2. *Directive 85/577, and Article 5(2) thereof in particular, does not preclude:*

— *a requirement that a consumer who has exercised his right to cancel under the Directive must pay back the loan proceeds to the lender, even though according to the scheme drawn up for the investment the loan serves solely to finance the purchase of the immovable property and is paid directly to the vendor thereof;*

— *a requirement that the amount of the loan must be paid back immediately;*

— *national legislation which provides for an obligation on the consumer, in the event of cancellation of a secured credit agreement, not only to repay the amounts received under the agreement but also to pay to the lender interest at the market rate;*

However, in a situation where, if the Bank had complied with its obligation to inform the consumer of his right of cancellation, the consumer would have been able to avoid exposure to the risks inherent in investments such as those at issue in the main proceedings, Article 4 of the Directive requires Member States to ensure that their legislation protects consumers who have been unable to avoid exposure to such risks, by adopting suitable measures to allow them to avoid bearing the consequences of the materialisation of those risks.

([1]) OJ C 201, of 7.8.2004.

JUDGMENT OF THE COURT

(Second Chamber)

of 20 October 2005

in Case C-247/04: Reference for a preliminary ruling from the College van Beroep voor het bedrijfsleven in Transport Maatschappij Traffic BV v Staatssecretaris van Economische Zaken ([1])

(Community Customs Code — Repayment or remission of import or export duties — Meaning of 'legally owed')

(2006/C 86/13)

(Language of the case: Dutch)

In Case C-247/04: reference for a preliminary ruling under Article 234 EC from the College van Beroep voor het bedrijfsleven (Netherlands), made by decision of 28 May 2004, received at the Court on 11 June 2004, in the proceedings between **Transport Maatschappij Traffic BV** and **Staatssecretaris van Economische Zaken,** the Court (Second Chamber), composed of C.W.A. Timmermans, President of the Chamber, J. Makarczyk (Rapporteur), C. Gulmann, R. Schintgen and J. Klčcka, Judges; C. Stix-Hackl, Advocate General; L. Hewlett, Principal Administrator, for the Registrar, gave a judgment on 20 October 2005, in which it ruled:

For the purposes of the first subparagraph of Article 236(1) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, import duties or export duties are legally owed where a customs duty has been incurred within the conditions laid down by Chapter 2 of Title VII of that regulation and where the amount of those duties could be determined by the application of the Common Customs Tariff of the European Communities in accordance with the provisions of Title II of that regulation.

The amount of the import duties or export duties remains legally owed within the meaning of the first subparagraph of Article 236(1) of Regulation No 2913/92 even where that amount has not been communicated to the debtor in accordance with Article 221(1) of that regulation.

([1]) OJ C 217 of 28.8.2004.

JUDGMENT OF THE COURT

(Third Chamber)

of 9 February 2006

in Case C-415/04: Reference for a preliminary ruling from the Hoge Raad der Nederlanden in Staatssecretaris van Financiën v Stichting Kinderopvang Enschede ([1])

(Sixth VAT Directive — Exemptions — Supply of services linked to welfare and social security work and protection and education of children or young people)

(2006/C 86/14)

(Language of the case: Dutch)

In Case C-415/04: reference for a preliminary ruling under Article 234 EC from the Hoge Raad der Nederlanden (Netherlands), made by decision of 24 September 2004, received at the Court on the same day, in the proceedings between Staatssecretaris van Financiën and Stichting Kinderopvang Enschede — the Court (Third Chamber), composed of A. Rosas, President of the Chamber, J. Malenovský, A. La Pergola, A. Borg Barthet (Rapporteur) and A. Ó Caoimh, Judges; F.G. Jacobs, Advocate General; R. Grass, Registrar, gave a judgment on 9 February 2006, in which it ruled:

Article 13A(1)(g) and (h) of 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, read together with Article 13A(2)(b) thereof, must be interpreted as meaning that services as an intermediary between persons seeking, and persons offering, a childcare service, provided by a body governed by public law or an organisation recognised as charitable by the Member State concerned, may benefit from exemption under those provisions only where:

— *the childcare service itself meets the conditions for exemption laid down in those provisions;*

— *that service is of such a nature or quality that parents could not be assured of obtaining a service of the same value without the assistance of an intermediary service such as that which is the subject-matter of the dispute in the main proceedings;*

— *the basic purpose of the intermediary services is not to obtain additional income for the service provider by carrying out transactions which are in direct competition with those of commercial enterprises liable for value added tax.*

([1]) OJ C 284, 20.11.2004.

JUDGMENT OF THE COURT

(Third Chamber)

of 9 February 2006

in Case C-473/04: Reference for a preliminary ruling from the Hof van Cassatie in Plumex v Young Sports NV ([1])

(Judicial cooperation — Regulation (EC) No 1348/2000 — Articles 4 to 11 and 14 — Service of judicial documents — Service through agencies — Service by post — Relationship between the methods of transmission and service — Precedence — Time-limit for an appeal)

(2006/C 86/15)

(Language of the case: Dutch)

In Case C-473/04: reference for a preliminary ruling under Articles 68 EC and 234 EC from the Hof van Cassatie (Belgium), made by decision of 22 October 2004, received at the Court on 9 November 2004, in the proceedings between Plumex and Young Sports NV — the Court (Third Chamber), composed of A. Rosas, President of the Chamber, J. Malenovský (Rapporteur), A. La Pergola, S. von Bahr and A. Borg Barthet, Judges; A. Tizzano, Advocate General; R. Grass, Registrar, gave a judgment on 9 February 2006, in which it ruled:

1. *Council Regulation (EC) No 1348/2000 of 29 May 2000 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters must be interpreted as meaning that it does not establish any hierarchy between the method of transmission and service under Articles 4 to 11 thereof and that under Article 14 thereof and, consequently, it is possible to serve a judicial document by one or other or both of those methods.*

2. *Regulation No 1348/2000 must be interpreted as meaning that, where transmission and service are effected by both the method under Articles 4 to 11 thereof and the method under Article 14 thereof, in order to determine vis-à-vis the person on whom service is effected the point from which time starts to run for the purposes of a procedural time-limit linked to effecting service, reference must be made to the date of the first service validly effected.*

([1]) OJ C 19, 22.01.2005.

JUDGMENT OF THE COURT

(Fourth Chamber)

of 26 January 2006

in Case C-2/05: Reference for a preliminary ruling from the Arbeidshof te Brussel in Rijksdienst voor Sociale Zekerheid v Herbosch Kiere NV ([1])

(Social security for migrant workers — Determination of the legislation applicable — Workers posted to another Member State — Scope of E 101 certificate)

(2006/C 86/16)

(Language of the case: Dutch)

In Case C-2/05: Reference for a preliminary ruling under Article 234 EC from the Arbeidshof te Brussel (Belgium), made by decision of 23 December 2004, received at the Court on 5 January 2005, in the proceedings between Rijksdienst voor Sociale Zekerheid and Herbosch Kiere NV — the Court (Fourth Chamber), composed of N. Colneric (Rapporteur), acting for the President of the Fourth Chamber, J.N. Cunha Rodrigues and K. Lenaerts, Judges; D. Ruiz-Jarabo Colomer, Advocate General; R. Grass, Registrar, gave a judgment on 26 January 2006, in which it ruled: