Judgment of the Court (Sixth Chamber) of 27 October 2011 — Commission v Greece

(Case C-601/10)

(Failure of a Member State to fulfil obligations — Directives 92/50/EEC and 2004/18/EC — Public service contracts — Additional land registry and town planning services — Negotiated procedure without prior publication of a contract notice)

1. *Actions for failure to fulfil obligations — Examination of the merits by the Court — Acknowledgement of its failure by the Member State concerned — No effect (Art. 258 TFEU) (see para. 28)*

2. *Approximation of laws — Procedures for the award of public service contracts — Directives 92/50 and 2004/18 — Derogations from common rules — Restrictive interpretation — Existence of exceptional circumstances — Burden of proof (European Parliament and Council Directive 2004/18, Art. 31(4)(a); Council Directive 92/50, Art. 11(3)(e)) (see paras 32-33)*

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. 258 TFEU) (see para. 40)*

4. *Member States — Obligations — Implementation of directives — Failure to fulfil obligations — National system pleaded as justification — Not permissible (Art. 258 TFEU) (see para. 41)*

Re

Failure of a Member State to fulfil obligations — Infringement of Articles 8 and 11(3) of Council Directive 92/50/EEC of 18 June 1992 relating to the coordination of procedures for the award of public service contracts (OJ 1992 L 209, p. 1) and of Articles 20 and 31(4) of Directive 2004/18/EC of the European Parliament and of the Council of

31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (OJ 2004 L 134, p. 114) — Award of a contract without prior publication of a contract notice — Contract relating to additional land-registry and town-planning services — Municipalities of Vasilika, Kassandra, Egnatia and Arethousa.

Operative part

The Court:

1. Declares that, by awarding, by means of a negotiated procedure without prior publication of a contract notice, public contracts for additional land registry and town planning services which do not appear in the initial contract concluded by the municipalities of Vasilika, Kassandra, Egnatia and Arethousa, the Hellenic Republic has failed to fulfil its obligations under Articles 8 and 11(3) of Council Directive 92/50/EEC of 18 June 1992 relating to the coordination of procedures for the award of public service contracts, as amended by Directive 97/52/EC of the European Parliament and of the Council of 13 October 1997, and Articles 20 and 31(4) of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts;

2. Orders the Hellenic Republic to pay the costs.

Order of the President of the Court of 27 October 2011 — Inuit Tapiriit Kanatami and Others v Parliament and Council

(Case C-605/10 P(R))

(Appeal — Order for interim measures — Animal protection — Regulation (EC) No 1007/2009 — Trade in seal products — Restrictions on import and marketing of those products — No need to adjudicate)