2. Orders the Republic of Poland to pay the costs.

Judgment of the Court (Seventh Chamber) of 6 May 2010 — Commission v Poland

(Case C-311/09)

(Failure of a Member State to fulfil obligations — Taxation — VAT — International carriage of persons — Flat-rate taxation of transporters domiciled outside the national territory)

1. *Member States — Obligations — Failure to fulfil obligations — Justification (Art. 226 EC) (see para 18)*

2. *Actions for failure to fulfil obligations — Right of the Commission to bring judicial proceedings — To be exercised at its discretion (Art. 226 EC) (see para 19)*

3. *Actions for failure to fulfil obligations — Examination of the merits by the Court — Situation to be taken into consideration — Situation on expiry of the period laid down in the reasoned opinion (Art. 226 EC) (see para 31)*

4. *Actions for failure to fulfil obligations — Proof of failure — Burden of proof on Commission (Art. 226 EC) (see point 34)*

5. *Tax provisions — Harmonisation of laws — Turnover taxes — Common system of value added tax — Taxable amount — Deduction of input tax — Obligations of persons liable for payment of the tax (Council Directive 2006/112, Arts 73, 168 and 273) (see para 39, operative part)*

Re:

Failure of a Member State to fulfil obligations — Infringement of Articles 73, 168 and 273 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1) — International carriage of persons by road – National rules requiring transporters domiciled abroad to pay VAT under a flat-rate system based only on the number of persons transported to the national territory and which does not allow any right to deduct tax paid at an earlier stage.

Operative part:

The Court:

1. Declares that, by charging value added tax in the manner set out in Chapter 13, Paragraph 35(1), (3), (4) and (5), of the Regulation of the Minister for Finance of 27 April 2004 on the implementation of certain provisions of the Law on the taxation of goods and services, the Republic of Poland has failed to fulfil its obligations under Articles 73, 168 and 273 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax;

2. Orders the Republic of Poland to pay the costs.

Order of the Court (Seventh Chamber) of 6 May 2010 — Goldman Management v Commission and Bulgaria

(Case C-507/09 P)

(Appeal — Article 119 of the Rules of Procedure of the Court of Justice — Commission's failure to bring infringement proceedings against the Republic of Bulgaria — Bulgarian Government's failure to act in a dispute involving internal law — Compensation for the damage supposedly sustained by reason of those failures — Appeal clearly inadmissible)

Appeals — Grounds — Mere repetition of the pleas and arguments put forward before the Court of First Instance — Error of law relied on not identified — Inadmissibility (Art. 256 TFEU; Statute of the Court of Justice, Art. 58(1); Rules of Procedure of the Court of Justice, Art. 112(1)(c)) (see paras 11-13)

Re:

Appeal brought against the judgment of the Court of First Instance (Seventh Chamber) of 16 November 2009 in Case T-354/09 *Goldman Management* v *Commission and Bulgaria*, by which that court dismissed the action seeking, first, a declaration that the Commission had unlawfully failed to bring infringement proceedings against Bulgaria and that that Member State had itself unlawfully failed to act in response to