



Press and Information

Court of Justice of the European Union

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Judgment in Case C-534/13

Ministero dell'Ambiente e della Tutela del Territorio e del Mare and Others v
Fipa Group Srl and Others

Italian legislation under which owners of land who are not polluters are not required to adopt preventive and remedial measures is compatible with EU law

Member States are free to provide that those owners are only to incur financial liability, where such measures are taken by the authorities

Under the Environmental Liability Directive,¹ the operator of a site must, in principle, bear the costs of preventive and remedial action taken in response to the occurrence of environmental damage on the site. However, the operator is not required to bear those costs if it can prove that the damage has been caused by another person. The directive nevertheless allows Member States to adopt stricter national rules in this area.

Between 2006 and 2011, Tws Automation, Ivan and Fipa Group became the owners of various plots of land in the province of Massa Carrara, in Tuscany. That land had been seriously contaminated by chemical substances as a result of the economic activities engaged in by the former owners, members of the Montedison industrial group, which had manufactured insecticides and herbicides on that site. Although the new owners were not responsible for the pollution, the Italian authorities ordered them to erect a hydraulic capture barrier in order to protect the groundwater table.

The Consiglio di Stato (Italian Council of State), hearing the appeals against the administrative decisions, finds that the Italian legislation does not permit the competent authorities to require owners with no responsibility for the pollution to adopt preventive and remedial measures, and limits the financial liability of such owners to the value of the land. The Consiglio di Stato asks the Court of Justice whether those rules of national law are compatible with the 'polluter pays' principle implemented by the Environmental Liability Directive.

In today's judgment, the Court answers that **the Italian legislation is consistent with the requirements of the directive.**

In reaching that conclusion, the Court recalls the settled case-law according to which the 'polluter pays' principle, as laid down in Article 191(2) TFEU, is directed at action at EU level and, accordingly, that provision cannot be relied on as such by individuals or administrative authorities.

Next, the Court examines the conditions for incurring environmental liability, as set out in the directive, focusing specifically on the concept of 'operator' and the need for a causal link between the activity engaged in by the operator and the environmental damage. In that regard, the Court makes it clear that persons other than operators do not fall within the scope of the directive and that, where no causal link can be established between the environmental damage and the activity engaged in by the operator, the situation is not governed by EU law, but by national law.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the

¹ Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage (OJ 2004 L 143, p. 56).

dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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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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