



Press and Information

Court of Justice of the European Union

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Judgments in Cases C-279/11 and C-374/11
Commission v Ireland

A number of financial penalties imposed on Ireland for failure to comply with two judgments of the Court concerning the environment

The penalties proposed by the Commission are reduced to take account, inter alia, of Ireland's reduced ability to pay in the context of economic crisis

Case C-279/11

Under Directive 85/337¹, projects likely to have significant effects on the environment must be made subject to a requirement for development consent and an assessment with regard to their effects. After finding that Ireland had set high national thresholds below which projects likely to have an impact on the environment were not subject to any requirement for prior environmental assessment, the Commission brought proceedings before the Court of Justice against that State for failure to fulfil obligations in 2006. By judgment² of 20 November 2008, the Court found that Ireland had failed to fulfil its obligations under the directive.

Taking the view that Ireland had complied with that judgment only belatedly, the Commission brought further proceedings before the Court, seeking an order that that Member State pay a lump sum of €4,387,714.80³.

In its judgment today, the Court points out, first, that since the entry into force of the Treaty of Lisbon, the reference date for assessing whether there has been an infringement as a result of failure to comply with a judgment of the Court is the date of expiry of the period laid down in the Commission's letter of formal notice. Since Ireland had failed to comply with the 2008 judgment by the end of the two-month period prescribed in that letter⁴, the Court finds that that Member State has failed to fulfil its obligations under that judgment. The Court observes, however, that in the meantime Ireland has brought its national law into conformity with the 2008 judgment.

Next, the Court states that the infringement is particularly serious on account of Ireland's delay in adopting new thresholds that comply with the requirements of the directive, since certain projects likely to have effects on the environment may have been implemented without any prior environmental impact assessment.

Accordingly, the Court orders Ireland to pay a lump sum. However, that sum is calculated by **taking account, inter alia, of the fact that Ireland's ability to pay has to a certain degree been diminished in the context of economic crisis**. Thus, according to the Court, account must be taken of recent trends in both inflation and that Member State's GDP at the time of the Court's examination of the facts. In those circumstances, the Court orders Ireland to pay a lump sum of €1,500,000.

¹ Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (OJ 1985 L 175, p. 40), as amended by Council Directive 97/11/EC of 3 March 1997 (OJ 1997 L 73, p. 5).

² Case [C-66/06](#) *Commission v Ireland*.

³ Under Article 260(2) TFEU.

⁴ The letter of formal notice issued on 22 March 2010.

Case C-374/11

Taking the view that Ireland had not correctly transposed into domestic legislation the provisions of the Directive on waste⁵ relating to the disposal of domestic waste waters in the countryside through septic tanks and other individual waste water treatment systems ('IWWTS'), the Commission brought proceedings before the Court for failure to fulfil obligations in 2008. By judgment⁶ of 29 October 2009, the Court found that Ireland had failed to fulfil its obligations.

As it was not satisfied with the measures adopted by Ireland to comply with that judgment, the Commission brought a further action for failure to fulfil obligations before the Court, in which it proposed that Ireland be ordered to pay, first, a lump sum of €4,771.20, multiplied by the number of days between the date of delivery of the 2009 judgment and the date of the present judgment. Second, the Commission also proposed the payment of a daily penalty payment of €26,173.44 from the date of judgment in the present proceedings to the date of full compliance by Ireland with the 2009 judgment.

In its judgment, the Court finds that Ireland has not yet adopted in full the measures necessary for the implementation of the 2009 judgment, so that it is necessary to impose upon it the payment of a penalty payment. In particular, the Court points out that the Water Services (Amendment) Act 2012 requires implementation of texts not all of which have yet been adopted and that the national inspection plan for IWWTS has still to be developed. It also does not appear that a definitive deadline for the registration of IWWTS has been set.

However, taking account of the efforts made by Ireland to comply with that judgment and the fact that its ability to pay has been diminished as a result of the economic crisis, the Court imposes on Ireland a penalty payment of €12,000 for each day of delay in adopting measures necessary to comply with the 2009 judgment, from the date on which judgment is delivered in the present case to the date of full compliance with the 2009 judgment.

Furthermore, Ireland is ordered to pay a lump sum of €2,000,000.

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 judgments ([C-279/11](#) and [C-374/11](#)) is published on the CURIA website on the day of delivery.

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Pictures of the delivery of the judgment are available from "[Europe by Satellite](#)" ☎ (+32) 2 2964106

⁵ Council Directive 75/442/EEC of 15 July 1975 on waste (OJ 1975 L 194, p. 39), as amended by Council Directive 91/156/EEC of 18 March 1991 (OJ 1991 L 78, p. 32).

⁶ Case [C-188/08](#) *Commission v Ireland*.