

How to Buy a Car in Europe

There's no uniform code of ownership within the EEC, but each country has documents that will protect you in your transaction

by Martin Emmison

After John Draneas's learned article (April, p. 34) on the title pitfalls of buying a collector car in the U.S., here's a European perspective. Or, as the exam question might have read: "How is your answer different if you were buying the car of your dreams in the U.K., France, Germany, Italy, Switzerland, or The Netherlands?"

In spite of the European Union (which doesn't include Switzerland, Norway, and Finland), each country still retains its own system of title, registration, and licensing motor vehicles. There is no standardized DMV, let alone a Europe-wide search for liens.



Great Britain

Let's start with the chaotic title system in the U.K., with which (as a Brit) I am most familiar. Until the late 1970s, the only vehicle document was a paper *logbook*, which served as both title and stamped record of payment of the road tax. With the computer age, the U.K. government adopted an electronic registration system for all new and used cars. However, it did not include a universal register of titles, liens, registration details, roadworthiness (MOT) tests, insurance, and payment of road tax. The government's interest lay in collecting taxes and parking tickets and helping the police to gouge the downtrodden motorist.

Be aware that the *V5C registration* is not a title document, although most people treat it as such. To establish title to a valuable car with any certainty, you must see past invoices or bills of sale that verify the ownership chain. Worse, there is no system for registration of liens or security interests, nor a reliable public search system to establish that there are none. There is a commercially run search facility to check lease and finance agreements which the lender has registered, but it is neither comprehensive nor compulsory.

When buying an expensive car, the answer is to hire a friendly lawyer to negotiate these pitfalls. If you are buying from a corporate entity, a public search will disclose any mortgages or liens. In the case of an individual seller, always check that he is not an undischarged bankrupt.

You'll also need a license to export from the U.K. a car that is more than 50 years old. While normally a formality, I recently heard of a license being refused to export a pre-WWI Napier.



France

In France, the key registration document is the *Certificat d'Immatriculation*, normally called the *Carte Grise*. This is not a title docu-



1919 Turcat-Mery, under wraps before being returned to France as a National Treasure

ment, but certifies that the car is registered in the relevant *département* (county) of France. The *Carte Grise* is issued either by the *Préfecture de Police* or in large towns by the police department located in the town hall (*Mairie*).

Title is established by a transfer certificate, invoice, or bill of sale from the previous owner. Upon completion of the sale, the seller must write "vendue le xxx" (sold on [date]) on the *Carte Grise* and then sign it. Importantly, he must also complete and sign a *Certificat de Vente* (the official sale certificate), together with a *Certificat de non gage* (which means that the vehicle is free of lien) and a safety inspection certificate. If the car is not free of liens, the *Certificat de non gage* must say so. The purchaser should only proceed if the *Certificat de non gage* shows the phrase *Véhicule non gage*. The safety inspection certificate must be less than three months old for a purchaser to register the car.

Once a buyer has these documents, he must go to the *Préfecture de Police* or the *Mairie* with a completed *demande de certificat d'immatriculation*, his passport, or *Carte Nationale d'Identité* and a recent utility bill.

Complications arise when a car is classified as a "National Treasure" (*objet classé monument historique*), and it is subject to a very strict export regime. When such a car is to be sold, French law requires a formal representation by the seller to the buyer that the car is classified as such, and a notification by the seller to the relevant central government authority within 15 days of completion of the sale. The authorities may then decide that classified objects are not to leave French territory, and if they do so, that amounts to an absolute export prohibition. This issue arose most recently in the case of the 1919 Turcat-Mery, which received some publicity after its seizure in the U.S. last summer by U.S. Homeland Security. While this issue is uncommon, it's a factor if you're thinking of buying a significant classic in France.



Germany

In Germany, there are two official documents for a car. The first is the *Fahrzeugschein* (vehicle registration document), and the second is the *Fahrzeugbrief* (vehicle title). In 2005, these documents were officially renamed *Zulassungsbescheinigung Teil I* and *Teil II*, respectively. [As usual, the German language wins the “longest word” competition—ED.]

The *Fahrzeugschein* contains key data, such as the make, model, chassis number, date of first registration, and the date on which the next roadworthiness test (*TUV*) falls due. However, the *Fahrzeugschein* is not proof of title. For this you need the *Fahrzeugbrief*, which records the current registered owner and all past owners. The *Fahrzeugbrief* is only issued once in relation to each car and should be kept with the car even when it is removed from the register. Any sale that takes place without the original *Fahrzeugbrief* will be deemed made in bad faith. It is essential in Germany that a seller is in possession of this part of the certificate of registration. This is particularly important, because the *Fahrzeugbrief* is usually handed over to the lender when the car is used as security, or otherwise to secure a third-party claim. Therefore, the absence of the *Fahrzeugbrief* should make you very suspicious—it’s a deal-breaker.

German authorities have recently recognized the importance of a complete ownership history. They often allow the owner to retain old *Fahrzeugbriefe* (with no space for new entries) as a record of the past owners, instead of these being collected by the authorities and destroyed. Be sure when purchasing a German-registered car that you obtain *all* of the registration documents, including old ones.

There are no export restrictions for collector cars in Germany.



Italy

In Italy, the *libretto*, or *carta di circolazione* is the national registration document. This lists the car’s chassis/VIN number, its technical data and roadworthiness status, and registration details. It should also record the first and subsequent owners, but beware—the *libretto/carta* is not proof of ownership. For this you need the *certificato di proprietà*, which until 1990 was called the *foglio complementare*. (How come even a car document sounds exciting in Italian?)

This *certificato*, when authenticated by a Notary or other official, is registered in each Italian province by the *Pubblico Registro Automobilistico* (PRA), an automobile records office usually located near the local office of the Automobile Club d’Italia. This government branch collects and stores bills of sale and official changes of ownership. For a nominal fee, you can obtain a *visura*, which demonstrates the chain of ownership up to the current legal owner of the car. The *visura* will also contain details of any liens (*ipoteca*) registered against the car. If there are no current records shown on the *visura* (discharged mortgages will be stamped “*cancellata*”), a buyer is protected against any claims.

When acquiring a car in Italy, if you have the *libretto/carta* and a lien-free *certificato*, you will be entitled to complete your purchase and export it. If you wish to remove a car from the Italian register (*radiata*), you must again obtain a formal bill of sale in your name, but you must also return the original plates to the PRA, which will issue a certificate of cancellation. The car can then be exported, but is not road-legal in Italy without plates.



Switzerland

In Switzerland, there is only one official document containing vehicle registration and ownership details. Unfortunately, being Swiss, the name can be in French, German, or Italian, depending on the area. The *Fahrzeugausweis*, *Permis de Circulation*, *Licenza di circolazione*, or *Certificat da vehichel* contains the make, model, and chassis number of the car and details of the current owner. It acts as evidence of roadworthiness and should include the date of the last test and the address where the car is kept.

Technically, the *Fahrzeugausweis* is not proof of legal ownership, but a buyer who has been provided with a valid *Fahrzeugausweis* will be protected against third-party claims, as long as the sale is above board. In addition, any foreign-registered car that is kept in Switzerland for more than twelve months should be registered for a *Fahrzeugausweis* and Swiss registration plates.

No export licence is required to take a car out of Switzerland



The Netherlands

In The Netherlands, title to a car is similar to the U.K. system, in that there is no title document or reliable method of checking for liens. Cars are recorded on the *Kentekenregister* (register of licence plate numbers) and each car is issued with a *Kentekenbewijs* (license plate number certificate). Part of the *Kentekenbewijs* is called the *Kopie deel III*, which sets out the license plate number, the original *meld* (reporting) code of the plates, the name of the current holder, his address and date of birth, and the date on which the registration began.

In principle, the person in possession of the *Kopie deel III* is the person who has the authority to transfer the license plate into someone else’s name. But the *Kopie deel III* states that it cannot be relied upon as evidence of legal title.

Dutch law sets out conditions that will protect a buyer from subsequent claim by an unknown third party, including anyone claiming a charge or lien over the car. The requirements are as follows:

1. Delivery of the car must have taken place with a valid title
2. The purchase must have been in good faith (i.e. the buyer was not aware of any other claims on the car)
3. The transfer of the car must not have been for free (money must change hands), BUT
4. Within three years of the purchase, the buyer must provide information about his purchase, when requested to do so by a past owner who claims ownership.

If a buyer follows these conditions, all third-party claims will be null and void. One major exception to this rule is if the car was stolen. Within three years of the date on which the theft took place, the rightful owner of the car (provided he can establish ownership) can reclaim possession from any person, except where the car was acquired from a normal motor trader, not at a public auction or public market [In an email exchange with Emmison, he agreed the implication here is that after three years, the person from whom the car was stolen no longer has a claim to it—KM]. When the car is still in the possession of the thief, or when it has been sold to a third party with knowledge of the original theft, this right to reclaim is extended to 20 years. If a car is repossessed in such a manner, the buyer’s only recourse is against the seller. Finally, an export licence is not required to export a car from The Netherlands.

As historic cars are my main area of legal activity, any reader planning to buy a car in Europe is welcome to contact me at memmison@gdlaw.co.uk.

Or you may want to contact one of the specialist lawyers who helped compile this article:

For Germany—Julian Westpfahl, j.westpfahl@skwschwarz.de

For The Netherlands—Hans-Hoegen Dijkhof, hd@hd-dutchlawyers.nl

For Switzerland—Urs Schmid, mail@advoschmid.ch ♦