the detriment of workers already on the permanent staff, which would be the position if it were possible for workers in precarious employment to have the length of service accrued taken into account?

(b) Does Clause 4(4) of the Annex to Directive 1999/70/EC, under which '[t]he period-of-service qualifications relating to particular conditions of employment shall be the same for fixed-term workers as for permanent workers except where different length-of-service qualifications are justified on objective grounds', read in conjunction with Clause 5 thereof, as interpreted by the Court of Justice to the effect that the Italian rules which prohibit, in the context of the public service, the conversion of a fixed-term contract into a contract of unlimited duration are lawful, preclude the national rules under which, without prejudice to the accrual of length of service for the period of the fixed-term contract, the fixed-term contract is to be terminated and a new contract of unlimited duration established, which is different from the previous contract and under which

(1) OJ 1999 L 175, p. 43.

Action brought on 17 June 2011 — European Commission v Republic of Finland

(Case C-309/11)

(2011/C 252/43)

Language of the case: Finnish

Parties

Applicant: European Commission (represented by: I. Koskinen and L. Lozano Palacios, acting as Agents)

Defendant: Republic of Finland

Form of order sought

— declare that, by applying, in Paragraph 80 of Law on value added tax (1501/1993), the special scheme for travel agents to travel services sold to persons other than travellers, the Republic of Finland has failed to fulfil its obligations under Articles 306 to 310 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (1);

— order Republic of Finland to pay the costs.

Pleas in law and main arguments

The Commission observes that the special scheme for travel agents in Directive 2006/112/EC of 28 November 2006 on the common system of value added tax is to be applied only when travel services are sold to travellers. The Republic of Finland has infringed that directive by applying the special scheme for travel agents to services which travel agencies supply to one another or to tour operators.

(1) OJ 2006 L 347, p. 1

Action brought on 21 June 2011 — European Commission v Republic of Poland

(Case C-313/11)

(2011/C 252/44)

Language of the case: Polish

Parties

Applicant: European Commission (represented by: D. Bianchi and A. Szmytkowska, acting as Agents)

Defendant: Republic of Poland

Form of order sought

— declare that, by introducing a prohibition on the manufacture, placing on the market and use for animal nutrition in Poland of genetically modified feed and genetically modified organisms intended for feed use, the Republic of Poland has failed to fulfil its obligations under Articles 16(5), 19, 20 and 34 of Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed; (1)

— order the Republic of Poland to pay the costs.

Pleas in law and main arguments

The Commission complains that, by adopting the national Law on feed which prohibits the manufacture, placing on the market and use for animal nutrition in Poland of genetically modified feed and genetically modified organisms intended for feed use, the Republic of Poland has failed to fulfil its obligations under Regulation No 1829/2003. As a result of the adoption of that regulation, which introduces full harmonisation in the field of GMO feed authorisations at European Union level, Poland cannot adopt legal provisions prohibiting the placing on the market, use and manufacture in its territory of products that are the subject of such authorisations. Specifically, Poland has infringed:

— Article 16(5) of Regulation No 1829/2003, in accordance with which authorisation for placing on the market, using or processing GMOs for feed use, feed containing or consisting of GMOs and feed produced from GMOs is to be granted, refused, renewed, modified, suspended or revoked only on the grounds given in the regulation and under the procedures set out therein;

— Article 19 of the regulation, which provides that the powers to issue authorisations rest with the Commission;

— Article 20 of the regulation, under which products already placed on the market and authorised pursuant to the law in force prior to the regulation's entry into force are regarded as authorised pursuant to the regulation;

— Article 34 of the regulation (clause concerning protective measures), a provision which, in view of the full harmonisation of the field in question, constitutes the only possibility for the adoption of emergency measures seeking to suspend or modify an authorisation that has been granted.

It is irrelevant in this regard that the entry into force of the prohibition at issue has been postponed under national law, because the very adoption by the legislature of the contested provisions that are contrary to European Union law and their publication infringe the obligations owed by the Republic of Poland by virtue of the regulation.

([1]) OJ 2003 L 268, p. 1.

Reference for a preliminary ruling from the Varnenski Administrativen Sad (Bulgaria) lodged on 27 June 2011 — Digitalnet OOD v Nachalnik na Mitnicheski punkt Varna Zapad pri Mitnitsi Varna

(Case C-320/11)

(2011/C 252/45)

Language of the case: Bulgarian

Referring court

Varnenski Administrativen Sad

Parties to the main proceedings

Applicant: Digitalnet OOD

Defendant: Nachalnik na Mitnicheski punkt Varna Zapad pri Mitnitsi Varna

Questions referred

1. What is to be understood by the term 'Internet' within the meaning of the Explanatory Notes to the Combined Nomenclature of the European Community for 2009 (Commission Regulation (EC) No 1031/2008 of 19 September 2008), ([1]) which were published in the Official Journal of 30 May 2008 (OJ 2008 C 133, p. 1) (amendment in relation to subheadings 8528 90 00, 8528 71 13 and 8528 71 90), if it is used in relation to the classification of goods under TARIC code 8528 71 13 00?

2. What is to be understood by the term 'modem' within the meaning of the Explanatory Notes to the Combined Nomenclature of the European Community for 2009 (Commission Regulation (EC) No 1031/2008 of 19 September 2008), which were published in the Official Journal of 30 May 2008 (OJ 2008 C 133, p. 1) (amendment in relation to subheadings 8528 90 00, 8528 71 13 and 8528 71 90), if it is used in relation to the classification of goods under TARIC code 8528 71 13 00?

3. What is to be understood by the terms 'modulation' and 'demodulation' within the meaning of the Explanatory Notes to the Combined Nomenclature of the European Community for 2009 (Commission Regulation (EC) No 1031/2008 of 19 September 2008), which were published in the Official Journal of 30 May 2008 (OJ 2008 C 133, p. 1) (amendment in relation to subheadings 8528 90 00, 8528 71 13 and 8528 71 90), if they are used in relation to the classification of goods under TARIC code 8528 71 13 00?

4. What is the relevant function (main function) of the set-top box TF6100DCC apparatus, pursuant to which the tariff classification must be carried out: receiving television signals or the use of a modem which facilitates interactive information exchange for the purposes of gaining access to the internet?

5. If the relevant function (main function) of the set-top box TF6100DCC apparatus is the use of a modem which facilitates interactive information exchange for the purposes of gaining access to the internet, is the type of modulation and demodulation which the modem brings about or the type of modem used relevant to the tariff classification, or does it suffice that access to the internet is provided by means of the modem?

6. Under which subheading and which code should apparatus corresponding to the description of the apparatus TF6100DCC be classified?

7. In the event that the set-top box TF6100DCC is to be classified under subheading 8521 90 00 of the combined nomenclature, is the application of a positive rate of customs duty lawful as a matter of Community law, if such classification would constitute a violation of the Community's obligations under the Information Technology Agreement and Article II:l(b) of the General Agreement on Tariffs and Trade 1994, or does classification under heading 8521 entail a conclusion that the set-top box TF6100DCC falls outside the scope of the relevant part of the Information Technology Agreement?

([1]) OJ 2009 L 291, p. 1.