



Press and Information

Court of Justice of the European Union

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Judgment in Case C-205/17
Commission v Spain

On account of its delay in implementing the Urban Waste Water Treatment Directive, Spain is ordered to pay a lump sum of €12 million and a penalty payment of almost €11 million per six-month period of delay

The Court had already made an initial ruling that Spain had failed to fulfil its obligations in a judgment dating from 2011

The Urban Waste Water Treatment Directive¹ aims to protect the environment from the adverse effects caused by the discharge of urban waste water (domestic water and industrial waste water). That directive provides, among other things, that Member States were to ensure that all agglomerations with a 'population equivalent'² of over 15 000 were equipped with collection systems for urban waste water by 31 December 2000 at the latest. Furthermore, urban waste water from such agglomerations must be treated prior to discharge.

In 2010, the Commission, having found that a number of Spanish agglomerations with a population equivalent of over 15 000 were equipped with neither collection systems for urban waste water nor treatment systems, brought an action before the Court of Justice against Spain for failure to fulfil obligations. By a judgment of 14 April 2011,³ the Court declared that Spain had failed to fulfil its obligations under the directive since it had failed to ensure the collection and treatment of urban waste water in, respectively, 6 and 37 agglomerations with a population equivalent of over 15 000.

In 2017, having found that Spain had still not complied with the 2011 judgment in 17 of the 43 agglomerations concerned, the Commission decided to bring a further action against Spain for failure to fulfil its obligations. In the context of that action, the Commission requested that the Court order Spain to pay a penalty payment of €171 217 for each day of delay and a lump sum of €19 303 for each day of delay from the date of delivery of the 2011 judgment until full compliance with that judgment.

By today's judgment, **the Court finds that Spain has failed in its obligation to comply with the 2011 judgment in so far as, by the expiry of the period fixed by the Commission for compliance with that judgment (namely 31 July 2013), 17 of the 43 agglomerations concerned had still not been equipped with systems for collecting or treating urban waste water.**

Accordingly, the Court considers it appropriate to impose on Spain **pecuniary sanctions** in the form of a penalty payment and a lump sum payment.

With regard to the penalty payment, the Court states, first of all, that the absence or insufficiency of systems for collecting or treating urban waste water is likely to have an adverse effect on the environment and is thus to be regarded as a serious infringement. Despite the considerable efforts made by Spain to reduce the number of agglomerations without collection or treatment systems for urban waste water (with 9 agglomerations remaining), the Court considers that **the particularly long duration of the infringement constitutes an aggravating circumstance**. According to the information submitted by Spain, the judgment will not be fully complied with before 2019, which

¹ Council Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment (OJ 1991 L 135, p. 40).

² The concept of a 'population equivalent' is a unit corresponding to the average pollution produced each day by an inhabitant.

³ Case: [C-343/10](#) Commission v Spain.

amounts to a delay of 18 years compared to the deadline set by the directive (namely 31 December 2000). Furthermore, the Court points out that the internal legal and economic difficulties invoked by Spain to justify its delay in complying with the judgment are not capable of exempting it from its obligations under EU law.

For the purposes of calculating the penalty payment, the Court has taken into account the considerable duration of the infringement, namely seven years from the date of delivery of the 2011 judgment. In order to take account of the progress made by Spain in performing its obligations, the Court considers it appropriate to impose on that Member State a sliding-scale penalty payment fixed on a six-monthly basis.

As regards the calculation of the lump sum, the Court states that the number of agglomerations concerned and the fact that numerous infringement proceedings have been brought against Spain in this field⁴ justify the adoption of a dissuasive measure such as the payment of a lump sum in order to prevent similar infringements of EU law in the future.

Consequently, the Court considers it appropriate to order Spain to pay to the budget of the EU a **lump sum of €12 million and a penalty payment of €10 950 000 per six-month period of delay** in implementing all necessary measures to comply with the judgment of 2011 (this penalty payment is payable from today until full compliance with the judgment of 2011).⁵

NOTE: An action for failure to fulfil obligations directed against a Member State which has failed to comply with its obligations under EU 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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⁴Cases: [C-419/01](#), [C-416/02](#), [C-219/05](#), [C-38/15](#) Commission v Spain.

⁵ The Court states that the actual amount of the penalty payment must be calculated at the end of each six-month period by reducing the total amount relating to each of those periods by a percentage corresponding to the proportion that the number of population equivalents of the agglomerations whose urban waste water treatment and collection systems have been rendered compliant with the judgment in Commission v Spain ([C-343/10](#)) at the end of the period in question bears to the number of population equivalents of the agglomerations not having such systems on 25 July 2018, the date of delivery of the present judgment.