2. The Framework Directive

9. Article 1 of Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles [3] (‘the Framework Directive’) provides:

‘This Directive establishes a harmonised framework containing the administrative provisions and general technical requirements for approval of all new vehicles within its scope and of the systems, components and separate technical units intended for those vehicles, with a view to facilitating their registration, sale and entry into service within the Community.

…

Specific technical requirements concerning the construction and functioning of vehicles shall be laid down in application of this Directive in regulatory acts, the exhaustive list of which is set out in Annex IV.’

10. Article 2 of the Framework Directive provides:

‘1. This Directive applies to the type-approval of vehicles designed and constructed in one or more stages for use on the road, and of systems, components and separate technical units designed and constructed for such vehicles.

It also applies to the individual approval of such vehicles.

…’

11. Article 3 of the Framework Directive states:

‘For the purposes of this Directive and of the regulatory acts listed in Annex IV, save as otherwise provided therein:

…

11. “motor vehicle” means any power-driven vehicle which is moved by its own means, having at least four wheels, being complete, completed or incomplete, with a maximum design speed exceeding 25 km/h’.

3 OJ 2007 L 263, p. 1. That directive has been repealed and replaced by Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) No 595/2009 and repealing Directive 2007/46/EC (OJ 2018 L 151, p. 1).

12. Article 4(3) of the Framework Directive reads:

'Member States shall register or permit the sale or entry into service only of such vehicles, components and separate technical units as satisfy the requirements of this Directive.

They shall not prohibit, restrict or impede the registration, sale, entry into service or circulation on the road of vehicles, components or separate technical units, on grounds related to aspects of their construction and functioning covered by this Directive, if they satisfy the requirements of the latter.'

13. Article 24 of the Framework Directive states:

'1. Member States may exempt a particular vehicle, whether unique or not, from compliance with one or more of the provisions of this Directive or with one or more of the regulatory acts listed in Annex IV or Annex XI, provided that they impose alternative requirements.

The provisions referred to in subparagraph 1 shall only be waived where a Member State has reasonable grounds for so doing.

…

6. The validity of an individual approval shall be restricted to the territory of the Member State that granted the approval.

Where an applicant wishes to sell, register or put into service in another Member State a vehicle which has been granted an individual approval, the Member State that granted the approval shall, on request, provide the applicant with a statement of the technical provisions against which the vehicle was approved.

With regard to a vehicle which has been granted an individual approval by a Member State in accordance with the provisions of this Article, another Member State shall permit that vehicle to be sold, registered or to enter into service unless it has reasonable grounds to believe that the technical provisions against which the vehicle was approved are not equivalent to its own.'

14. Article 48 of the Framework Directive provides that the rules of the directive have to be transposed into national law before 29 April 2009. Article 49 of the same directive repeals 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 [4] with effect from that same date, and provides that references to the repealed directive shall be construed as references to the Framework Directive.

3. Directive 2009/40

15. Directive 2009/40/EC of the European Parliament and of the Council of 6 May 2009 on roadworthiness tests for motor vehicles and their trailers lays down an obligation to subject vehicles to periodic roadworthiness tests. [5]

4 OJ, English Special Edition, 1970(I), p. 96.

5 OJ 2009 L 141, p. 12. That directive was repealed and replaced by 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 2014 L 127, p. 51). Article 5 of Directive 2014/45 replaces, in substance, Article 5 of Directive 2009/40.

16. Article 5 of Directive 2009/40 provides:

'Notwithstanding the provisions of Annexes I and II, Member States may:

(a) bring forward the date for the first compulsory roadworthiness test and, where appropriate, require the vehicle to be submitted for testing prior to registration;

…'

B. Netherlands law

17. Article 25b(1) of the Kentekenreglement (Registration Certificate Rules) of 6 October 1994[6] provides that, for the purposes of registration in the Netherlands, it is necessary to present the registration certificate previously obtained in another Member State.

II. Facts, procedure and the questions referred

18. The present case arises in the context of a dispute concerning the registration of two motor vehicles in the Netherlands.

19. The cars, a Bentley with vehicle identification number ('VIN') B28J0 and an Alvis with VIN 14827, were produced in the United Kingdom in 1950 and 1938 respectively. The manufacturers drew up accompanying documentation, setting out the technical data.

20. Before the establishment of a central UK registration authority in 1971, the cars in question were registered in local registries which issued old style log books as proof of registration. Those log books and declarations by car owners' clubs served as the basis for registration in the central registry of the UK registration authority for the Bentley in 1988 and the Alvis in 2011. The UK authority cannot confirm what the two vehicles looked like at that time, since it transferred registration from the local to the central registry without inspecting the vehicles.

21. Between 2009 and 2013, both cars underwent modifications which involved the shortening of the wheelbase and an engine and bodywork change. After those modifications registration certificates were issued in 2013 by the Belgian and UK registration authorities respectively. Those certificates referred to the technical data set out in the documentation drawn up by the original manufacturers.

22. X and Y presented the Bentley on 14 January 2014 for registration in the Netherlands national vehicle register. A police inspection revealed the modifications made to the original model, including the difference in engine capacity. By decision of 10 February 2014, the Directie van de Dienst Wegverkeer (Road Traffic Authority Board; 'the RDW') rejected the application. On 4 June 2014, X and Y resubmitted an application for registration, on the basis of a second Belgian registration certificate issued by the Belgian registration authority on 19 May 2014. That second registration certificate contained the new engine capacity. By letter of 18 July 2014, following the second application of 4 June 2014, the RDW announced that enquiries about the vehicle were being made to the Belgian registration authority. The latter replied that the registration certificate was issued for the original vehicle. By decision of 27 August 2014, the RDW rejected the second application for registration of 4 June 2014.

6 Stb. 1994, No 760.

23. Z presented the Alvis for registration to the RDW on 10 June 2014. The police services' inspection report for the vehicle revealed that modifications to the vehicle had been made, prompting the RDW to ask the UK registration authority for clarification. The latter stated that it had registered the vehicle 'in good faith' on the basis of data in the accompanying documentation drawn up by the manufacturer, and on the basis of photos and information from a car owners' club. The RDW also enquired what the vehicle data were for which the UK registration certificate had been issued. The UK registration authority could not answer those questions because it had not examined the vehicle. By decision of 29 September 2014, the RDW rejected the application for registration.

24. In both cases, the RDW refused the applications for the following reasons. Primarily, the RDW is of the opinion that since the vehicles do not fulfil the technical requirements set out in the Framework Directive, they are not 'vehicles' for the purposes of the Registration Documents Directive. In case the vehicles would fall within the scope of the Registration Documents Directive, the RDW is of the view that the registration certificates are not harmonised documents, and hence do not need to be mutually recognised on the basis of that directive. In so far as the registration certificates are covered by that directive, the RDW considers that the vehicles cannot be identified on the basis of those certificates, due to the inaccuracies in the documents. Lastly, according to the RDW, it is impossible that the vehicles, in their current state, received approval of their technical characteristics, and it is unclear whether the vehicles were approved on an individual basis after modification.

25. The decisions refusing registration were appealed before two different courts. According to those courts, the Registration Documents Directive is applicable, the vehicles are to be identified on the basis of the registration certificates and those certificates are harmonised certificates for the purposes of that directive. Consequently, on the one hand, the Rechtbank Den Haag (The Hague District Court, the Netherlands) ruled by judgment of 25 June 2015 that the RDW should issue a registration certificate for the Bentley. On the other hand, by judgment of 23 June 2015, the Rechtbank Gelderland (Gelderland District Court, the Netherlands) ordered the RDW to make a new appraisal regarding the registration of the Alvis.

26. The RDW lodged appeals against those two judgments before the Raad van State (Council of State, the Netherlands), which decided to join the proceedings. Entertaining doubts as to the correct interpretation of the relevant provisions of EU law, the Raad van State (Council of State) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) Is [the Registration Documents Directive] applicable to motor vehicles which existed before 29 April 2009, the date on which the Member States had to apply the laws, regulations and administrative provisions required to implement [the Framework Directive]?

(2) Is a motor vehicle composed of essential parts which were manufactured before the application of [the Framework Directive] and, on the other hand, of essential parts which were added only after the application of that directive, a motor vehicle which already existed before the application of that directive, or has such a motor vehicle only come into existence after the application of that directive?

(3) Having regard to Article 3(2) of [the Registration Documents Directive], does the recognition obligation as referred to in Article 4 of that directive apply in full if the data represented by certain Community codes (made compulsory under the Annexes to that directive) have not been filled in, when those data could easily have been obtained?

(4) Is it permissible under Article 4 of [the Registration Documents Directive] to recognise a registration certificate of another Member State, but to nevertheless submit the vehicle concerned to a technical check for the purposes of Article 24(6) of [the Framework Directive] and, if the vehicle fails to meet the technical requirements of the Member State, to impose the condition that the issue of the registration certificate will be refused?'

27. Written observations have been submitted by the RDW, X and Y, and Z, by the Governments of Italy, the Netherlands and Norway, and by the European Commission. A hearing was held on 7 June 2018 at which the RDW, X and Y, Z, the Netherlands Government and the Commission presented oral argument.

III. Analysis

28. In the present case, the Court is invited to clarify to what extent Member States are, as a matter of EU law, obliged to mutually recognise registration certificates for vehicles which do not conform to an EU approved type. Before addressing the questions referred, I shall, however, briefly outline the aims and principles of the EU secondary legislation in the field of vehicle registration.

A. Preliminary remarks

29. To enter into service, a vehicle needs to fulfil three different conditions: the technical characteristics of the vehicle must be approved, the vehicle must be registered and the vehicle must be roadworthy. Those conditions aim at ensuring a high level of road safety.

30. Before EU measures were adopted in the field, technical requirements for approval, national procedures for registration and roadworthiness tests, and national documents issued to ascertain the fulfilment of those requirements diverged significantly from one Member State to another.[7] This had a detrimental effect on the free movement of vehicles and of their owners. To facilitate free movement of those goods, which are by their very nature mobile, the European Union decided to adopt secondary legislation in the field.

31. First, the approval of technical characteristics ensures that vehicles satisfy minimum safety and environmental requirements before their first entry into service. Since most vehicles conform to a vehicle type, the approval will typically be granted through type-approval.

32. The Framework Directive lays down a uniform type-approval procedure for new vehicles ('EU type-approval'). To obtain approval, vehicle types have to comply with technical requirements concerning their construction. Those minimum requirements are set out in the regulatory acts listed in Annex IV to the directive, and are fully harmonised.

33. It follows from the second subparagraph of Article 4(3) of the Framework Directive that no Member State can prohibit, restrict or impede the registration of vehicles on grounds related to aspects of their construction and functioning, if the vehicle satisfies the technical requirements as laid down in that directive at the time of first registration.

7 This follows explicitly from the preambles to the Registration Documents Directive, the Framework Directive and Directive 2009/40, and the instruments preceding them.

34. By way of exception, Article 24 of the Framework Directive provides that an individual vehicle can receive approval of its technical characteristics even though it does not satisfy the harmonised requirements ('individual approval'). That approval will be granted on the basis of alternative requirements, which have to be equivalent to the greatest extent practicable to the level provided for by the harmonised requirements. The validity of that approval is limited to the territory of that Member State in accordance with Article 24(6) of that directive.

35. Second, the registration of motor vehicles entails the administrative authorisation issued by a Member State for the entry into service in road traffic of a motor vehicle, involving the identification of the vehicle and the allocation of a registration number, in accordance with Article 2(b) of the Registration Documents Directive. The latter directive harmonises the form and content of registration certificates. By virtue of Article 4, the harmonised registration certificate is to 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.

36. Third, roadworthiness testing seeks to ensure that throughout the lifespan of a vehicle, that vehicle is in a good state of repair in order not to endanger the health and life of humans. Therefore, vehicles will be subject to periodic roadworthiness checks.

37. In order to facilitate the free movement of vehicles previously registered in a Member State, Article 3(2) of Directive 2009/40 provides for an obligation to recognise the proof issued in another Member State that a motor vehicle registered there has passed a roadworthiness test complying with at least the harmonised standards.

38. The vast majority of vehicles that are in use on European roads conform to an EU approved type. When those vehicles are transferred to another Member State, the latter will have to recognise the registration certificate by virtue of Article 4 of the Registration Documents Directive. In addition, any proof of passing roadworthiness tests needs to be recognised by virtue of Article 3(2) of Directive 2009/40. Finally, in accordance with the second subparagraph of Article 4(3) of the Framework Directive, as long as the vehicle conforms to an EU approved type at the time of first registration, the Member State cannot restrict the registration of the vehicle on grounds related to its construction or functioning.

39. The present case, however, diverges in three respects from that typical situation. First, the vehicles at hand first entered into service long before any EU harmonisation of technical requirements existed. Consequently, they never conformed to an EU approved type. Second, the vehicles have been substantially modified, but those modifications have not all been recorded in the most recent, harmonised registration certificates. Third, the registration certificates are incomplete.

40. The RDW, supported by the Netherlands Government, is of the opinion that the registration certificates, in those circumstances, cannot be considered to be harmonised registration certificates, and need not be mutually recognised. If the registration certificates are considered harmonised documents, the RDW alleges that the vehicles cannot be identified on the basis of those documents, or alternatively that the technical characteristics of the vehicle have not been approved and that the registration can be refused on that basis.

41. The Commission, as well as X, Y and Z, on the other hand, are of the opinion that the obligation to recognise registration certificates implies that the RDW cannot reconsider the assessment made by the issuing authority of the underlying requirements of the registration process.

42. To resolve that dispute, the referring court has put four questions before the Court. In essence, the referring court inquires how the substantive rules on vehicle registration and approval of technical characteristics are to be interpreted in the specific factual circumstances of the case pending before it.

B. The first question referred

43. By its first question, the referring court in essence asks whether the Registration Documents Directive applies to registration certificates complying with the certification model set out in that directive, but issued for vehicles which existed before 29 April 2009, the transposition deadline of the Framework Directive.

44. The referring court asks this question in light of the restrictive reading, by the RDW, of the definitions of 'vehicle' for the purposes of the Registration Documents Directive, on the one hand, and the Framework Directive, on the other.

45. Article 2(a) of the Registration Documents Directive defines 'vehicle' as 'any vehicle as defined in Article 2 of Directive 70/156'. The latter directive is repealed and replaced by the Framework Directive.

46. It follows from Article 49 of the Framework Directive that references to Directive 70/156 are to be read as references to the Framework Directive. Therefore, the referral by the Registration Documents Directive to the definition in Directive 70/156 needs to be read as a referral to Article 3 of the Framework Directive.

47. More specifically, Article 3 of the Framework Directive defines 'motor vehicle' in point 11 as 'any power-driven vehicle which is moved by its own means, having at least four wheels, being complete, completed or incomplete, with a maximum design speed exceeding 25 km/h'.

48. The terms 'incomplete', 'completed' or 'complete' vehicles are in turn defined in Article 3, points 19, 20 and 21, respectively of the Framework Directive. Those definitions refer to the stages of completion a vehicle has undergone or needs to undergo in order to meet the technical requirements as set out in the directive.

49. In the RDW's view, that implies that only vehicles which comply with the technical requirements, or which can comply with those requirements after having undergone further stages of completion, are 'vehicles' for the purposes of the Registration Documents Directive. In that reading, registration documents issued for vehicles that do not conform to an EU approved type are not issued for 'vehicles' for the purposes of the Registration Documents Directive.

50. The referring court starts from the premiss that a vehicle whose first registration predates the Framework Directive cannot meet the technical requirements. On that basis, that court asks whether all registration documents issued for vehicles which were first registered before the transposition deadline of the Framework Directive are also automatically excluded from the scope of the Registration Documents Directive and, accordingly, do not need to be recognised.

51. In that regard, it suffices to recall that Article 3(2) of the Registration Documents Directive explicitly provides that harmonised registration certificates can be issued for vehicles which were registered before the implementation of that directive.

52. Moreover, the Registration Documents Directive aims, as recital 6 recalls, at facilitating re-registrations of vehicles which were previously registered in another Member State. It would run counter to that objective to exclude harmonised registration certificates from the scope of that directive, simply because they have been drawn up for vehicles which were first registered before the entry into force of the Framework Directive or the instrument that preceded it.

53. It should also be stressed that the reference, in Article 3(11) of the Framework Directive, to 'incomplete', 'complete' or 'completed' vehicles must be read in the light of its objective, alluded to in Article 1 of that directive, according to which all new vehicles must comply with the technical requirements in force at the time of their first registration.

54. That finding cannot be extended to the definition of vehicle in the Registration Documents Directive, which aims to facilitate the free movement of vehicles previously registered. Therefore, the reference to 'incomplete', 'complete' or 'completed' vehicles in the definition of 'motor vehicle' in Article 3(11) of the Framework Directive is not relevant for the purposes of defining the scope of the Registration Documents Directive.

55. On the basis of the above, the first question referred must therefore be answered to the effect that the Registration Documents Directive applies to registration certificates complying with the certification model set out in that directive, issued for vehicles which were first registered before the transposition deadline of the Framework Directive.

C. The second question referred

56. By its second question, the referring court inquires whether a motor vehicle composed, on the one hand, of essential parts which were manufactured before the transposition deadline of the Framework Directive, and, on the other hand, of essential parts which were only added after the transposition deadline of that directive, is a motor vehicle which predates the transposition deadline of that directive.

57. In light of the answer I propose should be given to the first question referred, the age of the vehicle is irrelevant for the purpose of defining the scope of the Registration Documents Directive. Therefore, there is no need to answer the second question referred.

D. The third question referred

58. By its third question, the referring court inquires in essence whether registration certificates must, by virtue of Article 4 of the Registration Documents Directive, be mutually recognised without any discretion on the part of the receiving Member State when certificates are not complete, but when the missing particulars could easily have been obtained upon inspection.

59. To my mind, that question should be answered in the affirmative.

60. Article 4 of the Registration Documents Directive provides that the registration certificate issued by a Member State 'shall be recognised'. Consequently, the wording of that provision does not appear to leave any margin of assessment for the receiving Member State's authorities. [8]

8 Judgment of 6 September 2012, *Commission* v *Belgium*, C-150/11, EU:C:2012:539, paragraph 73.

61. Such a reading is consistent with the main objective pursued by the Registration Documents Directive, namely to strengthen the functioning of the internal market by enhancing the free movement of vehicles in the European Union.[9] In that regard, it must be emphasised that the primary function of the registration certificate is to identify a specific vehicle[10] in order to allow that vehicle to move freely in, and be more easily exported to, Member States other than the one where it is registered.[11]

62. That primary function of the registration certificate is borne out by the definitions set out in Article 2 of the Registration Documents Directive. That provision defines 'registration certificate' as 'the document which certifies that the vehicle is registered in a Member State'. The term 'registration', in turn, is defined as 'the administrative authorisation for the entry into service in road traffic of a vehicle, involving the identification of the latter and the issuing to it of a serial number, to be known as the registration number'.

63. In that regard, the Court has held that, for the purposes of re-registration, the technical characteristics of second-hand vehicles previously registered in other Member States can be ascertained on the basis of the existing registration documents. Accordingly, Member States cannot justify a systematic requirement to produce a certificate of conformity on the basis of the need to check the technical characteristics of vehicles which have a registration certificate. Such a requirement would have the effect of rendering meaningless the principle of recognition of registration certificates issued by other Member States.[12]

64. On the other hand, the Court has found that, when a request for the re-registration of a second-hand vehicle is made, a requirement to present the vehicle for an inspection intended to check whether the vehicle is actually present in the territory of the Member State and whether it corresponds to the data in the registration certificate issued by another Member State, is compatible with EU law.[13]

65. In my view, it follows from that case-law that, on the one hand, simple administrative formalities that are merely intended to ensure the correct identification of a vehicle presented for re-registration are permissible. On the other hand, more far-reaching registration requirements which undermine the principle of mutual recognition enshrined in Article 4 of the Registration Documents Directive are incompatible with EU law.

66. Consequently, the mere fact that certain data are missing from a registration certificate issued by another Member State does not mean that the authorities of the receiving Member State may refuse to recognise such a certificate. *A fortiori*, that principle must apply where that information can be easily obtained through a simple inspection of the vehicle.[14]

67. In that regard, it must be pointed out that Article 3(2) of the Registration Documents Directive allows Member States to limit the particulars shown in a new registration certificate for a vehicle first registered prior to the implementation of that directive, to those for which the required data are available. The fact that Member States' authorities make use of the exception provided for in Article 3(2) of the Registration Documents Directive does not mean that those certificates no longer have to be recognised.

9 See, in particular, recitals 1 to 4, 6 and 8 of the Registration Documents Directive.

10 Recital 2 of the Registration Documents Directive reads 'all of the Member States require the driver of a vehicle registered in another Member State [to] hold the certificate of registration *corresponding to that vehicle*, in order for it to be permitted to use the roads on their territory' (emphasis added).

11 See especially recitals 3, 4 and 6 of the Registration Documents Directive.

12 Judgment of 6 September 2012, *Commission* v *Belgium*, C-150/11, EU:C:2012:539, paragraphs 75 to 77.

13 Judgment of 20 September 2007, *Commission* v *Netherlands*, C-297/05, EU:C:2007:531, paragraphs 57 to 63.

14 As mentioned in point 64 above, the Court has already held such an inspection to be permissible.

68. In addition, Member States' authorities are, under Article 9 of the Registration Documents Directive, required to assist one another in this field. To that effect, they may exchange information at bilateral or multilateral level, in particular so as to verify the vehicle's legal status in the Member State in which it was previously registered. [15]

69. Accordingly, the authorities of a Member State are not automatically released from their duty, under Article 4 of the Registration Documents Directive, to recognise a registration certificate merely because that document contains inaccurate information or because certain information is missing from it.

70. However, that might not be the case if the inaccurate or missing information has a bearing on the identification of the vehicle.

71. For example, there may be cases in which the missing or inaccurate information in a registration certificate may give rise to a legitimate suspicion of fraudulent conduct on the part of the owner of the vehicle. To that effect, recital 9 of the Registration Documents Directive states explicitly that the directive seeks to facilitate 'checks specifically intended to combat fraud and the illegal trade in stolen vehicles'. In those specific and exceptional cases, a more in-depth examination of the legal status of the vehicle may be legitimate before the vehicle is registered. In that context, the authorities of the receiving Member State may also, as mentioned above, request clarification from the authorities of the Member State that issued the certificate. Should the authorities of the receiving Member State obtain unequivocal evidence that the person applying for registration has obtained the registration certificate in the issuing Member State by fraudulent or illegal means (such as forgery, bribery or misrepresentation), or that the registration certificate in question is for any other reason invalid under the law of the issuing Member State, the receiving Member State would be entitled to refuse registration.

72. Yet, in the absence of any evidence to that effect, the authorities of the receiving Member State must duly recognise that certificate, and thus proceed with a new registration of the vehicle.

73. For the sake of completeness, I would also point out that this conclusion does not imply that Member States have no means of ensuring road safety. If, during the inspection of a vehicle, the authorities observe anomalies which give rise to a suspicion that the safety and environmental systems and components of the vehicle have been altered or modified, or more generally that road safety is seriously affected, the authorities are entitled to advance the date for the first compulsory roadworthiness test for the vehicle, even though the vehicle has undergone a roadworthiness test in the Member State of previous registration. [16]

15 I observe that the existing Proposal for a regulation of the European Parliament and of the Council simplifying the transfer of motor vehicles registered in another Member State within the Single Market intends to enhance the mutual assistance by allowing receiving Member States to access vehicle registration data in the registers of the issuing Member States (COM(2012) 164 final, Article 7).

16 Article 5 of Directive 2014/45.

74. Furthermore, should a vehicle undergo, after registration, modifications that may have an impact on its construction, the Member State may require it to be subject to the tests that are provided for in the relevant national legislation, provided that no applicable provisions of secondary EU law are infringed [17] and that the free movement of goods is duly observed. [18] In the case at hand, it is however not disputed among the parties that the modifications were made before the issuing of the most recent registration certificates.

75. In light of the above, the third question referred should be answered to the effect that under Article 4 of the Registration Documents Directive Member States cannot refuse to recognise registration certificates merely because certain data in the certificates are missing, provided that the omissions do not have a bearing on the identification of the vehicle.

E. The fourth question referred

76. By its fourth question, the referring court inquires in essence whether it is permissible under Article 4 of the Registration Documents Directive to recognise a registration certificate of another Member State, but to nevertheless submit the vehicle concerned to a technical check for the purposes of Article 24(6) of the Framework Directive and, if the vehicle fails to meet the technical requirements of the Member State, to refuse to issue a registration certificate.

77. In other words, the referring court asks the Court to clarify the relationship between a Member State's obligation, under Article 4 of the Registration Documents Directive, to recognise registration certificates issued by other Member States and its ability, provided for in the third subparagraph of Article 24(6) of the Framework Directive, to prevent a vehicle from being registered in its territory when it has reasonable grounds to believe that the technical provisions against which the vehicle was approved are not equivalent to the receiving Member State's technical provisions.

78. That question seems to me based on two incorrect assumptions.

79. First, the referring court appears to take the view that a certificate of registration issued by another Member State may be formally recognised while the re-registration of the vehicle may be refused nonetheless.

80. In my view, that reading of the relevant provisions of the Registration Documents Directive is incorrect. In particular, Article 4 thereof clearly provides that 'the registration certificate issued by a 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'. This means that the obligation of mutual recognition entails, in principle, a duty to let the vehicle freely circulate and/or be registered. A different reading would not only go against the wording of Article 4 but also render that provision ineffective.

81. Second, there appears to be a misunderstanding regarding the scope of the Framework Directive. According to Article 1 of that directive, the directive applies (for what is relevant here) only to the 'approval of all new vehicles [falling] within its scope'.

17 If, despite the modifications, the vehicle still conforms to an approved type, the Member State cannot, by virtue of the second subparagraph of Article 4(3) of the Framework Directive, object to its registration. If the modification makes use of systems, components or separate technical units which have received EU type-approval, that approval has to be acknowledged by virtue of Article 10, read in conjunction with Article 4(3), second subparagraph, of the Framework Directive. In those cases, inspections or technical tests will be in principle excluded.

18 See, to that effect, judgments of 11 June 1987, *Gofette and Gilliard*, 406/85, EU:C:1987:274, paragraphs 7 to 10; of 20 September 2007, *Commission* v *Netherlands*, C-297/05, EU:C:2007:531, paragraphs 73 to 76; of 10 February 2009, *Commission* v *Italy*, C-110/05, EU:C:2009:66, paragraphs 57 to 59; of 6 September 2012, *Commission* v *Belgium*, C-150/11, EU:C:2012:539, paragraphs 52 to 54; of 20 March 2014, *Commission* v *Poland*, C-639/11, EU:C:2014:173, paragraphs 52, 53 and 55, and *Commission* v *Lithuania*, C-61/12, EU:C:2014:172, paragraphs 57, 58 and 60.

82. However, the vehicles at issue in the main proceedings cannot be regarded as 'new vehicles' for the purposes of the Framework Directive. In that regard, it is not necessary to consider the question whether vehicles can become 'new' vehicles through modification. Indeed, as mentioned above, it is common ground between the parties that the most recent registration certificates of the two vehicles were issued after the latest modifications were made to those vehicles. Article 24(6) of the Framework Directive is thus not applicable to the vehicles at hand.

83. Consequently, the fourth question must be answered to the effect that Article 4 of the Registration Documents Directive prevents a Member State, which is requested to recognise a certificate of registration issued by another Member State with respect to a vehicle that falls outside the scope of the Framework Directive, from submitting that vehicle to a technical check for the purposes of Article 24(6) of the latter directive.

IV. Conclusion

84. In light of the above, I propose that the Court answer the questions referred for a preliminary ruling by the Raad van State (Council of State, the Netherlands) as follows:

– Council Directive 1999/37/EC of 29 April 1999 on the registration documents for vehicles applies to registration certificates complying with the certification model set out in that directive, issued for vehicles which predate the transposition deadline of Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles.

– Upon a proper construction of Article 4 of Directive 1999/37, read in the light of Article 3(2) of that directive, Member States cannot refuse to recognise registration certificates merely because the data represented by certain codes have not been filled in, when that data could easily have been obtained, provided that the omissions do not have a bearing on the identification of the vehicle.

– Article 4 of Directive 1999/37 prevents a Member State, which is requested to recognise a certificate of registration issued by another Member State with respect to a vehicle that falls outside the scope of Directive 2007/46, from submitting that vehicle to a technical check for the purposes of Article 24(6) of the latter directive.