



Press and Information

Court of Justice of the European Union

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Judgment in Case C-407/09
Commission v Greece

Greece is ordered to pay a lump sum of €3 million for late transposition of the directive on compensation to crime victims

Measures to facilitate compensation contribute to the realisation of the free movement of persons and to protection from harm of citizens of the European Union going from one Member State to another

The directive relating to compensation to crime victims¹ aims to set up a system of cooperation to facilitate access of victims of crimes to compensation in cross-border situations. It is based on the case-law of the Court of Justice which, in the past, has held² that when Community law guarantees a person the freedom to go to another Member State, the protection of that person from harm, on the same basis as that of nationals and persons residing there, is a corollary of that freedom of movement. The directive was to be transposed by the Member States by 1 July 2005 at the latest.

The Commission brought a first infringement case against Greece before the Court of Justice for failure to transpose the directive within the prescribed period. By a first judgment delivered in 2007³, the Court found that Greece had exceeded the period for the adoption of the laws, regulations and administrative provisions necessary to comply with the directive.

In October 2009, after finding that Greece still had not complied with the 2007 judgment, the Commission brought a second action for failure to fulfil obligations. It proposed that the Court should order Greece to pay a penalty of €72 532.80 for each day of delay (from delivery of the judgment in the present case until the date of compliance with the 2007 judgment) and a lump sum of €10 512 per day of delay, in respect of the period between the first judgment and the judgment in the present case or the date on which the measures to comply with the judgment in Case C-26/07 were taken, if that occurred earlier.

On 18 December 2009, Greece published a law that, according to both it and the Commission, complies with the 2007 judgment. Consequently, the Commission no longer sought the imposition of a penalty payment.

In its judgment delivered today, the Court reiterates, firstly, that the imposition of a lump sum is prompted by the assessment of the consequences for public and private interests of the failure of the Member State to comply with its obligations, in particular where the breach has persisted for a long period after the first judgment. Although the Treaty⁴ does not specify the period within which a judgment must be complied with, the action required for compliance must, nevertheless, be set in motion immediately and be completed as soon as possible.

In order to rule on the request for the imposition of a lump sum, the Court recalls that account must be taken of all the circumstances of the infringement alleged including, in particular, the conduct of the Member State and the duration and seriousness of the infringement.

¹ Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims (OJ 2004 L 261, p. 15).

² Case C-186/87 *Cowan*.

³ Case [C-26/07](#) *Commission v Greece*.

⁴ Article 228 EC, now Article 260 TFEU.

Thus, it points out that the Greek authorities responded with substantial delays both to the letter of formal notice and to the reasoned opinion and that period of infringement of 29 months – between the date of the first judgment and that of the publication of the law that brought the national legislation into compliance – is significant. It points out that the internal difficulties put forward by Greece – particularly those connected with the legislative procedure and the holding of early elections – cannot be accepted.

Furthermore, the Court notes the seriousness of the infringement, as it adversely affects the realisation of a fundamental freedom, namely the free movement of persons in a single area of freedom, security and justice. In the spirit of the directive itself, the protection from harm of a national of the European Union going from one Member State to another is the corollary of the right to free movement of persons. Hence, the measures set out in the directive to facilitate compensation to victims of crimes contribute to the realisation of that freedom.

The Court finds, first, that Greece ended the infringement in question. Second, it takes into account that Member State's ability to pay as it stands in the light of the latest economic data submitted for the Court's appraisal.

On the basis of those considerations, the Court orders Greece to pay a lump sum of €3 million⁵ into the Commission's account 'European Union own resources'.

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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⁵ In view of the 29 months of infringement, that is, 870 days (between July 2007, when the first judgment was delivered and December 2009, when the directive was transposed into national law), and on the basis of the amount initially proposed by the Commission, Greece would have had to pay a sum of around EUR 9.15 million to the budget of the European Union.