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Judgment of the Court in Case C-43/21 | FCC Česká republika

### **The mere extension of the duration of the operation of waste disposal at a landfill does not constitute a substantial change to the operating permit**

*Such an extension does not require the landfill operator to apply for a new permit. In such a situation, the directive on industrial emissions does not oblige Member States to enable the public concerned to participate in the decision-making process or to guarantee them a right to judicial redress in order to challenge the legality of that process.*

FCC Česká republika operates a landfill site in the borough Praha-Řáblice (Czech Republic), on the basis of a permit issued in 2007. At the end of 2015, FCC Česká republika applied to the Prague city administration to postpone the planned end date of operation of the landfill, fixed at 31 December 2015. The Prague city administration granted that request and postponed the date of discontinuation of waste disposal at the landfill to 31 December 2017.

The borough Praha-Řáblice and Spolek pro Řáblice, a Czech environmental protection association, lodged an appeal against that decision with the Czech Ministry for the Environment, which dismissed the appeal as inadmissible on the ground that the applicants were not parties to the procedure for amending the operating permit. The applicants contested the decision of the Ministry before the Czech courts, claiming that the extension of the duration of the operation of the landfill constituted a substantial change to its operating permit, which gave rise to the right to public participation in accordance with the directive on industrial emissions.<sup>1</sup>

The Czech Supreme Administrative Court, hearing the case on appeal, asks the Court of Justice whether the mere extension of the duration of the operation of the landfill, without any change in the maximum approved dimensions of the installation or its total capacity, constitutes a substantial change to its operating permit within the meaning of the directive.

By its judgment today, the Court recalls that, under the directive, the extension of an installation, on the one hand, and a change in its nature or functioning, on the other hand, constitute a substantial change to it, provided that such changes may have significant negative effects on human health or the environment.

The Court holds that the mere extension of the duration of the operation of waste disposal at a landfill does not, in itself, change the perimeter of the installation or the storage capacity as provided for in the initial permit, and does not therefore constitute an extension of the installation. Similarly, the mere extension of the duration of waste disposal at a landfill does not constitute a change of the installation, be it in its nature or in its functioning. Since the directive does not require the initial permit to specify the duration of operation of the landfill, it cannot require the mere extension of its operation to be subject of a new permit.

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<sup>1</sup> Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ 2010 L 334, p. 17).

Consequently, **the mere extension of the duration of the operation of waste disposal at a landfill does not constitute a substantial change to its operating permit.** It follows that **Member States are not obliged to require the operator of a landfill to apply for a new permit where that operator is planning only such an extension** within the limits of the total storage capacity for which a permit has already been given. In such a situation, the directive does not confer on the public concerned a right to participate in the procedure for granting the extension or to seek judicial redress in order to challenge the legality of that procedure.

**NOTE:** A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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