



Press and Information

Court of Justice of the European Union  
**PRESS RELEASE No 20/10**  
Luxembourg, 4 March 2010

Judgment in Case C-297/08  
Commission v Italy

## **The Court of Justice declares that Italy has not adopted all the measures necessary for the disposal of waste in the region of Campania**

*That situation has endangered human health and damaged the environment*

The aim of the European Waste Directive<sup>1</sup> is to protect human health and the environment. Member States are called upon to ensure that waste is recovered or disposed of, and that the production of waste is restricted, especially through the promotion of clean technologies and products which can be recycled and re-used. Accordingly, they must establish an integrated and adequate network of disposal installations, which must enable the Union as a whole, and the Member States individually, to become self-sufficient in waste disposal.

Italy transposed the Waste Directive into national law in 2006 and, for the region of Campania, a regional law defined 18 homogenous territorial zones in which steps had to be taken for the management and disposal of the urban waste produced in the respective catchment areas.

Following the development of a waste disposal crisis in Campania in 2007, the Commission brought proceedings against Italy for failure to fulfil obligations, alleging that Italy had not established, for that region, an integrated and adequate network of disposal installations capable of ensuring self-sufficiency in waste disposal on the basis of the criterion of geographical proximity. The Commission maintained that that situation was a source of danger both for human health and for the environment.

### *The facilities for the recovery and disposal of urban waste*

Italy contended that it had increased the level of sorted waste collection and that it had opened two more landfills and constructed more incinerators. According to Italy, the blame lay with the non-performance of public procurement contracts and criminal conduct outside its control, which amounted to a situation of *force majeure*.

The Court of Justice points out that, for the purposes of establishing an integrated and adequate network of waste disposal installations, Member States enjoy a measure of discretion as to the territorial basis which they consider appropriate if they are to achieve national self-sufficiency in waste disposal. Because of the specific characteristics of certain categories of waste, it may be best to treat such waste all together in one or more special facilities, at national level or even in cooperation with other Member States. On the other hand, in the case of non-hazardous urban waste – which does not need specialised installations – Member States must organise a network for disposal as close as possible to the source of the waste, although that does not alter the fact that it is also possible to do this through inter-regional or even cross-border cooperation, where that is consistent with the principle of proximity.

Where a Member State – in this case, Italy – has chosen to organise the equipping of its territory on a regional basis, each region must, in accordance with the principle of proximity, ensure the treatment and disposal of its waste as close as possible to the place where it is produced.

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<sup>1</sup> Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste (OJ 2006 L 114, p. 9), which codifies Directive 75/442/EEC (OJ 1975 L 194, p. 39).

In Campania, the considerable quantities of waste which piled up along the public roads, despite the assistance of other Italian regions and the German authorities, reveal **a structural deficit in terms of installations, which it has not been possible to remedy. Italy has also acknowledged** that, on the expiry of the deadline set in the reasoned opinion, the installations then existing and operational in the region were a long way from being able to meet its actual needs.

Neither the opposition mounted by the local inhabitants nor the failure to honour contractual obligations, nor yet the presence of criminal activity, constitutes a situation of *force majeure* which could justify both the failure to fulfil obligations under the directive and the failure to have the requisite facilities up and running on time.

*The danger to human health and the damage caused to the environment*

Italy argued that the way in which waste had been managed in Campania has not had any harmful consequences for the environment or for human health.

The Court notes that, although **the directive states that its aims are the preservation of the environment and the protection of human health**, it does not specify the actual content of the measures which must be taken and leaves the Member States a certain measure of discretion. The Court explains, however, that the first of those aims is **preventive**, in that **Member States must make sure that human health is not endangered** through operations for the disposal or recovery of waste.

**Italy did not deny** that, when the deadline set in the reasoned opinion expired, the waste littering the public roads totalled 55 000 tonnes; 110 000 tonnes to 120 000 tonnes of waste lay in municipal storage sites awaiting treatment; and the exasperated local inhabitants had started fires in the piles of refuse. In that way, the waste caused a nuisance through odours and damaged the countryside, thus harming the environment. Moreover, Italy itself admitted that the situation was dangerous for human health, which was exposed to certain risk.

In consequence, **the Court concludes that, by failing to establish an adequate and integrated network of installations for the recovery and disposal of waste as close as possible to the place where that waste is produced and by failing to adopt all the measures necessary to prevent danger to human health and damage to the environment in the region of Campania, Italy has failed to fulfil its obligations under the Waste Directive.**

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**NOTE:** An action for failure to fulfil obligations directed against a Member State which has failed to comply with its obligations under European Union law may be brought by the Commission or by another Member State. If the Court of Justice finds that there has been a failure to fulfil obligations, the Member State concerned must comply with the Court's judgment without delay.

Where the Commission considers that the Member State has not complied with the judgment, it may bring a further action seeking financial penalties. However, if measures transposing a directive have not been notified to the Commission, the Court of Justice can, on a proposal from the Commission, impose penalties at the stage of the initial judgment.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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