



Press and Information

General Court of the European Union  
**PRESS RELEASE No 113/11**  
Luxembourg, 19 October 2011

Judgment in Case T-139/06  
France v Commission

## **The General Court confirms the Commission's decision requiring France to pay a fine of €57.77 million for failing to fulfil its obligations in relation to fishery controls**

In 1991<sup>1</sup> the Court of Justice ruled, on an application by the Commission, that between 1984 and 1987 France had infringed Community law by not carrying out controls ensuring compliance with Community measures for fishery conservation (on the basis of Article 226 EC).

Believing that France had failed to fully comply with this judgment, the Commission brought a further action before the Court of Justice, which, in a second judgment in 2005<sup>2</sup>, imposed pecuniary sanctions on France in the form of a periodic penalty payment and a lump-sum fine (on the basis of Article 228 EC). This was the first time that a Member State had had both forms of fine imposed upon it. The periodic penalty payment was fixed at €57 761 250 for every six month period following the date of the second judgment (12 July 2005) that France was still not in compliance with the first judgment of 11 June 1991. The lump sum fine was fixed at €20 million

The Court of Justice found that **the persistence of the infringement in the form of the practice of offering undersized fish for sale** (the catching of fish, notably hake, below the minimum size laid down in Community legislation) and the absence of effective action by the national authorities were such as to seriously prejudice the Community objectives of conserving and managing fishery resources. According to the Court, the French authorities **neglected to carry out controls** which were effective, proportionate and dissuasive, as required by the Community rules and **were not carrying out a sufficient number of proceedings leading to penalties** which were effective, proportionate and dissuasive.

Following this second judgment, and in the context of the implementation of the 1991 judgment, the Commission sent France a decision<sup>3</sup> on 2 March 2006 requesting payment of the periodic fine. France has asked the General Court to annul that decision or, alternatively, to reduce the amount in question.

**In its judgment today the General Court rejects France's application.**

First, the General Court confirms that **the Commission was competent to require the payment of the periodic fine imposed by the Court.**

In effect, in its second judgment, delivered in 2005, the Court of Justice had clearly determined the rights and obligations of France. The Court had equally fixed the lump sum fine, payable immediately (a sanction for the past infringement), and the periodic penalty payment (a sanction for any future infringement) which was subject to a six-monthly finding by the Commission as to the absence of full compliance with the 1991 judgment. The Court of Justice had, therefore, given the Commission the power to make this finding autonomously. As such, the Commission, charged with executing the budget, was competent to recover, in its capacity as authorising officer, the periodic penalty payment to be paid by France to the Commission into the "Community own resources" account.

<sup>1</sup> Case [C-64/88](#) *Commission v France*.

<sup>2</sup> Case [C-304/02](#) *Commission v France*. (see also Press Release [68/05](#))

<sup>3</sup> Decision C (2006) 659 final, of 1 March 2006, requesting payment of the sum of €57 761 250 million.

**Secondly, the General Court rejects France's argument that its rights of defence were violated.**

According to the General Court, the criteria to be used to determine whether the 1991 judgment had been fully implemented were determined by the Court of Justice in 2005. These criteria were further explained by the Commission in July 2005 in a meeting with the French authorities and also in a note of 28 September 2005. France therefore had two opportunities to make known its views regarding these criteria. Consequently, if the Commission is required to cooperate with the Member States so as to facilitate the application of EU law, this dialogue should, in principle, take place within the time limits fixed by the Court.

**Finally, the General Court rules that France has not shown that the Commission's decision is vitiated by an error of assessment or that the Commission exceeded its powers.**

The General Court finds that the infringements that led the Court to rule that France had failed to fulfil its obligations under EU law continued during the latter half of 2005 and the beginning of 2006. As a consequence, the Commission, when adopting its decision, did not determine that there was a new infringement but rather that there was an absence of any significant change to the infringements found by the Court in its two judgments. The fine was thus payable.

The General Court concludes that the full amount of the fine must be paid. Even on the assumption that the information provided by France could be considered to show an improvement in the situation, it nevertheless remains that as of 1 March 2006 France had not fully implemented the Court's judgment of 11 June 1991. The Commission, bound by the 2005 judgment, was not able to reduce the amount and the efforts made by France are not such as to excuse the infringements.

---

**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*