



Pollution from Campania waste crisis and landfill site breached human rights

The case [Locascia and Others v. Italy](#) (application no. 35648/10) concerned the crisis over refuse collection, treatment and disposal in the Campania region and pollution from a landfill site. The application was brought by 19 residents who live in Caserta and San Nicola La Strada (municipalities in Campania).

In today's **Chamber judgment**¹ in the case the European Court of Human Rights held, unanimously, that there had been:

as regards management of the refuse collection, treatment and disposal services –

a violation of Article 8 (right to respect for private life and home) of the European Convention on Human Rights during the state of emergency in Campania, and

no violation of Article 8 of the Convention following the end of the state of emergency;

as regards pollution caused by the landfill site near the applicants' homes –

a violation of Article 8 concerning the Italian authorities' failure to take measures to protect the applicants' right to private life, and

no violation of Article 8 concerning the authorities' alleged failure to provide the applicants with information on the risks to which they had been exposed.

The Court found in particular that pollution from refuse had adversely impacted the applicants' personal well-being during the waste crisis from 1994 to 2009 and that that situation had continued as concerned the landfill site, which the Italian authorities to date have still not secured or cleaned up.

Those findings related to 11 of the applicants. The Court declared the other eight applicants' complaints inadmissible because they had not provided evidence to prove that they lived in the relevant municipalities.

Principal facts

The applicants are 19 Italian nationals who were born between 1941 and 1982 and live in Caserta and San Nicola La Strada (Campania, Italy).

In 1994 a state of emergency was declared in the Campania region to tackle serious problems with the disposal of municipal solid waste. What became known as the "waste management crisis" (*crisi dei rifiuti*) went on for the next 15 years.

In particular, the refuse collection services in Caserta and San Nicola La Strada were repeatedly interrupted from the end of 2007 to May 2008. Large quantities of rubbish accumulated along public roads, and the local authorities had to take emergency measures including the temporary closure of nursery schools, schools, universities and local markets and the removal of refuse to temporary storage areas.

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.

In 2010, when the state of emergency ended, more measures were taken. These included constructing new refuse and disposal facilities and carrying out investigations to map out areas affected by pollution from waste. An emergency action plan was also set up to dispose of baled waste (known as “ecobales”).

In the meantime, inspections of privately-owned refuse treatment and disposal plants located in Caserta were carried out to see whether they could be used to cope with the crisis. One of the plants under consideration, in operation since the late 1980s, was in the Lo Uttaro area near the applicants’ homes. However, a 2001 report stated that the Lo Uttaro area was “absolutely unsuitable” for a new plant as the landfill had not been complying with environmental regulations. It had been receiving significantly larger quantities of refuse than had been authorised. In 2005 a decontamination plan was approved.

Despite the plan (and the closure of the plant), in 2007 the authorities gave authorisation to carry out disposal of non-hazardous waste at the landfill site.

Judicial and administrative proceedings, spanning the years 2005 to 2020 found that the Lo Uttaro area had been a risk to public health, particularly as regards groundwater. The concentration of a number of toxic substances in the groundwater had also led the judicial and administrative authorities, from 2013 to 2019, to repeatedly ban the use of groundwater and cultivation in the area.

As of 2020 no work to secure and clean up the Lo Uttaro area has as yet been carried out and no clear timeframe has been set.

In their submissions to the European Court, the applicants relied on a number of official documents, including judgments by the Court of Justice of the European Union (CJEU), reports from parliamentary inquiries and scientific studies. These documents found that the waste crisis had put human health in danger, increasing the risk of developing cancer or congenital malformations for generations to come, while there had been a long pattern of problems in managerial and monitoring activities at the Lo Uttaro site.

Complaints, procedure and composition of the Court

Relying in particular on Article 8 (right to respect for private and family life), the applicants submitted that the Italian authorities had failed to ensure the proper functioning of the public refuse-collection, treatment and disposal service and to secure and clean up the landfill site, causing serious damage to the environment, endangering their health and harming their private life.

The application was lodged with the European Court of Human Rights on 23 June 2010.

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

Marko Bošnjak (Slovenia), *President*,
Alena Poláčková (Slovakia),
Lətif Hüseynov (Azerbaijan),
Péter Paczolay (Hungary),
Gilberto Felici (San Marino),
Erik Wennerström (Sweden),
Raffaele Sabato (Italy),

and also **Renata Degener**, *Section Registrar*.

Decision of the Court

Firstly, the Court rejected the Government's argument that the applicants had not used all the [legal avenues available at national level](#). It found that the remedies referred to by the Government could have provided only partial redress for the applicants' complaints of environmental damage. Nor had the Government provided domestic-court decisions showing that the applicants would have had any chance of success if they had used the remedies suggested.

Refuse management

The Court noted that Caserta and San Nicola La Strada, where the applicants live, had been affected by the waste management crisis from 1994 to 2009. During that time the applicants had been forced to live in an environment polluted by refuse piled up along the streets and by the temporary refuse storage sites.

It found that such exposure to waste, in breach of safety standards, had made the applicants more vulnerable to various illnesses. That finding was supported by the scientific studies submitted by the applicants, recognised by the CJEU and corroborated in a parliamentary inquiry report of 2013.

The Italian authorities had in effect been unable to ensure the proper functioning of the refuse collection, treatment and disposal services during the state of emergency in the Campania region from 11 February 1994 to 31 December 2009 and had therefore failed to take all the measures necessary for the effective protection of the applicants' right to respect for their homes and private lives, in violation of Article 8.

However, the Court found that the applicants had not proven whether and to what extent those shortcomings had had a direct impact on their homes and private lives following the end of the state of emergency, from 1 January 2010. It therefore held that there had been no violation of Article 8 as regards management of the refuse collection, treatment and disposal services from that date.

Landfill site

The official documents provided by the parties showed that the Lo Uttaro site had caused serious environmental pollution due to approximately 20 years of illegal refuse disposal. Indeed, the authorities had been aware since 2001 that the refuse-disposal plant was a serious hazard, yet authorisation was given in 2007 to use the landfill site to dispose of non-hazardous waste, thus worsening the environmental damage.

That situation, leading to repeated bans on the use of groundwater, had to have directly impacted the personal well-being of those living in Caserta and San Nicola La Strada, such as the applicants.

The documents, moreover, highlighted that even though the plant had been closed in 2007, the waste had continued to endanger the applicants' health. According to the latest information available, the projects put in place to secure and clean up had still not been fully implemented and there was no clear time-frame to do so.

The Court therefore held that the Italian authorities had failed to take the necessary measures to protect the applicants' right to private life against the environmental pollution caused by the Lo Uttaro landfill site, in violation of Article 8 (substantive aspect).

On the other hand, the Court held that there had been no violation of Article 8 of the Convention (procedural aspect) as regards an alleged failure to provide the applicants with information on the environmental pollution caused by the Lo Uttaro landfill site. That situation had to have been public knowledge, via the parliamentary inquiries held in 2007 and 2013, various orders issued by the mayors of Caserta and San Nicola La Strada and press releases published by the prosecuting authorities in the years 2013 to 2019.

Just satisfaction (Article 41)

The Court held that the finding of a violation constituted in itself sufficient just satisfaction for any non-pecuniary damage sustained by the applicants.

The judgment is available only in English.

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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.