A DIFFICULT BALANCE OF INTERESTS: the ILVA case reaches the European Court of Human Rights

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Abstract: The present work covers, in an international key, the legal affair that regarded the ILVA factory of Taranto. The script is divided in two parts: the first one addresses the recent verdict of the European Court of Human Rights that condemned the Italian Republic on the matter; the second one instead focuses on the sensitive issue concerning the possibility of recognizing, on the international level, the existence of a right to an healthy environment, underlying the strengths (and the weaknesses) of such eventuality.

Sintesi: *Il presente contributo ripercorre, in chiave internazionale, la vicenda giuridica che ha riguardato lo stabilimento ILVA di Taranto. Lo scritto si snoda attraverso due direttrici: la prima affronta la recente sentenza di condanna della Corte Europea dei Diritti dell'Uomo intervenuta nei confronti dell'Italia in merito alla questione oggetto della vicenda; la seconda si incentra sulla delicata questione concernente la possibilità di riconoscere, a livello internazionale, l'esistenza di un diritto ad un ambiente salubre, sottolineando i pregi (ma anche i difetti) di una simile evenienza.*

1. Introductory remarks.

A bit more than one year ago the European Court of Human Rights (ECtHR) pronounced itself on a dispute that, both for its duration and for the interests involved, will surely have a "historical" resonance[1].

Namely, the verdict acquires importance since it inserts itself in the sensitive topic of which is the degree of decisional discretion of a State in the cases in which it has to balance different interests, such as the ones of individuals and the ones of the community.

The case stemmed from two applications (which have later been unified before the Court) promoted by 180 people regarding the effects, both on the environment and on the health of the people living and working on the interested area, of the emissions released in the air by the industrial complex of the Ilva of Taranto.

Furthermore, the applicants complained about the inability of the Italian Republic to efficiently tackle the mentioned problem, for instance through the issuance of legal measures which could give a real protection to the rights contemplated in the articles 2 (right to life) and 8 (right to respect for private and family life, home and correspondence) of the European Convention on Human Rights (ECHR).

As already referred, the sensitivity of this issue emerges from the need to balance two opposite interests: on the one hand, the economic progress and the business venture of entrepreneurs that, for different reasons, decide to undertake their activity in the European Union territory; on the other hand, the human well-being as well as the environmental protection from those behaviors which can endanger both of these aspects.

2. A glimpse to the historical context of the dispute.

In order to successfully understand the problem examined, it appears useful to quickly draft the historical context in which the decision that will later be addressed places itself. The Ironworks Complex of Ilva is located in the municipality of Taranto, in the region of Puglia (south of Italy) and it represents the largest factory involved in processing iron in the entire European Union[2].

However, in spite of the benefits, in economic terms, that such plant can provide to the Italian Republic, it is now uncontested the fact that it is also the main source of the diseases that have been witnessed in the surroundings of that area.

Several studies had been conducted in order to prove such negative effects both on the health of those who worked/lived in that territory and on the environment. The emissions have indeed started in the second half of the XX century, creating what has

1 European Court of Human Rights, Case of Cordella and others v. Italy, Application no. 54414/13 e 54264/15, Judgment of 24 January 2019.

2 It extends itself for 1500 hectares and it counts more than eleven thousands workers.

been called a "*cumulative pollution*", which is still, nowadays, ongoing.[3] However, the first report which actually paid attention to such a dangerous situation dates back to 1997; in that year the World Health Organization, European Centre for Environment and Health (WHO/ECEH) published its studies in which it was highlighted a high risk for the health of the inhabitants of the area surrounding Ilva due to a relevant danger of environmental crisis affecting the territory.

The same institution, few years later (2002), conducted a research which results again emphasized the previous ones: the inhabitants of the interested area were more exposed to early death if compared to people living further from the Ironworks.

In addition, several years later (in 2007) a study conducted by the regional Agency for the prevention and protection of the environment (ARPA) ascertained an increase of cancer diseases in the population of the municipality of Taranto[4].

The same point has also been reached by other inquiries conducted from 2012[5], which in particular asserted how mortality percentage was higher for those who lived in that area and, also, how tumor diseases significantly raised in the mentioned territory. Some of the research conducted even concluded that a diminishing of polluting elements in the concentration of air would certainly lead to an immediate revenue for human health[6]. However, the cited studies did not constitute a "bolt from the blue" for the Italian Republic, on the grounds that, since 1990, the Italian Council of Ministers declared the territory of Taranto to be under an high risk of environmental crisis, requiring at the same time to the Environmental Minister to develop an operative plan which could put a break to the worsening of the conditions in that particular area.[7]

At a distance of many years from such resolution, the Italian government adopted many instruments (both of administrative and legislative matrix) which intended to "save" Ilva complex and its activities.[8]

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3 Donato Vozza, "Oltre la giustizia penale: la Corte EDU condanna lo Stato italiano nel caso dell'Ilva di Taranto per violazione del diritto al rispetto della vita privata e del diritto ad un ricorso effettivo", *Rivista Italiana di Medicina Legale (e del diritto in campo sanitario)*, 2/2019, 707.

4 For an exhaustive analysis on the studies perpetrated, consult *http://www.salute.gov.it/imgs/C_17_pubblicazioni_1833_allegato.pdf* ;

5 P. Comba - R. Pirastu - S. Conti - M. De Santis - I. Iavarone - G. Marsili - A. Mincuzzi - G. Minelli - V. Manno - S. Minerba - L. Musmeci - I. Rashid - E. Soggiu - A. Zona, "Ambiente e salute a Taranto: studi epidemiologici e indicazioni di sanità pubblica", *Epidemiol. Prev*., 36(6), 2012, pp. 305 ss.
The same commission has later implemented several other studies on the same issue, which have been following the first one until 2014.

6 Gruppo di lavoro per la conduzione di studi di epidemiologia analitica. Aree di Taranto e Brindisi, Studio di coorte sugli effetti delle esposizioni ambientali occupazionali sulla morbosità e mortalità della popolazione. Rapporto conclusivo, Agosto 2016.

7 Deliberazione del Consiglio dei Ministri, 30 November 1990, par. 32, repeated with Deliberazione del Consiglio dei Ministri, 11 giugno 1997.

8 Among the different piece of legislation adopted, it is possible to cite: D.L. 3 December 2012, n. 207, *Official Journal of the Italian Republic n. 282*, 3 December 2012; D.L. 10 December 2013, n. 136, *Official Journal of the Italian Republic n. 289*, 10 December 2013; D.L. 5 January 2015, n. 1, *Official Journal of the Italian Republic n. 3*, 5 January 2015.

Lastly, one of the most recent measures adopted by the Government [9] aimed at further prolonging, until august 2023, the maximum term provided for the implementation of the measures contained in the environmental plan. Such governmental act was challenged before both the regional administrative Tribunal and the Constitutional Court, but the case is still pending. Besides, several criminal proceedings were started against the personnel in charge of the Ilva on the charge, among the others allegations, to have caused an environmental disaster.

On this issue also the European Court of Justice released in the previous years a verdict that declared how Italy failed to fulfill its duties concerning the emissions in the atmosphere of polluting elements[10]. However, the real "lamp-wick" that triggered the proceedings before the ECJ which eventually ended in the verdict in this seminar paper analyzed, emerged within an infringement procedure initiated by the European Commission against Italy[11]. Namely, in this occasion the Commission released a reasoned opinion in which it asked Italy to improve the living conditions in the area surrounding the ironworks through the reduction of polluting emissions coming from the already mentioned plant[12].

In light of Italy's failure to comply with this final invitation to put an end to such an unsustainable situation, 180 people conveyed their complaints and brought the issue before the ECtHR.

3) The Court's preliminary specifications.

The Court began its reasoning by pointing out that the mechanism of protection before its jurisdiction does neither allow an *actio popularis* nor it contemplates a general safeguard for the environment; in light of this clarification it did not recognize the status of victims to 19 applicants who were not living nearby Ilva[13]. As specified in the beginning of the present work, the remaining applicants complained about the violation of art. 2, 8 and 13 of the Convention.

The ECtHR, before facing the real core of the issue, had to deal with some preliminary objections, which were solved according to a constant interpretation of the judging body. In particular, on the one hand it found inconsistent the legal

9 DPCM, 29 settembre 2017, art. 2, par. 2.

10 Case 50/10, European Commission v Republic of Austria, Judgment of the Court of 31 March 2011, ECLI:EU:C:2011:200;

11 Infringement procedure n. 2013/2177. For a deeper analysis on the reasons of the mentioned procedure, see: *https://www.camera.it/_dati/leg17/lavori/documentiparlamentari/indiceetesti/073/009_RS/00000005.pdf*, 4 June 2020.

12 Reasoned opinion of the Commission ex art. 258 TEUF, 16 October 2014.

13 European Court of Human Rights, Case of Cordella and others v. Italy, cit., par. 102. In particular the Court, citing one of its most relevant precedents on the topic, reminds that, in order for an applicant to defend its rights provided by the Convention against environmental damages, he has to provide evidence of negative effects for his private or family life, and not just assert that an environmental disaster has occurred. The key point then lays in the link between environment and human's rights.
For a further analysis, see: European Court of Human Rights, Case of Fadeyeva v. Russia, Application no. 55723/00, Judgment of 9 June 2005.

exceptions of the Italian government regarding the violation of art. 35, par. 1 of the Convention; on the other hand, the Court did not consider as expired the term of six months for the applicants to present their application.

With regard to the first aspect indeed, the ECtHR reminds that the content of art. 35 aims at ensuring a subsidiary protection to those who are alleging a violation of their rights accorded by the Convention; this means that the claimant has first to take advantage of the instruments provided by its belonging State in order to find the yearned protection. However, those latter instruments must be usable, both in abstract and in practice. In the case at hand, even if different proceedings had been started on the national level, there was not a real tool that could allow the people living nearby the Ironworks to actually obtain the cessation of the emissions: what they could only do was to solicit the environmental ministry, the only one invested with the power to ask and obtain the compensation for ecological damages, to take an action in this regard and bring the case before the Court. In any case, according to the ECtHR this could not represent an "effective remedy" in the sense implied by the Convention, and therefore the applicants had not a real instrument to enforce their right, except for presenting their allegations before the ECtHR, which they actually did.

With regard to the six-months period within the applicants needed to submit their application, the Court - with a predictable reasoning - asserted that, in the case of a persisting violation of the Convention, the term starts counting from the moment in which the negative effects of the violation have expired[14]. Since the violations were still being perpetrated, the term had not expired yet.

4. The violation of art. 8 of the Convention and the "duty to inform" weighing upon the State.

The Court then focused on the first part of the allegations, which concerned the occurred violation of art. 2 and 8 of the Convention. Specifically, the Court considered the two complaints to be confused among themselves, and opted to deal only with the violation of the right to respect for private and family life, home and correspondence. However, already from this last consideration some critical remarks can be drawn. Namely, it is neither clear nor inferable in the motivation the reason of such stance. The choice to differently classificate the violations would have had several consequences, both for the States - in terms of limitations in disciplining dangerous activities - and for the victims - in terms of compensation for damages.

Not even the fact that the people exposed to pollution had not, at first, developed deadly pathologies could apparently justify the choice to subsume the facts of the dispute under art. 8 ECHR. In this sense, scholars asserted that art. 2 ECHR could have founded the applicants demands in the case the "danger of death could have

14 European Court of Human Rights, Case of Cordella and others v. Italy, cit., par. 130. In particular the Court believed that, since the violation is still occurring, the term of six months has not begun yet.

been demonstrated *aliunde*"[15]. However, it is to be specified how it is not always easy to distinguish between the two mentioned dispositions; depending on the issue, the legal interests protected by art. 2 and art. 8 ECHR tend to get confused. The main criterion then that the ECtHR adopts in order to draw a separation line among the two types refers to the effects of the denounced conducts on human health. The functioning of art. 2 ECHR becomes active in the case in which the applicants are either dead or seriously ill because of the violation denounced. According to this *discrimen*, it follows that the European Court of Human Rights subordinates the application of art. 2 of the Convention to wider and stricter inquiries; in the case such higher pre-requisites are not fully reached, the Court will apply art. 8, according to the principle of subsidiarity that governs the relation among the two dispositions.

A further confirmation in this sense can be drawn from another precedent ruling of the ECtHR[16], in which it was stated that health damages do not constitute prerequisites in order to assume the violation of art. 8. Namely, it is often implied in the environmental damage: "the environment is not an abstraction but represents the living space, the quality of life and the very health of human beings, including generations unborn"[17]. If the living space of human beings is in danger, then it is most likely to have occurred a prejudice also for those who live in that risky area. Besides, as it has been pointed out by some scholars[18], the Court could have taken the opportunity to better draft the boundaries of the two cases in point. The choice not to do so then could be reconnected to its will not to "bind itself" and thus keep its discretion margin in the analysis of the concrete cases. From the substantial point of view, the Court asserted the occurred violation of art. 8 of the Convention, underlining the difference between the proceeding at hand and a previous case[19].

In particular, art. 8 of the Convention assigns to each State both positive and negative duties. The latter ones deal with the various obligations, existing upon each State, which forbid to it to arbitrarily intervene in the private and family life of its inhabitants. Referring to the positive obligations instead, the mentioned disposition implies that the government has to adopt reasonable and appropriate measures in order to protect individuals' rights.

15 S. Zirulia, Ambiente e diritti umani nella sentenza della Corte di Strasburgo sul caso Ilva, in Dir. pen. cont., 2019, 3, pp. 135 ss.

16 European Court of Human Rights, Case of Lopez Ostra v. Spain, Application no. 16798/90, Judgment of 9 December 1994, par. 51.

17 Parere della Corte Internazionale di Giustizia sulla Liceità della minaccia o dell'uso delle armi nucleari, 8 July 1996, ICJ Reports (1996) 226, par. 29.

18 Camilla Romeo, Andrea Valentino Salamino, "Bilanciamento tra tutela della salute e sviluppo economico: il caso Ilva", *Giurisprudenza Italiana*, 10/2019, 2228.

19 European Court of Human Rights, Case of Smaltini v. Italy, Application no. 43961/09 e 54264/15, Judgment of 24 March 2015. In particular, in this trial - which regarded as well the assessment of the link between the polluting emission flowing out from ILVA and the pathology of the applicant -, the Court did not censor the national verdicts which negatively responded to the issue, on the basis that, at the time of the facts, not enough research had been produced in order to establish whether such a linkage could exist.

Therefore, not only Italy should not have negatively affected the basic rights inherent to human beings, but it had also to positively implement those actions that could neutralize any possible prejudice.

In the present case however, the ongoing bad effects of the emissions endangered the rights of the citizens of the area involved. In addition, the government did not provide the local inhabitants with a sufficient information regarding, at first, the recovery plan for the surrounding territories and, subsequently, the reasons for the delays in its implementation[20].

Specifically, such obligation for the public authorities to inform citizens about the potential risks of certain activities on their surrounding environment represents a form of preventive protection, which finds its roots also in another provision of the Convention (art. 10)[21]. The care reserved by the Court to such aspect is justified in light of its function: it represents a sort of precondition for the protection of other rights encompassed in the Convention. Actually, rather than constituting an autonomous violation *ex* art. 10 of the Convention, it is now interpreted as a procedural aspect of other dispositions, such as art. 8.

Therefore, in light of the above mentioned considerations, the Court declared the occurred violation of the latter article of the Convention that has been mentioned for not having Italy adopted all the necessary measures in order to secure the effective protection of the applicants' rights to respect for their private and family life, home and correspondence and, subsequently, for not having correctly balanced the counterposed interests involved in the matter.

Yet, with regard to the latter aspect some criticisms are unavoidable. If, in fact, on the one hand the ECtHR asserts to have sufficiently evaluated all the specific situations headed both by the individuals and the community, on the other hand it did not effectively mention the exigencies of protection of workers. In particular, such contingencies actually played a crucial role in pushing the Government not to shut definitely down the Ironworks but, instead, to postpone the compliance to a later moment.

Therefore, the counterposed interests involved can eventually be summarized in two mainstream ones: legislative and jurisprudential.

The former one's main concern was to ensure the prosecution of the factory's activities in order to keep the eighteen thousands workers of IlVA still occupied, in light also of the job related difficulties existing in the Southern part of Italy.

The latter one instead aimed at providing a satisfactory protection of both people and environment, placing in a virtual scale those values in an higher position than the employments one.[22]

However, maybe these two conceptions appear too far from each other, ignoring that a ground of contact should be found (or, even better, *should have been founded*) especially in similar situations in which leaving everyone pleased is not that easy.

20 European Court of Human Rights, Case of Cordella and others v. Italy, cit., par. 171.

21 European Court of Human Rights, Case of Guerra and others v. Italy, Application no. 14967/89, Judgment of 19 February 1998, par. 43.

22 Donato Vozza, "Oltre la giustizia penale", cit., 716.

According to the writer's point of view indeed, neither of the two extreme solutions can be embraced. On the one hand, it is important to avoid the prosecution of the activities if it has been positively ascertained that such operations cause dangerous pathologies on the local population; on the other hand it is not possible to close down the ironwork as it never existed before, regardless of the eighteen-thousands families which would lose their primary source of income.

The goal therefore should be a win-win situation: no illness-no poverty.

In order to do so then, economical investments are necessary. In the present international context, the care for values (such as the environmental protection) which were in the past ignored is significantly raising, through an attentive protection that finds its roots both in international law, European law as well as in national constitutions.

Translating the above-mentioned considerations to the case at hand, they implied that it is required, to those who carry out a business which has a relevant impact in some particular field, the respect of certain interests which cannot be attributed only to specific individuals but to the community as a whole. Then, the factories' obligations are not anymore identifiable only in the *production* itself of goods or services, but they relate also (and, maybe, "mainly") to the *procedure* employed in order to reach that production; a procedure that must be respectful of the different rights and values that can be prejudiced by the implementation of the manufacturing cycle.

5. The right to effective remedies on the national level.

The second claim alleged by the applicants related to the violation of art. 13 of the Convention.

In particular, the citizens complained about the lack of a national effective remedy that would ensure the decontamination of the polluted territory.

Namely, art. 452 *quater* of the Criminal Proceeding Code, which apparently could seem a relevant disposition for the case at hand, only refers to business in which the activities are run with the absence of a legislative or administrative authorization[23]. In addition, the mere fact that criminal proceedings had been initiated against the CEO of the Ironwork, as well as against those personnel in charge of ILVA, did not constitute an effective safeguard which would grant, on the one hand, the definitive removal of the censored behavior and, on the other hand, the devolution of the contained areas.

Having those hypothesis been excluded, to the damaged population the only tool left to use was to formally invite the Environment Ministry to censor the complained behaviors before the judicial authorities[24].

23 European Court of Human Rights, Case of Cordella and others v. Italy, cit., par. 116.

24 See *supra,* par. 3.

However, as the ECtHR already pointed out in a previous judgment - that, besides, dealt with another environmental issue for which the Italian government had been found guilty - the latter hypothesis "could not be said to constitute an effective remedy" at the disposal of the parties [25]; on the contrary it appears more to the writer as a *relative remedy*, for the implementation of which it is necessarily needed the intervention of an "intermediator" (the Environment Ministry).

In light of the witnessed impossibility for the applicants to enforce their rights through national instruments in a manner that would eventually lead to the recovery of the interested territories, the European Court of Human Rights agreed upon the intervened infringement of art. 13 of the Convention, for not having the Italian Government provided proper measures in order to restore the situation.

6. A too smooth "punishment"?

If the final verdict of the Court does not appear particularly surprising, constituting the expression of a general strict approach held by the ECtHR in dealing with similar cases, at the same time it is not possible to assert that the real "condemn" was as well so predictable.

According to art. 41 of the ECHR, once the Court ascertains a violation of one of the Convention's disposition (or of its protocols) and, contextually, believes that the consequences of these transgressions cannot be easily neutralized, it "shall, if necessary, afford just satisfaction to the injured party".

From the literal scope of the disposition, it is possible to grasp that the Court has also the *power* - or, as the other side of the coin, the *burden* - to grant to the injured parties a *just satisfaction* in economic terms.

However, in the present case such compensation was not awarded and, furthermore, the reasons justifying such decision resemble particularly cryptic. Namely, for the Court the mere confirmation, in that forum, of the Italian State failure in both respecting private and family life of the applicants and providing them with an effective remedy is a sufficient restoration for the moral damages suffered by the inhabitants of that area[26]. What the Court recognized to the applicants, in economic term, was only the compensation for the expenses they incurred in, for which the Italian State was responsible[27].

25 European Court of Human Rights, Case of Di Sarno and others v. Italy, Application no. 30765/08, Judgment of 10 January 2012.

26 European Court of Human Rights, Case of Cordella and others v. Italy, cit., par. 186.

27 However, also with regard to this aspect, the Court did not completely uphold the applicants requests (which raised also until 96.807,51 euros). Namely, it found reasonable to afford each application with a sum that, in maximum, was of 5.000 euros.

7. The ECtHR approaches towards the "right to a healthy environment": still a far destination?

Cordella case represents one of the last belays of an enduring journey, which destination is still unknown both in terms of its real achieving and the duration of the process in this sense.

Again the ECtHR, even having one more chance to consecrate once for all the existence of a right to a healthy environment, opted not to move in this direction. Namely, the European Convention on Human Rights does not include, among its provisions, a right to a healthy environment. The protection of the environment is indeed the result of a long process that had as its main actor the Strasbourg Court. However, as just pointed out, the Court has never arrived to declare the actuality of such right; on the contrary, it offers to the environment a *mediated* safeguard: it acquires importance in order to ensure the proper enforcement of other rights covered by the Convention. In other words, "the quality of the first one is improved and protected if it is functional to a better enjoyment of the second"[28].

Therefore, the right to a healthy environment represents a jurisprudential reprocessing of already existing rights in an environmental perspective; oppositely, it cannot be intended as a right to environmental integrity in a strict sense. Exemplary in this sense are the approaches held by the ECtHR in some previous cases it dealt with and which invested this subject. In particular, it is possible to subsume them in two macro-areas, related to two different kinds of problems the Court had to face.

The first type of matters brought the ECtHR to wonder whether certain environmental exigencies could justify *restrictions* of other fundamental rights granted by the Convention (such as, for example, property rights). In this sense, the answer depends on the specific situation, since an abstract and general limitation cannot be accepted.

Another typology of questions referred to the link between the environmental condition and the *fruition* of other rights granted by the Convention. The Cordella case inserts itself in this second group, in which the environmental protection is essential for not prejudicing other rights recognized in the Convention (and, in this dispute, mainly art. 8).

The absence of an expressed provision which commends the respect of the environment in an "unilateral" way should not surprise: the Convention was drafted in a period (1950) in which the exigencies reconnected to the environment were not felt as of primary importance.

However, it is undeniable that the European culture would not be new to a similar arrangement. Already in ancient Rome indeed environmental turbative represented a hypothesis of *immissiones in alienum*, sanctioned by the Digestum[29].

28 Alessio Scarcella, "Violated the Right to Health and to an Effective Remedy for Residents in the Area at High Risk of Environmental Pollution Caused by the Ilva Steelworks in Taranto", *Cassazione Penale*, 5/2019, 2300.

29 Dig.8.5.8.5 Ulpianus 17. See also Camilla Romeo, Andrea Valentino Salamino, "Bilanciamento tra tutela della salute e sviluppo economico", cit., 2233.

Besides, nowadays, out of the strict European context, several nations encompassed among the protection of human rights also the environment[30]. Such tendency shows how the concern regarding the status of the environment in which people live is significantly raising, so much that it is not to be excluded that it will find a place also within the frame of the European Union.

8. Some concerns regarding the recognition of a right to a healthy environment.

According to the writer some specifications regarding the recognition of a right to a healthy environment should be outlined.

In fact, even if from an abstract point of view it will surely be an achievement, several difficulties would emerge when such ambitious project is translated into reality: undocking the environmental protection from human rights and dealing with it on its own would lead to an unclear delimitation of those who are entitled to censure its disrespect. Subsequently, the notion of *victim*, around which the entire system of allegations before the ECtHR is centered, would lose its relevance with regard only to this right. The result would be a chaotic hunk of disputes that could not be anymore avoided through the filter of the interest to the removal of the violation: paradoxically, if separated from human rights, the environmental protection could be invoked from any citizen of a State part of the Convention, even if not directly affected from the negative situation alleged in the recourse.

Notwithstanding the consideration that such protection would really be effective for the environment, it still seems too premature. However the path that will eventually lead to the recognition of a similar right on the international and European level has already been engaged, especially thanks to the contribution of the ECtHR. Besides, such destination appears necessary in a world which, through the globalization process that has blustered in the last two centuries, is becoming "smaller" than before and where it becomes gradually more difficult to distinguish whose exigencies come to have relevance.

After all, it becomes even more actual what has already been theorized in 1950 by an English mathematician: "the movement of single electron for a billionth centimeter, at a given moment, could mean the difference between two really different events, as the death of a man one year later, because of an avalanche or his salvation"[31].

9. Concluding notes.

30 Carta Africana dei Diritti dell'Uomo e dei Popoli, 27 giugno 1981, UNTC 26363, art. 24; Protocollo addizionale alla Conven- zione americana dei diritti umani nel campo dei diritti economici, sociali e culturali (Protocollo di San Salvador), 17 novembre 1988, art. 11; Carta Araba sui Diritti Umani, 15 settembre 1994 (emen- data il 22 maggio 2004), art. 38

31 Alan Turing, "Computing Machinery and Intelligence", *Mind*, 1950.

The overall analysis of the Court's pronouncement appears to be positive. It is indeed to be agreed the position of the ECtHR towards the questionable approach of the Italian legislator which favored the economic interests over the relevant human rights.

However, as it has been efficiently outlined by some scholars, it is still unclear which are the real obligations on this matters upon the Members of the Convention[32]. Regarding the particular episode object of this seminar paper, one obligations towards the Italian government, even if implied, arises from the verdict. Namely, the Court pointed out, in the final part of its award, that the recovery initiatives concerning both the steelwork and its surrounding territory are of primary importance and urgent. It follows that the plan adopted by the Italian government in this sense must be implemented in the least amount of time possible[33].

Such conclusion entails that it will not possible to wait until 2023 (the initial term set by the Italian Government) for the final compliance with the EU parameters, but that such deadline will have to be conspicuously anticipated.

Besides, as it has already underlined before in this work[34], the final compensation is not exempt from criticisms.

Criticisms against which the involved applicants tried to appeal before the Great Chamber, complaining about the high margin of discretion the Court left to the Italian State, both in terms of measures to implement and times in order to do so. However the allegations of the parties[35] did not pass the preliminary screening of the Court and therefore the decision turned to be definitive.

Again then the Court, even though it seemed to enter the correct direction in the sense of finally granting a right to an healthy environment, appears to be far from such a "goal".

Perhaps, as it has previously been outlined in the present work, the time is still not ripe enough for a similar achievement: to posterity the arduous judgment.

32 Camilla Romeo, Andrea Valentino Salamino, "Bilanciamento", cit., 2236.
33 European Court of Human Rights, Case of Cordella and others v. Italy, cit., par. 181.
34 See *supra*, par. 6.
35 Which related to the missing analysis of art. 2 (right to life), as well as to the lack of displaying the exact measures to be implemented (art. 46 CEDU) and, finally, to the compensation for the moral damages suffered (art. 41 CEDU).