

**Question referred**

Is Article 17(1) of Regulation (EU) No 1215/2012 <sup>(1)</sup> of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters to be interpreted as meaning that a person, such as the applicant in the main proceedings, who engages in trade on FOREX, the international currency exchange market, on the basis of actively placing his own orders, although through a third party who is professionally engaged in that trade, must be regarded as a consumer under that provision?

<sup>(1)</sup> OJ L 351, 20.12.2012, p. 1.

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**Action brought on 11 April 2018 — European Commission v Republic of Croatia**

**(Case C-250/18)**

(2018/C 200/30)

*Language of the case: Croatian*

**Parties**

*Applicant:* European Commission (represented by: M. Mataija and E. Sanfrutos Cano, acting as Agents)

*Defendant:* Republic of Croatia

**Form of order sought**

The applicant claims that the Court should:

- declare that, by failing to specify that the stone aggregate deposited in the Biljane Donje landfill is waste, rather than a by-product, and must therefore be treated as waste, the Republic of Croatia has failed to fulfil its obligations under Article 5(1) of Directive 2008/98; <sup>(1)</sup>
- declare that, by failing to take all the measures necessary to ensure that management of the waste deposited in Biljane Donje is carried out without endangering human health or harming the environment, the Republic of Croatia has failed to fulfil its obligations under Article 13 of Directive 2008/98;
- declare that, by failing to take the measures necessary to ensure that the holder of the waste deposited in the landfill of Biljane Donje carried out the treatment of waste himself or had the treatment handled by a dealer or an establishment or undertaking that carries out waste treatment operations or arranged by a private or public waste collector, the Republic of Croatia has failed to fulfil its obligations under Article 15(1) of Directive 2008/98;
- order the Republic of Croatia to pay the costs.

**Pleas in law and main arguments**

As regards the infringement of Article 5(1) of the Directive:

Article 5(1) of the Directive lays down cumulative criteria that must all be fulfilled in order for a substance or object resulting from a production process the primary aim of which is not the production of that substance or object to be considered a by-product rather than as waste. The Republic of Croatia incorrectly applied Article 5(1) to the waste deposited in Biljane Donje, given that it failed to determine that it constituted waste instead of a by-product even though further use of the waste was not certain, within the meaning of Article 5(1)(a) of the Directive.

As regards the infringement of Article 13 of the Directive:

Under Article 13 of the Directive, Member States are required to take the necessary measures to ensure that waste management is carried out without endangering human health or harming the environment. Even though the Croatian authorities established that the Biljane Donje landfill is situated on a site that is neither designated nor prepared for the deposit of waste and on land lacking protecting measures against water or air propagation, none of the measures adopted by the Croatian authorities in relation to the landfill has been implemented to date. That situation has remained unchanged for a long period of time, resulting in environmental deterioration. Thus, the Republic of Croatia has failed to take all the measures necessary to ensure that management of the waste deposited in Biljane Donje is carried out without endangering human health or harming the environment.

As regards the infringement of Article 15(1) of the Directive:

Under Article 15(1) of the Directive, Member States are required to take the necessary measures to ensure that any original waste producer or other holder carries out the treatment of waste himself or has the treatment handled by a dealer or an establishment or undertaking which carries out waste treatment operations or arranged by a private or public waste collector in accordance with Articles 4 and 13 of the Directive. The Croatian authorities have failed to ensure that the holder of the waste carried out the treatment of waste or had the treatment handled by one of the persons referred to in Article 15(1). This is clear from the fact that, at the time of filing of the present proceedings, the waste was still, unlawfully, in Biljane Donje, where it has been for a long time. The Croatian authorities have failed to put in place effective measures to ensure that the holder of the waste carries out the treatment of waste himself or has it handled by one of the persons referred to in Article 15(1) of the Directive.

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<sup>(1)</sup> Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ 2008 L 312, p. 3; 'the Directive').