

Directive 91/156/CEE. The Waste Management (Collection Permit) Regulations 2001 do not ensure that all waste collection will in fact be carried out under permit.

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Notice for the OJ

Action brought on 20 December 2001 by the Commission of the European Communities against Ireland
(Case C-494/01)

An action against Ireland was brought before the Court of Justice of the European Communities on 20 December 2001 by the Commission of the European Communities, represented by Mr Richard Wainwright, acting as agent, with an address for service in Luxembourg.

The Applicant requests that the Court should

- declare that, by failing to take all the measures necessary to ensure a correct implementation of the provisions of Articles 4, 5, 8, 9, 10, 12, 13 and 14 of Council Directive 75/442/EEC of 15 July 1975 on waste¹ as amended by Council Directive 91/156/EEC², Ireland has failed to comply with its obligations under those Articles of the said Directive;
- declare that, by failing to completely and satisfactorily respond to a request for information dated 20 September 1999 in relation to a waste operation at Fermoy, County Cork, Ireland has failed to fulfil the obligations which it has pursuant to Article 10 of the EC Treaty;
- order Ireland to pay the costs.

Pleas in law and main arguments:

- a) The Commission considers that, as a result of a failure to ensure that all establishments and undertakings carrying out the operations specified in Annex II A (disposal operations) and Annex II B (operations which may lead to recovery) of the Directive hold a permit, Ireland is breaching its obligations under Articles 9 and 10 of the Directive;
- b) The transposition and application of Article 12 of Directive 75/442/EEC remains unsatisfactory for the following reasons: First, under the terms of the Directive, the requirement of authorisation or registration should have been the subject of national measures from the expiry of the date of implementation of Directive 91/156/CEE. The Waste Management (Collection Permit) Regulations 2001 do not ensure that all waste collection will in fact be carried out under permit. Second, the Commission has not had confirmation that all waste collection in Ireland is now carried out under permit.
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- c) The Commission considers that a seriously incomplete application of the permit requirements of Article 9 represents evidence that Ireland has not taken the appropriate measures to establish an integrated and adequate network of disposal installations as required under Article 5 of the Directive.
- d) By allowing significant amount of waste disposal and recovery in Ireland to take place for a protracted period outside the permit framework of Article 9 of the Directive, Ireland cannot be considered to have taken all the necessary measures for the purposes of Article 4, (regulation of waste disposal and recovery operations so as to avoid endangering human health and without using processes or methods which could harm the environment), because without permits disposal and recovery methods are not properly conditioned and controlled.
- e) The Commission considers that Ireland has failed to respect Article 8 of the Directive, in as much as it has failed to ensure that those who hold waste as a result of non-permitted waste operations have the waste at the sites concerned handled by a private or public waste collector or by an undertaking which carries out the operations listed in Annex II A or B, or, alternatively, it has failed to ensure that the holders recover or dispose of the waste themselves in accordance with the Directive.
- f) The Commission also considers that, by reason of its failure to respect the requirements of Article 9 and 10 of the Directive regarding permits, Ireland is not respecting Article 13 of the Directive, which requires establishments or undertakings carrying waste operations to be subject to periodic inspection by the authorities, or Article 14 of the Directive, which requires such establishments or undertakings to keep records and to make this information available on request by the competent authorities.

¹ - Council Directive 75/442/EEC of 15 July 1975 on waste OJ L 194, 25.07.1975, p. 39

² - OJ L 078, 26.03.1991, p. 32