



## Reports of Cases

**Case C-525/12**

**European Commission**  
**v**  
**Federal Republic of Germany**

(Failure of a Member State to fulfil obligations — Environment — Directive 2000/60/EC — Framework for Community action in the field of water policy — Recovery of the costs for water services — Concept of ‘water services’)

Summary — Judgment of the Court (Second Chamber), 11 September 2014

1. *Actions for failure to fulfil obligations — Application initiating proceedings — Statement of subject-matter and pleas in law — Formal requirements — Obligation to present a coherent and detailed statement of the pleas in law*

(Art. 258 TFEU; Statute of the Court of Justice, Art. 21, first para; Rules of Procedure of the Court of Justice, Art. 120(c))

2. *Actions for failure to fulfil obligations — Subject-matter of the dispute — Determination during the pre-litigation procedure — Situations considered to be contrary to EU law not exhaustively identified — Lawfulness*

(Art. 258 TFEU; Statute of the Court of Justice, Art. 21, first para.; Rules of Procedure of the Court of Justice, Art. 120(c))

3. *Environment — EU water policy — Directive 2000/60 — Water services — Definition*

(European Parliament and Council Directive 2000/60, Art. 2(38))

4. *Environment — EU water policy — Directive 2000/60 — Whether all water services are subject to the principle of recovery of the costs — No*

(European Parliament and Council Directive 2000/60, Arts 2(38), and 9)

1. See the text of the decision.

(see paras 21-23)

2. Without prejudice to the Commission’s obligation to discharge the burden of proof upon it in proceedings under Article 258 TFEU, there is nothing precluding the Commission from acting on a difference of interpretation and bringing proceedings before the Court, alleging a failure by the Member State concerned to fulfil its obligations, putting forward the numerous sets of circumstances which, in its view, are contrary to EU law, even though it does not identify each and every one of them.

The interpretation given by the Member State concerned to a provision of EU law which differs from the one endorsed by the Commission gives rise to a situation in the territory of that Member State where there is an administrative practice whose existence is undisputed even though it is not generalised. Accordingly, the fact that the Commission has given only a few examples of that practice in support of its argument does not mean its action lacks the necessary detail to enable an assessment to be made of the subject-matter of the action.

If, in the operative part of the application, the Commission refers to examples of situations which, in its view, demonstrate the Member State's failure to fulfil its obligations, even though those examples were not in the operative part of the reasoned opinion issued to it, this cannot be regarded as expanding the subject-matter of the action, which remains an application for a declaration of failure to fulfil obligations.

(see paras 25-27)

3. Article 2(38) of Directive 2000/60 establishing a framework for Community action in the field of water policy defines 'water services' as comprising all services which provide, for households, public institutions or any economic activity, both abstraction, impoundment, storage, treatment and distribution of surface water or groundwater, as well as waste-water collection and treatment facilities which subsequently discharge into surface water.

(see para. 44)

4. The fact that a Member State does not make some of the activities referred to in Article 2(38)(a) of Directive 2000/60 establishing a framework for Community action in the field of water policy subject to the principle of recovery of the costs of water services does not establish by itself, in the absence of any other ground of complaint, that that Member State has thereby failed to fulfil its obligations under Articles 2(38) and 9 of Directive 2000/60.

(see para. 59)