



Press and Information

Court of Justice of the European Union  
**PRESS RELEASE No 163/14**  
Luxembourg, 2 December 2014

Judgment in Case C-196/13  
Commission v Italy

## **Italy is ordered to pay financial penalties for failing to comply with a 2007 judgment of the Court establishing failure to fulfil obligations under the waste directives**

*In addition to a lump sum of €40 million, the Court requires Italy, until the 2007 judgment is complied with in full, to make a penalty payment of €42 800 000 for each six month period of delay in taking the necessary measures*

In a first judgment delivered in 2007,<sup>1</sup> the Court established that Italy had failed, generally and persistently, to comply with its waste management obligations under the directives on waste,<sup>2</sup> hazardous waste<sup>3</sup> and the landfill of waste.<sup>4</sup>

In 2013, the Commission found that Italy had not yet adopted all the measures necessary to comply with the 2007 judgment. In particular, 218 sites in 18 of the 20 Italian regions were not in conformity with the Waste Directive (from which it could be inferred that there must be sites operating without a permit); also, of those 218 sites, 16 contained hazardous waste in breach of the Hazardous Waste Directive; and, lastly, Italy had not proved that five landfills had been 'conditioned' or closed down in accordance with the Landfill of Waste Directive.

In the course of the present proceedings, the Commission stated that, according to the most recent information, 198 sites were still not in conformity with the 'Waste Directive' and that 14 of those sites were not in conformity with the 'Hazardous Waste Directive' either. Moreover, two landfills had still not been brought into conformity with the 'Landfill of Waste Directive'.

In today's judgment, the Court states, first of all, that merely closing down a landfill, or covering waste with earth and rubble, is not enough to comply with the obligations under the 'Waste Directive'. Accordingly, compliance with the directive is not achieved by taking measures to close sites down and make them secure. In fact, Member States are also required to determine whether it is necessary to clean up old illegal sites and, if so, to clean them up. Sequestering the landfill and instituting criminal proceedings against the operator do not constitute sufficient measures.

Next, the Court points out that, on the expiry of the deadline,<sup>5</sup> cleaning up works were still in progress or had not yet been started for certain sites; in respect of other sites, the Court observes that no information had been provided that would make it possible to establish the date on which such works were implemented.

The Court concludes from this that the obligation to recover or dispose of waste without endangering humans or the environment, and the obligation requiring the holder of waste to have it handled by a waste collector which carries out waste disposal and recovery operations, or to carry out those operations itself, have persistently been infringed.

<sup>1</sup> Case [C-135/05](#) *Commission v Italy*.

<sup>2</sup> Council Directive 75/442/EEC of 15 July 1975 on waste (OJ 1975 L 194, p. 39), as amended by Council Directive 91/156/EEC of 18 March 1991 (OJ 1991 L 78, p. 32).

<sup>3</sup> Council Directive 91/689/EEC of 12 December 1991 on hazardous waste (OJ 1991 L 377, p. 20).

<sup>4</sup> Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ 1999 L 182, p. 1).

<sup>5</sup> In the present case, 30 September 2009. The Treaty of Lisbon abolished the reasoned opinion stage in the 'twofold infringement' procedure (Article 260(2) TFEU), so the reference date for assessing the infringement is the deadline set in the letter of formal notice. Nevertheless, the present proceedings were brought on the basis of the EC Treaty (Article 228(2)) and a reasoned opinion was issued before the entry into force of the Treaty of Lisbon.

Italy has failed to make sure that the permit system set up is actually applied and observed. It has failed to ensure that operations carried out without a permit are in fact brought to an end. Italy has also failed to record and identify exhaustively all the hazardous waste discharged in the landfills. Lastly, it continues to default on its obligation to ensure that a conditioning plan or a definitive closing-down measure is adopted for certain landfills.

The Court concludes from this that Italy has failed to adopt all the measures necessary to comply with the 2007 judgment and that it has failed to fulfil its obligations under EU law.

Consequently, the Court orders Italy to pay a **lump sum payment of €40 million**.

Next, the Court points out that the failure to fulfil obligations has persisted for more than seven years and that, since the deadline, progress has been made very slowly; there are still a considerable number of illegal sites in almost every Italian region. The Court therefore considers it appropriate to order a decreasing penalty payment, to be paid in an amount which will be progressively reduced in proportion to the number of sites brought into conformity with the judgment, sites containing hazardous waste being counted twice. Requiring the decreasing penalty payment to be paid on a six monthly basis will enable Italy's progress in meeting its obligations to be assessed. Evidence of the adoption of measures necessary for compliance with the 2007 judgment must be sent to the Commission before the end of the six month period under consideration.

The Court therefore orders Italy to pay, in addition, a **six monthly penalty payment** from today until compliance with the 2007 judgment is achieved. The penalty payment will be calculated for the first six month period, on the basis of an **initial amount of €42 800 000**. From that amount, €400 000 will be deducted for each hazardous waste site brought into conformity and €200 000 for each other site brought into conformity. For every six month period thereafter, the penalty payment will be calculated on the basis of the amount set for the preceding six month period, the same deductions being made for sites brought into conformity during the six month period under consideration.

---

**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.

---

*Unofficial document for media use, not binding on the Court of Justice.*

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