

(Ingesa), formerly Instituto Nacional de la Salud (Insalud), interested parties: Air Liquide Medicinal SL, Sociedad Española de Carburos Metálicos SA — the Court (Third Chamber), composed of A. Rosas (Rapporteur), President of the Chamber, J. Malenovský, J.-P. Puissochet, S. von Bahr and U. Löhmus, Judges; C. Stix-Hackl, Advocate General; M. Ferreira, Principal Administrator, for the Registrar, gave a judgment on 27 October 2005, in which it ruled:

Article 49 EC precludes a contracting authority from providing, in the tendering specifications for a public contract for health services of home respiratory treatments and other assisted breathing techniques, first, for an admission condition which requires an undertaking submitting a tender to have, at the time the tender is submitted, an office open to the public in the capital of the province where the service is to be supplied and, second, for evaluation criteria which reward, by awarding extra points, the existence at the time the tender is submitted of oxygen production, conditioning and bottling plants situated within 1 000 kilometres of that province or offices open to the public in other specified towns in that province, and which, in the case of a tie between a number of tenders, favours the undertaking which was previously providing the service concerned, in so far as those criteria are applied in a discriminatory manner, are not justified by imperative requirements in the general interest, are not suitable for securing the attainment of the objective which they pursue or go beyond what is necessary to attain it, which is a matter for the national court to determine.

(¹) OJ C 184, 02.08.2003.

JUDGMENT OF THE COURT

(Third Chamber)

of 9 February 2006

in Case C-305/03 Commission of the European Communities v United Kingdom of Great Britain and Northern Ireland (¹)

(Failure of a Member State to fulfil obligations — Sixth VAT Directive — Articles 2(1), 5(4)(c), 12(3), and 16(1) — Transaction within the territory of the country — Sale by auction of works of art imported under the arrangements for temporary importation — Auctioneers' commission)

(2006/C 86/03)

(Language of the case: English)

In Case C-305/03 Commission of the European Communities (represented by: R. Lyal, Agent) v United Kingdom of Great Britain and Northern Ireland (represented by: C. Jackson and R. Caudwell, Agents, and N. Paines QC) — action under Article

226 EC for failure to fulfil obligations, brought on 16 July 2003 — the Court (Third Chamber), composed of A. Rosas, President of the Chamber, J.-P. Puissochet, S. von Bahr, U. Löhmus (Rapporteur) and A. Ó Caoimh, Judges; J. Kokott, Advocate General; L. Hewlett, Principal Administrator, for the Registrar, gave a judgment on 9 February 2006, in which it:

1. Declares that, by applying a reduced rate of value added tax to the commission received by auctioneers on sales by auction of works of art, antiques and collectors' items imported under the arrangements for temporary importation, the United Kingdom of Great Britain and Northern Ireland has failed to fulfil its obligations under Articles 2(1), 5(4)(c), 12(3) and 16(1) of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment, as amended by Council Directive 1999/49/EC of 25 May 1999;
2. Orders the United Kingdom of Great Britain and Northern Ireland to pay the costs.

(¹) OJ C 226, 20.09.2003.

JUDGMENT OF THE COURT

(Grand Chamber)

of 25 October 2005

in Case C-350/03: Reference for a preliminary ruling from the Landgericht Bochum, Germany in Elisabeth Schulte, Wolfgang Schulte v Deutsche Bausparkasse Badenia AG (¹)

(Consumer protection — Doorstep selling — Purchase of immovable property — Investment financed by a secured loan — Right of cancellation — Effects of cancellation)

(2006/C 86/04)

(Language of the case: German)

In Case C-350/03: reference for a preliminary ruling under Article 234 EC from the Landgericht Bochum, (Germany), made by decision of 29 July 2003, received at the Court on 8 August 2003, in the proceedings between Elisabeth Schulte, Wolfgang Schulte and Deutsche Bausparkasse Badenia AG — the Court (Grand Chamber), composed of V. Skouris, President of the Chamber, P. Jann and A. Rosas, Presidents of Chambers, C. Gulmann (Rapporteur), R. Schintgen, N. Colneric, S. von Bahr, R. Silva de Lapuerta and K. Lenaerts, Judges; P. Léger, Advocate General; M.-F. Contet, Principal Administrator, for the Registrar, gave a judgment on 25 October 2005, in which it ruled: