

Issue 3/2018

Upholding the law

Infringement procedures 1 June 2018 to 18 September 2018

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The article provides details on the individual cases against

- Cyprus,
- Estonia,
- Greece,
- Ireland,
- Italy, and
- Spain.

as well as general information on the legal background (Treaty on European Union, Treaty on Functioning of the European Union) and the legal procedure.

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Estonia

Reasoned Opinion under article 258 TFEU

Bad application of Directive 91/271/EEC on urban waste water treatment: Authorities still have to ensure proper urban waste water treatment in eight agglomerations.

Cyprus

Letter of Formal Notice under article 258 TFEU

Directive 91/271/EEC on urban waste water treatment: Cyprus has failed to provide a collecting system for 36 agglomerations. In the same areas, the Cypriot authorities have also failed to ensure that the urban waste water entering collecting systems is subject to appropriate treatment.

Italy

Letter of Formal Notice under article 258 TFEU

Directive 91/271/EEC on urban waste water treatment: Italy is already subject to three separate infringement procedures for various breaches of the requirements of the Directive, but an assessment of the latest data submitted by Italy shows that a significant number of smaller agglomerations (276) are also in breach of core obligations on collection, treatment and monitoring. In view of the scale of these shortcomings, the Commission is sending Italy a

letter of formal notice. The Italian authorities have two months to reply; otherwise, the Commission may decide to send a reasoned opinion.

Ireland

Reasoned Opinion under article 258 TFEU

Directive 98/83/EC – Drinking Water Directive, non-compliance with parametric values for THM (Trihalomethane): Over a long period, the drinking water provided to over 500 000 people in Ireland, includes excessive amounts of Trihalomethane. This chemical, which is formed as a by-product predominantly when chlorine is used to disinfect and make water safe for drinking, poses a risk to health. The Irish authorities have not taken appropriate actions to bring down the value of THMs and to notify consumers of the health implications as required. Ireland has two months to respond to the letter; otherwise, the Commission may decide to send a reasoned opinion.

Spain

Reasoned Opinion under article 258 TFEU

Directive 2007/60/EC – Floods Directive, non-reporting of Flood Risk Management Plans under Directive 2007/60/EC: Under EU law, Member States had to complete and publish flood risk management plans, and notify them to the Commission by 22 March 2016. In March 2018, the Commission sent a letter of formal notice to the Spanish authorities due to their failure to complete, publish and communicate flood risk management plans for all seven of River Basin Districts in the Canary Islands. As Spain has still not notified these plans, the Commission is sending a reasoned opinion. Spain has two months to reply. If Spain fails to act within two months, the case may be referred to the Court of Justice of the EU.

Romania

Letter of Formal Notice under article 258 TFEU

Directive 91/271/EEC on urban waste water treatment: Following Romania's accession to the EU, large agglomerations should have ensured adequate collection of urban waste water by 31 December 2013 and treatment by 31 December 2015. However, according to the latest data provided by the Romanian authorities, 189 large agglomerations are still not in conformity with the urban waste water collection obligations under EU law, while 198 large agglomerations do not comply with treatment obligations. If Romania fails to act within two months, the cases may be referred to the Court of Justice of the EU.

General information about infringement procedures

Legal basis – the European Union as a Union of Law

According to the Treaties (Treaty on European Union, Treaty on Functioning of the European Union), Member States are obliged to comply with EU legislation adopted by the legislator (European Parliament and Council), and the Commission has the right and obligation to scrutinise such compliance and where appropriate take legal action.

Opening of an infringement procedure: formal contacts between the Commission and the Member State concerned

If the Commission considers that there may be an infringement of EU law which warrants the opening of an infringement procedure, it addresses a "letter of formal notice" to the Member State concerned, requesting it to submit its observations by a specified date.

The Member State has to adopt a position on the points of fact and of law on which the Commission bases its decision to open the infringement procedure.

Issuing a Reasoned Opinion

In the light of the reply or absence of a reply from the Member State concerned, the Commission may decide to address a "Reasoned Opinion" to the Member State, clearly and definitively setting out the reasons why it considers there to have been an infringement of EU law and calling on the Member State to comply with EU law within a specified period (normally two months).

The purpose of those formal contacts is to determine whether there is indeed an infringement of EU law and, if so, to resolve the case at this stage without having to take it to the European Court of Justice.

In the light of the reply, the Commission may also decide not to proceed with the infringement procedure, for example where the Member State provides credible assurances as to its intention to amend its legislation or administrative practice.

Referral to the European Court of Justice

If the Member State fails to comply with the Reasoned Opinion, the Commission may decide to bring the case before the European Court of Justice. If the Court finds in its judgment that a Member States has failed to take the measures needed to conform.

Second referral to the European Court of Justice

If a Member State fails to comply with a judgment given against it, the Commission has the possibility to apply for a second court ruling ordering that State to pay a lump-sum fine or a penalty (Article 260 TFEU).

Examples of recent years for judgments entailing penalty payments:

- Ireland, waste water disposal in rural areas (2012)
<http://curia.europa.eu/juris/document/document.jsf?text=&docid=131979&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=312647>
- Belgium, Urban Waste Water Treatment Directive (2013)
<http://curia.europa.eu/juris/document/document.jsf?text=&docid=143181&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=312969>
- Luxembourg, Urban Waste Water Treatment Directive (2013)
<http://curia.europa.eu/juris/document/document.jsf?text=&docid=144983&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=312835>
- Greece, Waste Directive (2014)
<http://curia.europa.eu/juris/document/document.jsf?text=&docid=160243&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=292605>
- Italy, Waste Directive, Hazardous Waste Directive and Landfill Directive (2014)
<http://curia.europa.eu/juris/document/document.jsf?text=&docid=160245&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=292801>
- Greece, Urban Waste Water Treatment Directive (2015)
<http://curia.europa.eu/juris/document/document.jsf?text=&docid=169829&pageIndex=0&doclang=FR&mode=lst&dir=&occ=first&part=1&cid=290858>
- Italy, Waste Framework Directive (2015)
<http://curia.europa.eu/juris/document/document.jsf?text=&docid=165914&pageIndex=0&doclang=FR&mode=lst&dir=&occ=first&part=1&cid=291309>
- Greece, Waste Legislation (2016)
<http://curia.europa.eu/juris/document/document.jsf?text=article%2B260&docid=183108&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=111578#ctx1>
- Portugal, Urban Waste Water Treatment Directive (2016)
<http://curia.europa.eu/juris/document/document.jsf?text=&docid=180685&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=512840>
- Slovakia, Landfill Directive (2018)
<http://curia.europa.eu/juris/document/document.jsf?text=article%2B260&docid=203542&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=399934#ctx1>