



The Italian authorities failed to protect the applicants living in the areas affected by toxic emissions from the Ilva factory in Taranto

In today's **Chamber judgment**¹ in the case of **Cordella and Others v. Italy** (applications nos. 54414/13 and 54264/15) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 8 (right to respect for private and family life) of the European Convention on Human Rights, and

a violation of Article 13 (right to an effective remedy) of the Convention.

In this case, 180 applicants complained about the effects of toxic emissions from the Ilva steelworks in Taranto on the environment and on their health, and about the ineffectiveness of the domestic remedies.

The Court considered that 19 applicants did not have victim status, since they did not live in one of the towns classified as being at high environmental risk: Taranto, Crispiano, Massafra, Montemesola and Statte.

The Court found, in particular, that the persistence of a situation of environmental pollution endangered the health of the applicants and, more generally, that of the entire population living in the areas at risk. It also held that the national authorities had failed to take all the necessary measures to provide effective protection of the applicants' right to respect for their private life. Lastly, the Court considered that these applicants had not had available an effective remedy enabling them to raise with the national authorities their complaints concerning the fact that it was impossible to obtain measures to secure decontamination of the relevant areas.

Under Article 46 (binding force and execution of judgments), that Court reiterated that it was for the Committee of Ministers to indicate to the Italian Government the measures that were to be taken to ensure that the Court's judgment was enforced, while specifying that the work to clean up the factory and the region affected by the environmental pollution was essential and urgent, and that the environmental plan approved by the national authorities, which set out the necessary measures and actions to ensure environmental and health protection for the population, ought to be implemented as rapidly as possible.

Principal facts

The 180 applicants (52 individuals for application no. 54414/13 and 128 for application no. 54264/15) live or have lived in the municipality of Taranto or in neighbouring areas (Italy).

Ilva's Taranto plant is the largest industrial steelworks complex in Europe. It covers an area of 1,500 hectares and has about 11,000 employees. The impact of plant emissions on the environment and on the health of the local population has given rise to several alarming scientific reports.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

On 30 November 1990 the Council of Ministers identified “high environmental risk” municipalities (including Taranto) and asked the Ministry of the Environment to draw up a decontamination plan for cleaning up the areas concerned.

From the end of 2012 onwards the Government adopted a number of texts, among them the so-called "Salva-Ilva" Legislative Decrees concerning the activity of the Ilva company. In accordance with a decree of the President of the Council of Ministers of 29 September 2017, the deadline for implementing the measures provided for in the environmental plan was extended to August 2023. In the context of an action for the annulment and stay of execution of this decree, the region of Apulia and the municipality of Taranto complained to the Administrative Court about the environmental and public-health consequences of the further extension of the deadline for implementing the environmental measures. A question on the issue of constitutionality was also referred. The administrative proceedings are still pending.

Several sets of criminal proceedings were brought against Ilva’s management for serious ecological harm, the poisoning of food substances, failure to prevent accidents in the workplace, the degradation of public property, the emission of pollutants and air pollution. Some of these proceedings culminated in convictions in 2002, 2005 and 2007. Among other things, the Court of Cassation found that the management of the Ilva factory in Taranto was responsible for air pollution, the dumping of hazardous materials and the emission of particles. It noted that particle production had persisted despite numerous agreements with the local authorities in 2003 and 2004.

In a judgment of 31 March 2011 the Court of Justice of the European Union held that Italy had failed to fulfil its obligations under Directive 2008/1 EC of the European Parliament and of the Council concerning integrated pollution prevention and control. In the context of an infringement procedure against Italy, opened on 16 October 2014, the European Commission issued a reasoned opinion asking the Italian authorities to remedy the serious pollution problems observed. It noted that Italy had failed to fulfil its obligations to guarantee that the steelworks complied with the Industrial Emissions Directive.

Complaints, procedure and composition of the Court

Relying on Articles 2 (right to life) and 8 (right to respect for private life), the applicants complained that the State had not adopted legal and statutory measures to protect their health and the environment, and that it had failed to provide them with information concerning the pollution and the attendant risks for their health. The Court decided to consider these complaints solely under Article 8.

Relying on Article 13 (right to an effective remedy), the applicants alleged that there had been a violation of their right to an effective remedy.

Relying on Article 46 (binding force and execution of judgments), the applicants in application no. 54264/15 requested that the pilot-judgment procedure be launched.

The applications were lodged with the European Court of Human Rights on 29 July 2013 and 21 October 2015.

Judgment was given by a Chamber of seven judges, composed as follows:

Linos-Alexandre **Sicilianos** (Greece), *President*,
Guido **Raimondi** (Italy),
Ledi **Bianku** (Albania),
Aleš **Pejchal** (the Czech Republic),
Krzysztof **Wojtyczek** (Poland),
Tim **Eicke** (the United Kingdom),

Gilberto Felici (San Marino),

and also Renata Degener, Deputy Section Registrar.

Decision of the Court

Article 8 (right to respect for private and family life)

1. Admissibility: 19 applicants did not have victim status

The Court considered that 19 applicants did not have victim status, since they did not live in the municipalities affected by the emissions from the Ilva plant in Taranto – the towns classified as being at high environmental risk were Taranto, Crispiano, Massafra, Montemesola and Statte – and they had not shown that they were personally affected by the situation complained of.

2. Merits: violation of Article 8 concerning the applicants living in the affected areas

The Court noted that, since the 1970s, scientific studies had shown the polluting effects of the emissions from the Ilva factory in Taranto on the environment and on public health. Indeed, the findings of those reports, many of them issued by State and regional bodies, were not disputed between the parties. Among other data, the 2012 SENTIERI² report confirmed the existence of a causal link between environmental exposure to inhalable carcinogenic substances produced by the company Ilva and the development of tumours in the lungs and pleura, and of cardio-circulatory pathologies in persons living in the affected areas. In addition, a 2016 study had demonstrated a causal link between exposure to PM10³ and SO₂⁴ from industrial sources, arising from Ilva's production activity, and increased mortality from natural causes, tumours, and kidney and cardiovascular disease in the population of Taranto.

The Court noted that in spite of the national authorities' attempts to achieve decontamination of the region in question, the projects put in place had not so far produced the desired results. The measures recommended from 2012 onwards in the context of the "AIA"⁵ in order to reduce the factory's environmental impact were ultimately not introduced; indeed, that failure had been at the origin of an infringement procedure before the European Union's entities. Furthermore, the deadline for implementing the environmental plan approved in 2014 had been postponed to August 2023. The procedure put in place to achieve the identified targets for cleaning up the region was thus extremely slow. In the meantime, the Government had intervened on numerous occasions through urgent measures (the so-called "Salva-Ilva" legislative decrees) in order to guarantee that the steelworks would continue production, despite the finding by the relevant judicial authorities, based on chemical and epidemiological expert reports, that there existed serious risks to health and to the environment. Moreover, administrative and criminal immunity had been granted to the persons responsible for ensuring compliance with environmental requirements, namely the compulsory administrator and the future buyer of the company. This situation was compounded by the uncertainty arising, on the one hand, from the company's state of financial failure and, on the other, from the option granted to the future buyer to postpone the clean-up operations inside the factory. The fact was that the national authorities' management of the environmental questions surrounding production activity by Ilva's Taranto factory was, at present, in stalemate.

² Studio Epidemiologico Nazionale del Territorio e degli Insediamenti Esposti a Rischio Inquinamento.

³ Airborne particles, fine particles.

⁴ Sulphur dioxide.

⁵ Integrated environmental authorisation.

For these reasons, the Court considered that the persistence of a situation of environmental pollution endangered the health of the applicants and, more generally, that of the entire population living in the areas at risk, who remained, as things stood, without information as to progress in the clean-up operation for the territory concerned, particularly with regard to the timeframe for beginning the relevant work. It therefore noted that the national authorities had failed to take all the necessary measures to provide effective protection of the applicants' right to respect for their private life. Thus, the fair balance between, on the one hand, the applicants' interest in not being subjected to severe environmental pollution that could affect their well-being and their private life and, on the other, the interests of society as a whole had not been struck. **It followed that there had been a breach of Article 8 of the Convention.**

Article 13 (right to an effective remedy)

The Court held that the applicants had not had available an effective remedy enabling them to raise with the national authorities their complaints concerning the fact that it was impossible to obtain measures to secure decontamination of the areas affected by toxic emissions from the Ilva factory. **There had therefore been a violation of Article 13 of the Convention.**

Article 46 (binding force and execution of judgments)

The Court considered that it was not necessary to apply the pilot-judgment procedure. In this connection, it reiterated that it was for the Committee of Ministers, acting under Article 46 of the Convention, to indicate to the Italian Government the measures that, in practical terms, should be taken to ensure that the Court's judgment was enforced. In this context, however, it stressed that the work to clean up the factory and the region affected by the environmental pollution was essential and urgent. Thus, the environmental plan approved by the national authorities, which indicated the necessary measures and actions to provide environmental and health protection to the population, ought to be implemented as rapidly as possible.

Article 41 (just satisfaction)

The Court held that the finding of a violation constituted in itself sufficient just satisfaction in respect of non-pecuniary damage and that Italy was to pay 5,000 euros (EUR) in respect of costs and expenses in each application.

The judgment is available only in French.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.