



The Court declares inadmissible an application complaining of a lack of protection and information regarding the risks attached to a possible eruption of Vesuvius

In its decision in the case of [Viviani and Others v. Italy](#) (application no. 9713/13), the European Court of Human Rights has by a majority declared the application inadmissible. The decision is final.

The case concerned the risks attached to a potential eruption of Vesuvius and the measures taken by the authorities to combat those risks.

The applicants, who live in various municipalities located near the volcano, alleged that in omitting to put in place an appropriate regulatory and administrative framework to deal with the risks, the Government had failed in their obligation to protect the applicants' right to life under Article 2 of the European Convention on Human Rights. They also complained that the lack of adequate information on the risks they faced was in breach of their right to respect for their private and family life under Article 8 of the European Convention.

The Court noted that the applicants had had several domestic remedies available to them which they had not exhausted, in particular before the administrative courts or in the form of a class action. However, they had merely asserted that the remedies in question were ineffective.

The Court therefore declared the application inadmissible for failure to exhaust domestic remedies, in accordance with Article 35 § 1 of the Convention.

Principal facts

The applicants, Mr Viviani and 11 other Italian nationals, live in various municipalities located around Mount Vesuvius, an active but currently dormant volcano located near the city of Naples.

The history of Vesuvius has been marked by alternating periods of dormancy and eruptive activity, the most notable of which occurred in the year 79, resulting in the destruction of Pompeii. The most recent eruption was in 1944.

The applicants submitted numerous press and scientific articles stating that Vesuvius is certain to erupt in the future and that the consequences, as things stand at present, would undoubtedly be catastrophic. The so-called "red zone", that is, the area at greatest risk, is inhabited by 800,000 people. The applicants stated that no detailed security plan had been adopted to date indicating the evacuation routes in the event of an incident (eruption or earthquake). They also alleged that no information had been supplied on how to behave in an emergency and that no alarm system had been put in place, nor had any simulations been performed.

The Italian Government submitted detailed information on the adoption and updating of an emergency plan, and on all the measures taken at national and local level to combat the risks. These included a system for monitoring the volcano, a study and simulation carried out in 2005, and urban management measures.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 28 January 2013.

Relying on Article 2 (right to life), the applicants alleged that the Government had omitted to put in place a regulatory framework to protect their lives in the event of an eruption by Vesuvius or other incidents (such as an earthquake).

Under Article 8 (right to respect for private and family life), they also complained that there had been no information or awareness-raising campaign about the risks they faced and on recommended behaviour in the event of an eruption or other incident.

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

Päivi **Hirvelä** (Finland), *President*,
Guido **Raimondi** (Italy),
George **Nicolaou** (Cyprus),
Ledi **Bianku** (Albania),
Paul **Mahoney** (the United Kingdom),
Krzysztof **Wojtyczek** (Poland),
Faris **Vehabović** (Bosnia and Herzegovina), *Judges*,

and also Françoise **Elens-Passos**, *Section Registrar*.

Decision of the Court

The Court began by reiterating that, under Article 35 § 1 of the Convention, it could only deal with an application after domestic remedies had been exhausted. However, the only remedies which Article 35 § 1 required to be exhausted were those that related to the breaches alleged and at the same time were available and sufficient.

In the present case the Court observed that it had been open to the applicants to request the domestic authorities to apply the preventive measures which the applicants deemed necessary. If this had elicited no response, they could have brought proceedings in the administrative courts. Furthermore, under a decree and a law enacted in 2009, the applicants had also had the possibility of bringing a class action in order to assert their claims. However, they had merely stated in general terms that the remedies in question were ineffective.

The Court therefore declared the application inadmissible for failure to exhaust domestic remedies.

The decision is available only in French.

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Press contacts

echrpress@echr.coe.int | tel: +33 3 90 21 42 08

Denis Lambert (tel: + 33 3 90 21 41 09)

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Céline Menu-Lange (tel: + 33 3 90 21 58 77)

Nina Salomon (tel: + 33 3 90 21 49 79)

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.