

**The applicant claims that the Court should:**

1. Declare that, by having failed to

- identify the Humber Estuary, The Wash, the Deben and Colne Estuaries, the Outer Thames Estuary, Southampton Water and the North East Irish Sea — with the exception of the Solway Firth — as sensitive areas with respect to eutrophication;
- subject to more stringent treatment discharges of urban waste water from agglomerations with a population equivalent (p.e.) of more than 10 000 into the Humber Estuary, The Wash, the Deben and Colne Estuaries, the Outer Thames Estuary, Southampton Water, the North East Irish Sea — with the exception of the Solway Firth —, and into Lough Neagh and Upper and Lower Lough Erne,

the United Kingdom of Great Britain and Northern Ireland has failed to fulfil its obligations pursuant to Article 3(1), 3(2), 5(1), 5(2), 5(3) and 5(5) of, and Annex II to, Council Directive 91/271/EEC <sup>(1)</sup> concerning urban waste water treatment.

2. Order the United Kingdom of Great Britain and Northern Ireland to pay the costs.

**Pleas in law and main arguments**

In the Commission's view the United Kingdom has taken an excessively restrictive approach to the identification of sensitive areas. This is not only because of the relatively high threshold of proof required by the United Kingdom before accepting that a water body is eutrophic, but also the fact that the United Kingdom makes no reference to the need also to identify those water bodies which are at risk and may in the near future become eutrophic if protective action is not taken.

Because the United Kingdom has failed to identify as sensitive areas the Humber estuary, the Wash, the Deben and Colne estuaries, the Outer Thames estuary and Southampton Water and the North East Irish Sea (excluding the Solway Firth) the waste water from the agglomerations of more than 10 000 p.e. discharging waste waters into these areas, as well as those agglomerations which are situated in their relevant catchment areas, have not been made subject to the collection and treatment obligations foreseen in the directive for sensitive areas by the 31 December 1998 deadline.

London, Liverpool, Manchester, Leeds, Kingston upon Hull and Southampton are among the agglomerations implicated. This puts the United Kingdom in breach of its obligations under the directive, and in particular of those specified in Article 3(1) and (2) and in Article 5(2), (3) and (5) and annex II thereof.

The Commission is also of the opinion that the United Kingdom has failed to ensure that the full obligations set out in Articles 5(2), (3) and (5) of the directive have been met for a number of agglomerations discharging into the designated sensi-

tive areas of Lough Neagh and Upper and Lower Lough Erne, as was required by 31 December 1998.

<sup>(1)</sup> Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment (OJ L 135, p. 40).

**Reference for a preliminary ruling from the Corte d'Appello di Milano (Italy) lodged on 22 August 2007 — Marco Gambazzi v Daimler Chrysler Canada Inc and CIBC Mellon Trust Company**

(Case C-394/07)

(2007/C 283/19)

*Language of the case: Italian*

**Referring court**

Corte d'Appello di Milano

**Parties to the main proceedings**

*Appellant:* Marco Gambazzi

*Respondents:* Daimler Chrysler Canada Inc, CIBC Mellon Trust Company

**Questions referred**

1. On the basis of the public-policy clause in Article 27(1) of the Brussels Convention, may the court of the State requested to enforce a judgment take account of the fact that the court of the State which handed down that judgment denied the unsuccessful party — which had entered an appearance — the opportunity to present any form of defence following the issue of a debarring order as described [in the grounds of the present Order]?
2. Or does the interpretation of that provision in conjunction with the principles to be inferred from Article 26 *et seq.* of the Convention, concerning the mutual recognition and enforcement of judgments within the Community, preclude the national court from finding that civil proceedings in which a party has been prevented from exercising the rights of the defence, on grounds of a debarring order issued by the court because of that party's failure to comply with a court injunction, are contrary to public policy within the meaning of Article 27(1)?