

Question referred

Can Article 4(6) of Framework Decision 2002/584⁽¹⁾ be interpreted as being inapplicable to acts for which a custodial sentence has been imposed by a court of an issuing Member State, when those same acts are punishable in the territory of the executing Member State only by a fine, which means, in accordance with the domestic law of the executing Member State, that the custodial sentence cannot be executed in the executing Member State, which would be to the detriment of the social rehabilitation of the person sentenced and of his family, social and other ties?

⁽¹⁾ 2002/584/JHA: Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States — Statements made by certain Member States on the adoption of the Framework Decision (OJ 2002 L 190, p. 1).

Action brought on 4 September 2017 — European Commission v Italian Republic**(Case C-526/17)**

(2017/C 347/32)

*Language of the case: Italian***Parties**

Applicant: European Commission (represented by: G. Gattinara, P. Ondrůšek and A. Tokár, acting as Agents)

Defendant: Italian Republic

Form of order sought

The applicant claims that the Court should:

- declare that, in deferring expiry of the works contract relating to the A12 Civitavecchia-Livorno motorway until 31 December 2046 without publishing any contract notice, the Italian Republic has failed to fulfil its obligations under Articles 2 and 58 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), as subsequently amended;
- order the Italian Republic to pay the costs.

Pleas in law and main arguments

The Commission considers that the extending until 31 December 2046 of the works contract relating to the A12 Civitavecchia-Livorno motorway constitutes an amendment to an essential term of that contract; being a substantial amendment to that contract, that extension is tantamount to concluding a new works contract and, as such, should have been made public through the publication of a contract notice. Since, however, no such publication has taken place, the Italian Republic has failed to fulfil its obligations under Articles 2 and 58 of Directive 2004/18/EC.
