



Cordella and Others v. Italy

ECHR 029 (2019)

Country:

Region: Europe

Year: 2019

Court: European Court of Human Rights

Facts

The applicants were 180 individuals who lived or have lived in the municipality of Taranto and the neighbouring areas, in Italy. They filed a case against Ilva's Taranto Plant (an industrial steelworks complex) (hereinafter "the factory") for serious ecological harm caused due to the harmful emissions from its plant which has impacted the health of the local population. A complaint was filed by the applicants before the ECHR against the state for a violation of Articles 2 (Right to Life), 8 (Right to Private Life) as well as on Articles 13(Right to an Effective Remedy) and 46 (binding force and execution of judgements).

Subsequently, the Council of Ministers ordered the Ministry of the Environment to draft a decontamination plan for cleaning the areas which have been classified as "high environmental risk". Pursuant to this, the government adopted the "Salva-Ilva" legislative decrees specifically concerning the activity of the factory, however, the deadline for the implementation of the same was extended to August 2023 in accordance with the decree passed by the president of the Council of Ministers.

A complaint was filed in the Administrative Court against the extension for implementation of the environmental measures citing environmental and public health concerns. They, in turn, sought for annulment and stay of execution of the decree. In addition to this, various criminal complaints were also brought against the management of the factory for the poisoning of food substances, failure to prevent accidents, degradation of public property, emission of pollutants and air pollution. The Court of Cassation found the factory responsible for air pollution, emission of particles and dumping of hazardous waste and 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. The court considered the application solely under Article 8, which provides for the Right to respect for one's private and family life of the Charter.

Decision and Reasoning

The Court took note of the submissions made by both the parties. Based on various scientific studies and reports it found the existence of a causal link between the emissions arising from Ilva's production activity and increased mortality from natural causes, tumors, and kidney and cardiovascular disease in the population of Taranto. It further found that the procedure put in place to remedy the situation was extremely slow as the measures recommended in order to reduce environmental impact were not introduced and the deadline for the implementation was extended to August 2023.

The court further noted that the national authorities' management of the environmental questions relating to the factory was in stalemate as the government had ensured the working of the factory despite reports of its environmental and health impact and had also granted administrative and criminal immunities for the compulsory administrator and future buyer of the company.

Pursuant to these findings, the court considered that there persists a situation of environmental pollution which poses a risk to the health of the applicants as well as the population living in the areas as they are not informed about the progress in the clean-up operation and the time frame for beginning the work. It held that the national authorities had failed to take appropriate measures to provide effective protection for the applicants' right to private life. Further, it held that the failure to balance between the applicants' interest in being subjected to environmental pollution and the interests of the society as a whole resulted in a violation of Article 8.

With respect to the complaint under Article 13, which gives the Right to an effective remedy, the court observed that the applicants had no effective remedy that enabled them to raise concerns with the national authorities so as to ensure decontamination of the affected areas. The court rejected the application under

Article 46 as it felt that the committee members acting under Article 46 had the duty to ensure enforcement of the judgment and in addition, ordered Italy to pay 5,000 euros in respect of costs and expenses in each application in accordance with just satisfaction principle enshrined under Article 41 of the convention.

Decision Excerpts

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. Page 4.

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 environmental pollution was essential and urgent. Page 4

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