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Advocate General's Opinion in Case C-626/22 | Ilva and Others

Advocate General Kokott comments on the Ilva steelworks in southern Italy

The operation must not lead to excessive adverse effects on human health

Several residents of the southern Italian city of Taranto are taking legal action in a Milan court against the continued operation of the Ilva steelworks located in Taranto. They believe that the steelworks' emissions jeopardise their health and claim that it does not comply with the EU directive on industrial emissions ¹.

As early as 2019, the European Court of Human Rights (ECtHR) found that the steelworks – one of the largest in Europe with around 11 000 employees and approximately 1 500 hectares – had a significant negative impact on the environment and affected the health of local residents. Although measures to reduce the adverse environmental impact have been included in the permit conditions since 2012, the deadlines for their implementation have been repeatedly extended.

The Milan court has asked the Court of Justice of the European Union (ECJ) to clarify the authorisation requirements under the Industrial Emissions Directive. It seeks to ascertain the importance of certain information on the impact of the steelworks on human health and information on certain emissions and whether it is permissible to repeatedly extend the deadline for the implementation of certain permit conditions.

Advocate General Juliane Kokott proposes that the ECJ interpret the Directive as follows:

When authorising an installation and reviewing a permit, all pollutants that are likely to be released in relevant quantities and the effects on human health must be taken into account.

If, despite the application of the best available techniques, the environmental pollution caused or expected to be caused by the installation leads to excessive harm to human health, additional protective measures must be taken. If these are not possible, the installation cannot be authorised. In that regard, the protection of human health could also justify considerable economic disadvantages. In particular, environmental pollution that violates the fundamental rights of those affected by impairing human health cannot be tolerated, as the ECtHR found with regard to the Ilva steelworks.

Permit conditions that were necessary to ensure compliance with predecessor directives from 30 October 2007 and **compliance with the Industrial Emissions Directive from 7 January 2014 should have been applied without further delay from the entry into force of the permit and must continue to be applied. A postponement is only possible in special circumstances**, for example if the Commission has issued a new decision on the best available techniques.

NOTE: The Advocate General's Opinion is not binding on the Court of Justice. It is the role of the Advocates General to propose to the Court, in complete independence, a legal solution to the cases for which they are responsible. The Judges of the Court are now beginning their deliberations in this case. Judgment will be given at a later date.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the Opinion is published on the CURIA website on the day of delivery.

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¹ [Directive 2010/75/EU](#) of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control).