Defendant: Kingdom of the Netherlands

Form of order sought
— Declare that, by virtue of the fact that in the course of the award of a public contract for the supply and management of automatic coffee machines, published under No 2004/S 158-213630, the contracting authority

— inserted in the technical specification a requirement for the Max Havelaar and EKO-keurmerk, or in any event marks with a similar or the same basis, thus contrary to Article 23(6) and (8) of Directive 2004/18/EC, (1)

— included, for appraising the ability of operators, criteria and evidence concerning sustainable purchasing and socially responsible undertakings, thus contrary to Article 48(1) and (2), Article 44(2), and in any event Article 2, of that directive,

— included, when formulating the award criteria, a reference to the Max Havelaar and/or EKO-keurmerk, or in any event marks with the same basis, thus contrary to Article 53(1) of that directive,

the Kingdom of the Netherlands has failed to fulfil its obligations under Directive 2004/18/EC;

— order Kingdom of the Netherlands to pay the costs.

Pleas in law and main arguments

The Commission submits that, in the context of a public procurement procedure published by a Province for the supply and management of automatic coffee machines, the Netherlands has failed to fulfil its obligations under European Union law in regard to public contracts, in particular Directive 2004/18/EC. The infringements of that directive relate to Article 23(6) and (8) with regard to technical specifications, Article 48(1) and (2), Article 44(2), or in any event Article 2, with regard to appraisal of the abilities of operators, and Article 53(1) with regard to the award criteria.