for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC, or in any event in failing to inform the Commission thereof, the Kingdom of the Netherlands has failed to fulfil its obligations under Article 72(1) of that directive;

— in accordance with Article 260(3) TFEU, order the Kingdom of the Netherlands to pay a daily penalty payment in the sum of EUR 57 324,80 from the date on which judgment is delivered in this case;

— order the Kingdom of the Netherlands to pay the costs.

Pleas in law and main arguments

The period for transposing the directive into national law expired on 21 August 2011.

([1]) OJ 2009 L 216, p. 76.

Reference for a preliminary ruling from the Förvaltningsrätten i Linköping (Sweden) lodged on 6 December 2012 — Ålands Vindkraft AB v Energimyndigheten

(Case C-573/12)

(2013/C 38/23)

Language of the case: Swedish

Referring court

Förvaltningsrätten i Linköping

Parties to the main proceedings

Applicant: Ålands Vindkraft AB

Defendant: Energimyndigheten

Questions referred

1. The Swedish electricity certificate system is a national support scheme which requires electricity suppliers and certain electricity users in the Member State to purchase an electricity certificate, corresponding to a certain share of their sales or use, without there being a specific requirement also to purchase electricity from the same source. The electricity certificate is issued by the Swedish State and is proof that a certain amount of renewable electricity has been produced. The producers of electricity obtained from renewable sources receive, by the sale of the electricity certificate, extra revenue as an additional income from its production of electricity. Are Article (2(k)) and Article 3(3) of Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC ([1]) to be interpreted as meaning that they permit a Member State to apply a national support scheme as above, in which only producers situated in the territory of that country can participate and which has the result that those producers have an economic advantage over producers who cannot be issued with an electricity certificate?

2. Can a system such as that described in question 1 — in the light of Article 34 (TFEU) — be regarded as constituting a quantitative restriction on imports or a measure having equivalent effect?

3. If the answer to question 2 is affirmative, can such a system be compatible with Article 34 (TFEU) as regards the objective of promoting the production of electricity from renewable energy sources?

4. How is the consideration of the above questions affected by the fact that the restriction of the support scheme to include only national producers is not expressly governed in national law?

([1]) OJ L 140, p. 16.

Request for a preliminary ruling from the Administratīvā apgabaltiesa (Latvia) lodged on 7 December 2012 — AS 'Air Baltic Corporation' v Valsts robežsardze

(Case C-575/12)

(2013/C 38/24)

Language of the case: Latvian

Referring court

Administratīvā apgabaltiesa

Parties to the main proceedings

Appellant: AS 'Air Baltic Corporation'

Respondent: Valsts robežsardze

Questions referred

1. Must Article 5 of Regulation (EC) No 562/2006 ([1]) of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) be interpreted as meaning that existence of a valid visa contained in a valid travel document is a mandatory pre-condition for the entry of a third-country national?