



Reports of Cases

Judgment of the Court (Tenth Chamber) of 13 July 2017 — Commission v Spain

(Case C-388/16)¹

(Failure of a Member State to fulfil obligations — Judgment of the Court establishing a failure to fulfil obligations — Non-execution — Article 260(2) TFEU — Pecuniary penalties — Lump sum)

1. *Judicial proceedings — Oral part of the procedure — Reopening — Obligation to reopen the oral part of the procedure to allow parties to lodge observations on a new fact — No such obligation — Justification — Whether sufficient information to give a ruling*

(Rules of Procedure of the Court of Justice, Art. 83)

(see paras 13-15)

2. *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 21-23, 39)

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 — Subject matter — Choice of the appropriate penalty — Elements to be taken into consideration*

(Art. 260(2) TFEU)

(see paras 34, 35, 37)

4. *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*

¹ OJC 314, 29.8.2016.

(Art. 260(2) TFEU)

(see paras 36-38)

5. *Member States — Obligations — Failure to fulfil obligations — National system pleaded as justification — Not permissible*

(Art. 260 TFEU)

(see para. 41)

Operative part

The Court:

1. Declares that, by failing to adopt the measures necessary to comply with the judgment of 11 December 2014 in *Commission v Spain* (C-576/13, not published, EU:C:2014:2430) by the expiry of the period prescribed in the letter of formal notice sent by the European Commission, namely 20 September 2015, the Kingdom of Spain has failed to fulfil its obligations under Article 260(1) TFEU;
2. Orders the Kingdom of Spain to pay the European Commission a lump sum of EUR 3 million;
3. Orders the Kingdom of Spain to pay the costs.