

In the alternative:

2. What legal effect is to be attached to the Commission's failure to act, as a result of which the Community contribution was not paid?
3. Does the Commission's failure to act by non-disbursement of the Community contribution preclude the application of Article 42(a) of Abruzzo Regional Law 31/82, under which the appellant was granted the regional contribution ancillary to the Community contribution and, consequently, [does that failure] preclude payment of the regional contribution?

At all events:

4. What are the obligations incumbent on the Italian State in the case of the European Commission's persistent failure to act?

Action brought on 21 February 2013 — European Commission v Italian Republic

(Case C-85/13)

(2013/C 147/16)

Language of the case: Italian

Parties

Applicant: European Commission (represented by: E. Manhaeve and L. Cimaglia, acting as Agents)

Defendant: Italian Republic

Form of order sought

The Commission claims that the Court should:

— declare that the Italian Republic, by having failed to:

- adopt the provisions necessary to ensure that the agglomerations of Bareggio, Cassano d'Adda, Melegnano, Mortara, Olona Nord, Olona Sud, Robecco sul Naviglio, San Giuliano Milanese Est, San Giuliano Milanese Ovest, Seveso Sud, Trezzano sul Naviglio, Turbigo and Vigevano (Lombardy), which have a population equivalent of more than 10 000 and discharge into receiving waters considered to be 'sensitive areas' for the purposes of Article 5(1) of Council Directive 91/271/EEC of 21 May 1991 concerning urban wastewater treatment, ⁽¹⁾ are provided with collection systems for urban waste water, pursuant to Article 3 of that directive;
- adopt the provisions necessary to ensure that, in the agglomerations of Pescasseroli (Abruzzo), Aviano Capo-

luogo, Cormons, Gradisca d'Isonzo, Grado, Pordenone/Porcia/Roveredo/Cordenons, Sacile (Friuli-Venezia Giulia), Bareggio, Broni, Calco, Cassano d'Adda, Casteggio, Melegnano, Mortara, Orzinuovi, Rozzano, San Giuliano Milanese Ovest, Seveso Sud, Somma Lombardo, Trezzano sul Naviglio, Turbigo, Valle San Martino, Vigevano, Vimercate (Lombardy), Pesaro, Urbino (Marche), Alta Val Susa (Piedmont), Nuoro (Sardinia), Castellammare del Golfo I, Cinisi, Terrasini (Sicily), Courmayeur (Aosta Valley) and Thiene (Veneto), which have a population equivalent of more than 10 000, urban waste water entering collecting systems is, before discharge, subject to secondary treatment or an equivalent treatment, pursuant to Article 4 of Directive 91/271/EEC;

— adopt the provisions necessary to ensure that, in the agglomerations of Pescasseroli (Abruzzo), Aviano Capoluogo, Cividale del Friuli, Codroipo/Sedegliano/Flaibano, Cormons, Gradisca d'Isonzo, Grado, Latisana Capoluogo, Pordenone/Porcia/Roveredo/Cordenons, Sacile, San Vito al Tagliamento, Udine (Friuli-Venezia Giulia), Frosinone (Lazio), Francavilla Fontana, Monteiasi, Trinitapoli (Puglia), Dorgali, Nuoro, ZIR Villacidro (Sardinia) and Castellammare del Golfo I, Cinisi, Partinico, Terrasini and Trappeto (Sicily), which have a population equivalent of more than 10 000 and discharge into receiving waters considered to be 'sensitive areas' for the purposes of Directive 91/271/EEC, urban waste water entering collecting systems is, before discharge, subject to more stringent treatment than secondary treatment or an equivalent treatment, pursuant to Article 5 of that directive;

— adopt the provisions necessary to ensure that the urban waste water treatment plants built to comply with the requirements of Articles 4 to 7 of Directive 91/271/EEC are designed, constructed, operated and maintained to ensure sufficient performance under all normal local climatic conditions and to ensure that, when the plants are being designed, seasonal variations of the load are taken into account in the agglomerations of Pescasseroli (Abruzzo), Aviano Capoluogo, Cividale del Friuli, Codroipo/Sedegliano/Flaibano, Cormons, Gradisca d'Isonzo, Grado, Latisana Capoluogo, Pordenone/Porcia/Roveredo/Cordenons, Sacile, San Vito al Tagliamento, Udine (Friuli-Venezia Giulia), Frosinone (Lazio), Bareggio, Broni, Calco, Cassano d'Adda, Casteggio, Melegnano, Mortara, Orzinuovi, Rozzano, San Giuliano Milanese Ovest, Seveso Sud, Somma Lombardo, Trezzano sul Naviglio, Turbigo, Valle San Martino, Vigevano, Vimercate (Lombardy), Pesaro, Urbino (Marche), Alta Val Susa (Piedmont), Francavilla Fontana, Monteiasi, Trinitapoli (Puglia), Dorgali, Nuoro, ZIR Villacidro (Sardinia), Castellammare del Golfo I, Cinisi, Partinico, Terrasini, Trappeto (Sicily), Courmayeur (Aosta Valley) and Thiene (Veneto);

has failed to fulfil its obligations under Article 3 and/or Article 4 and/or Article 5 as well as Article 10 of Directive 91/271/EEC;

— order the Italian Republic to pay the costs.

Pleas in law and main arguments

By its application, the Commission complains that, in parts of its territory, Italy has not correctly implemented Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment.

First of all, the Commission finds a number of breaches of Article 3 of that directive, the second subparagraph of paragraph 1 and paragraph 2 of which provide, regarding urban waste water discharging into receiving waters which are considered 'sensitive areas' as defined under Article 5 of the directive, that Member States were required to ensure, by 31 December 1998 at the latest, that all agglomerations with a population equivalent of more than 10 000 were provided with collection systems satisfying the requirements of Annex I(A). In various agglomerations in the Lombardy Region falling within the ambit of those provisions, that requirement was not properly complied with.

In addition, under Article 4(1) and (3) of Directive 91/271/EEC, Member States were required to ensure, by 31 December 2000 at the latest for all discharges from agglomerations with a population equivalent of more than 15 000 and by 31 December 2005 at the latest for discharges from agglomerations with a population equivalent of between 10 000 and 15 000, that urban waste water entering collecting systems was, before discharge, subject to secondary treatment or an equivalent treatment, in accordance with the relevant requirements of Annex I(B). The Commission has found that Italy failed to comply with those provisions in a series of agglomerations situated in the regions of Abruzzo, Friuli-Venezia Giulia, Lombardy, Marche, Piedmont, Sardinia, Sicily, Aosta Valley and Veneto.

Next, under Article 5(2) and (3) of the directive, the Member States were required to ensure by 31 December 1998 at the latest that, for all discharges from agglomerations with a population equivalent of more than 10 000, urban waste water entering collecting systems was, before discharge into sensitive areas, subject to more stringent treatment than that described in Article 4. The Commission has found that Italy failed to comply with those provisions in a series of agglomerations situated in the regions of Abruzzo, Friuli-Venezia Giulia, Lazio, Puglia, Sardinia and Sicily.

Lastly, the failure to comply with Articles 4 and 5 of Directive 91/271/EEC also entails a breach of Article 10 of the directive, which provides that urban waste water treatment plants must be designed, constructed, operated and maintained to ensure sufficient performance under all normal local climatic conditions.

⁽¹⁾ OJ 1991 L 135, p. 40.

Request for a preliminary ruling from the Cour de cassation (Belgium) lodged on 22 February 2013 — Philippe Gruslin v Citibank Belgium SA

(Case C-88/13)

(2013/C 147/17)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Appellant: Philippe Gruslin

Respondent: Citibank Belgium SA

Question referred

Is Article 45 of Council Directive 85/611/EEC of 20 December 1985 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) ⁽¹⁾ to be interpreted as meaning that the concept of 'payments to unit-holders' also refers to the delivery to unit-holders of certificates for registered units?

⁽¹⁾ OJ 1985 L 375, p. 3.

Request for a preliminary ruling from the Raad van State (Netherlands) lodged on 25 February 2013 — Essent Energie Productie BV; other party: Minister van Sociale Zaken en Werkgelegenheid

(Case C-91/13)

(2013/C 147/18)

Language of the case: Dutch

Referring court

Raad van State

Parties to the main proceedings

Appellant: Essent Energie Productie BV

Other party: Minister van Sociale Zaken en Werkgelegenheid

Questions referred

1. In a situation such as that at issue in the main proceedings, can a principal contractor which must, pursuant to Article 2(1) of the Wet arbeid vreemdelingen 1994 (1994 Netherlands Law on the employment of foreign nationals),