



Reports of Cases

Judgment of the Court (Fourth Chamber) of 19 December 2012 — *Commission v Ireland*

(Case C-374/11)

(Failure of a Member State to fulfil obligations — Directive 75/442/EEC — Domestic waste waters discharged through septic tanks in the countryside — Judgment of the Court finding that a Member State has failed to fulfil obligations — Article 260(2) TFEU — Measures to ensure compliance with a judgment of the Court — Financial penalties — Penalty payment — Lump sum)

1. *Actions for failure to fulfil obligations — Judgment of the Court establishing the failure of a Member State to fulfil its obligations — Period for implementation — Reference date for assessing whether there has been a failure to fulfil obligations (Art. 260(1) TFEU) (see paras 19-23)*
2. *Actions for failure to fulfil obligations — Judgment of the Court establishing the failure of a Member State to fulfil its obligations — Breach of the obligation to comply with the judgment — Pecuniary penalties — Periodic penalty payment — Imposition of a penalty payment — Condition — Failure to comply continuing up to the time of the Court's examination of the facts (Art. 260(2) TFEU) (see paras 33-35)*
3. *Actions for failure to fulfil obligations — Judgment of the Court establishing the failure of a Member State to fulfil its obligations — Breach of the obligation to comply with the judgment — Pecuniary penalties — Periodic penalty payment — Calculation of the amount — Criteria (Art. 260(2) TFEU) (see paras 36-38)*
4. *Member States — Obligations — Implementation of directives — Failure to fulfil obligations — National system pleaded as justification — Not permissible (Art. 260(2) TFEU; Council Directive 75/442, as amended by Directive 91/156) (see para. 39)*
5. *Actions for failure to fulfil obligations — Judgment of the Court establishing the failure of a Member State to fulfil its obligations — Breach of the obligation to comply with the judgment — Pecuniary penalties — Periodic penalty payment — Calculation of the amount — Criteria — Ability to pay — Taking account of the economic crisis (Art. 260(2) TFEU) (see paras 43, 44)*
6. *Actions for failure to fulfil obligations — Judgment of the Court establishing the failure of a Member State to fulfil its obligations — Breach of the obligation to comply with the judgment — Pecuniary penalties — Periodic penalty payment — Lump sum — Whether the two penalties should be cumulated — Lawfulness (Art. 260(2) TFEU) (see para. 46)*

7. *Actions for failure to fulfil obligations — Judgment of the Court establishing the failure of a Member State to fulfil its obligations — Breach of the obligation to comply with the judgment — Pecuniary penalties — Imposition of a lump sum payment — Discretion of the Court — Criteria for assessment (Art. 260(2) TFEU) (see paras 47-49)*
8. *Actions for failure to fulfil obligations — Judgment of the Court establishing the failure of a Member State to fulfil its obligations — Breach of the obligation to comply with the judgment — Pecuniary penalties — Lump sum — Calculation of the amount — Criteria (Art. 260(2) TFEU) (see paras 50-53)*

Re:

Failure of a Member State to fulfil obligations — Non-compliance with the judgment of the Court of 29 October 2009 in Case C-188/08 *Commission v Ireland*, concerning infringement of Articles 4, 7, 8, 9, 10, 11, 12, 13 and 14 of Council Directive 75/442/EEC of 15 July 1975 on waste (OJ 1975 L 194, p. 39), as amended by Council Directive 91/156/EEC of 18 March 1991 (OJ 1991 L 78, p. 32), as regards domestic waste waters discharged through septic tanks — Waste not covered by other legislation — Application for the imposition of a periodic penalty payment and the payment of a lump sum.

Operative part

The Court:

1. Declares that, by failing to adopt all of the measures necessary to ensure compliance with the judgment of 29 October 2009 in Case C-188/08 *Commission v Ireland* establishing that Ireland has failed to fulfil its obligations under Articles 4 and 8 of Council Directive 75/442/EEC of 15 July 1975 on waste, as amended by Council Directive 91/156/EEC of 18 March 1991, Ireland has failed to fulfil its obligations under Article 260(1) TFEU;
2. Orders Ireland to pay to the European Commission, into the ‘European Union own resources’ account, a penalty payment of EUR 12 000 for each day of delay in adopting the measures necessary to ensure compliance with the judgment in Case C-188/08 *Commission v Ireland*, with effect from the date on which judgment is delivered in the present case until the date of full compliance with the judgment in Case C-188/08 *Commission v Ireland*;
3. Orders Ireland to pay to the European Commission, into the ‘European Union own resources’ account, the lump sum of EUR 2 000 000;
4. Orders Ireland to pay the costs