

Brussels, 20 November 2009

Waste water treatment: Commission takes France to court; sends warning to five Member States

The European Commission is taking France to the European Court of Justice (ECJ) for not complying with EU legislation on urban waste water treatment. Some 60 large towns and cities have been listed as not having waste water treatment up to EU standards. The list includes Arles, Avignon, Bordeaux, and Lyon. The Commission is also sending a first written warning to five Member States for inadequate waste water treatment in smaller towns. The five are Belgium, Luxembourg, Portugal, France and Germany.

Environment Commissioner Stavros Dimas said: "Untreated urban waste water can endanger the health of European citizens and the environment. We need to ensure that the level of treatment of urban waste water can be guaranteed throughout the European Union. Member States' failure to comply with this legislation is unacceptable. I urge immediate action to remedy this situation."

Court action against France over inadequate waste water treatment

The European Commission has been concerned for several years by France's failure to put in place proper protection for its citizens and the environment by ensuring waste water is correctly collected and treated. Some 60 large cities and towns currently have waste water collection and treatment systems which do not meet the standards required under the directive.

According to the Urban Wastewater Treatment Directive¹, France had to put systems in place for collecting and treating waste water in urban settlements of more than 15,000 inhabitants located in non-sensitive areas, before 31 December 2000.

A first warning letter was sent to France on 9 July 2004 after information provided by France showed that a considerable number of agglomerations did not conform to the directive and that in others, adequate infrastructure was not in place. A second and final warning was sent to France on 10 December 2008.

After a subsequent evaluation, the Commission considers that 64 agglomerations are still not compliant and has decided to refer France to the European Court of Justice.

First written warning to five Member States over inadequate waste water treatment for smaller towns

The European Commission is also sending a first warning letter to Belgium, Luxembourg, Portugal, France and Germany for failing to put in place the required infrastructure for collecting and treating water in smaller towns.

¹ Directive 91/271/EEC

According to the Urban Wastewater Treatment Directive, Member States had to have these systems in place by 31 December 2005 in areas with a population of between 2,000 and 15,000 inhabitants.

The Commission has been assessing data provided by Member States in relation to this obligation and has found that a number of older Member States from original EU 15 have not fully complied with legislation on waste water treatment. The Commission is therefore sending a first warning letter to five Member States in a first wave of cases concerning this breach of legislation. This infringement action follows on from previous cases the Commission has brought to ensure that Member States provide collecting systems and treatment for urban waste waters from larger agglomerations.

The Urban Wastewater Treatment Directive

Towns and cities across the European Union are required to collect and treat their urban waste water under the Urban Wastewater Treatment Directive.

Untreated waste water can be contaminated with harmful bacteria and viruses and thus presents a risk to public health. It also contains nutrients such as nitrogen and phosphorous which can damage freshwaters and the marine environment by promoting excessive growth of algae that chokes other life, a process known as eutrophication.

The main type of waste water treatment envisaged by the directive is biological or 'secondary' treatment. However, where agglomerations of over 10,000 inhabitants discharge into water bodies designated as sensitive, more stringent treatment is also needed. Such treatment was required to be in place by 31 December 1998. For agglomerations of more than 15,000 inhabitants not discharging into sensitive areas, the deadline for secondary treatment infrastructure was 31 December 2000. In smaller agglomerations the deadline for compliance was 31 December 2005.

Legal Process

Article 226 of the Treaty gives the Commission powers to take legal action against a Member State that is not respecting its obligations.

If the Commission considers that there may be an infringement of EU law that warrants the opening of an infringement procedure, it addresses a "Letter of Formal Notice" (first written warning) to the Member State concerned, requesting it to submit its observations within a specified period, usually within two months.

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" (final written warning) to the Member State. This clearly and definitively sets out the reasons why it considers there to have been an infringement of EU law and calls upon the Member State to comply within a specified period, normally two months.

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. Where the Court of Justice finds that the Treaty has been infringed, the offending Member State is required to take the measures necessary to conform.

Article 228 of the Treaty gives the Commission power to act against a Member State that does not comply with a previous judgement of the European Court of Justice. The article also allows the Commission to ask the Court to impose a financial penalty on the Member State concerned.

For rulings by the European Court of Justice see:

<http://curia.eu.int/en/content/juris/index.htm>