Article 6(1) of Directive 83/183 must be interpreted as meaning that an employee in the public service, the armed forces, the public security forces or the harbour police corps of a Member State, who stays for at least 185 days a year in another Member State with the members of his family in order to carry out an official task of a definite duration in that latter State, has, during the period of that task, his normal residence, within the meaning of Article 6(1), in that other Member State.

If, at the conclusion of the national court's investigations, it is established that the taxes at issue in the main proceedings do not come within the scope of the tax exemption provided for by Article 1(1) of Directive 83/183, it will be for the national court, having regard to the requirements arising from Article 39 EC, to determine whether the national provisions governing those taxes are such as to ensure that a person who, in the context of a transfer of residence, imports a vehicle into his Member State of origin is not placed in a less favourable position in connection with those taxes than that of other persons living permanently in that Member State and, if so, whether such a difference in treatment is justified by objective considerations that are independent of the residence of the persons concerned and proportionate to the legitimate aim pursued by national law.

([1]) OJ C 10, 14.1.2006.

Judgment of the Court (Third Chamber) of 26 April 2007 — Alcon Inc. v Office for Harmonisation in the Internal Market (Trade Marks and Designs), Biofarma SA

(Case C-412/05 P) ([1])

(Appeals — Community trade mark — Regulation (EC) No 40/94 — Article 8(1)(b) — Relative ground for refusal of registration — Likelihood of confusion — Article 43(2) and (3) — Genuine use — New plea — Word mark 'TRAVATAN' — Opposition by proprietor of earlier national trade mark 'TRIVASTAN')

(2007/C 96/20)

Language of the case: English

Parties

Appellant: Alcon Inc. (represented by: G. Breen, solicitor, and J. Gleeson SC)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Folliard-Monguiral, Agent) Biofarma SA (represented by: V. Gil Vega and A. Ruiz López, laywers)

Re:

Appeal against the judgment of the Court of First Instance (Third Chamber) of 22 September 2005 in Case T-130/03 *Alcon v OHIM* dismissing an action for annulment brought by the applicant for the Community trade mark 'TRAVATAN' in respect of goods in Class 5 against Decision R 968/2001-3 of the Third Board of Appeal of the Office for Harmonisation in the Internal Market (OHIM) of 30 January 2003, which had dismissed the appeal brought against the decision of the Opposition Division refusing registration of that mark in the opposition proceedings brought by the proprietor of the national word mark 'TRIVASTAN' in respect of goods in Class 5

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders Alcon Inc. to pay, in addition to its own costs, the costs of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM);*

3. *Orders Biofarma SA to bear its own costs.*

([1]) OJ C 60, 11.3.2006.

Judgment of the Court (Seventh Chamber) of 29 March 2007 — Commission of the European Communities v French Republic

(Case C-423/05) ([1])

(Failure of a Member State to fulfil obligations — Waste management — Directives 75/442/EEC and 1999/31/EC — Unlawful or unsupervised landfill sites)

(2007/C 96/21)

Language of the case: French

Parties

Applicant: Commission of the European Communities (represented by: A. Caeiros and M. Konstantinidis, acting as Agents)

Defendant: French Republic (represented by: G. de Bergues and O. Christmann, Agents)

Re:

Failure of a Member State to fulfil obligations — Infringement of Articles 4, 8 and 9 of Council Directive 75/442/EEC of 15 July 1975 (OJ 1975 L 194, p. 39) on waste, as amended by Council Directive 91/156/EEC of 18 March 1991 amending Directive 75/442/EEC on waste (OJ 1991 L 78, p. 32) and Article 14(a), (b) and (c) of Council Directive 99/31/EC of 26 April 1999 on the landfill of waste (OJ 1999 L 182, p. 1) — Failure to take necessary measures to close down or upgrade unlawful or unsupervised landfill sites

Operative part of the judgment

The Court:

1. *Declares that, by failing to adopt all the laws, regulations and administrative provisions necessary to comply with Articles 4, 8 and 9 of Council Directive 75/442/EEC of 15 July 1975 on waste, as amended by Council Directive 91/156/EEC of 18 March 1991, and Article 14(a), (b) and (c) of Council Directive 99/31/EC of 26 April 1999 on the landfill of waste, the French Republic has failed to fulfil its obligations under those provisions;*

2. *Orders the French Republic to pay the costs.*

[1] OJ C 48, 25.2.2006.

Judgment of the Court (Second Chamber) of 19 April 2007 (reference for a preliminary ruling from the Diikitiko Protodikio Athinon — Greece) — Aikaterini Stamatelaki v NPDD Organismos Asfaliseos Eleftheron Epangelmation (OAEE)

(Case C-444/05) [1]

(Restrictions on the freedom to provide services — Reimbursement of the cost of treatment in private hospitals — Justification for, and proportionality of, the exclusion)

(2007/C 96/22)

Language of the case: Greek

Referring court

Diikitiko Protodikio Athinon

Parties to the main proceedings

Applicant: Aikaterini Stamatelaki

Defendant: NPDD Organismos Asfaliseos Eleftheron Epangelmation (OAEE)

Re:

Reference for a preliminary ruling — Diikitiko Protodikio Athinon — Interpretation of Articles 49 and 50 EC — Conditions governing the reimbursement of medical expenses incurred in another Member State — National legislation allowing medical expenses incurred in a private hospital in another Member State to be reimbursed only in the case of treatment of minors under the age of 14 whereas, when treatment takes place in a public hospital, the only condition imposed by the national legislation for reimbursement is that prior authorisation be obtained.

Operative part of the judgment

Article 49 EC precludes legislation of a Member State, such as that at issue in the main proceedings, which excludes all reimbursement by a national social security institution of the costs occasioned by treatment of persons insured with it in private hospitals in another Member State, except those relating to treatment provided to children under 14 years of age.

[1] OJ C 60, 11.3.2006.

Judgment of the Court (Third Chamber) of 19 April 2007 (reference for a preliminary ruling from the Finanzgericht Hamburg (Germany)) — Velvet & Steel Immobilien und Handels GmbH v Finanzamt Hamburg-Eimsbüttel

(Case C-455/05) [1]

(Sixth VAT Directive — Exemptions — Article 13B(d)(2) — Concept of 'assumption of obligations' — Assumption of the obligation to renovate a property — Refusal of exemption)

(2007/C 96/23)

Language of the case: German

Referring court

Finanzgericht Hamburg

Parties to the main proceedings

Applicant: Velvet & Steel Immobilien und Handels GmbH

Defendant: Finanzamt Hamburg-Eimsbüttel

Re:

Reference for a preliminary ruling — Finanzgericht Hamburg — Interpretation of Article 13B(d)(2) 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 (OJ 1977 L 145, p. 1), as amended — Concept of 'assumption of obligations' — Refusal to exempt the assumption of a renovation obligation