for they have to observe the fundamental objectives of the harmonization of value-added tax such as, in particular, to facilitate the free movement of persons and goods and to prevent cases of double taxation. They are therefore required, in the case of motor vehicles used by students from another Member State, to apply the concept of temporary importation in such a way as to avoid derogating, by taxing such vehicles twice, from the freedom of nationals of Member States to pursue their studies in the Member State of their choice.

It follows that the rules of Community law, and in particular those laid down by the Sixth Directive, preclude the levying by a Member State of value-added tax on the importation of a motor vehicle purchased in another Member State, where value-added tax was paid and the vehicle was registered, when the vehicle is used by a national of the second Member State resident in that State but studying in the first Member State, where for the period of his studies his name is entered in the aliens' register. Whether or not the person in question is married is irrelevant.

OPINION OF MR ADVOCATE GENERAL VERLOREN VAN THEMAAT
delivered on 10 July 1985 *

Mr President,
Members of the Court,

I. The relevant facts

I.1. *Preliminary observations*

The present case concerns the value-added tax rules applying to a vehicle belonging to a Luxembourg student resident in the Grand Duchy of Luxembourg but temporarily entered on the aliens' register in Belgium because he was at university there. He lived in Belgium with his wife (originally of French nationality but who subsequently took Luxembourg nationality) who was working in Belgium. At the end of his studies he returned to Luxembourg. The present case is indirectly relevant to all students who are temporarily studying in another Member State, although its significance has diminished since the entry into force of Directive 83/182/EEC, which I shall consider later. Of course, for a number of years the Community has increasingly been encouraging temporary studies in other Member States. In particular, though, the present case is indirectly of importance to all university students of *Luxembourg* nationality, who normally attend university in another Member State, generally sufficiently close to Luxembourg to enable them to return home to Luxembourg regularly (for weekends and vacations).

Often they commute between their home and the university with a vehicle regis-

* Translated from the Dutch.

tered in Luxembourg on which value-added tax has also been paid in Luxembourg. As appears from the examples given by the Commission in Case 134/83 *Abbink* [1984] ECR 4097 in which judgment was given on 11 December 1984, in so doing the students may *inter alia* avoid committing an offence in Luxembourg by using a car registered in Belgium.

The present case turns on the question of how far it is possible, without contravening Community law, to deny the exemption from value-added tax for temporary imports, which is provided for in Belgium in cases of this kind, to a student who has a temporary second residence (or a habitual residence) in Belgium with his wife (who is in temporary employment there). A number of other facts of the case are also relevant to an appraisal of the legal position.

The present case differs in important respects from Case 839/79 *Carciati* [1980] ECR 2773, which was of decisive importance in the aforesaid *Abbink* case, in so far as there is no question here of a business use of a motor vehicle imported on a temporary basis by a person who has his permanent residence in the country of importation.

In judging the present case it is necessary to consider the Belgian rules relating to value-added tax, their application in practice and the facts on which the national proceedings are based. The national proceedings are not concerned in the present case with the levying of value-added tax on a car imported into Belgium but are, in fact, of a criminal nature. I have basically adopted the summary of the relevant facts in the Report for the Hearing. However I have also taken account of the clarifications made by the Belgian Government. I have added the explanations given in answer to a question from the Court concerning the payment of the cost of Mr Profant's studies and his subsistence.

Adopting the Report for the Hearing in this way obviously has the advantage of enabling the appraisal of the case to be based on a statement of facts on which not only the Judge Rapporteur and Advocate General agree but which also takes account of the parties' observations on the Report for the Hearing.

I.2. *The relevant Belgian legislation*

In Belgium Article 2 of the Code on Value-Added Tax introduced by the Law of 3 July 1969 defines value-added tax as a tax on 'the supply of goods and services by a taxpayer in carrying out his occupation'. Article 3 of the Code reads 'imports of goods by anyone are also subject to the tax'. According to Article 23 of the Code 'importation' means 'the entry of goods into Belgian territory'. Value-added tax is due at the time when the goods enter Belgian territory (Article 24, first paragraph, of the Code).

Article 40 (1) of the Code provides for exemption from value-added tax in respect of the temporary importation of certain goods. Article 23 of Royal Decree No 7 of 27 December 1977 on the application of value-added tax on the importation of goods (*Moniteur Belge* of 31 December

1977) adopted in implementation of Article 40 of the Code states that the goods set out in the list annexed to the Decree may be temporarily imported free of value-added tax; the second item on the list is 'means of transport'. The exemption in question is granted, according to Article 23 (2) of the Royal Decree, subject to the conditions laid down by the provisions governing exemption from import duties.

Under Article 25 (3) (a) of the Ministerial Decree of 17 February 1960 governing exemption from import duties, exemption is granted only in respect of means of transport 'imported by natural persons normally resident in another country for their personal use'. In applying that provision, persons *inter alia* who work in Belgium, Luxembourg or the Netherlands, but who return at least once a month to the place outside the territory where their family home is situated or where, if they have no family home, they are entered in the population registers (Article 25 (3a) (d)), are treated as having their normal residence abroad. According to Article 25 (3c) (a) 'family home' means in the case of married persons the place of the matrimonial home.

It appears from the file that under Article 25 of the abovementioned Ministerial Decree the Belgian authorities normally grant Luxembourg students who have their main residence in Luxembourg and attend an educational establishment in Belgium the benefit of temporary exemption in respect of their vehicles registered in Luxembourg. Nevertheless the authorities exclude from that benefit married students if it appears that on their marriage they have established their new family home and thus their normal residence in Belgium.

I.3. *Other relevant facts*

Venceslas Profant, a Luxembourg national, entered Belgium in 1976 to study zoology at the university of Liège. He was entered in the alien's register at Liège from 21 October 1976 for the duration of his studies which he finished in 1981. But he also remained on the register of the Commune of Diekirch (Grand Duchy of Luxembourg) as resident with his mother there.

On 15 September 1978 Mr Profant married Charlotte Kaiser, of French origin but now a naturalized Luxembourger; from that date they both lived in Liège where she had been entered in the alien's register since 6 October 1977 and had worked as a nurse since 3 January 1978. The couple were entered together in the alien's register of Liège; Mr Profant remained on the register of the Commune of Diekirch, where his mother lived. Furthermore, as appears from an answer to a question put at the hearing, his parents continued to pay for his studies and living expenses in Liège after his marriage (BFR 15 000 per month). They also paid for the car which he had bought. On the termination of his studies in 1981 Mr Profant returned to Luxembourg with his wife.

For travelling between Liège and Luxembourg as from 1978 Mr Profant used successively two cars bought and registered in Luxembourg and on which Luxembourg value-added tax had been paid. The first car, an Alfa Romeo, was sold and returned to Luxembourg in 1979; the couple brought the second car, a Volkswagen, with them on their return in 1981.

In 1980 the Belgian tax authorities informed Mr Profant that since he had been normally

resident in Liège after his marriage in 1978 he had to pay value-added tax on each of the abovementioned vehicles. However, in view of the resale of the Alfa Romeo in 1979, the tax authorities proposed a penalty of BFR 1 500. As regards the Volkswagen Mr Profant was asked to pay value-added tax at the rate of 25%, namely BFR 42 238. When he refused to do so he was sent a demand for the sum of BFR 100 000. As that sum was not paid within the time limit, the tax authorities brought an action before the Court of First Instance in Liège for the confiscation of the two vehicles, and alternatively, the payment of their value, namely BFR 61 565 and BFR 168 950 respectively. That claim was upheld *in toto* at first instance. The judgment was confirmed on appeal in December 1983 by the Cour d'appel, Liège.

In May 1984 the Cour de cassation [Court of Cassation] quashed the judgment of the Cour d'appel, Liège, on the ground that the contested judgment did not state the relevant legal provisions either in its own grounds or by reference to the judgment under appeal. The case was remitted to the Cour d'appel, Brussels, which gave a default judgment in July 1984 in accordance with the judgment of the Cour de cassation. Mr Profant lodged an objection against the judgment with the Cour d'appel, Brussels, which by judgment of 26 September 1984 held inadmissible the tax authorities' claim in respect of the use of the Alfa Romeo in Belgium on the ground that criminal proceedings had been time-barred since 14 August 1984.

Taking the view that as regards the use of the Volkswagen the case raised questions concerning the interpretation of Community law, the Cour d'appel, Brussels, by judgment of 26 September 1984, stayed the proceedings until the Court of Justice had given a preliminary ruling under Article 177 of the EEC Treaty on the following question:

'Are the provisions of the Belgian Law of 3 July 1969 establishing the Code of Value-Added Tax, as interpreted by the Ministry of Finance, not, in the present case, contrary to the Community rules on the free movement of goods and services, inasmuch as those provisions, in particular Articles 23 and 24, have created, under the name of value-added tax, a veritable customs duty?'

It is apparent from the grounds of the judgment that the Cour d'appel is asking whether a double imposition of value-added tax on a Luxembourg national who bought his car in Luxembourg but used it mainly in Belgium is not contrary to Community law.

II. Observations submitted to the Court

Mr Profant, the accused in the main proceedings, maintains that the tax levied on him in the present case cannot be regarded as value-added tax. In his opinion it is rather a tax on the import of goods and therefore a disguised customs duty. In view of the particular circumstances of the case the imposition of such a duty is manifestly contrary to Community law on the free movement of goods.

The *Belgian Government* observes first of all that subsequent to the facts at issue the Council adopted on 28 March 1983 Directive 83/182/EEC on tax exemptions within the Community for certain means of transport temporarily imported into one Member State from another (Official Journal 1983, L 105, p. 59). Under Article 10 of the directive Member States have to bring into force the laws, regulations and administrative provisions necessary to

comply with the directive by 1 January 1984. Under Article 5 (1) (b) of the directive, exemption from certain taxes, including value-added tax, is granted on the temporary importation by a student of a private vehicle registered in the Member State of his normal residence in the territory of another Member State in which the student is residing for the sole purpose of pursuing his studies. The Belgian Government adds that an identical provision has been inserted into the Belgian legislation on value-added tax but that it does not apply in the present case because following his marriage Mr Profant did not reside in Belgium for the sole purpose of pursuing his studies and he therefore had to be treated as having his normal residence in Belgium.

Citing the judgment of the Court of 19 June 1973 (Case 77/72 *Capolongo* v *Maya* [1973] ECR 611), the Belgian Government alleges that the levying of value-added tax on importation cannot be likened to a customs duty since it is part of a general system of internal taxation applying systematically to domestic and imported products according to the same criteria.

Finally the Belgian Government maintains that Community law, and in particular Article 95 of the EEC Treaty, does not prevent in the present case the levying of value-added tax on a vehicle which has already borne value-added tax in the country of origin. It is true that the Court held in its judgment of 5 May 1982 (Case 15/81 *Schul* v *Inspecteur der Invoerrechten en Accijnzen* [1982] ECR 1409) that taxation on import must take account of the residual part of value-added tax paid in the exporting Member State but it added that there is no need to do so where the tax may lawfully be remitted on exportation. In the present case Mr Profant could have asked the Luxembourg tax authorities for exemption from value-added tax on the ground of the immediate exportation of the vehicle.

The Belgian Government therefore proposes the following answer to the question put by the Cour d'appel, Brussels: the levying of value-added tax on the importation of a vehicle bought in another Member State where value-added tax has been paid does not constitute a charge having an effect equivalent to a customs duty or taxation of a foreign product which is greater than that levied on a similar domestic product in so far as double taxation may be avoided either by remission on the occasion of the exportation of the article from the country of origin or by exemption on importation into the country of destination.

The *Commission of the European Communities* refers to the judgment of the Court of 5 May 1982 in the aforementioned case of *Schul* v *Inspecteur der Invoerrechten en Accijnzen*, especially paragraphs 21 and 22 of the decision, and observes first of all that value-added tax is part of a general system of internal taxation, whose compatibility with Community law must be considered in the context of the tax provisions of the Treaty and not the provisions relating to the free movement of goods.

The Commission observes that the present case raises two questions of principle which call for closer consideration:

(a) Is a married student to be regarded as resident in the country where he pursues his studies notwithstanding his intention to return to his country of origin at the end of his studies?

(b) What is the extent of the right of Member States to levy value-added tax on articles temporarily imported by persons not permanently resident there?

The Commission observes that Article 14 (1) (c) of the Sixth Council Directive of 17 May 1977, on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value-added tax: uniform basis of assessment (Official Journal 1977, L 145, p. 1, hereinafter referred to as the 'Sixth Council Directive') provides for exemption for the 'temporary importation' of goods into the territory of a Member State. It considers that that is a concept of Community law which the Member States must take into account in implementing the Sixth Council Directive in order that exemptions from value-added tax do not vary from country to country. For the same reason a related concept such as 'temporary residence' cannot be interpreted solely on the basis of national law either.

In order to determine the nature of those two concepts in Community law the Commission refers to the aforesaid Council Directive 83/182/EEC of 28 March 1983. Article 5 lays down an exemption for students temporarily importing vehicles into the country where they are pursuing their studies and Article 7, which contains general rules for determining residence, provides that: 'Attendance at a university or school shall not imply transfer of normal residence.' In the Commission's view it is hard to see how the simple fact that a person is married and living with his spouse can cause him to lose the status of student and consequently his temporary residence as well. It considers that the definition of the residence of a student as contained in the aforementioned Directive 83/182/EEC was already applicable under the Sixth Council Directive, since that directive is in many respects only of a declaratory nature.

It follows that, in view of the objectives pursued by Article 14 (1) (c) of the Sixth Council Directive, Mr Profant must be regarded as having temporarily imported goods. Consequently, the Commission contends, the vehicle in question must be exempt from Belgian value-added tax.

In the event of the Court considering Mr Profant as having his normal residence in Belgium and being liable to Belgian value-added tax, the Commission maintains that he must be allowed to have the value-added tax already paid in Luxembourg taken into account. Any other solution would cause patent injustice and curtail the scope of the judgment of the Court of 5 May 1982 in the *Schul* case which was intended mainly to avoid double taxation.

In conclusion the Commission proposes that the following answer should be given to the question put by the Cour d'appel, Brussels:

'Value-added tax is a general system of internal taxation, whose compatibility with Community law must be determined on the basis of the provisions of the EEC Treaty concerning taxation and not by those relating to the free movement of goods. The levying of value-added tax on imports which do not fall within the scope of one of the exemptions provided for by the Sixth Council Directive is compatible with Article 95 only in so far as account is taken of residual value-added tax already paid in the exporting Member State.'

In answering the question raised I shall return to certain statements made at the hearing in relation to the observations submitted to the Court.

III. Reformulation of the question and the answer thereto

III.1. *Wording of the question*

As the Commission has rightly observed, the wording of the question put by the national court in the present case is somewhat infelicitous. By its choice of wording the national court gives the impression that it is asking only that the Court of Justice, for such a case as this interpret the relevant articles of Title I of the EEC Treaty, specifically Articles 12 and 13. For the reasons stated in paragraphs 18 to 21 of the decision in the aforementioned *Schul* case, Articles 12 and 13 of the EEC Treaty do not apply in a case such as this.

In view of the particular nature of the problem confronting the national court, it may be taken to be asking the Court of Justice whether, in such a case, value-added tax levied by a Member State on the importation of a private car from another Member State is compatible with Community law including the Council directives on the harmonization of the laws of Member States on turnover tax.

On the basis of the file, the Court's answer may be confined to addressing the following factual situation, expressed in abstract terms:

(a) A private car purchased in Member State B where value-added tax has been paid and where it is registered is taken over the frontier into Member State A;

(b) It is taken across the frontier by a national of Member State B who also has his permanent residence in Member State B;

(c) Because he is temporarily at university in Member State A, the person concerned is also entered in the alien's register of Member State A but he returns to Member State B at the end of his studies;

(d) Before purchasing the vehicle in question the student had married in Member State B a national of Member State C (who subsequently becomes a naturalized citizen of Member State B); the wife is also entered in the aliens' register of Member State A and is in paid employment there; the student is liable to pay income tax in Member State A in respect of her income in accordance with the relevant income tax law of that country;

(e) However, the education costs and living expenses of the student in Member State A were largely paid both before and after his marriage by his parents living in Member State B.

III.2. *Answer to the question as reformulated*

III.2.1. *Arguments based on the relevant rules of Community law*

In my opinion the problems in question arise mainly from the extremely wide definition of the scope of the harmonized value-added tax given by Articles 2 and 7 of the Sixth Council Directive.

Article 2 of the Directive reads:

'The following shall be subject to value-added tax:

(1) The supply of goods or services effected for consideration within the territory of the country by a taxable person acting as such;

(2) The importation of goods.'

Article 7 states in that respect that:

"'Importation of goods' shall mean the entry of goods into the territory of the country as defined in Article 3.'

As regards the use of vehicles, that wide definition would obviously mean that any journey across the frontier of another Member State would be subject to the said tax if a number of exemptions had not been laid down *inter alia* by Article 14 of the Sixth Council Directive. In view of the aims of the harmonization of turnover tax which I shall summarize later those exemptions must, by reason of the very wide definition of the term 'importation', be interpreted sufficiently widely not to cause unnecessary obstacles to freedom to travel between countries. I shall return to discuss this premiss in detail in the present case.

The written and oral observations in the present proceedings rightly deal in particular with the interpretation of the said Article 14.

Article 14 (1) provides *inter alia*: 'Without prejudice to other Community provisions, Member State shall exempt the following under conditions which they shall lay down for the purpose of ensuring the correct and straightforward application of such exemption and of preventing any possible evasion, avoidance or abuse:

...

(c) importation of goods declared to be under temporary importation arrangements, which thereby qualify for exemption from customs duties, or which would so qualify if they were imported from a third country'.

In so far as relevant, *Article 14 (2)* provides:

'The Commission shall submit to the Council at the earliest opportunity proposals designed to lay down Community tax rules clarifying the scope of the exemptions referred to in paragraph 1 and detailed rules for their implementation.

Until the entry into force of these rules, Member States may:

(i) maintain their national provisions in force on matters related to the above provisions;

(ii) adapt their national provisions to minimize distortion of competition and in particular the non-imposition or double imposition of value-added tax within the Community;

(iii) use whatever administrative procedures they consider most appropriate to achieve exemption.'

As is apparent from my earlier summary of the relevant Belgian legislation, there apply in this case 'national provisions in force' within the meaning of Article 14 (2), namely the provisions of the aforesaid Ministerial Order of 17 February 1960 governing exemption from import duties. Incidentally, it is probably the title of that Ministerial Order which caused the national court to word its question somewhat incorrectly.

The Belgian Government bases its argument that Mr Profant is liable to value-added tax mainly on the abovementioned words of Article 14 (2) of the Sixth Council Directive.

Since the passage provides only that Member States may 'maintain their national provisions in force *on matters related to the above provisions*' (my italics), the

Commission rightly thinks that Article 14 (1) is also relevant for an answer to the question. It is thus in particular a question of the interpretation of the concept of 'temporary importation'.

For the purpose of that interpretation the Commission considers that Articles 5 and 7 of Council Directive 83/182 on tax exemptions within the Community for certain means of transport temporarily imported into one Member State from another are also relevant. Articles 5 and 7 authorize students temporarily to import a vehicle into the country where they pursue their studies and Article 7 provides that 'Attendance at a university or school shall not imply transfer of normal residence.' In the Commission's view those articles are of a purely declaratory nature and may therefore also be applied to facts which occured before the entry into force of the Directive.

Although I can see some justification for that opinion, I do not think that the acceptance of that view would greatly assist the Court in answering the question. The Court would still have to give consideration to the arguments of the Belgian Government which are also relevant if the Court proceeds solely on the basis of the concept of 'temporary importation' referred to in Article 14 (1). That is also what the representative of the Belgian Government maintained at the hearing.

III.2.2. *The Belgian Government's view of the concept of 'temporary importation'*

At the hearing the Belgian Government based its view on the taxable nature of the imported vehicle *inter alia* on the following circumstances:

(a) For the purposes of income tax the couple elected to reside in Belgium;

(b) The couple's normal family home was in Belgium and in Belgian law the family home has priority over any second residence in another Member State of a husband who is pursuing his studies;

(c) It was assumed that by the marriage the couple became financially independent of their respective parents and that the student (the owner and 'importer' of the vehicle) was thereafter financially supported by his wife.

Further, the Belgian Government admitted both in the proceedings before the national court and in the proceedings before this Court that the Belgian system of exemption in question would have remained applicable if the couple had not married but simply lived together. As is apparent from the second paragraph on page 4 of the order for reference, the national court also considered that finding relevant.

In my view the aforesaid three arguments put forward in support of the Belgian Government's case are not convincing.

In my opinion the concept of residence for the purpose of income tax cannot be regarded as a decisive factor in the concept of residence for the purpose of value-added tax (in fact the present case concerns not 'residence', but 'temporary importation'). The fact that everyone working in a country and also normally resident there for that purpose is deemed liable to income tax under the law of that country is probably based on the notion that income should as far as possible be subject to tax in the country where the source of income in question is situated. If in view of that basic notion, whether it be correct or not, a student's working wife considers that she or

her husband is liable for tax on that income in that country, that is not sufficient for the husband also to be deemed resident in that country for the purpose of value-added tax in connection with the temporary importation of a vehicle with the result that the exemption granted generally to foreign students is suddenly no longer applicable.

As regards the second argument, it is first of all not very clear why a student living with his wife who works (both originating in another Member State) should be treated differently from a student living with his wife who is also a student (both also originating from another Member State). Finally, it is difficult to see why the risk of the evasion of value-added tax (within the meaning of Article 14 (1) of the Sixth Council Directive) should be greater in the case of a married student than in that of a student living with a woman who is not his wife.

Finally, as is apparent from the statement of Mr Profant's counsel at the hearing, the third and probably main argument of the Belgian Government rests on an incorrect factual basis since Mr Profant's living expenses (and the cost of car) were paid wholly or in part by his parents and not by his wife who was working. The Court obviously cannot determine in a preliminary ruling procedure whether those statements are factually correct. Nevertheless in order not to extend the scope of the answer to the question beyond what is actually necessary in the present case I propose that the Court should incorporate an abstract hypothesis based on those facts as a condition in its answer.

III.2.3. *Final observations and conclusion*

Let me begin my final observations in this case by recalling that the main proceedings are criminal proceedings. It may be assumed that when determining the question of guilt or fixing the penalty the competent Belgian court will take account of all the special circumstances of the case including the doubts as to whether there is a punishable act in the light of the Community rules cited and the Commission's views on the matter. In my opinion that applies even if the Court should ultimately share the view of the Belgian Government. In contrast to the Commission which, for that eventuality, further referred to the principle of proportionality as developed in the Court's case-law, I do not consider it necessary to examine separately the question whether that principle is applicable.

It also does not seem to me desirable to propose as an alternative answer to the questions raised that the Court should apply, as the Commission suggests, the principle contained in the two judgments in the *Schul* cases. First of all such an alternative proposal would probably be of only limited use in the criminal proceedings in question. Secondly, it would require clarification of the first judgment in the *Schul* case which in my opinion could be done only by the full Court and would accordingly require the re-opening of proceedings. For the first-mentioned reason I cannot recommend that the proceedings be re-opened.

My final opinion in this case is based primarily on the first two recitals in the preamble to the First Council Directive, of 11 April 1967, on the harmonization of legislation of Member States concerning

turnover taxes (Official Journal, English Special Edition 1967, p. 14). The first recital in the preamble thereto states that 'the main object of the Treaty is to establish, within the framework of an economic union, a common market within which there is healthy competition and whose characteristics are similar to those of a domestic market'.

The second recital states that: 'the attainment of this objective presupposes the prior application in Member States of legislation concerning turnover taxes such as will not distort conditions of competition or hinder the free movement of goods and services within the common market'.

Unlike the aforementioned *Carciati* and *Abbink* cases, there is no question in the present case of the person concerned engaging in a business activity which would enjoy an artificial advantage over competitors if the vehicle benefited from exemption on importation. A student like Mr Profant is not placed in a more favourable competitive position for the purposes of the first main objective pursued by the harmonization of the turnover tax legislation of the Member States as summarized in the second recital in the preamble to the First Council Directive. When freedom of movement (in the present case, of students) is also at issue, the second main objective mentioned (free movement of goods and services) may certainly play a decisive part in doubtful cases like this in determining which Member State may levy value-added tax.

For those reasons I think that in a case such as this a wide interpretation of Article 14 of the Sixth Council Directive is warranted, as the Commission advocated in its main observations in both written and oral procedures. As has already been stated, the relevant points at issue are, on the one hand, the concept of 'temporary importation' in Article 14 (1) (c) of the Sixth Council Directive and, on the other, the second subparagraph of Article 14 (2) under which national provisions may be maintained in force only '*on matters related* to the above provisions'. Such national provision may not therefore be contrary to Article 14 (1), as interpreted by the Court.

I therefore propose the following answer to my reformulated version of the question referred to the Court by the Cour d'appel, Brussels:

'Article 14 (2) of the Sixth Council Directive, of 17 May 1977, on the harmonization of the laws of the Member States relating to turnover taxes (Official Journal 1977, L 145, p. 1), in conjunction with Article 14 (1) (c) thereof, must be interpreted as meaning that it does not allow a Member State to apply its national provisions in force when that directive took effect in such a way that the importation into its territory of a private car from another Member State is not regarded as a temporary importation within the meaning of Article 14 (1) (c) in spite of the fact that:

(a) the proprietor and importer of the car bought it in another Member State where it was registered and where value-added tax was paid on it;

(b) he has a permanent residence in that other Member State;

(c) he is temporarily at university in the first-mentioned Member State, he is temporarily resident there exclusively for the purpose of his studies and he then returns to the other Member State; and

(d) the cost of his studies and maintenance in the first-mentioned Member State are wholly or largely borne by his parents or covered by an educational grant.

If the abovementioned conditions are satisfied, it is immaterial whether, during his stay in the first-mentioned Member State, the student, whether or not he is married, lives with a national of a Member State other than the first-mentioned State, even if his companion has a separate source of income there and irrespective of whether the student has to pay income tax on that income.'