Reports of Cases

JUDGMENT OF THE COURT (Fourth Chamber)

5 March 2015 *

(Failure of a Member State to fulfil obligations — Taxation — VAT — Application of a reduced rate — Supply of digital books or electronic books)

In Case C-502/13,

ACTION for failure to fulfil obligations under Article 258 TFEU, brought on 18 September 2013,

European Commission, represented by C. Soulay and F. Dintilhac, acting as Agents, with an address for service in Luxembourg,

applicant,

supported by:

Council of the European Union, represented by E. Chatziioakeimidou and A. de Gregorio Merino, acting as Agents,

intervener,

v

Grand Duchy of Luxembourg, represented by D. Holderer, acting as Agent,

defendant,

supported by:

Kingdom of Belgium, represented by M. Jacobs and J.-C. Halleux, acting as Agents,

intervener,

THE COURT (Fourth Chamber),

composed of L. Bay Larsen, President of the Chamber, K. Jürimäe, J. Malenovský, M. Safjan and A. Prechal (Rapporteur), Judges,

Advocate General: P. Mengozzi,

Registrar: A. Calot Escobar,

having regard to the written procedure,

* Language of the case: French.

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

Judgment

1 By its application, the European Commission asks the Court to declare that, by applying a rate of value added tax ('VAT') of 3% to the supply of digital (or electronic) books, the Grand Duchy of Luxembourg has failed to fulfil its obligations under Articles 96 to 99, 110 and 114 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1), as amended by Council Directive 2010/88/EU of 7 December 2010 (OJ 2010 L 326, p. 1; the 'VAT Directive'), read in conjunction with Annexes II and III to that directive and Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112 (OJ 2011 L 77, p. 1).

Legal context

EU law

2 Article 14(1) of the VAT Directive provides:

'"Supply of goods" shall mean the transfer of the right to dispose of tangible property as owner.'

3 Article 24(1) of the VAT Directive provides:

'"Supply of services" shall mean any transaction which does not constitute a supply of goods.'

4 Article 96 of the VAT Directive provides:

'Member States shall apply a standard rate of VAT, which shall be fixed by each Member State as a percentage of the taxable amount and which shall be the same for the supply of goods and for the supply of services.'

5 Article 97 of the VAT Directive provides:

'From 1 January 2011 until 31 December 2015, the standard rate may not be lower than 15%.'

6 Article 98(1) and (2) of the VAT Directive provides:

'1. Member States may apply either one or two reduced rates.

2. The reduced rates shall apply only to supplies of goods or services in the categories set out in Annex III.

The reduced rates shall not apply to electronically supplied services.'

7 Article 99(1) of the VAT Directive provides:

'The reduced rates shall be fixed as a percentage of the taxable amount, which may not be less than 5%.'

8 Article 110 of the VAT Directive provides:

‘Member States which, at 1 January 1991, were granting exemptions with deductibility of the VAT paid at the preceding stage or applying reduced rates lower than the minimum laid down in Article 99 may continue to grant those exemptions or apply those reduced rates.

The exemptions and reduced rates referred to in the first paragraph must be in accordance with Community law and must have been adopted for clearly defined social reasons and for the benefit of the final consumer.’

9 Article 114(1) of the VAT Directive provides:

‘Member States which, on 1 January 1993, were obliged to increase their standard rate in force at 1 January 1991 by more than 2% may apply a reduced rate lower than the minimum laid down in Article 99 to the supply of goods and services in the categories set out in Annex III.

...’

10 Annex II to the VAT Directive, which includes an ‘[i]ndicative list of the electronically supplied services referred to in Article 58 and point (k) of the first paragraph of Article 59’, both of which articles deal with the determination of the place of supply of services provided to non-taxable persons, refers, at point 3 thereof, to the:

‘supply of images, text and information and making available of databases’.

11 Annex III to Directive 2006/112, in its original version, which contained a list of the supplies of goods and services to which the reduced rates referred to in Article 98 of that directive may be applied, referred, at point 6 thereof, to the:

‘supply, including on loan by libraries, of books (including brochures, leaflets and similar printed matter, children’s picture, drawing or colouring books, music printed or in manuscript form, maps and hydrographic or similar charts), newspapers and periodicals, other than material wholly or predominantly devoted to advertising’.

12 Council Directive 2009/47/EC of 5 May 2009 (OJ 2009 L 116, p. 18) amended Directive 2006/112. Recital 4 in the preamble to Directive 2009/47 states:

‘Directive 2006/112/EC should furthermore be amended in order to allow for the application of reduced rates or an exemption respectively in a limited number of specific situations for social or health reasons and in order to clarify and update to technical progress the reference to books in its Annex III.’

13 Since 1 June 2009, the date of entry into force of Directive 2009/47, point 6 of Annex III to the VAT Directive reads as follows:

‘supply, including on loan by libraries, of books on all physical means of support (including brochures, leaflets and similar printed matter, children’s picture, drawing or colouring books, music printed or in manuscript form, maps and hydrographic or similar charts), newspapers and periodicals, other than material wholly or predominantly devoted to advertising’.

14 Point 9 of Annex III to the VAT Directive refers, in respect of supplies of services to which the reduced rates may be applied, to the ‘supply of services by writers, composers and performing artists, or of the royalties due to them’.

15 Article 7(1) and (2) of Implementing Regulation No 282/2011 provides:

‘1. “Electronically supplied services” as referred to in [the VAT Directive] shall include services which are delivered over the Internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention, and impossible to ensure in the absence of information technology.

2. Paragraph 1 shall cover, in particular, the following:

...

(f) the services listed in Annex I.’

16 Annex I to Implementing Regulation No 282/2011, entitled ‘Article 7 of this Regulation’, states, at point 3 thereof:

‘Point (3) of Annex II to [the VAT Directive]

...

(c) the digitised content of books and other electronic publications;

...’

Luxembourg law

17 Paragraph 39(3) of the Law of 12 February 1979 on value added tax, in the version in force when the period laid down in the reasoned opinion issued on 25 October 2012 to the Grand Duchy of Luxembourg expired, (the ‘VAT law’), provides:

‘The normal [VAT] rate applicable to taxable transactions shall be fixed at 15% of the taxable amount ...

The reduced tax rate shall be fixed at 6% of that taxable amount.

The super-reduced tax rate shall be fixed at 3% of that taxable amount.’

18 Article 40 of the VAT law provides:

‘1. Within the limits and under the conditions laid down by Grand Ducal regulation, VAT shall be levied:

...

(2) at the super-reduced rate of 3%, for the supply of goods and services and also for the intra-Community acquisition and importation of goods, as designated by Annex B to this law;

...

2. [VAT] shall be levied at the normal rate of 15% for taxable transactions other than those referred to in paragraph 1.

...’

19 Point 5 of Annex B to the VAT law, entitled 'List of goods and services subject to the super-reduced rate', states:

'Books (including brochures, leaflets and similar printed matter, children's picture, drawing or colouring books, music printed or in manuscript form, maps and hydrographic or similar charts), newspapers and periodicals. Material devoted wholly or predominantly to advertising and also pornographic books, newspapers and publications shall be excluded.'

20 Article 2 of the Grand Ducal Regulation of 21 December 1991, laying down the limits and conditions for the application of the reduced, super-reduced, and intermediate rate of value added tax, in the version in force when the period laid down in the reasoned opinion expired (the 'Grand Ducal Regulation of 21 December 1991'), provides:

'The goods listed in points 1 to 7 of Annex B to the [VAT] law are more fully defined by reference to the respective headings of the Customs Tariff on imports (CT) referred to in Article 1 of this regulation.

...

(5) Books, newspapers and periodicals:

(a)

— Books, brochures and similar printed matter, whether or not in single sheets, other than material wholly or predominantly devoted to advertising and pornographic books (ex N° 49.01 CT)

— Incunabula and other books constituting antiques of an age exceeding 100 years (ex N° 97.06 CT)

...'

21 Circular No 756 of 12 December 2011 of the Luxembourg Land Registration and Estates Department provides:

'Since there has not been a unanimous interpretation of the notion of "books" in the Member States of the [European Union], the Government has decided, for reasons of neutrality, that a broad interpretation should be given to that term, referred to in point 5 of Annex B to the [VAT] law and point 5(a) of Article 2 of [the Grand Ducal Regulation of 21 December 1991] so that no distinction is to be made between physical formats and digital formats, where they are functionally identical.

That interpretation is implicitly supported by the Communication of 6 December 2011 from the Commission to the European Parliament, the Council and the European Economic and Social Committee on the future of VAT [COM(2011) 851 final], in which it is stated ... that "the issue of equal treatment for products which are available in both traditional and online formats provoked considerable reactions in the public consultation. Those issues need to be addressed".

This circular is applicable as from 1 January 2012.'

The pre-litigation procedure and the proceedings before the Court

22 The Commission considered that the application, from 1 January 2012, of a 'super-reduced' VAT rate of 3% (the 'reduced VAT rate of 3%') to the supply of digital or electronic books was contrary to the VAT Directive. Consequently, the Commission decided to send to the Grand Duchy of Luxembourg a letter of formal notice on 4 July 2012. That Member State responded to that letter of formal notice by letter dated 31 July 2012.

23 On 25 October 2012, the Commission issued a reasoned opinion calling on the Grand Duchy of Luxembourg to take the measures necessary to comply with the opinion within one month of its receipt. That Member State responded to that opinion by letter dated 29 November 2012.

24 Since it was not satisfied with the explanations provided by the Grand Duchy of Luxembourg, the Commission decided to bring the present action.

25 By decisions of the President of the Court of 14 January and 3 February 2014, the Council of the European Union and the Kingdom of Belgium were granted leave to intervene in the proceedings in support of the forms of order sought by the Commission and the Grand Duchy of Luxembourg, respectively.

The action

Preliminary observations

26 The Commission states that the supply of digital or electronic books should be understood as the supply, for consideration, by download or web streaming ('streaming'), from a website, of books in electronic format that can be viewed on a computer, a smartphone, electronic book readers or other reading system (the 'supply of electronic books').

27 The Grand Duchy of Luxembourg disputes the scope of the action. It maintains that the reduced VAT rate of 3% is applied only to the supply of books by download, and not to the supply of books by streaming.

28 In that regard, it should be noted that, as the Commission correctly pointed out, it is not clear from the relevant provisions of Luxembourg law, set out in paragraphs 17 to 21 above, that the supply of books by streaming would not be eligible for the reduced VAT rate of 3%, unlike the supply of books by download.

29 In those circumstances, there is no need to limit the examination of the action to a more restricted category of digital or electronic books than that referred to by the Commission in its application.

Substance

30 The Commission argues that the application, by the Grand Duchy of Luxembourg, of a reduced VAT rate of 3% to the supply of electronic books is incompatible with Articles 96 to 99, 110 and 114 of the VAT Directive, read in conjunction with Annexes II and III to that directive and Implementing Regulation No 282/2011.

31 The Commission observes that, under the first subparagraph of Article 98(2) of the VAT Directive, the reduced rates of VAT may apply only to supplies of goods and services referred to in Annex III to that directive. The supply of electronic books does not fall within the scope of that annex and a reduced VAT rate could not therefore apply to it. That interpretation is borne out by the second subparagraph

of Article 98(2) of the VAT Directive which excludes the application of a reduced rate of VAT to electronically supplied services. In those circumstances, Articles 110 and 114 of the VAT Directive do not allow the application of a reduced VAT rate of 3% to the supply of electronic books.

32 The Grand Duchy of Luxembourg, supported by the Kingdom of Belgium, disputes the interpretation adopted by the Commission of the relevant provisions of the VAT Directive. According to those Member States, the supply of electronic books is covered by point 6 of Annex III to the VAT Directive and, as the Grand Duchy of Luxembourg argued in the alternative, by point 9 of that annex. Moreover, Articles 110 and 114 of the VAT Directive permit the Grand Duchy of Luxembourg, in any event, to apply a reduced VAT rate of 3% to the supply of electronic books.

33 In that regard, it should be noted that Article 96 of the VAT Directive provides that the same rate of VAT, namely, the standard rate, is applicable to supplies of goods and services. As an exception to that principle, Article 98(1) of the VAT Directive gives the Member States the option of applying either one or two reduced rates of VAT. In accordance with the first subparagraph of Article 98(2), the reduced rates of VAT can apply only to supplies of goods and services in the categories set out in Annex III to the VAT Directive (judgment in *K*, C-219/13, EU:C:2014:2207, paragraphs 21 and 22).

34 As regards the argument raised by the Grand Duchy of Luxembourg and the Kingdom of Belgium that the supply of electronic books is covered by point 6 of Annex III to the VAT Directive, it should be borne in mind that, in determining the scope of a provision of EU law, its wording, context and objectives must all be taken into account (see, inter alia, judgment in *NCC Construction Danmark*, C-174/08, EU:C:2009:669, paragraph 23 and the case-law cited).

35 It should be noted that point 6 of Annex III to the VAT Directive expressly refers, in the category of services that may be subject to reduced rates of VAT, to the 'supply of books ... on all physical means of support'. It is thus clear from the terms of that point that the reduced VAT rate is applicable to a transaction consisting of the supply of a book on a physical medium. As the Commission rightly points out, any other interpretation would be liable to render the words 'on all physical means of support', found in that point, meaningless.

36 Admittedly, in order to be able to read an electronic book, physical support, such as a computer, is required. However such support is not included in the supply of electronic books.

37 In the light of the terms of point 6 of Annex III, it follows that that provision does not include in its scope the supply of electronic books.

38 That interpretation is supported by the context of that provision. That provision is an exception to the principle that Member States are to apply a standard rate of VAT to transactions subject to VAT and must therefore be interpreted strictly (see, inter alia, judgment in *Commission* v *Spain*, C-360/11, EU:C:2013:17, paragraph 18 and the case-law cited).

39 It is true, as the Grand Duchy of Luxembourg and the Kingdom of Belgium rightly point out, that by expanding the scope of point 6 of Annex III to the VAT Directive to encompass the 'supply of books on all physical means of support', via the amendment introduced by Directive 2009/47, the EU legislature intended, as is apparent from recital 4 of the preamble to Directive 2009/47, to clarify and update to technical progress the reference to the notion of 'books' referred to in that point.

40 However, the fact remains that, as is clear from the second subparagraph of Article 98(2) of the VAT Directive, the EU legislature decided to exclude any possibility of a reduced rate of VAT being applied to 'electronically supplied services'.

41 The supply of electronic books is an 'electronically supplied service ...' within the meaning of the second subparagraph of Article 98(2).

42 First, under Article 24(1) of the VAT Directive, a 'supply of services' means any transaction which does not constitute a supply of goods, whereas, under Article 14(1) of that directive, a 'supply of goods' means the transfer of the right to dispose of tangible property as owner. The supply of electronic books cannot be regarded as a 'supply of goods' within the meaning of that provision, since an electronic book cannot qualify as tangible property. As is clear from paragraph 36 above, the physical support enabling an electronic book to be read, which could qualify as 'tangible property', is not part of that supply. It follows that, pursuant to Article 24(1) thereof, the supply of electronic books must be classified as a supply of services.

43 Second, according to Article 7(1) of Implementing Regulation No 282/2011, electronically supplied services, within the meaning of the VAT Directive, are to include 'services which are delivered over the Internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention, and impossible to ensure in the absence of information technology'. The supply of electronic books clearly meets that definition.

44 That interpretation is confirmed by point 3 of Annex II to the VAT Directive, read in conjunction with Article 7(1) and (2) of Implementing Regulation No 282/2011 and point 3 of Annex I to that regulation, from which it follows that the supply of digitised content of books constitutes such a service.

45 Contrary to what the Grand Duchy of Luxembourg contends, the fact that Annex II to the VAT Directive contains an indicative list of the electronically supplied services referred to in Article 58 and point (k) of the first paragraph of Article 59 of the VAT Directive is not at odds with that interpretation. The fact that that annex lists only the electronically supplied services which are relevant to the application of those two provisions has no bearing on those services' very nature.

46 Moreover, as is clear from the wording of Article 7(1) of Implementing Regulation No 282/2011, the purpose of referring, in the context of that provision, to the services listed in point 3 of Annex II to the VAT Directive is to determine the electronically supplied services which are covered by the VAT Directive generally and not only by certain provisions of that directive.

47 Consequently, since the supply of electronic books is an electronically supplied service within the meaning of the second subparagraph of Article 98(2) of the VAT Directive, and since that provision precludes the possibility of applying a reduced rate of VAT to such services, it is not possible to interpret point 6 of Annex III to the VAT Directive to include within its scope the supply of electronic books without failing to have regard to the EU legislature's intention that a reduced rate of VAT should not apply to those services.

48 Furthermore, the Court cannot accept the Grand Duchy of Luxembourg's argument that Directive 2009/47 had the effect of amending, on that point, the scope of the second subparagraph of Article 98(2) of the VAT Directive, since such an interpretation is at odds with the very terms of the latter provision, which prohibits, without exception, a reduced rate of VAT from applying to any electronically supplied services.

49 It follows that, taking into account both the terms of point 6 of Annex III to the VAT Directive and its context and the purpose of the legislation of which that provision forms a part, that point cannot be interpreted as including the supply of electronic books within its scope.

50 Contrary to what the Grand Duchy of Luxembourg and the Kingdom of Belgium argue, that interpretation is not undermined by the principle of fiscal neutrality, which was intended by the EU legislature to reflect, in matters relating to VAT, the general principle of equal treatment (judgment in *NCC Construction Danmark*, EU:C:2009:669, paragraph 41 and the case-law cited).

51 The principle of fiscal neutrality cannot extend the scope of reduced rates of VAT to the supply of electronic books (see, to that effect, judgment in *Zimmermann*, C-174/11, EU:C:2012:716, paragraph 50 and the case-law cited). Point 6 of Annex III to the VAT Directive is not a provision which, unequivocally, extends the scope of reduced rates of VAT to the supply of electronic books. On the contrary, as is clear from paragraph 49 above, such a supply is not covered by that provision.

52 Nor is the interpretation adopted in paragraph 49 above undermined by the preparatory documents for Directive 2009/47, as claimed by the Grand Duchy of Luxembourg. That Member State refers, in particular, to the text of point 6 of Annex III to the VAT Directive, as proposed by the Commission and under the terms of which the following would have been included within the annex: 'supply, including on loan by libraries, of books (including brochures, leaflets and similar printed matter, children's picture, drawing or colouring books, music printed or in manuscript form, maps and hydrographic or similar charts, as well as audio books, CD, CD-ROMs or any similar physical support that predominantly reproduce the same information content as printed books), newspapers and periodicals, other than material wholly or predominantly devoted to advertising'.

53 It appears, as the Commission observes, that the text of point 6 of Annex III to the VAT Directive, as finally adopted, is nothing other than a simplification of the drafting of the originally proposed text.

54 Similarly, the Court cannot accept the Grand Duchy of Luxembourg's argument that point 6 of Annex III to the VAT Directive must be interpreted as including the supply of electronic books, as it would otherwise disregard the objective of that provision, since digital books are no longer physically delivered to the customer. Suffice it to note in that regard that, as shown by the circumstances at issue in the case giving rise to the judgment in *K* (EU C:2014:2207), that argument is based on a false premiss.

55 It must be added that, to the extent that the Grand Duchy of Luxembourg challenges the validity of the VAT Directive and, in particular, point 6 of Annex III in the light of the principle of equal treatment, the examination of whether or not that directive is valid cannot take place in the present infringement action.

56 In the absence of a provision of the FEU Treaty expressly permitting it to do so, a Member State cannot, therefore, properly plead the unlawfulness of a directive addressed to it as a defence in an action for a declaration that it has failed to fulfil its obligations arising out of its failure to implement that directive. The position could be different only if the act in question contained such particularly serious and manifest defects that it could be categorised as a non-existent act, defects which the Grand Duchy of Luxembourg does not claim exist (see judgment in *Commission* v *Austria*, C-189/09, EU:C:2010:455, paragraphs 15 to 17 and the case-law cited).

57 For the same reason, it is of no use for that Member State to argue that Directive 2009/47 is invalid on the ground that the role of the European Parliament was disregarded when that directive was adopted.

58 The Grand Duchy of Luxembourg also refers to Article 110 TFEU, which, it argues, demonstrates that the authors of the Treaty did not wish to grant to the EU institutions the right to put in place discriminatory taxation.

59 However, that argument overlaps, in essence, with the arguments of the Member State regarding the principle of equal treatment. That argument must therefore be rejected for the same reasons as those set out in paragraphs 50, 51, 55 and 56 above.

60 In the alternative, in the event that the supply of electronic books is found not to be covered by point 6 of Annex III to the VAT Directive, the Grand Duchy of Luxembourg submits that such a provision comes within point 9 of that annex.

61 However, that argument cannot be accepted. Such an interpretation of point 9 of Annex III to the VAT Directive, which relates to the supply of services by writers, composers and performing artists, or of the royalties due to them, is not supported by the wording of that provision and would result in the extension of the scope of that point, even though, as is apparent from paragraph 38 above, a strict interpretation of that provision is necessary.

62 Furthermore, as the Commission rightly pointed out, to consider that the supply of books falls within the scope of point 9 of Annex III to the VAT Directive would render point 6 of that annex meaningless.

63 It follows from the above that the supply of electronic books does not fall within either point 6 or point 9 of Annex III to the VAT Directive. Moreover, it is undisputed that that provision does not fall within any other category of services referred to in that annex. Under these conditions, the application of a reduced rate of VAT to such a supply is not in accordance with Article 98(2) of the VAT Directive.

64 The Commission also alleges that the Grand Duchy of Luxembourg applies the reduced VAT rate of 3% in breach of Articles 99, 110 and 114 of the VAT Directive.

65 The Grand Duchy of Luxembourg, supported by the Kingdom of Belgium, argues, on the contrary, that it is permitted, under Articles 110 and 114 of the VAT Directive, in any event, to apply such a VAT rate to the supply of electronic books.

66 As regards Article 110 of the VAT Directive, it must be recalled that, as is clear from the wording of that provision, the possibility open to Member States of applying reduced rates lower than the minimum laid down in Article 99 of the VAT Directive is conditional on four cumulative conditions being met, one of which is that the reduced rates must be in accordance with EU legislation (judgment in *Commission* v *France*, C-596/10, EU:C:2012:130, paragraph 75).

67 As is clear from paragraph 63 above, the application of a reduced rate of VAT to the supply of electronic books does not comply with Article 98(2) of the VAT Directive. In those circumstances, without there being any need to consider whether the other conditions set out in Article 110 of that directive are met, the derogation provided for by the latter provision cannot justify the application by the Grand Duchy of Luxembourg of a reduced VAT rate of 3% to the supply of electronic books (see, to that effect, judgment in *Commission* v *France*, EU:C:2012:130, paragraphs 76 and 77).

68 With regard to Article 114 of the VAT Directive, suffice it to note that that provision explicitly requires that the supply of goods or services of the relevant service comes within one of the categories listed in Annex III to the VAT Directive. It is undisputed that such is not the case in respect of the supply of electronic books.

69 In those circumstances, the application, by the Grand Duchy of Luxembourg, of a reduced VAT rate of 3% to the supply of electronic books is not justified either by Article 110 or Article 114 of the VAT Directive.

70 It follows from all the foregoing that the Commission's action is well founded.

71 Consequently, it must be held that, by applying a reduced VAT rate of 3% to the supply of electronic books, the Grand Duchy of Luxembourg has failed to fulfil its obligations under Articles 96 to 99, 110 and 114 of the VAT Directive, read in conjunction with Annexes II and III to that directive and Implementing Regulation No 282/2011.

Costs

72 Under Article 138(1) of the Rules of Procedure of the Court, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Since the Commission has asked for the Grand Duchy of Luxembourg to be ordered to pay the costs, and the latter has been unsuccessful, it must be ordered to bear its own costs and to pay those incurred by the Commission.

73 Under Article 140(1) of the Rules of Procedure, the Member States and institutions which intervene in proceedings are to bear their own costs. The Kingdom of Belgium and the Council must therefore bear their own costs.

On those grounds, the Court (Fourth Chamber) hereby:

1. **Declares that, by applying a rate of value added tax of 3% to the supply of digital or electronic books, the Grand Duchy of Luxembourg has failed to fulfil its obligations under Articles 96 to 99, 110 and 114 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax as amended by Council Directive 2010/88/EU of 7 December 2010, read in conjunction with Annexes II and III to that directive and Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112/EC;**

2. **Orders the Grand Duchy of Luxembourg to bear its own costs and to pay those incurred by the European Commission;**

3. **Orders the Kingdom of Belgium and the Council of the European Union to bear their own costs.**

[Signatures]