



Press and Information

Court of Justice of the European Union  
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Judgment in Case C-378/13  
Commission v Greece

## **Greece is ordered to pay financial penalties for failing to comply with a 2005 judgment of the Court establishing its failure to fulfil obligations under the 'Waste Directive'**

*In addition to a lump sum of €10 million, the Court orders Greece, until the 2005 judgment is complied with in full, to make a penalty payment, the actual amount of which will depend on the progress made by Greece, but which, if there is no such progress, will be more than €14 million for each six-month period of delay*

Under the 'Waste Directive',<sup>1</sup> Member States must ensure that waste is recovered or disposed of without endangering human life and without harming the environment; they are also required to prohibit the abandonment, dumping or uncontrolled disposal of waste. Every holder of waste must have it handled by an undertaking which undertakes its recovery or disposal in accordance with the directive. Each such undertaking must obtain a permit from the competent authority.

In a first judgment delivered in 2005,<sup>2</sup> the Court declared that Greece had infringed the directive, on the ground that, by February 2004, 1 125 uncontrolled waste disposal sites remained in operation on Greek territory and the closure of all illegal and uncontrolled landfills was not scheduled to take place until some time in 2008.

In 2009, on the view that Greece had not complied in full with the 2005 judgment, the Commission sent it a letter of formal notice, followed, in 2010, by a supplementary letter of formal notice. In 2013, believing that a structural problem continued to exist, in terms of both the number of uncontrolled landfills and the lack of sufficient sites suitable for waste disposal, the Commission decided to bring the present action.

In response to a question from the Court, Greece and the Commission informed it that, in May 2014, out of a total of 293 illegal landfills, 70 remained operational and 223, although closed down, had not yet been cleaned up.

In today's judgment, the Court states that, by the reference date of 29 December 2010,<sup>3</sup> according to information that Greece produced before the Court in May 2014, Greece had not yet adopted all the measures necessary to comply in full with the 2005 judgment. That being so, the Court considers it justifiable to impose financial penalties on Greece.

Compliance with the 2005 judgment – in other words, compliance with the directive – presupposes: **closure of illegal landfills; their actual cleaning up**, not merely the planning of their cleaning up; and **creation of the necessary facilities** for ensuring permanent compliance with Directive 75/442 and prevention of the creation of new illegal landfills.

The Court finds that that the imposition of a penalty payment on Greece constitutes an appropriate financial means of ensuring full compliance with the 2005 judgment, but it adds that the penalty

<sup>1</sup> Council Directive 75/442/EEC of 15 July 1975 on waste (OJ 1975 L 194, p. 39).

<sup>2</sup> Case [C-502/03](#). *Commission v Greece*

<sup>3</sup> As the FEU Treaty abolished the reasoned opinion stage in the 'twofold infringement' procedure (Article 260(2) TFEU), the reference date for assessing whether there is a twofold infringement is the deadline set in the letter of formal notice.

payment must be imposed only if compliance has not been achieved by the delivery of today's judgment.

In proceedings relating to a failure to fulfil obligations that has already been established by the Court in a first judgment, the Court is free to set the penalty payment to be imposed in an amount and in a form that it considers appropriate for the purposes of inducing that Member State to comply with that first judgment.

In determining the amount of the penalty payment, the Court takes account of the seriousness of the infringement initially established in the 2005 judgment (capable of endangering human health), its duration (more than 9 years) and Greece's capacity to pay (noting that its capacity has declined in recent years). The Court considers it appropriate to reduce the penalty payment gradually, in step with the progress made in complying with the 2005 judgment.

The Court finds it appropriate to fix **the penalty payment on a six-monthly basis**, in order to enable the Commission to assess the state of progress of the measures for compliance with the 2005 judgment. Accordingly, in respect of the first six-month period following delivery of today's judgment, the penalty payment will be calculated on the basis of an initial amount of **€14 520 000, from which the sum of €40 000 is to be deducted for each landfill closed down or cleaned up and €80 000 is to be deducted for each landfill both closed down and cleaned up**. The penalty payment due in respect of every six-month period thereafter is to be calculated on the basis of the amount of the penalty payment set for the preceding six-month period, from which the same deductions are to be made in respect of the closing down and/or cleaning up of sites during the six-month period in question.

Additionally, the Court decides that the effective prevention of future repetition of infringements of EU law similar to that established by the 2005 judgment requires the adoption of a dissuasive measure, such as the imposition of a **lump sum** payment. In fixing the lump sum, the Court takes account (as it did in relation to the penalty payment) the seriousness and the duration of the infringement, as well as Greece's capacity to pay. The Court therefore orders Greece to pay a lump sum of **€10 million**.

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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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