



Press and Information

Court of Justice of the European Union

PRESS RELEASE No 29/20

Luxembourg, 12 March 2020

Judgment in Case C-576/18
Commission v Italy

Italy is ordered to pay pecuniary penalties for failing to recover aid unlawfully granted to the hotel industry in Sardinia

That Member State will therefore have to pay to the budget of the EU a lump sum of €7 500 000 as well as, as from today, a periodic penalty payment of € 80 000 for each day of delay

In 2008, the Commission decided¹ that certain aid granted to Italy in favour of the hotel firms of Sardinia was incompatible with the common market. Consequently, Italy was required to recover that unlawful aid (of a total amount of approximately € 13.7 million) immediately and effectively from the beneficiaries.

By judgment of 29 March 2012,² delivered in an action for failure to fulfil obligations brought by the Commission, the Court of Justice found that Italy had not taken all the measures necessary in order to recover the aid at issue.

Considering that Italy still had not complied with that judgment, the Commission brought, in 2018, a second action for failure to fulfil obligations against that Member State. In that second action, the Commission requested that the Court order Italy to pay a lump sum and a periodic penalty payment.

By today's judgment, **the Court holds that Italy failed to fulfil its obligation to implement the judgment of 2012 by failing to take, at the end of the period fixed by the Commission (namely 11 September 2014), the measures necessary to recover the aid at issue in full.**

The Court notes that Italy **has not proved its claims, namely that it is not possible to recover the aid at issue in full.**

Further, the Court notes that the General Court dismissed³ the action for annulment of the Commission's decision of 2008 and the Court upheld that dismissal⁴: accordingly, **the Italian courts cannot grant any stay of the recovery of the aid at issue.**

Finally, the Court points out that **Italy cannot rely on the legitimate expectations of the beneficiaries of unlawful aid** since that argument was rejected by the Court in its judgment of 2012.

While recognising Italy's efforts to recover the aid at issue (in 2019, 89% of the total capital amount had been recovered, that is 83% of that capital amount together with interest), the Court deems it appropriate to impose on Italy **pecuniary penalties** in the form of a periodic penalty payment and a lump sum.

¹ Commission Decision 2008/854/EC of 2 July 2008 on a State aid scheme (C 1/04 (ex NN 158/03 and CP 15/2003)): Misuse of aid measure N 272/98, Regional Act No 9 of 1998 (OJ 2008 L 302, p. 9).

² Case: [C-243/10](#) Commission v Italy.

³Joined Cases [T-394/08](#), [T-408/08](#), [T-453/08](#) and [T-454/08](#) Regione autonoma della Sardegna and Others v Commission.

⁴ Joined Cases [C-630/11 P](#) to [C-633/11 P](#) HGA and Others v Commission.

As regards the periodic penalty payment, the Court takes into consideration the **seriousness of the infringement, which resulted in distortion of competition, and its considerable duration** (over seven years as from the Court's first judgment).

Furthermore, again for the purpose of calculating the periodic penalty payment, the Court **assesses Italy's ability to pay**, taking into account, inter alia, the fact that its GDP declined in 2008, 2009, 2012 and 2013 but that, since 2015, it has been rising.

The Court states, in addition, that the facts of the case **justify the adoption of a dissuasive measure** such as the payment of a lump sum in order to avoid the reoccurrence of similar infringements of EU law.

Consequently, the Court orders Italy to pay to the budget of the Union **a lump sum of € 7 500 000 and a periodic penalty payment of € 80 000 for each day of delay** in implementing the measures necessary to comply with the judgement of 2012 (that periodic penalty payment is payable as from the delivery of today's judgment until full compliance with the judgment of 2012).

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: Jacques René Zammit ☎ (+352) 4303 3355