



The General Court upholds the Commission's decisions not to pay Italy ERDF financial aid in respect of waste management and disposal in Campania, as Italy has not adopted all the measures necessary for the disposal of waste in that region

In order to refuse interim payments, it is sufficient for the Commission to establish that the matters covered by an infringement procedure are directly linked to the matters to which the funding relates

The European Regional Development Fund (ERDF) is designed to promote, in synergy with the other Structural Funds, economic and social cohesion within the EU by redressing the main regional imbalances and participating in regional development. It contributes, inter alia, 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 support framework for Community structural assistance in Italy, in respect of expenditure incurred between 5 October 1999 and 31 December 2008. The measure¹ contained in that programme covered a number of operations concerning the regional waste management and disposal system (construction of composting facilities; landfills for the disposal, following differentiated collection, of residual waste; implementation of optimum territorial zones and related plans for waste management and treatment; support for affiliated municipalities for the purposes of managing the differentiated municipal waste collection system; aid for undertakings for the purpose of adapting facilities designed for the recovery of materials derived from waste; coordination, logistical and support activity for undertakings collecting and recovering waste from special categories of productive activity; creation of a land research institute to monitor the quality and quantity of waste). The assistance given by the region for the improvement and promotion of the waste collection and disposal systems gave rise to expenditure in the amount of €93,268,731.59, half of which – €46,634,365.80 – was co-financed by the Structural Funds.

In addition, as part of an infringement procedure, the Commission sent Italy a letter of formal notice in 2007 for not having ensured that, in Campania, waste is disposed of without endangering human health and without harming the environment and, accordingly, had not created an adequate integrated network of waste disposal facilities, thus infringing the directive on waste². In 2010, the Court declared that Italy had failed to fulfil its obligations³ as, by failing to adopt all the measures necessary for the disposal of waste in the Campania region, it had endangered human health and damaged the environment.

In the meantime, the Commission had informed the Italian authorities in 2008 of the inferences that it intended to draw from the ongoing infringement procedure by way of consequences for the financing of the Campania OP, in that it intended provisionally to refuse to make payments to cover the repayment of expenditure incurred by the Campania OP in connection with the regional waste management and disposal system, which was one of the matters covered by the infringement procedure. Any payment application in respect of expenditure relating to the OP submitted after the

¹ Measure 1.7

² Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 (OJ 2006 L 114, p. 9)

³ Case [C-297/08](#) Commission v Italy; see also Press Release No [20/10](#).

date on which Italy failed to fulfil its obligations under the directive on waste (which came into force on 17 May 2006) would therefore be refused⁴.

Italy brought two actions claiming that the General Court should annul the Commission's decisions refusing payment, arguing that, in order to justify that refusal, the specific matter with which the infringement procedure is concerned must coincide precisely with the 'operations' to which the payment application relates.

In today's judgment, the General Court, having analysed the wording and the context of the regulation, concludes that, **in order to justify refusing to make interim ERDF payments, it is sufficient for the Commission to establish that the matters covered by an infringement procedure are directly linked to the 'measure' governing the operations to which the funding relates, since the concept of a 'measure' has a much wider ambit than the concept of an 'operation'.**

Accordingly, **the Commission was entitled to base the contested measures on the regulation governing the Structural Funds**⁵.

The General Court finds that the action for failure to fulfil obligations related to the whole of the waste management and disposal system in Campania, including the inefficiency of differentiated collection and recovery. By its judgment of 2010, the Court found that the rate of sorted waste collection in Campania was very low as compared with the national and Community averages and that the installations then existing and operational in the region fell a long way short of being able to meet its actual needs.

It follows that – contrary to Italy's assertions – **the matters covered by the infringement procedure did indeed include the inadequacy of differentiated collection** as being an upstream element exacerbating the failings of the waste management system as a whole. By the same token, **the assistance provided for under Measure 1.7 of the Campania OP included assistance relating to the establishment of a differentiated municipal waste collection system** and the establishment of landfills for the subsequent disposal of waste, with the result that **the necessary link between the matters covered by the infringement procedure and those to which that measure related was present in this case.**

Accordingly, **the General Court dismisses the actions brought by Italy.**

NOTE: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months of notification of the decision.

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

Unofficial document for media use, not binding on the General Court.

The [full text](#) of the judgment is published on the CURIA website on the day of delivery

Press contact: Christopher Fretwell ☎ (+352) 4303 3355

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

⁴ Under point (f) of the first subparagraph of Article 32(3) of Regulation No 1260/99, payments are to be conditional upon the Commission not having taken a decision to embark on an infringement procedure.

⁵ Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds (OJ 1999 L 161, p. 1)