2. Can the fact that the individual operator who issued the invoice has not declared the workers whom he employs (who, as a result, work 'in the black economy'), and the fact that, for that reason, the tax authority has found that the said operator 'has no declared workers', prevent the addressee of that invoice from exercising the right to deduct, having regard to the principle of tax neutrality?

3. Can it be held that the addressee of the invoice is guilty of a lack of care when he does not verify either whether a legal relationship exists between the workers employed on a work site and the issuer of the invoice or whether the latter has fulfilled his tax-return obligations or any other obligations relating to those workers? Can it be held that such conduct constitutes an objective factor which demonstrates that the addressee of the invoice knew or ought to have known that he was participating in a transaction involving fraudulent evasion of VAT?

4. Having regard to the principle of tax neutrality, can the national court take the above circumstances into consideration when its overall assessment leads it to the conclusion that the economic transaction did not take place between the persons specified on the invoice?

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

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**Action brought on 30 June 2011 — European Commission v Slovak Republic**

**(Case C-331/11)**

(2011/C 282/07)

*Language of the case: Slovak*

**Parties**

*Applicant:* European Commission (represented by: A. Marghelis and A. Tokár, acting as Agents)

*Defendant:* Slovak Republic

**Forms of order sought**

— declare that, by authorising the operation of the Žilina — Považský Chlmec waste site without a conditioning plan for the waste site and without adopting a definite decision on whether operations might continue on the basis of the said conditioning plan, the Slovak Republic has failed to fulfil its obligations under Article 14(a), (b) and (c) of Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste ([1])

— order the Slovak Republic to pay the costs.

**Pleas in law and main arguments**

The Žilina — Považský Chlmec waste site is operated without any conditioning plan having been submitted and without the approval of any measures which might be needed on the basis of such a plan. The Commission therefore submits that the Court should declare that, by authorising the operation of the Žilina — Považský Chlmec waste site without a conditioning plan for the waste site and without adopting a definite decision on whether operations might continue on the basis of the said conditioning plan, the Slovak Republic has failed to fulfil its obligations under Article 14(a), (b) and (c) of Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste.

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

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**Appeal brought on 29 June 2011 by Lancôme parfums et beauté & Cie against the judgment of the General Court (Eighth Chamber) delivered on 14 April 2011 in Case T-466/08: Lancôme parfums et beauté & Cie v Office for Harmonisation in the Internal Market (Trade Marks and Designs), Focus Magazin Verlag GmbH**

**(Case C-334/11 P)**

(2011/C 282/08)

*Language of the case: English*

**Parties**

*Appellant:* Lancôme parfums et beauté & Cie (represented by: A. von Mühlendahl, J. Pagenberg, Rechtsanwälte)

*Other parties to the proceedings:* Office for Harmonisation in the Internal Market (Trade Marks and Designs), Focus Magazin Verlag GmbH

**Form of order sought**

The appellant requests the Court of Justice to decide as follows:

— The judgment of the General Court of 14 April 2011 in Case T-466/08 an the decision of the First Board of Appeal of the Office of 29 July 2008 in Case R 1796/2007-1 are annulled.

— The costs of the proceedings before the Board of Appeal of the Office, before the General Court and before this court shall be borne by the Office and by the Intervener.

**Pleas in law and main arguments**

The Appellant claims that the contested judgment must be annulled because the General Court violated Article 43 (2) and (3) CTMR and committed legal error in deciding that in the contested case the five-year period following registration within which the earlier German mark FOCUS on which the opposition against the CTM application for ACNO FOCUS was based must be put to genuine use did not begin to run until 13 January 2004.