Judgment of the Court (Eighth Chamber) of 8 September 2011 — Commission v Portugal

(Case C-220/10)

(Failure of a Member State to fulfil obligations — Directive 91/271/EEC — Pollution and nuisances — Treatment of urban waste water — Articles 3, 5 and 6 — Failure to identify sensitive areas — Failure to introduce more stringent treatment of discharges in sensitive areas)

1. *Environment — Urban waste-water treatment — Directive 91/271 — Derogations — Less stringent treatment of less sensitive areas — Conditions — Carrying out of studies indicating that there will be no adverse effect on the environment — Communication to the Commission of all relevant information on that subject (Council Directive 91/271, Arts 2 and 6(1) and (2), second indent) (see paras 43-44)*

2. *Actions for failure to fulfil obligations — Examination of the merits by the Court — Situation to be taken into consideration — Situation on expiry of the period laid down in the reasoned opinion (Art. 258 TFEU) (see para. 45)*

3. *Environment — Urban waste-water treatment — Directive 91/271 — More stringent treatment of discharges of urban waste water from agglomerations of more than 10 000 population equivalent — Lack — Partial collection and treatment — Failure to fulfil obligations (Council Directive 91/271, Arts 3(2), 4 and 5(2)) (see paras 49-50, 52)*

Re:

Failure of a Member State to fulfil obligations — Infringement of Council Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment (OJ 1991 L 135, p. 40).

Operative part

The Court:

1. Declares that,

— by identifying as less sensitive areas all the coastal waters of the Island of Madeira and of the Island of Porto Santo;

— by subjecting to treatment less stringent than that prescribed in Article 4 of Council Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment, urban waste water from agglomerations with a population equivalent of more than 10 000, such as the agglomerations of Funchal and Câmara de Lobos, discharged into the coastal waters of the Island of Madeira;

— by failing to ensure, with regard to an agglomeration along the estuary of the River Tagus, namely, Quinta do Conde, the provision of collecting systems for urban waste water in accordance with Article 3 of the directive;

— by failing to ensure, with regard to the agglomerations of Albufeira/Armação de Pêra, Beja, Chaves and Viseu and four agglomerations discharging on the left bank of the Tagus estuary, Barreiro/Moita, Corroios/Quinta da Bomba, Quinta do Conde and Seixal, treatment more stringent than that prescribed in Article 4 of the directive;

— the Portuguese Republic has failed to fulfil its obligations under Articles 3, 5 and 6 of Directive 91/271;

2. Orders the Portuguese Republic to pay the costs.