2. *If the national court finds that the national provision laying down the time-limit is not compatible with the requirements of Community law and that no compatible interpretation of that provision is possible, it must refuse to apply the provision in question.*

(1) OJ C 161 of 2.6.2001.

JUDGMENT OF THE COURT

(First Chamber)

of 11 September 2003

in Case C-155/01 (Reference for a preliminary ruling from the Verwaltungsgerichtshof): Cookies World Vertriebsgesellschaft mbH iL v Finanzlandesdirektion für Tirol (1)

(Sixth VAT Directive — Motor vehicle made available under a leasing contract — Taxable transactions — Own consumption — Article 17(6) and (7) — Exclusions provided for under national law at the date of entry into force of the directive)

(2003/C 264/12)

(Language of the case: German)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case C-155/01: Reference to the Court under Article 234 EC by the Verwaltungsgerichtshof (Austria) for a preliminary ruling in the proceedings pending before that court between Cookies World Vertriebsgesellschaft mbH iL and Finanzlandesdirektion für Tirol, on the interpretation, in particular, of Articles 5 and 6 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 (OJ 1977 L 145, p. 1), the Court (First Chamber), composed of: M. Wathelet, President of the Chamber, P. Jann and A. Rosas (Rapporteur), Judges; L.A. Geelhoed, Advocate General; H.A. Rühl, Principal Administrator, for the Registrar, has given a judgment on 11 September 2003, in which it has ruled:

The provisions 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 preclude a measure of a Member State which provides that payment for services supplied in other Member States to a person in the first Member State is subject to VAT whereas, had the services in question been supplied within the territory of the country, the person to whom they were supplied would not have been entitled to deduction of input tax.

(1) OJ C 200 of 14.7.2001.

JUDGMENT OF THE COURT

(Fifth Chamber)

of 18 September 2003

in Case C-168/01 (Reference for a preliminary ruling from the Hoge Raad der Nederlanden): Bosal Holding BV v Staatssecretaris van Financiën (1)

(Freedom of establishment — Taxation — Taxes on company profits — Limitation of the deductibility in one Member State of costs connected with holdings of a parent company in its subsidiaries established in other Member States — Coherence of the tax system)

(2003/C 264/13)

(Language of the case: Dutch)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case C-168/01: Reference to the Court under Article 234 EC by the Hoge Raad der Nederlanden (Netherlands) for a preliminary ruling in the proceedings pending before that court between Bosal Holding BV and Staatssecretaris van Financiën, on the interpretation of Article 52 of the EC Treaty (now, after amendment, Article 43 EC), of Article 58 of the EC Treaty (now Article 48 EC), and of Council Directive 90/435/EEC of 23 July 1990 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States (OJ 1990 L 225, p. 6), the Court (Fifth Chamber), composed of: M. Wathelet, President of the Chamber, C.W.A. Timmermans, D.A.O. Edward (Rapporteur), P. Jann and S. von Bahr, Judges; S. Alber, Advocate General; D. Louterman-Hubeau, Head of Division, for the Registrar, has given a judgment on 18 September 2003, in which it has ruled:

Council Directive 90/435/EEC of 23 July 1990 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States, interpreted in the light of Article 52 of the EC Treaty (now, after amendment, Article 43 EC) precludes a national provision which, when determining the tax on the profits of a parent company established in one Member State, makes the deductibility of costs in connection with that company's holding in the capital of a subsidiary established in another Member State subject to the condition that such costs be indirectly instrumental in making profits which are taxable in the Member State where the parent company is established.

(1) OJ C 200 of 14.7.2001.