



Press and Information

Court of Justice of the European Union
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Judgment in Case C-385/13 P
Italy v Commission

The Court upholds the Commission's decisions not to pay financial aid to Italy in respect of waste management and disposal in Campania

Italy did not take all the measures necessary for waste disposal in that region

The European Regional Development Fund (ERDF), in synergy with the other Structural Funds, is designed to promote economic and social cohesion within the EU by redressing the main regional imbalances and participating in regional development. It contributes to the attainment of a high level of environmental protection.

In 2000, the Commission approved the inclusion of the Campania Operational Programme ('Campania OP') in the framework for EU structural assistance in Italy in respect of expenditure incurred between 1999 and 2008. One measure¹ contained in that programme covered a number of operations concerning the regional waste management and disposal system. The assistance given by the region for the improvement and promotion of waste collection and disposal gave rise to expenditure in the amount of €93 268 731.59, 50% of which (€46 634 365.80) was co-financed by the Structural Funds.

In 2007, the Commission initiated an infringement procedure against Italy for not having ensured that, in Campania, waste is disposed of without endangering human health and without harming the environment and for not having created an adequate integrated network of waste disposal facilities. In the meantime, in 2008, the Commission informed the Italian authorities of the consequences of the ongoing infringement procedure on the financing of the Campania OP, stating that it intended to refuse to make payments to cover the repayment of expenditure incurred in connection with the regional waste system, which was also one of the matters covered by the infringement procedure; any payment application in respect of expenditure relating to the OP submitted after Italy's failure to fulfil its obligations under the directive on waste would therefore be refused.² The infringement procedure gave rise, in 2010,³ to a judgment of the Court of Justice in which the Court found that Italy had breached the Waste Directive.⁴ The Court stated in that judgment that Italy's failure to fulfil its obligations endangered human health and damaged the environment.

The Commission subsequently took the view that the infringement procedure called into question the entirety of the waste management system in Campania and that there were not sufficient guarantees that the operations co-financed by the ERDF were being properly carried out. The Commission therefore asked the Italian authorities to deduct all expenditure incurred in respect of the measure in question, unless the Italian State rectified the situation. The amount relating to the

¹ Measure 1.7. A 'measure' connotes the means by which a priority is implemented over several years which enable operations to be financed. An 'operation' connotes the projects or actions carried out by the final recipients of the assistance.

² Regulation 1260/99 on the Structural Funds (Article 32(3)(1)(f)) provides that ERDF payments are subject to the condition that no decision has been taken by the Commission to embark on an infringement procedure.

³ Case [C-297/08](#) *Commission v Italy*, see also Press release [No 20/10](#). It should also be noted that a case for a 'second failure' (Article 260 TFEU) is currently ongoing ([C-653/13](#) *Commission v Italy*). The Commission has asked the Court to declare that Italy has failed to comply with the judgment of the Court of 2010 and to order it to pay a **daily penalty payment** (€256 819.20) and a **lump sum** (calculated by multiplying a daily amount of €28 089.60 by the number of days for which the infringement continues).

⁴ Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 (OJ 2006 L 114, p. 9).

expenditure incurred in connection with that measure concerning the regional waste management and disposal system (€18 544 968.76) was declared ineligible.

The General Court, in an action brought before it by Italy, upheld, by judgment of 2013,⁵ the Commission's refusal, finding that, in order to be able to refuse an interim payment of the ERDF, it is sufficient for the Commission to establish that the matters covered by an ongoing infringement procedure are directly linked to the 'measure' relating to the operations intended to be financed by the Structural Funds. The General Court therefore held that the Commission was entitled to base the contested measures on the Regulation on the Structural Funds.⁶

In its appeal before the Court of Justice, Italy criticises the General Court's reliance on a simple comparison between the matters covered by the infringement procedure and those covered by the *measure*, which would be tantamount to finding a partial correspondence between the situation of the infringement and the measure to be financed to be sufficient for that comparison. Italy argues instead that the comparison should have been made with the *specific operations* by which the measure is actually implemented.

In today's judgment, the Court of Justice declares that the General Court was correct to compare the matters covered by the infringement procedure initiated by the Commission with the matters covered by the ERDF measure and that it thus was justified in confirming that the Commission had established a **sufficiently direct link between the infringement procedure and the matters covered by the ERDF payment applications declared inadmissible**.

On the one hand, *the infringement procedure* concerned the entirety of the system governing waste management and disposal in Campania, including waste recovery and the lack of effectiveness of the differentiated collection. On the other hand, *the assistance that would have been covered by the measure at issue* included the aid for the establishment of a differentiated municipal waste collection system, the recovery of downstream waste and the establishment of landfills.

The Court of Justice accordingly rejects all of Italy's arguments and dismisses the action in its entirety.

The Commission's refusal to pay to Italy financial aid for waste management and disposal in Campania is therefore upheld.

NOTE: An appeal, on a point or points of law only, may be brought before the Court of Justice against a judgment or order of the General Court. In principle, the appeal does not have suspensive effect. If the appeal is admissible and well founded, the Court of Justice sets aside the judgment of the General Court. Where the state of the proceedings so permits, the Court of Justice may itself give final judgment in the case. Otherwise, it refers the case back to the General Court, which is bound by the decision given by the Court of Justice on the appeal.

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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 Joined Cases [T-99/09 and T-308/09](#) *Italy v Commission* see also Press Release [No 50/13](#).

⁶ Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds (OJ 1999 L 161, p. 1).