



Press and Information

Court of Justice of the European Union

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Judgment in Case C-644/18
Commission v Italy

Italy has infringed EU law on ambient air quality

The limit values applicable to concentrations of PM10 particulate matter were systematically and persistently exceeded between 2008 and 2017

In 2014, the European Commission launched an infringement procedure against the Italian Republic for having systematically and persistently exceeded, in a certain number of zones in Italy, the limit values for PM10 particulate matter laid down by the Air Quality Directive.¹

The Commission maintained, first, that, since 2008, the Italian Republic had systematically and persistently exceeded, in the zones concerned, the daily and annual limit values applicable to concentrations of PM10 particulate matter, under Article 13(1) of, read in conjunction with Annex XI to, the Air Quality Directive. Secondly, the Commission complained that the Republic of Italy had failed to fulfil its obligation under Article 23(1), read in conjunction with Annex XV to, that directive, to adopt appropriate measures to ensure compliance with the limit values for PM10 particulate matter in all the zones concerned.

Taking the view that the explanations provided in that regard by the Italian Republic during the pre-litigation procedure were insufficient, the Commission brought an action for failure to fulfil obligations before the Court on 13 October 2018.

In the judgment delivered on 10 November 2020, the Court, sitting as a Grand Chamber at the request of the Italian Republic, upheld that action.

In the first place, as regards the complaint alleging systematic and persistent infringement of the provisions of Article 13(1) of, and Annex XI to, the Air Quality Directive, the Court holds that complaint to be well founded, in the light of the evidence adduced by the Commission for the periods and zones covered by the proceedings. In that regard, the Court notes, at the outset, that the fact of exceeding the limit values for PM10 particulate matter is in itself sufficient to establish failure to comply with the provisions of the abovementioned Air Quality Directive. Moreover, in the present case, **the Court finds that, from 2008 to 2017 inclusive, the daily and annual limit values for PM10 particulate matter were very regularly exceeded in the zones concerned.** According to the Court, the fact that the limit values in question were not exceeded in certain years in the period under consideration does not prevent a finding, in such a situation, of systematic and persistent failure to comply with the provisions at issue. Indeed, according to the very definition of 'limit value' in the Air Quality Directive, that value must, in order to avoid, prevent or reduce harmful effects on human health and/or the environment as a whole, be attained within a given period and not be exceeded once attained. Furthermore, the Court stresses that, when such a finding is made, as in the present case, it is irrelevant whether the failure to fulfil obligations is the result of intention or negligence on the part of the Member State responsible, or of technical or structural difficulties encountered by it, unless it is established that there were exceptional circumstances whose consequences could not have been avoided despite all the steps taken. In the present case, having failed to adduce such proof, the Italian Republic could not therefore rely on the variety of sources of air pollution in order to claim that some of them are not attributable to it, such as for

¹ Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe (OJ 2008 L 152, p. 1).

example those potentially influenced by sectoral European policies, or topographical and climatic features of certain of the zones concerned. Finally, the Court ascribes no relevance to the fact relied on by the Italian Republic that, in the light of the whole of the Italian territory, the extent of the zones to which the Commission's complaints relate is limited. It states in that regard that exceedance of the limit values for PM10 particulate matter, even in a single zone, is sufficient in itself for a possible finding of failure to comply with the abovementioned provisions of the Air Quality Directive.

In the second place, the Court holds that the complaint alleging failure to adopt the appropriate measures to ensure compliance with the limit values for PM10 particulate matter, in accordance with the requirements of Article 23(1), read alone and in conjunction with Part A of Annex XV to the Air Quality Directive, is also well founded. In that regard, it notes that, by virtue of those provisions, in the event of exceedance of those limit values after the deadline for their application, the Member State concerned is required to draw up an air quality plan meeting the requirements of that directive, in particular the requirement to provide for appropriate measures to ensure that the period during which the limit values are exceeded is kept as short as possible. The Court stresses, in that context, that although such an exceedance is not in itself sufficient to find that that Member State has failed to fulfil its obligations under those provisions of the Air Quality Directive, and although they have a degree of discretion in deciding which measures to adopt, those measures must, in any event, ensure that the period during which the limit values are exceeded is kept as short as possible.

In the present case, **the Court finds that the Italian Republic has manifestly failed to adopt in good time the measures thus required.** In support of its finding, it refers to the evidence in the case-file demonstrating, in particular, that the exceedance of the daily and annual limit values for PM10 has remained systematic and persistent for at least eight years in the zones concerned, that, despite the process aimed at attaining the limit values currently under way in the Italian Republic, the measures provided for in the air quality plans submitted to the Court, in particular those designed to bring about structural changes specifically with regard to the main pollution factors, have, for the most part, been provided for only in recent updates of those plans, and that several of those plans set out a time frame for implementation which may last for several years, or even sometimes two decades, after the entry into force of those limit values. According to the Court, that situation, in itself, demonstrates that the Italian Republic has not implemented appropriate and effective measures to ensure that the period of time during which the limit values for PM10 particulate matter are exceeded is kept as short as possible. Moreover, whereas the Italian Republic considered it essential, in particular in the light of the principles of proportionality, subsidiarity and balance between public and private interests, to have long deadlines so that the measures provided for in the various air quality plans could produce their effects, the Court observes, on the contrary, that that approach is at variance both with the temporal references laid down by the Air Quality Directive in order to comply with the obligations set out therein and the importance of the objectives of protection of human health and the environment pursued by that directive. While recognising that Article 23(1) of the Air Quality Directive cannot require that the measures adopted by a Member State must ensure immediate compliance with those limit values in order for them to be regarded as appropriate, the Court stresses that the Italian Republic's approach is tantamount to allowing for a generalised, potentially indefinite extension of the deadline for complying with those values, even though they were set precisely with a view to attaining those objectives.

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.

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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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