Questions referred

1. Is Article 141(c) of Directive 2006/112, ([1]) on which the non-application of Article 41(1) of Directive 2006/112 depends, in accordance with Article 42 (in conjunction with Article 197) of Directive 2006/112, to be interpreted as meaning that the requirement laid down in that provision is not met where the taxable person is resident and identified for VAT purposes in the Member State from which the goods are dispatched or transported, even if that taxable person uses the VAT identification number of another Member State for that specific intra-Community acquisition?

2. Are Articles 42 und 265 in conjunction with Article 263 of Directive 2006/112 to be interpreted as meaning that only the submission in due time of the recapitulative statement renders Article 41(1) of Directive 2006/112 inapplicable?

([1]) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax; OJ 2006 L 347, p. 1.

Action brought on 30 November 2016 — European Commission v Slovakia

(Case C-626/16)

(2017/C 078/13)

Language of the case: Slovak

Parties

Applicant: European Commission (represented by: E. Sanfrutos Cano and A. Tokár, acting as Agents)

Defendant: Slovak Republic

Form of order sought

The European Commission requests the Court to:

1. declare that, by failing to adopt the measures necessary to comply with the judgment of the Court of Justice in Case C-331/11, *Commission* v *Slovakia*, in which the Court of Justice declared that the Slovak Republic had failed to fulfil its obligations under Article 14(a)(b) and (c) of Council Directive 1999/31/EC ([1]) of 26 April 1999 on the landfill of waste, the Slovak Republic has failed to fulfil its obligations under Article 260(1) of the Treaty on the Functioning of the European Union,

2. order the Slovak Republic to pay the European Commission, into the 'European Union own resources' account:

   (a) a penalty payment of EUR 6 793.80 per day of delay in the adoption of the measures necessary for the Slovak Republic to comply with the judgment of the Court of Justice in Case C-331/11, *Commission* v *Slovakia,* payable from the date of delivery of the judgment in the present case until the date of adoption of the measures necessary for the Slovak Republic to comply with the judgment of the Court of Justice in Case C-331/11, *Commission* v *Slovakia*,

   (b) a lump sum of EUR 743.60 per day, totalling a minimum of EUR 939 000, for every day of delay in the adoption of the measures necessary for the Slovak Republic to comply with the judgment of the Court of Justice in Case C-331/11, *Commission* v *Slovakia*, payable from the date of delivery of that judgment on 25 April 2013:

   — until the date of delivery of the judgment in the present case, or

   — until the date of the adoption of the measures necessary for the Slovak Republic to comply with the judgment of the Court of Justice in Case C-331/11, *Commission* v *Slovakia*, if that date precedes the date of delivery of the judgment in the present case, and

3. order the Slovak Republic to pay the costs of the proceedings.

Pleas in law and main arguments

On 25 April 2013, the Court of Justice delivered the judgment in Case C-331/11, *Commission* v *Slovakia*, in which it ruled that by authorising the operation of the Žilina-Považský Chlmec waste site without a site conditioning plan and in the absence of a final decision on the continued operation on the basis of an approved site conditioning plan, the Slovak Republic had failed to comply with its obligations under Article 14(a) to (c) of Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste.

In the course of the pre-litigation procedure, the Slovak Republic stated that it was planning to comply with the judgment of the Court of Justice in Case C-331/11 by closing the Žilina-Považský Chlmec waste site, and that certain steps had already been taken in this connection.

However, the European Commission has ascertained that, in spite of the Slovak Republic's statements, the measures required by the judgment of the Court of Justice in Case C-331/11 have not yet been adopted. The European Commission has therefore decided to bring an action under Article 260 of the Treaty on the Functioning of the European Union.

([1]) OJ 1999 L 182, p. 1.

Request for a preliminary ruling from the Rechtbank van Koophandel Antwerpen (Belgium) lodged on 7 December 2016 — Dyson Ltd, Dyson BV v NV BSH Home Appliances

(Case C-632/16)

(2017/C 078/14)

Language of the case: Dutch

Referring court

Rechtbank van Koophandel Antwerpen

Parties to the main proceedings

Applicants: Dyson Ltd, Dyson BV

Defendant: NV BSH Home Appliances

Questions referred

1) Can strict compliance with the Vacuum Cleaner Regulation ([1]) (without supplementing the label as defined in Annex II thereof with information about the test conditions which lead to the classification in an energy efficiency class in accordance with Annex I) be regarded as a misleading omission within the meaning of Article 7 of the Unfair Commercial Practices Directive? ([2])

2) Does the Vacuum Cleaner Regulation preclude supplementing the label with other symbols which communicate the same information?

([1]) Commission Delegated Regulation (EU) No 665/2013 of 3 May 2013 supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to energy labelling of vacuum cleaners (OJ 2013 L 192, p. 1).

([2]) Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') (OJ 2005 L 149, p. 22).