

- It further submits that the General Court failed to examine, and without good reason, whether there was a sufficiently close or any connection between what was submitted before the Board of Appeal in relation to the national legislation and the evidence submitted in good time before the Opposition Division. Where such a connection is lacking, then evidence is 'new' and not 'supplementary' or does not serve to 'complete' evidence previously submitted, as is required under Article 76(2) of Regulation No 207/2009.

Infringement of Article 8(4) of Regulation No 207/2009 in conjunction with Rule 19(2)(d) of Regulation No 2868/95

- EUIPO submits that, with its finding that there are no formal requirements in relation to the submission of evidence in respect of the national legislation relied on, the General Court acted contrary to Rule 19(2)(d) of Regulation No 2868/95. In order to ensure the rights of defence of the defendant in *inter partes* proceedings, it is necessary to observe such formal requirements.
- It further submits that, with regard to the principle of 'congruent forms', the requirements in relation to evidence of registration of a mark (Rule 19(2)(a), indent i, of Regulation No 2868/95) are applicable *mutatis mutandis* in relation to evidence of the provisions of the national legislation under which legal effects are granted to a non-registered trade mark.

⁽¹⁾ Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (codified version) (Text with EEA relevance) (OJ 2009 L 78, p. 1).

⁽²⁾ Commission Regulation (EC) No 2868/95 of 13 December 1995 implementing Council Regulation (EC) No 40/94 on the Community trade mark (OJ 1995 L 303, p. 1).

Appeal brought on 15 September 2016 by TeamBank AG Nürnberg against the judgment of the General Court (Fourth Chamber) delivered on 20 July 2016 in Case T-745/14: TeamBank v EUIPO — Easy Asset Management (EASY CREDIT)

(Case C-495/16 P)

(2017/C 078/11)

Language of the case: English

Parties

Appellant: TeamBank AG Nürnberg (represented by: D. Terheggen, Rechtsanwalt)

Other parties to the proceedings: European Union Intellectual Property Office (EUIPO), Easy Asset Management AD

The President of the Court has ordered that the case be removed from the register.

Request for a preliminary ruling from the Verwaltungsgerichtshof (Austria) lodged on 17 November 2016 — Firma Hans Bühler KG

(Case C-580/16)

(2017/C 078/12)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Appellant on a point of law: Firma Hans Bühler KG

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