

Should the Court annul the contested Decision, Parliament nonetheless considers it would be desirable that the Court exercise its discretion to maintain the effects of the contested Decision, in accordance with Article 264 (2) TFEU, until such time as it is replaced.

<sup>(1)</sup> Council Decision of 26 April 2010 supplementing the Schengen Borders Code as regards the surveillance of the sea external borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union  
OJ L 111, p. 20

<sup>(2)</sup> Regulation (EC) No 562/2006 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)  
OJ L 105, p. 1

<sup>(3)</sup> Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union  
OJ L 349, p. 1

**Action brought on 16 July 2010 — European Commission v Ireland**

**(Case C-356/10)**

(2010/C 246/59)

*Language of the case: English*

**Parties**

*Applicant:* European Commission (represented by: S. Walker, D. Kukovec, Agents)

*Defendant:* Ireland

**The applicant claims that the Court should:**

— Declare that, in the context of the award procedure by the Department of Agriculture and Food for a public supply contract for animal identification tags, concerning the application of criteria relating to tenderers' ability to perform the contract in question as award criteria, instead of selection criteria, Ireland has failed to fulfil its obligations under Article 53 of Directive 2004/18/EC <sup>(1)</sup> 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;

— order Ireland to pay the costs.

**Pleas in law and main arguments**

The Commission submits that the award criteria applied by the Department of Agriculture and Food included criteria reserved for the selection stage, namely criteria relating to tenderers' ability to perform the contract in question and that, consequently, Ireland has failed to fulfil its obligations under Article 53 of Directive 2004/18/EC.

<sup>(1)</sup> OJ L 134, p. 114

**Action brought on 27 July 2010 — European Commission v Kingdom of Sweden**

**(Case C-374/10)**

(2010/C 246/60)

*Language of the case: Swedish*

**Parties**

*Applicant:* European Commission (represented by: G. Braun and M. Sundén, acting as Agents)

*Defendant:* Kingdom of Sweden

**Form of order sought**

— declare that, by failing to adopt the laws, regulations and administrative provisions necessary to comply with Directive 2007/36/EC of the European Parliament and of the Council of 11 July 2007 on the exercise of certain rights of shareholders in listed companies <sup>(1)</sup> or, in any event, by failing to notify the Commission thereof, the Kingdom of Sweden has failed to fulfil its obligations under that directive;

— order the Kingdom of Sweden to pay the costs.

**Pleas in law and main arguments**

The time-limit for implementing the Directive expired on 3 August 2009.

<sup>(1)</sup> OJ 2007 L 184, p. 17.