EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Legal summary

January 2025

Cannavacciuolo and Others v. Italy - 39742/14, 51567/14, 74208/14 et al.

Judgment 30.1.2025 [Section I]

Article 2

Positive obligations

Article 2-1

Life

Failure to diligently deal with systematic, decade-long, widespread and large-scale pollution phenomenon in the Campania region ("*Terra dei Fuochi"*) and to take all steps required to protect the applicants' lives: *violation*

Article 34

Locus standi

Victim

Victim status of individual applicants and standing (*locus standi*) of applicant associations to act on behalf of their members in respect of dangers to health stemming from exposure to the *Terra dei Fuochi* pollution: *inadmissible in respect of applicant associations and individual applicants not living in the officially listed affected municipalities*

Article 46

General measures (pilot judgment)

Respondent State to take general measures to address the *Terra dei Fuochi* pollution problem within two years from the judgment's finality

Facts – The applicants are five associations based in Campania and 41 individual applicants who live in Caserta or Naples provinces in Campania. Terra dei Fuochi ("Land of Fires") refers to an area of 90 municipalities in those provinces with a population of around 2.9 million. It describes the effects of the illegal dumping, burying and/or uncontrolled abandonment of hazardous, special and urban waste on private land, often carried out by criminal organised groups, frequently combined with its incineration, which had taken place there. Inter-ministerial directives have delimited these municipalities as being affected by this pollution phenomenon.

A total of seven parliamentary commissions of inquiry were set up between 1995 and 2018 to investigate waste management and related illegal activities in Italy. As early as 1996 concerns were expressed by them about illegal dumping and burying hazardous waste in parts of Campania since 1988 and the increase in cancer rates in the area. The commissions made findings as to the illegal dumping sites and the illegal methods of disposal controlled by organised criminal groups and highlighted the legal issues around dealing with the pollution, including deterrence being "practically non-existent", a lack of "necessary firmness" in the State response and the near impossibility to secure convictions for environmental crimes. They were also critical of the clean-up plans and the long delays in taking action.

The applicants complained, in particular, that despite the fact that the domestic authorities had been aware of the problem for a significant period, they had not taken measures to protect them from the illegal dumping, burying and burning of hazardous waste in their areas and had failed to provide them with information in that regard.

Law – Articles 2 and 8:

(1) *Admissibility* –

(a) *Victim Status/Locus Standi* –

(i) *Applicant associations* – As the infringement alleged in the present case under Article 8 essentially overlapped with the one complained of under Article 2 and stemmed from a danger to health on account of exposure to a pollution phenomenon, which could only affect natural persons, the Court held that the applicant associations had not been "directly affected" by the alleged violations.

The Court reiterated that where an applicant association relied exclusively on the individual rights of its members without showing it had itself been substantially affected in any way, it could not be granted victim status under a substantive provision of the Convention.

Nor was the Court persuaded that any of the applicant associations' members, founders and administrators who resided in the municipalities officially listed as affected by the *Terra dei Fuochi* phenomenon and had been directly affected by the situation at issue, had been exempt from the obligation to lodge an application with the Court themselves. It had not been argued that individual members had suffered from a vulnerability which had prevented them from doing so or had otherwise been unable to do so. Indeed, a number of physical persons residing in such municipalities had lodged complaints with the Court in their own name in the present case.

In *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland [GC],* the recognition of standing of associations to lodge an application under Article 34 of the Convention as representatives of the individuals whose rights were or would allegedly be affected had been justified by "specific considerations relating to climate change" and "the special feature of climate change as a common concern of humankind and the necessity of promoting intergenerational burden-sharing in this context" and limited to "this specific context". In the present case, which was not concerned with climate change, the Court could not discern any other "special considerations" which would lead it to grant standing to the applicant associations to act on behalf of their members, the alleged direct victims, without a specific authority to do so.

Conclusion: complaints inadmissible (incompatible *ratione personae*).

(ii) *Individual applicants* – The Court found that it did not have sufficient evidence at its disposal to conclude that applicants nos. 9, 14, 26, 27, 28, 30, 31, 32, and 33 lived, or that their relatives had lived, in areas affected by the pollution phenomenon at issue.

Conclusion: complaints inadmissible (incompatible *ratione personae*).

(iii) *Non-exhaustion of domestic remedies* – The Court found that none of the remedies put forward by the Government could address the applicants' grievances or provide them with appropriate redress.

Conclusion: preliminary objection dismissed.

(iv) *Six-month time-limit* – Two of the applicants (nos. 11 and 34) no longer resided in the identified *Terra dei fuochi* municipalities at the time of the lodging of their applications. Six of the applicants (nos. 6, 8, 13, 20, 22, 23, and 29) had lodged their applications as indirect victims, on behalf of family members who had died before the applications had been lodged. Given that there had been no effective remedies to exhaust, the six-month period in those cases ran from the moment the applicants had become aware of the effects of the situation complained of on them or, in the case of the indirect victims, on their relatives. In the circumstances of the present case, that point was when they had become sufficiently aware that they or their relatives had been exposed to a risk to their lives and health because of the pollution phenomenon in question. On the specific facts, the Court identified the end of 2013 as that relevant point in time and thus determined that the 31st of December 2013 was the starting point for calculating the six-month time-limit in relation to the applicants concerned. However, all those applicants had not filed their applications within six months from that date or, where a relative had died after that date, from the date of the relative's death.

Conclusion: preliminary objection upheld; complaints inadmissible.

Article 2:

(2) *Merits* (applicants nos. 5, 7, 10, 12, 21, 24, and 25) –

(a) *Whether the authorities were under an obligation to protect the applicants' lives* – The present case differed from environmental cases that concerned a single, identified, circumscribed source of pollution or activity causing it, and a more or less limited geographical or the exposure to a particular substance which was released by a clearly identifiable source. The Court was rather confronted with a particularly complex and widespread form of pollution occurring primarily, but not exclusively, on private land which was characterised by a multiplicity of sources of pollution which were very different as to their type, their geographical extension, the pollutants released, the ways in which individuals came into contact with them, and their environmental impact. Moreover, unlike the majority of cases examined by the Court, the present case did not concern dangerous activities, such as industrial activities, carried out against the backdrop of an existing regulatory framework, but activities carried out by private parties, namely organised criminal groups, as well as by industry, businesses and individuals, beyond the bounds of any form of legality or legal regulation.

There was no doubt that the illegal and therefore completely unregulated dumping, often accompanied by incineration, and burying of hazardous waste in issue were inherently dangerous activities which might pose a risk to human life. The seriousness of the potential harm for human health stemming from such activities, which affected all environmental elements such as soil, water, and air, appeared to be undisputed by the parties. Nor did it appear that the Government contested that exposure to toxic substances, such as those released into the environment as a result of the pollution phenomenon under scrutiny, and which included known carcinogens such as dioxins and

heavy metals, entailed a risk to life and health. Rather, the Government had focused on the lack of a scientifically proven causal relationship between exposure to the pollution at issue and the onset of a specific disease with respect to individual applicants or their deceased relatives.

Based on all the evidence before it and bearing in mind the nature of the pollution phenomenon at issue and the conduct giving rise to it, the Court accepted the existence of a "sufficiently serious, genuine and ascertainable" risk to life to engage Article 2 and trigger a duty to act on the authorities' part. That risk might be considered "imminent" in the terms established by the Court's case-law given the applicants' residence, over a considerable period, in the municipalities officially identified as being affected by the decade-long and ongoing pollution phenomenon at issue. Consequently, it was neither necessary nor appropriate to require the applicants to demonstrate a proven link between the exposure to an identifiable type of pollution or even harmful substance and the onset of a specific life-threatening illness or death as a result of it.

Furthermore, given that the general risk had been known for a long time, in line with a precautionary approach, the fact that there was no scientific certainty about the precise effects the pollution might have had on the health of a particular applicant could not negate the existence of a protective duty, of which one of the most important aspects was the need to investigate, identify and assess the nature and level of the risk. To find otherwise in the specific circumstances would render the protection of Article 2 ineffective.

Article 2 was thus applicable and as such the domestic authorities had been required to take all appropriate steps to safeguard the lives of the remaining applicants residing in the officially listed affected municipalities.

(b) *Whether the authorities took measures which were adequate under the circumstances* – The authorities had been, first and foremost, under a duty to undertake a comprehensive assessment of the pollution phenomenon at issue, namely by identifying the affected areas and the nature and extent of the contamination in question, and then to take action to manage any risk revealed. Secondly, they had to investigate the impact of that phenomenon on the health of individuals living in areas affected by it. Thirdly, the authorities could have reasonably been expected to take action to combat the conduct giving rise to the pollution phenomenon. Fourthly, they had been under an obligation to provide individuals living in areas affected by the pollution phenomenon with timely information enabling them to assess risks to their health and lives.

The domestic authorities, in their choice of specific practical measures to comply with their obligations, enjoyed a wide latitude, also in light of the complex operational choices they had to make in terms of priorities and resources. That was even more so considering the exceptional degree of complexity of the pollution phenomenon in question. Nonetheless, the Court had to assess whether the authorities had approached the problem with the required diligence given the nature and seriousness of the threat at issue. In that respect, the timeliness of their response acquired primordial importance. In addition, the nature and seriousness of the threat required a systematic, coordinated, and comprehensive response on the part of the authorities.

(i) *Measures to identify polluted areas and verify the levels of air, soil and water pollution* – There was insufficient evidence of a systematic approach to identifying the affected areas and the pollutants released as a result of the *Terra dei Fuochi* phenomenon prior to the enactment of Decree-Law no. 136 in December 2013 (later converted into Law no. 6 of 2014) which had introduced urgent measures to deal with environmental emergencies. That was despite the authorities' knowledge of all the significant aspects of the problem for almost two decades (of at least certain significant

aspects since the early 1990s, and about the phenomenon in its entirety at least from the early 2000s). Furthermore, although the Court acknowledged the importance of Decree-Law no. 136, including the important efforts concerning its implementation via testing activities, and was mindful that complex environmental assessment activities such as those at issue might entail lengthy processes, the above instrument had been issued in an untimely manner. Moreover, eight years after its enactment, no assessment had yet been conducted for certain identified plots of land and progress had been slow on others. Consequently, it could not be said that the authorities had acted with the required diligence.

Decree-Law no. 136 focused exclusively on land used for agriculture and water used for agricultural irrigation purposes. On the basis of the case file, the Court could not determine the measures taken or envisaged for ascertaining soil and water contamination falling outside that instrument's scope and the scale of air pollution in the so-called *Terra dei Fuochi* area.

Overall, there was no evidence of a systematic, coordinated and comprehensive response on the part of the authorities as regards measures taken to identify the areas affected by the pollution phenomenon at issue and to ascertain the nature and extent of contamination falling outside the scope of Decree-Law no. 136.

Lastly, according to the documents in the case-file dating from 2018 to 2021, the pollution phenomenon did not seem to have ended, in that illegal waste disposal sites continued to be discovered, and illegal incineration continued to be reported. Against such a background, measures to ensure periodic updating of the situation in the affected areas were especially significant but the Government had not provided information on that point despite being invited to do so.

(ii) *Measures to manage risks* – Overall, based on the information submitted to it, the Court noted that it was difficult to obtain a clear sense of the decontamination efforts envisaged in the affected municipalities, particularly with regard to the resulting pollution, and the tangible steps taken to implement them. Even the sixth parliamentary commission of inquiry set up by the State itself had been unable to gather a complete picture, and could not obtain updated and sufficiently extensive data; that disclosed a cause for concern in and of itself.

It transpired however that the overall progress in decontamination efforts was slow, with many of the actions involving only preliminary steps taken recently, namely in 2017 and 2019. The decontamination efforts at various levels (municipal, regional and national) also appeared to be characterised by delays and it was not clear if and in what manner those efforts had been interrelated and/or coordinated. The Court was also unable to gather a sense of how the areas that had not yet been decontaminated or where hurdles to decontamination existed were to be 'rendered safe'.

(iii) *Measures to investigate health impacts* – The Government submitted that a large number of actions had been taken to investigate the health impacts on the individuals residing in the *Terra dei Fuochi* area, in particular in the sphere of cancer screening and care pathways. However, most of these measures had been taken after 2013. Moreover, the Court found it striking that the first attempt at a coordinated, systematic and comprehensive approach to monitoring the health and ensuring epidemiological surveillance of the population living in the area affected by the pollution phenomenon at issue was put forward almost two decades later, with the enactment of Law no. 6 of 2014. In addition, the so-called "health-related provisions" of that law were only implemented in 2016. The Court was thus not persuaded that the authorities had acted with the required diligence in their investigation of the health-related impact of the pollution phenomenon at issue.

(iv) *Measures to combat the illegal dumping, burying and incineration of waste* – The Court reiterated that the pollution phenomenon at issue stemmed from the dumping, burying and incineration of waste by organised criminal groups as well as by industry, businesses and individuals who operated outside the bounds of any lawful conduct. The Court thus looked at the measures taken by the Government to prevent and deter such conduct.

(α) *Monitoring of the territory by law-enforcement bodies* – The Court recognised the importance of the creation of the Delegated Official post in 2012 in order to ensure a degree of coordination between law-enforcement bodies and the different institutional actors involved in contrasting illegal waste-disposal practices, in particular as regards monitoring and control of the territory and providing concrete data on actions taken to combat such conduct. However, when that post had been created, the authorities had already known about the conduct giving rise to the pollution phenomenon, in all of its components, for almost a decade, if not longer. Similarly, while the Court welcomed the effort to streamline monitoring efforts under the 2016 "Action Plan" aimed at strengthening actions to prevent and put an end to illegal dumping and incineration of waste and to counter the harmful consequences of such conduct, it questioned the timeliness of this action, even more so when viewed against the subsequent need to introduce a revised action plan in 2018, including fresh measures to step up such efforts. In that connection, the Court noted firstly, that the document's Preamble appeared to suggest that, even in 2018, it was still considered necessary, first to identify, and, secondly, to coordinate the responsibilities of the different entities involved in combating illegal incineration practices; secondly, that the 2018 strategy appeared to have shifted the primary focus to one specific aspect of the phenomenon, namely, illegal incineration; thirdly, based on the case-file it was difficult to gain a sense of whether, and in what way, the measures envisaged in the Action Plan were interrelated or coordinated with the other existing efforts being carried out by other institutional actors involved in addressing the *Terra dei Fuochi* problem.

(β) *Criminal investigations and judicial proceedings* – Without carrying out an assessment *in abstracto* of the relevant legal framework, the Court found that, against the background of the concerns voiced by the parliamentary commissions of inquiry, doubts emerged as to its effectiveness in preventing environmental crimes, including those stemming from the conduct at issue in the present case, at least until the enactment of Law no. 68 in 2015 which established specific serious offences to combat trafficking and illegal dumping of waste . Moreover, until 2015, the legislative response appeared to have been not only unconvincing in terms of its effectiveness, but also slow and piecemeal, with individual serious offences created over time but without any attempt to revisit, in a holistic manner, the deficiencies in the criminal-law system identified by the Italian Parliament's own commissions.

Furthermore, it was not possible, from the information in the case file, to have a clear or comprehensive picture of the criminal investigations conducted in relation to the dumping, burying, and incineration of waste in the *Terra dei Fuochi* area, and their outcome. The Government had not provided an overview of them but had focused on seven examples of criminal proceedings. Four of those cases did not constitute evidence of the effective prosecution of criminal offences stemming from the illegal conduct at issue in the present case and relating to the pollution phenomenon at stake. Although in the remaining three cases individuals had been convicted of criminal offences in connection with the illegal disposal of large quantities of hazardous waste in municipalities included in the *Terra dei Fuochi* area and thus provided evidence of effective prosecutions, such a small number of proceedings were not enough to satisfy the Court that the State had taken the necessary measures to protect the residents of that area.

(γ) *Measures in connection with waste cycle management* – While the present case did not directly concern the so-called "waste crisis" in Campania per se, or the failure of the Italian authorities to ensure waste collection, treatment and disposal in the region, it transpired from the shortcomings in the waste collection, treatment and disposal system were contributing factor to the *Terra dei Fuochi* phenomenon. In that connection, the Court pointed out that for many years after a state of emergency was declared in Campania in the mid-1990s in connection with the so-called "waste crisis", and at least up until 2019, the Italian authorities appeared to have been rather slow to address the shortcomings affecting the Campania Region's waste collection, treatment and disposal system.

(δ) *Measures in connection with the provision of information* – The Court was not persuaded that the authorities' response in terms of gathering information on the nature and extent of the pollution phenomenon at issue had been sufficiently systematic, comprehensive and coordinated, in particular as regards efforts transcending the assessment of agricultural land under Decree-Law no. 136. That reflected negatively on the authorities' ability to provide individuals living in areas affected by the pollution phenomenon with the necessary available information to enable them to assess the risks to their lives and health.

The Court noted that a pollution phenomenon of such magnitude, complexity, and seriousness required, as a response on the authorities' part, a comprehensive and accessible communication strategy, in order to inform the public proactively about the potential or actual health risks, and about the action being taken to manage those risks. This however had not happened.

(c) *Overall Conclusion* – In the light of the foregoing, the Court found that the Government had not established that the Italian authorities had approached the *Terra dei Fuochi* problem with the diligence warranted by the seriousness of the situation and had failed to demonstrate that the Italian State had done all that could have been required of it to protect the applicants' lives. Given the nature of the pollution problem at issue and the type of risks concerned, the Court emphasised that the delay by the domestic authorities in taking action was unacceptable. The Government's objection as to the victim status of the remaining applicants on account of the absence of a proven causal link between the alleged breaches of the Convention and the harm they suffered, which was joined to the merits, was therefore dismissed.

Conclusion: violation (unanimously).

Article 8:

Given its findings under Article 2 and that the applicant's arguments under Article 8 had been essentially the same as those made in respect of their complaint under Article 2, the Court held, (six votes one), that there was no need to examine this complaint separately.

Article 46: Considering the persistent nature of the *Terra dei Fuochi* pollution problem and the systemic shortcomings that characterised the State's response to it, coupled with the large number of people it had affected and was capable of affecting, as well as the urgent need to grant them speedy and appropriate redress, the Court considered it appropriate to apply the pilot-judgment procedure.

It gave detailed indications as to general measures to be taken in respect of the systemic problem:

– Firstly, the State authorities had to build on their existing efforts, with a view to developing, in proper consultation with relevant local, regional, and/or national

stakeholders (including representatives of civil society and relevant associations), a comprehensive strategy bringing together all existing or envisaged measures, at every level of the State apparatus, to address the pollution phenomenon. That included all measures aimed at identifying the areas affected by illegal waste disposal practices and assessing the nature and extent of their contamination (soil, water and air); managing any risk revealed; investigating the health impacts of the pollution phenomenon and combating the conduct giving rise to it. Any such strategy had to contain clear time-frames for implementation in the short, medium and long term and the identification, in principle, of the resources required and their allocation to the relevant State actors.

– Secondly, the State authorities should establish an independent mechanism for monitoring the implementation and impact of the measures introduced under any comprehensive strategy on the *Terra dei Fuochi* problem and for assessing compliance with the time-frames set out therein. Adequate safeguards had to be put in place to guarantee the independence of the mechanism and its findings had to be publicly available.

– Thirdly, the State should establish a single, public information platform drawing together, in an accessible and structured manner, all relevant information concerning the *Terra dei Fuochi* problem and the measures taken or envisaged to address it, with information on their implementation status, and make arrangements for its regular updating.

All the above measures had to be implemented within a time-limit of two years from the date on which the current judgment became final. The Court further decided to adjourn the examination of similar applications of which the Government had not yet been given notice during that period.

Article 41: claim in respect of non-pecuniary damage reserved *for the above two-year period.*

The Court also struck out of its list of cases the application lodged by applicants nos. 1-4 for lack of intention to pursue.

(See *Öneryıldız v. Turkey* [GC], 48939/99, 30 November 2004, Legal Summary; *Yusufeli İlçesini Güzelleştirme Yaşatma Kültür Varlıklarını Koruma Derneği v. Turkey* (dec.), 37857/14, 20 January 2022; *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 53600/20, 9 April 2024, Legal Summary)
