



Press and Information

Court of Justice of the European Union

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Judgment in Case C-533/11
Commission v Belgium

Belgium is ordered to pay a fine of €10 million for failing to comply with the Court's 8 July 2004 judgment (Case C-27/03) concerning the treatment of urban waste water

A penalty payment is also imposed if Belgium does not comply in full with that judgment, non-compliance with which persists in respect of five agglomerations

Directive 91/271/EEC concerning urban waste-water treatment¹ governs the collection, treatment, and discharge of urban waste water and the treatment and discharge of waste water from certain industrial sectors. It thereby aims to protect the environment from the consequences of the discharge of waste water.

In its judgment of 8 July 2004 in Case C-27/03 Commission v Belgium², the Court declared that Belgium had infringed several provisions of that directive on the grounds that 114 agglomerations in the Flemish Region, 60 agglomerations in the Walloon Region, and the Brussels-Capital Region had failed to comply with the requirements of Directive 91/271.

At the time the present action was brought by the European Commission, the infringement persisted with respect to one Flemish agglomeration, 21 Walloon agglomerations, and the Brussels-Capital Region. Subsequently, at the hearing, the Commission agreed that the measures necessary had not been adopted with respect to only five agglomerations³. In the light of that information, the Commission amended its claims and further limited the subject-matter of the dispute.

First of all, the Court notes that, on the expiry of the time limit set down in the reasoned opinion of 26 June 2009, Belgium had failed to adopt all the measures necessary in order to comply in full with the Court's 2004 judgment and, therefore, has failed to fulfil its obligations under the Treaty on the Functioning of the EU⁴.

As to the determination of the amount of the lump sum, the Court points out that the failure to fulfil obligations lasted for nearly 9 years, which is excessive, although it must be acknowledged that the scale of the tasks to be carried out required a substantial period of several years and that compliance with the judgment must be regarded as substantially, or almost entirely, complete.

Concerning the seriousness of the infringement, the Court observes that, by classifying the whole of its territory as a 'sensitive area' in accordance with the directive, Belgium has recognised the need for increased environmental protection on its territory. The lack of treatment for urban waste water constitutes damage to the environment.

However, the Court points out that Belgium has agreed to substantial investments in order to comply with the 2004 judgment and has made considerable progress. Furthermore, substantial

¹Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment, as amended by Commission Directive 98/15/EC of 27 February 1998.

²Case [C-27/03](#), Commission v. Belgium.

³Namely Amay, Malmédy, Herve, Bastogne-Rhin and Liège-Sclessin.

⁴Article 260(1) TFEU.

progress had already been made by the deadline imposed by the reasoned opinion. Moreover, the Court emphasises that Belgium has fully cooperated with the Commission during the procedure.

Therefore, the Court considers that taking into account the circumstances of the case, it would be fair to set the amount of the lump sum which Belgium has to pay at €10 million.

In addition, taking into account all of the circumstances, the Court considers that the imposition of a penalty payment of €4 722 per day is appropriate.

As to the frequency of the penalty payment, in accordance with the Commission's proposal, given that the provision of evidence of the compliance with Directive 91/271 may require a certain amount of time, and in order to take account of any progress made by that State, the Court considers it appropriate for the penalty payment to be calculated on the basis of six-month periods, reducing the total relating to such periods (that is, a penalty payment of €859 404 for each six-month period of delay) by a percentage corresponding to the proportion representing the number of population equivalents which have been brought into compliance with the 2004 judgment.

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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