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MINISTERS' DEPUTIES

Notes on the Agenda

CM/Notes/1398/H46-14

11 March 2021

**1398<sup>th</sup> meeting, 9-11 March 2021 (DH)**

Human rights

**H46-14 Cordella and Others v. Italy (Application No. 54414/13)**

Supervision of the execution of the European Court's judgments

Reference documents

DH-DD(2021)75, CM/Del/Dec(2020)1369/H46-13

Application	Case	Judgment of	Final on	Indicator for the classification
54414/13+	CORDELLA AND OTHERS	24/01/2019	24/06/2019	Complex problem

**Case description**

This case concerns the national authorities' failure to take the necessary measures to ensure the applicants' protection from the environmental pollution caused by the ex-ILVA steel plant in Taranto, and the lack of effective remedies enabling them to obtain measures that would secure the depollution of the areas concerned.

In addition to failing to ensure the depollution,<sup>[1]</sup> the government repeatedly intervened, through special legislative decrees, and ensured the steelworks' continued operation, despite domestic court decisions finding serious risks to human health and the environment (violations of Articles 8 and 13).

The Court highlighted that it would be for the Committee of Ministers to indicate to the respondent State the measures necessary for the execution of the judgment. However, it gave a specific indication under Article 46 that the authorities should implement as rapidly as possible the existing environmental plan setting out the necessary measures to secure environmental and health protection (§§ 181-182).

**Status of execution****A) Previous examination by the Committee of Ministers**

The Committee's first examination of this case took place in March 2020 (1369<sup>th</sup> meeting (DH)). It noted that the individual measures involving depollution of the site are linked to and dependent on the adoption of the general measures.

With regards to the general measures, it urged the authorities to secure the effective implementation of the environmental plan and invited them to provide updates on the results achieved, the timeline for the implementation of the remaining measures and the impact of the continuing operation of the steel plant on the environment, including on the quality of the air in Taranto, and the health of the local population. The Committee also invited the authorities to clarify whether those responsible for the implementation of the environmental plan still have criminal and administrative immunity.

As regards to the lack of an effective remedy to obtain the adoption of the measures required to ensure the depollution of the zones affected, the authorities were invited to rapidly provide information about the measures envisaged, legislative or other, to address the problem. The Committee requested that information on all outstanding questions be submitted no later than 30 June 2020 (for more details see CM/Del/Dec(2020)1369/H46-13).

**B) Developments since the Committee's last examination**

The authorities provided information on 18 January 2021 (DH-DD(2021)75). The Committee also received three communications from the applicants' representatives on 28 May 2020 (DH-DD(2020)471), 20 July 2020 (DH-DD(2020)634) and 26 October 2020 (DH-DD(2020)950) and one communication from an NGO (*Strali for Strategic Litigation*) on 26 January 2021 (DH-DD(2021)124) submitted pursuant to Rule 9 of the Rules of the Committee of Ministers.

The information provided and that available in the public domain can be summarised as follows.

Individual measures: The authorities explained that the delay in the payment of the sums awarded for costs and expenses is due to the fact that the applicants' lawyers have requested that these amounts be transferred directly to them (the lawyers) and are collecting the necessary authorisations.

General measures:

**1) Implementation of the environmental plan and current impact of the operation of the steel plant on human health and the environment**

It is recalled that the plan (approved by the government in 2017) to secure environmental and health protection to the local population, envisages a timeline for reaching pre-set decontamination targets and necessary interventions, which are to be completed by August 2023. For the most important work, however, completion is scheduled for 2021.

The authorities did not provide any information about the current state of implementation of the environmental plan or the impact on the health of local residents.

Information in the public domain indicates that in the first half of 2020, the deadlines for carrying out specific interventions envisaged by the plan were substantially met.<sup>[2]</sup> However, the COVID-19 pandemic and the related restrictions affected the timely adoption of certain measures,<sup>[3]</sup> some of which were postponed to 2021.<sup>[4]</sup>

With regards to the impact of the current operation of the steel plant on public health, the applicants' representatives indicated that in March 2020 the mayor of Taranto ordered the closure of the plant due to concerns related to the protection of public health. This decision was suspended until October 2020 by the Administrative Court of Lecce, which requested additional information before reaching a decision on the merits. The applicants' representatives further stressed that the postponement to 2021 of the closure of the conveyor belts used by the plant to transport iron and coal (one of the measures in the environmental plan) had prolonged the exposure of the local population to toxic air-borne substances. In this connection, they reported that in July 2020, strong winds dispersed a large amount of polluting dust from the plant over Taranto.<sup>[5]</sup>

## 2) Immunity granted to those responsible for the implementation of the environmental plan

On 30 April 2019, the authorities adopted Law Decree No. 34 which abolished the criminal and administrative immunity for those responsible for the implementation of the environmental plan, notably the extraordinary commissioner and the buyer of the steelworks, as regards conduct occurring after 6 September 2019.<sup>[6]</sup>

### 3) Lack of effective remedies

The authorities indicated that the domestic legal system provides for the possibility to initiate civil proceedings to seek compensation for damage caused by industrial pollution. They refer to a decision of the first instance court of Milan of February 2020, issued in the context of bankruptcy proceedings, which determined the right of two families living near the ex-ILVA steel plant to obtain compensation for the damage caused by pollution from it.

Strali for Strategic Litigation in its submission of 26 January 2021, contended that a purely compensatory remedy does not address the violation established in this judgment and reported that the Italian legal system does not provide for an effective remedy to obtain the adoption of the measures required to decontaminate areas affected by industrial pollution.<sup>[7]</sup>

#### Analysis by the Secretariat

Individual measures: The delay in the payment of the sums awarded for costs and expenses appears due to a specific request of the applicants' lawyers. The authorities could be invited to confirm the payment when completed.

#### General measures:

#### A) As regards the implementation of the environmental plan and the current impact of the operation of the plant on human health and the environment

The execution of this judgment, in terms of individual measures to protect the applicants and general measures to protect other local residents, requires the authorities to ensure that the current and future operation of the steel plant does not continue to cause risks to their health and the environment. As also indicated by the Court, the effective implementation of the environmental plan, which was developed by the authorities, as rapidly as possible, is an essential element in this respect (for more details see CM/Notes/1369/H46-13).

It is thus of concern that the authorities have not provided any information on this crucial issue in response to the last decision of the Committee. It is, nonetheless, reassuring that the information in the public domain appears to confirm that, although with some difficulties caused by the COVID-19 pandemic, the implementation of the environmental plan has advanced since the last examination of this case and the final date (August 2023) to complete all the interventions required remains so far unaffected.

However, due to the absence of updated and complete information, it is not possible to make an evaluation of the situation on the ground and in particular of the progress achieved in the implementation of the plan, the compliance with the timeline for executing the remaining interventions and the impact of the continuing operation of the steel plant on the environment and public health.

The Committee may therefore wish to call on the authorities to rapidly provide comprehensive and updated information on these questions, together with the most recent relevant findings of the competent health and environmental monitoring bodies. In this context, the authorities should also address the information provided by the applicants' representatives suggesting the continuing risk caused by air-borne particles from the plant.<sup>[8]</sup>

#### B) As regards the immunity granted to those responsible for the implementation of the environmental plan

The abrogation of the criminal and administrative immunity granted by law to those responsible for the implementation of the environmental plan is a positive development which responds to the Court's criticism (§ 169) and can be noted with satisfaction.

#### C) As regards the lack of effective remedies

The lack of an effective remedy to ensure that measures are taken to clean up areas affected by polluting industrial activities persists. This is cause for concern, as the domestic legal system remains ill-equipped to provide effective solutions to put an end to analogous violations.

The Committee may therefore wish to call on the authorities to rapidly fill this gap in the domestic legal system, including through the adoption of legislative measures, to secure an effective remedy capable of addressing the violation of Article 13 of the Convention found by the Court. To this end, the authorities could draw inspiration from Recommendation Rec(2004)6 of the Committee of Ministers to member States on the improvement of domestic remedies

Financing assured: YES

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- [1] The failure to adopt the necessary measures has led to the initiation of infringement proceedings by the European Commission against Italy ([http://europa.eu/rapid/press-release\\_IP-14-1151en.htm](http://europa.eu/rapid/press-release_IP-14-1151en.htm)).
- [2] Italian National Institute for Environmental Protection and Research, *Inspections at the ArcelorMittal Italia strategic steel plant of national interest in Taranto Year 2020 (first half of the year)*, available at: <https://www.isprambiente.gov.it/files2018/controlli-ambientali/relazione-ispra-controlli-stabilimento-arcelormittal-italia-2020.pdf>.
- [3] Permanent Observatory for the implementation of the Environmental Plan, transcript of the meeting held on 16 July 2020, available at: <https://osservatorioilva.minambiente.it/it>.
- [4] Decree of the Minister of the Environment No. 212 of 29 September 2020: <https://www.minambiente.it/comunicati/ex-ilva-approvato-decreto-proroga-ministero-ambiente-copertura-torri-e-nastri>
- [5] For more details see DH-DD(2020)471, DH-DD(2020)634 and DH-DD(2020)950.
- [6] Law Decree No. 34 of 30 April 2019, transformed into Law No. 58 on 28 June 2019.
- [7] For more details see DH-DD(2021)124.
- [8] It is recalled that the Committee had previously received diverging information with regard to the quality of the air in Taranto (for more details see CM/Notes/1369/H46-13).

#### Related documents

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