



EUROPEAN

POLICY BRIEF



ENVIRONMENTAL CRIME AND CORPORATE MIS-COMPLIANCE: CASE STUDY ON THE ILVA STEEL PLANT IN ITALY

Policy Implications for the EU

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OVERVIEW OF CASE STUDY

ILVA is the biggest steel production plant in Italy and represents the main employer in the South of Italy. In 1997, the Italian Council of Ministers declared the ILVA steel plant in Taranto as an “area at high risk of environmental crisis”. As a follow-up to several complaints, in 2012 the European Commission (EC) opened an investigation in order to closely monitor the compliance of the ILVA plant with the EU legislation on industrial emissions. In July 2012 the judge for preliminary investigations at the Court of Taranto ordered the seizure and shutdown of the hot working areas of ILVA. The government called for a solution aimed at reconciling environmental and health issues with employment, since thousands of jobs were under threat. A Law Decree allowed ILVA to resume its steel production for a period not exceeding 36 months, while simultaneously upgrading the plant with the requirements set out in the review of Integrated Environmental Authorisation. Against this background, the case study analyses the consequences of corporate mis-compliance with environmental legislation, as well as the role of public institutions in dealing with the case.

In 2005, the managers of ILVA were found guilty for having spread, in the neighbouring areas of the steel plant, a large quantity of mineral dust from the deposits existing in the area of the plant, and for not having undertaken actions to prevent the emissions. Since then, the environmental and health emergency situation in the territory of Taranto became more and more evident: **surveys commissioned by the judicial authority as well as studies carried out by public bodies and NGOs have shown heavy pollution of the air, soil, surface and ground waters both in the ILVA site and in the nearby inhabited areas of the city of Taranto, as well an increase in the percentage of serious diseases in the area.** A criminal case is currently at the stage of the preliminary hearing, with the core of the charges focusing on the criminal association aimed to commit felonies against public safety and felonies against public administration; the prosecution also concerns several misdemeanours against the environment (related to waste and landfills, air, water) and murder and injury by negligence through violation of work safety regulations.

The case study finds that not only environmental impacts, but also relevant health and economic impacts (including on agriculture and tourism) are associated with environmental mis-compliance by industrial companies. The case study shows how employment issues have played a relevant role in the case: the ILVA steel plant employs thousands of people in Italy and the consequences of a potential closure or liquidation of

ILVA would be dramatic; moreover, the reduction of the steel production would also have significant effects on the whole Italian industrial system. The case study finds that a fair balance between the right to health and the protection of environment, on the one hand, and the right to work and the production needs, on the other, is currently very difficult to achieve, and this can also involve the relationship between judiciary, administrative and legislative powers in order to establish the authority responsible in determining the above mentioned balance.

The case study is based on qualitative empirical analysis, including desk research and with attention also to the coverage of the case in the national and international media.

POLICY IMPLICATIONS AND RECOMMENDATIONS FOR THE EU

The EU institutions have addressed the environmental issues related to the ILVA case. In the resolution of 13 December 2012, the European Parliament called on the Italian authorities to ensure the environmental rehabilitation of the polluted steel plant site as a matter of extreme urgency, while at the same time ensuring that the costs incurred in relation to the preventive or remedial action taken are covered in accordance with the polluter pays principle, as required by Article 8 of Directive 2004/35/EC on environmental liability. The EC had sent Italy two letters of formal notice, in September 2013 and April 2014, urging the Italian authorities to take measures in order to bring the operation of the ILVA plant into compliance with the Industrial Emissions Directive and other applicable EU environmental legislation; lately, the EC has found that Italy is failing to ensure that ILVA operates in conformity with EU legislation on industrial emissions, with potentially serious consequences on human health and the environment.

The case study concludes that the State plays an essential role in order to guarantee environmental protection together with national strategic capabilities and jobs. The EU could facilitate this process by increasing, in its environmental action, the attention devoted to the reasons of mis-compliance with environmental legislation; indeed these reasons are mainly economical – i.e. related to the cost of compliance – and along with this, a perception that being convicted and/or face severe penalties is unlikely.

In this perspective, the EU could foster measures aiming at providing incentives for compliance, following e.g. the model experimented with the EMAS regulation. In addition, the EU could further finance actions aiming at spreading among actors and stakeholders the idea of environmental protection as a growth opportunity and not as a limit to economic activities. These actions could support a process towards a sustainable model of production. Finally, the EU could consider to undertake an initiative for a directive, on the grounds of Art. 83 of the Treaty on the Functioning of the European Union, aimed at identifying minimum levels of maximum penalties for the most serious environmental crimes, as this could represent a relevant tool against the impunity perception on the part of the offenders.

ABOUT EFFACE CASE STUDIES ON ENVIRONMENTAL CRIME

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"European Union Action to Fight Environmental Crime" (EFFACE) is a 40-month research project involving eleven European research institutions and think tanks. EFFACE assesses the impacts of environmental crime as well as effective and feasible policy options for combating it from an interdisciplinary perspective, with a focus on the EU. Project results include several case studies on the causes, actors and victims of different types of environmental crime as well as policy options and recommendations. For more information see <http://www.efface.eu> or contact: envcrime@ecologic.eu

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