



Reports of Cases

Case C-534/13

Ministero dell’Ambiente e della Tutela del Territorio e del Mare and Others
v
Fipa Group Srl and Others

(Request for a preliminary ruling from the Consiglio di Stato)

(Reference for a preliminary ruling — Article 191(2) TFEU — Directive 2004/35/EC — Environmental liability — National legislation under which no provision is made for the administrative authorities to require owners of polluted land who have not contributed to that pollution to carry out preventive and remedial measures, and the sole obligation imposed concerns the reimbursement of the measures undertaken by those authorities — Whether compatible with the ‘polluter pays’ principle, the precautionary principle and the principles that preventive action should be taken and that environmental damage should be rectified at source as a matter of priority)

Summary — Judgment of the Court (Third Chamber), 4 March 2015

1. *Environment — Prevention and remedying of environmental damage — ‘Polluter pays’ principle — Article 191(2) TFEU — Reliance by the national authorities for the purposes of imposing preventive and remedial measures — No such reliance*

(Arts 191(2) TFEU and 192 TFEU)

2. *Environment — Prevention and remedying of environmental damage — Environmental liability — Directive 2004/35 — ‘Polluter pays’ principle — Impossibility of identifying the polluter of a plot of land or to have that person adopt remedial measures — National legislation laying down the obligation to reimburse the costs relating to the measures undertaken by the competent authority to owners of polluted land not responsible for that pollution — Lawfulness*

(European Parliament and Council Directive 2004/35)

1. Since Article 191(2) TFEU, which establishes the ‘polluter pays’ principle, is directed at action at EU level, that provision cannot be relied on as such by individuals in order to exclude the application of national legislation in an area covered by environmental policy for which there is no EU legislation adopted on the basis of Article 192 TFEU that specifically covers the situation in question.

Similarly, the competent environmental authorities cannot rely on Article 191(2) TFEU in the area of the environment, in the absence of any national legal basis, for the purposes of imposing preventive and remedial measures.

(see paras 40, 41)

2. Directive 2004/35 on environmental liability with regard to the prevention and remedying of environmental damage must be interpreted as not precluding national legislation which, in cases where it is impossible to identify the polluter of a plot of land or to have that person adopt remedial measures, does not permit the competent authority to require the owner of the land (who is not responsible for the pollution) to adopt preventive and remedial measures, that person being required merely to reimburse the costs relating to the measures undertaken by the competent authority within the limit of the market value of the site, determined after those measures have been carried out.

(see para. 63, operative part)