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

FIRST SECTION

CASE OF H.D. v. ITALY

(Application no. 41645/23)

JUDGMENT

Art 5 §§ 1, 2 and 4 • Unlawful detention • Lack of clear and accessible legal basis • Detention not justified under Art 5 § 1 (f) • Applicant not informed of legal reasons for detention • Domestic proceedings not sufficiently expeditious
Art 3 (substantive) • Inhuman and degrading treatment • Placement of unaccompanied minor migrant in a separate area of an adult reception centre in inadequate conditions and without the services required in view of his age and vulnerability
Art 13 (+ Art 3) • No effective remedies

Prepared by the Registry. Does not bind the Court.

STRASBOURG

9 April 2026

FINAL

09/07/2026

This judgment has become final under Article 44 § 2 of the Convention.
It may be subject to editorial revision.

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of H.D. v. Italy,

The European Court of Human Rights (First Section), sitting as a Chamber composed of:

Ivana Jelić*, President*,
Erik Wennerström,
Raffaele Sabato,
Davor Derenčinović,
Alain Chablais,
Artūrs Kučs,
Anna Adamska-Gallant*, judges*,
and Ilse Freiwirth, *Section Registrar,*

Having regard to:

the application (no. 41645/23) against the Italian Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Burkinabe national, Mr H.D. ("the applicant"), on 1 December 2023;

the decision to give notice of the complaints concerning Article 3, Article 5 §§ 1, 2 and 4 and Article 13 of the Convention to the Italian Government ("the Government") and to declare the remainder of the application inadmissible;

the decision not to disclose the applicant's name;

the decision to indicate an interim measure to the Government under Rule 39 of the Rules of Court and the fact that this interim measure has been complied with;

the parties' observations;

Having deliberated in private on 17 March 2026,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The case concerns the placement of the applicant, an unaccompanied minor migrant, in an adult reception centre. It raises issues under Article 3 and Article 5 §§ 1, 2 and 4 and Article 13 of the Convention.

THE FACTS

2. The applicant was born on 1 January 2006 and lives in Lamezia Terme (Catanzaro). He was represented by Ms F. Remiddi and Ms L. Vicchio, lawyers practising in Rome.

3. The Government were represented by their Agent, Mr L. D'Ascia.

4. The facts of the case may be summarised as follows.

I. APPLICANT'S ARRIVAL IN ITALY AND HIS STAY IN THE SANT'ANNA RECEPTION CENTRE

5. On 24 June 2023 the applicant, a Burkinabe national, reached Italy. He was immediately placed in the adult reception centre and centre for asylum seekers, Sant'Anna C.A.R.A. Regional Hub ("the Sant'Anna centre"), in Isola di Capo Rizzuto, Crotone.

6. On 31 July 2023 a residence permit in respect of a minor and an internal card from the Sant'Anna centre stating his age were issued to him.

7. The applicant remained in the Sant'Anna centre for more than five months, until 6 December 2023. He stated that he had been unable to leave the centre during that period.

II. APPLICANT'S TRANSFER TO A MIGRANT CENTRE FOR MINORS

8. On 19 October 2023 the applicant's representatives lodged an urgent application for interim relief under Article 700 of the Code of Civil Procedure with the Catanzaro District Court, complaining about his *de facto* detention. They argued that the Sant'Anna centre was dedicated solely to adults and described the poor material conditions and the situation of overcrowding in the centre. However, they explicitly stated that the application was only intended to complain of the applicant's *de facto* detention. In particular, the representatives asked that the applicant's unlawful detention be acknowledged and that his transfer to an adequate facility for unaccompanied minors be ordered.

9. On 1 December 2023 the applicant submitted a request to the Court under Rule 39 of the Rules of Court, asking to be transferred to a facility where his reception conditions as an unaccompanied minor could be ensured. He stated that he had already lodged an urgent application for interim relief under Article 700 of the Code of Civil Procedure before the competent domestic court, but the proceedings had still been pending without any hearing scheduled.

10. On 5 December 2023 the Court decided to apply Rule 39 and to indicate to the Government that the applicant should be transferred to a centre for unaccompanied minors where he could receive all the necessary assistance, given his status as an unaccompanied minor.

11. On 6 December 2023 the applicant was transferred to a facility for unaccompanied minors, as requested by the Court under Rule 39.

12. It is apparent from the documents submitted by the applicant that, on the same day, the applicant's representatives received notice of the direction scheduling the hearing of the case before the Catanzaro District Court. The hearing was scheduled for 19 December 2023.

13. On 13 December 2023 the Catanzaro District Court postponed the hearing until 9 January 2024.

14. It further follows from the documents submitted by the applicant that, on 20 December 2023 the applicant's representatives informed the District Court of their request to the Court under Rule 39 and of the subsequent transfer of the applicant to a centre for unaccompanied minors in Lamezia Terme. They also informed the court that, in the light of the consequent loss of interest in continuing the precautionary proceedings under Article 700 of the Code of Civil Procedure, they had not notified the Ministry of the Interior and the Prefecture of Crotone of the scheduled hearing and asked the court to strike the case out of its list.

15. With an order of 14 February 2024 the Catanzaro District Court acknowledged the applicant's transfer to a suitable facility and, considering that the applicant had no further interest in the measure he had originally requested, decided to strike the case out of its list.

III. APPLICANT'S LIVING CONDITIONS AT THE SANT'ANNA CENTRE

A. Applicant's version of the facts

1. Living conditions as described by the applicant

16. The applicant remained in the Sant'Anna centre for more than five months, from his arrival on 24 June 2023 until 6 December 2023, when he was transferred as requested by the Court under Rule 39.

17. The applicant submitted that the Sant'Anna centre was both a reception centre (in particular within the hotspot area of the centre) and a centre for asylum seekers, intended to host only adults. Unaccompanied minors were, however, held in the centre, in which a situation of overcrowding, lack of separation from and contact with adults, lack of adequate facilities and poor material and hygienic conditions existed.

18. The applicant stated that, notwithstanding its 641-person capacity, the centre had accommodated around 830 people, including 200 minors, at the time of his stay.

19. He further stated that minors were neither provided with dedicated services nor allowed to leave the centre and that he had not been able to meet with his lawyers, as no reply had been provided by the administration to one of his lawyers' request for access to the centre.

2. Evidence submitted by the applicant

20. The applicant submitted replies provided by the Prefecture of Crotone and the competent police authority (*Questura*) to a request by a non-governmental organisation (NGO) for access to information concerning

conditions for unaccompanied minors within the centre. Both authorities confirmed that the centre had not in principle been intended to host unaccompanied minors, however in the event of an emergency situation related to continuous arrivals, unaccompanied minors happened to be temporarily hosted there in a separate area of the centre.

21. The applicant provided a report of the National Guarantor of the rights of people detained or deprived of their liberty (*Garante nazionale dei detenuti e delle persone private della liberta personale*) of 14 February 2023. The report described extremely poor material and hygienic conditions of the centre. It further emphasised that the presence of unaccompanied minors was chronic rather than temporary or exceptional, that they were not allowed to leave the centre and that no specific service was provided to them. Despite the fact that unaccompanied minors were in principle housed in designated areas of the centre, according to the report they were "in close contact" with the adults hosted in the facility, since it was possible to gain access from one side to the other side of the centre without restrictions. The report further mentioned that several episodes of harassment against minor women had been reported and that on the day of the National Guarantor's visit to the centre, the area designated to house minors was used as a "mixed module" where adults were also hosted.

22. In addition, the applicant referred to a report from the NGO Save the Children, issued in January 2023, which described the centre as a former military facility, of which it maintained the structural characteristics, with barbed wire fencing and bars on the windows, and it was also characterised by severe overcrowding. He also referred to another report from the Association for Juridical Studies on Immigration (*Associazione Studi Giuridici sull'Immigrazione – ASGI*), concerning an on-the-spot check of the centre carried out in June 2023, according to which the number of unaccompanied minors at the time was 238.

B. Government's version of the facts

23. The Government maintained that the living conditions at the Sant'Anna centre had been adequate overall and that specific standards had been set with regard to minors' reception conditions within the centre. They submitted an addendum to the contract concerning the management of the Sant'Anna centre, adopted on 20 September 2023, which authorised future increases to staff and services in that regard.

RELEVANT LEGAL FRAMEWORK

I. RELEVANT DOMESTIC LAW

A. Constitution of Italy

24. Article 13 of the Italian Constitution reads as follows:

> "Personal liberty is inviolable.
>
> No one may be detained, inspected, or searched, or otherwise subjected to any restriction of personal liberty, except by a reasoned order of a judicial authority and only in such cases and in such manner as provided by law.
>
> In exceptional circumstances and under such conditions of necessity and urgency as shall be precisely defined by law, the law-enforcement authorities may take provisional measures that shall be referred within 48 hours to a judicial authority and which, if not validated by the latter in the following 48 hours, shall be deemed withdrawn and ineffective.
>
> Any act of physical or mental violence against persons subjected to a restriction of personal liberty shall be punished.
>
> The law shall establish the maximum duration of any provisional measure of detention."

B. Code of Civil Procedure

25. Article 700 of the Code of Civil Procedure provides that anyone who has cause to fear imminent and irreparable damage to a given right during the time necessary to assert that right in ordinary proceedings may ask the court of competent jurisdiction to order such urgent measures as are deemed, in the light of the circumstances, most appropriate to preserve, on an interim basis, the possibility of enforcing the decision on the merits.

26. Under Article 669 *sexies*, the court dealing with an application for interim relief may decide to give its ruling without hearing the parties beforehand so as not to jeopardise the measure's enforcement.

27. In the event that an urgent measure has been granted under Article 700 (thus anticipating the effects of a decision on the merits), Article 669 *octies*, as amended by Law no. 80 of 14 May 2005, explicitly excludes the general requirement to set a time-limit – of no longer than 60 days – for the parties to introduce proceedings on the merits. Those measures are therefore not subject to mandatory initiation of the proceedings on the merits (see paragraph 33 below).

C. Civil Code

28. Article 2043 of the Civil Code provides:

"Any unlawful act which causes damage to another shall oblige the person having committed it to make good such damage."

D. Relevant provisions concerning unaccompanied minors

29. Under Article 19 of Legislative Decree no. 286 of 25 July 1998 (Consolidated text of provisions concerning immigration regulations and rules on the status of aliens), as in force at the material time, the refusal of entry (*respingimento*) of unaccompanied foreign minors was prohibited. The expulsion (*espulsione*) of minors was also prohibited, except in cases where the minor had followed an expelled parent or guardian, or where expulsion was justified on grounds of public order or national security.

30. The relevant provisions concerning reception conditions and procedural guarantees for unaccompanied minors have been summarised in *Darboe and Camara v. Italy* (no. 5797/17, §§ 45-51, 21 July 2022).

31. On 6 October 2023 Decree-Law no. 133 of 5 October 2023 ("the Cutro Decree"), subsequently converted into Law no. 176 of 1 December 2023, entered into force, partially amending Article 19 of Legislative Decree no. 142 of 18 August 2015 concerning the accommodation of unaccompanied minors. The amended provision states as follows:

"3 bis. In the event of significant and concentrated arrivals of unaccompanied minors ... the prefect ... shall order the activation of temporary reception facilities exclusively dedicated to unaccompanied minors ... In the event of the temporary unavailability of the temporary reception facilities referred to in this paragraph, the prefect shall order the provisional reception of minors aged 16 or older in a dedicated area of the centres and facilities referred to in Articles 9 and 11 [intended for adults] for a period not exceeding 90 days, extendable to a maximum of 60 additional days, and in any event within the limits of the resources allocated for this purpose under the current legislation".

II. RELEVANT DOMESTIC CASE-LAW

A. Case-law concerning Article 700 of the Code of Civil Procedure

1. Case-law of the Constitutional Court

32. In its recent judgment no. 96 of 9 June 2025 – although in the context of a procedure for validating the administrative detention of foreigners pending their repatriation under Article 14 § 2 of Legislative Decree no. 286 of 1998 – the Constitutional Court, which had been called on to decide on the compatibility of those provisions with Article 13 of the Constitution and also in relation to Article 5 of the Convention, held, *inter alia*, as follows:

"Article 700 of the Code of Civil Procedure provides for a subsidiary and atypical preventive remedy (*una tutela cautelare anticipatoria residuale e atipica*), which on one hand is in a relationship of necessary instrumentality with the guarantees of action and defence enshrined in Article 24 of the Constitution and with the effects of the judgment on the merits to which such urgent measures are directed ... and on the other

> [hand] benefits from the stability ensured by Article 669 *octies* of the Code of Civil Procedure ...
>
> Recourse to the measures under Article 700 of the Code of Civil Procedure is moreover common with regard to ... the fundamental rights of the individual, which cannot be diminished by the administrative power, in respect of which that recourse works as a minimal jurisdictional guarantee required by the Constitution (*strumento minimo della giurisdizione costituzionalmente necessaria*) ...
>
> However, it is a form of judicial protection which inevitably suffers from a lack of precise regulation by the legislator of the rights of persons deprived of their liberty within facilities devoted to the execution of administrative detention, as well as from a lack of specific procedural rules for the protection of those rights, comparable to those guaranteed to persons detained on the basis of the Prison Administration Act."

2. Case-law of the Court of Cassation

33. The Court of Cassation clarified in its case-law that, following the enactment of Law no. 80 of 14 May 2005 – which modified Article 669 *octies* of the Code of Civil Procedure (see paragraph 27 above), providing for an attenuated instrumentality of the interim remedy with regard to the proceedings on the merits, the institution of which was merely optional for the party who had obtained an urgent measure under Article 700 of the Code of Civil Procedure – proceedings under Article 700 were conceived as an autonomous action, capable of definitively satisfying the interests of the party concerned, although it could not be considered a binding final judgment (see, among many authorities, the Court of Cassation's judgments nos. 23401 of 2015, 10840 of 2016, 28197 of 2020 and, recently, 2480 of 2025).

B. Court of Cassation's case-law concerning Article 2043 of the Civil Code

34. In its recent order no. 5992 of 6 March 2025, the Court of Cassation, sitting in plenary, recognised the possibility of having recourse to Article 2043 of the Civil Code to obtain compensation for non-pecuniary damage caused by unlawful detention.

35. In particular, when assessing the suitability of the remedy with regard to a case concerning the ten-day confinement of rescued migrants onboard a ship, to which the docking in Italian ports and, subsequently, the disembarkation of passengers had been refused, the Court of Cassation held that, in the absence of both specific provisions concerning such confinement and individual judicial decisions, the restriction of liberty amounted to an unlawful detention in breach of Article 5 of the Convention and Article 13 of the Italian Constitution and it awarded damages under Article 2043 of the Civil Code.

THE LAW

I. ALLEGED VIOLATIONS OF ARTICLE 5 OF THE CONVENTION

36. The applicant complained that he had been deprived of his liberty during his stay in the Sant'Anna centre, in the absence of any clear and accessible legal basis, and that it had been impossible to challenge the lawfulness of his deprivation of liberty. He relied on Article 5 §§ 1, 2 and 4 of the Convention, the relevant parts of which read as follows:

> "1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
>
> ...
>
> (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.
>
> 2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him. ...
>
> 4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful. ..."

A. Admissibility

1. Whether Article 5 is applicable

37. The Court notes at the outset that the Government did not dispute that the applicant had been deprived of his liberty. On the contrary, they merely referred to Article 5 § 1 (f) of the Convention, asserting that the applicant had been placed in the Sant'Anna centre to undergo the necessary identification procedure.

38. The Court observes that the applicability of Article 5 is undisputed between the parties. The Court, for its part, noting in particular that the applicant's claim that he was not allowed to leave the Sant'Anna centre is supported by evidence (see paragraph 21 above), sees no reason to find otherwise. It thus concludes that Article 5 applies in the present case.

2. Exhaustion of domestic remedies

(a) The parties' submissions

39. The Government raised the preliminary objection that the applicant had failed to exhaust the available domestic remedies. In particular, they submitted that the applicant merely alleged that he had availed himself of the remedy under Article 700 of the Code of Civil Procedure, but he did not

provide any evidence of the lodging of such application (see paragraph 9 above). The Government also argued that, under Article 669 *sexies* of the Code of Civil Procedure, the applicant could have in any event asked the competent court to rule without hearing the parties beforehand (see paragraph 26 above).

40. In reply to the Government's objection, the applicant submitted a copy of the urgent application under Article 700 of the Code of Civil Procedure which he had lodged on 19 October 2023 with the Catanzaro District Court (see paragraph 8 above). He further provided evidence that a hearing had been scheduled only on 19 December 2023 and then postponed until 9 January 2024 (see paragraphs 12-13 above). He also asserted that, meanwhile, after obtaining his transfer under Rule 39 of the Rules of Court, he had asked the District Court to strike the case out of its list. With an order of 14 February 2024, the Catanzaro District Court had acknowledged the applicant's transfer to a facility intended to host unaccompanied minors and had struck the case out of its list, considering that the applicant had had no more interest in the measure which he had originally requested (see paragraphs 14-15 above).

(b) The Court's assessment

(i) General principles

41. The general principles on exhaustion of domestic remedies are set out in *Vučković and Others v. Serbia* ((preliminary objection) [GC], nos. 17153/11 and 29 others, §§ 69-77, 25 March 2014) and reiterated in *Duarte Agostinho and Others v. Portugal and 32 Others* ((dec.) [GC], no. 39371/20, § 215, 9 April 2024). As for domestic remedies in respect of the lawfulness of deprivation of liberty, the general principles have been indicated in *Selahattin Demirtaş v. Turkey (no. 2)* ([GC], no. 14305/17, §§ 207-09, 22 December 2020) and *Mansouri v. Italy* ((dec.) [GC], no. 63386/16, § 84, 29 April 2025).

42. In *Mansouri* (cited above, §§ 85-86 and 89), the Court reiterated that, for a remedy in respect of the lawfulness of an ongoing deprivation of liberty to be effective, it must offer a prospect of release. In other words, a remedy that does not afford a possibility of release cannot be regarded as an effective remedy for the purposes of Article 5 of the Convention while the deprivation of liberty is ongoing. Preventive and compensatory remedies have to be complementary (see *Mansouri*, cited above, § 85, and *Selahattin Demirtaş*, cited above, § 207, with further references). The Court also reiterated that the position may be different where the deprivation of liberty has ended. Where an applicant complains that he or she was detained in breach of domestic law - and therefore in breach of Article 5 § 1 of the Convention – and the detention has come to an end before his or her application was lodged, a compensation claim capable of leading to an acknowledgment of the alleged violation and an award of compensation is in principle an effective remedy which needs to

be pursued if its effectiveness in practice has been convincingly established (see *Mansouri*, cited above, § 89, and *Selahattin Demirtaş*, cited above, § 208). In the relevant cases the Court carried out a careful examination of whether the unlawfulness or impropriety of a deprivation of liberty had been acknowledged at the domestic level (ibid., § 209, with further references).

43. With specific regard to the Italian legal framework, the Court (see *Mansouri*, cited above, § 95) took into account Resolution CM/ResDH(2021)424 of 2 December 2021 in which the Committee of Ministers of the Council of Europe, in closing the execution procedure pertaining to the *Khlaifia and Others* judgment ([GC], no. 16483/12, 15 December 2016), had acknowledged the effectiveness of the compensatory remedy under Article 2043 of the Civil Code – combined with the preventive remedy provided for in Article 700 of the Code of Civil Procedure – in cases involving the detention of aliens.

44. In the light of those considerations, the Court held that, on one hand, the compensatory remedy under Article 2043 of the Civil Code enabled domestic courts not only to clarify whether the circumstances of a case amounted to a deprivation of liberty but also to scrutinise the lawfulness of the alleged deprivation of liberty and, if appropriate, compensate the applicant in the event of their finding a violation of Article 5 of the Convention (see *Mansouri*, cited above, § 100). In *Mansouri*, given that the deprivation of liberty had already come to an end when he had lodged his application, the Court also considered that the characteristics of such remedy were sufficient to meet the requirements of its case-law for the purposes of Article 35 § 1 of the Convention (ibid., § 101).

45. On the other hand, the Court also held that, pending the allegedly unlawful detention, it had been open to the applicant to request his immediate release by means of an urgent application for interim relief under Article 700 of the Code of Civil Procedure (ibid., §§ 102-09).

(ii) Application of the above principles in the present case

46. The Court notes at the outset that the Government referred to the urgent application for interim relief under Article 700 of the Code of Civil Procedure as the remedy to be used in order to obtain judicial review of the applicant's detention (see paragraph 39 above).

47. It further notes that, in contrast to *Mansouri* (cited above, § 101), on the one hand, the applicant's allegedly unlawful detention was still ongoing when he lodged his application with the Court (see paragraph 9 above) and, on the other hand, the applicant had recourse to the remedy under Article 700 of the Code of Civil Procedure, indicated by the Government, asking the competent court to assess whether the circumstances of his case amounted to an unlawful deprivation of liberty and to order his release.

48. The Court takes note of the Government's argument that under Article 669 *sexies* of the Code of Civil Procedure the applicant could have

asked the competent court to rule without hearing the parties beforehand. It also takes into account that the proceedings under Article 700 of the Code of Civil Procedure were subsequently struck out of the list on the request of the applicant (see paragraph 14-15 above).

49. In this regard, the Court considers that the applicant cannot be reproached for not requesting the competent court to rule without hearing the parties beforehand. The applicant indeed had recourse to the remedy proposed by the Government but, despite the nature of the proceedings under Article 700 of the Code of Civil Procedure – which is a remedy designed to empower domestic courts to order urgent provisional measures for the preservation of a right that is liable to be impaired or to prevent imminent and irreparable damage (see *Mansouri*, cited above, § 103) – and despite the relevance of the situation complained of – that of an unaccompanied minor who was *de facto* deprived of his liberty – it took two months for the domestic court to schedule a hearing, which was further postponed (see paragraphs 12-13 above). Pending such delay, the applicant lodged a request for an interim measure under Rule 39, which was granted by the Court and executed by the domestic authorities (see paragraphs 9-11 above).

50. In these circumstances, the Court finds that the applicant's request to strike the case out of the list (see paragraph 14 above) was consequent to his transfer to a facility for unaccompanied minors, as requested by the Court under Rule 39. In the light of these considerations, the Court concludes that, while the allegedly unlawful detention was ongoing, the applicant used the domestic remedy pointed to by the Government in so far as it could be of use to him. In the absence of any further indication by the Government as to which alternative procedural avenue the applicant should have pursued, the Government's objection must be dismissed.

51. Moreover, the Court welcomes the fact that, in the context of a procedure for validating the administrative detention of foreigners pending their repatriation, the Constitutional Court has recently acknowledged that, in the light of the current legal framework – characterised by the lack of precise regulation of the rights of migrants held in administrative detention and the absence of specific procedural rules for the protection of those rights – the urgent interim relief procedure under Article 700 of the Code of Civil Procedure may carry out the function of a minimal jurisdictional guarantee (see paragraph 32 above).

52. As to the compensatory remedy under Article 2043 of the Civil Code (see paragraphs 33, 34-35 and 44 above), the Court notes that, in contrast to *Mansouri* (cited above, § 70), in the present case the Government did not raise the question of non-exhaustion in that regard.

3. Conclusions on admissibility

53. The Court notes that this part of the application is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. Article 5 §§ 1 and 2

(a) The parties' submissions

54. The applicant reiterated that he had been held for more than five months in a facility which he had not been allowed to leave. The facility had barbed wire fencing, bars on the windows and gates which were under constant police supervision. He argued that his deprivation of liberty had had no legal basis under the relevant domestic law, which explicitly forbade detention of unaccompanied minors. He further stated that he had not been provided, either in written form or orally, with an explanation of the reasons for his deprivation of liberty.

55. The Government referred to Article 5 § 1 (f) of the Convention, arguing that the applicant had been placed in the Sant'Anna centre to undergo the necessary identification procedure and the regularisation of his presence in Italian territory. They further argued that Article 19 of Legislative Decree no. 142 of 2015, as amended by Decree-Law no. 133 of 2023, allowed for the detention of minors in designated areas of adult reception centres. Moreover, they maintained that interpreters and mediators had been present in the centre.

(b) The Court's assessment

(i) General principles

56. The general principles concerning deprivation of liberty of migrants have been summarised in *Khlaifia and Others* (cited above, §§ 88-92 and 115-116) and *J.A. and Others v. Italy* (no. 21329/18, §§ 79-83, 30 March 2023).

57. With regard to Article 5 § 1 (f), the Court has stated, in *J.A. and Others v. Italy* (cited above), as follows:

> "82. The first limb ('the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country'), which permits the detention of an asylum-seeker or other immigrant prior to the State granting authorisation to enter, implies that 'freedom from arbitrariness' means that such detention must be carried out in good faith, that it must be closely connected to the purpose of preventing unauthorised entry of the person into the country and that the place and conditions of detention should be appropriate. It should be recalled that the measure in question is applicable not to those who have committed criminal offences but to aliens who, often fearing for their lives, have fled from their own country, and that the length of the detention should not exceed that reasonably required for the purpose pursued ...

> 83. The question as to when the first limb of Article 5 § 1 (f) ceases to apply, because the individual has been granted formal authorisation to enter or stay, is largely dependent on national law (see *Suso Musa v. Malta*, no. 42337/12, § 97, 23 July 2013); if entry has been refused, any deprivation of liberty under the second limb of Article 5 § 1 (f) will be justified only for as long as deportation or extradition proceedings are in progress. If such proceedings are not prosecuted with due diligence, the detention will cease to be permissible under Article 5 § 1 (f) (see *Khlaifia and Others*, cited above, § 90)."

(ii) Application of the above principles in the present case

58. In the present case, the Government relied on Article 5 § 1 (f) of the Convention, arguing that the applicant had been placed in the Sant'Anna centre for the purpose of undergoing the identification procedure and the regularisation of his presence in the Italian territory.

59. However, the Court notes in this regard that the Government did not argue, nor has it been otherwise demonstrated, that the applicant's entry was refused or that a repatriation order was issued against him. On the contrary, both parties agree that, shortly after his arrival and placement in the Sant'Anna centre, the applicant was identified as a minor and, because of this, granted a residence permit (see paragraph 6 above), whereas no issue has been ever raised as to his age.

60. The Court further notes that, pursuant to the relevant domestic law, expulsion (*espulsione*) of unaccompanied foreign minors was prohibited (see paragraph 29 above).

61. In the light of the facts above, the Court finds that the second limb of Article 5 § 1 (f) – which requires that "action is being taken with a view to deportation or extradition" – does not apply in the case at hand.

62. As to the first limb – which permits the detention of an asylum-seeker or other immigrant prior to the State granting authorisation to enter ("the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country") – the Court notes that the refusal of entry (*respingimento*) of unaccompanied foreign minors was likewise prohibited under domestic law (see paragraph 29 above). In any event, the Court reiterates that, on 31 July 2023, the applicant was granted a residence permit as a minor (see paragraph 6 above), implying a formal authorisation to enter or stay in Italy (see *Suso Musa*, cited above, § 97).

63. Therefore, the Court concludes that the first limb of Article 5 § 1 (f) is likewise not applicable in the present case.

64. As to the Government's argument that Article 19 of Legislative Decree no. 142 of 2015, as amended by Decree-Law no. 133 of 5 October 2023, allowed for the detention of minors in designated areas of adult reception centres (C.A.R.A.), the Court notes that the applicant was placed in the Sant'Anna centre on 24 June 2023, more than three months before the entry into force of Decree-Law no. 133 of 2023 (see paragraph 5 above). At the material time, the placement of minors in facilities dedicated to adults was

expressly forbidden (see *Darboe and Camara v. Italy*, no. 5797/17, § 47, 21 July 2022). It further notes that, in any case, the provision referred to, as amended by Decree-Law no. 133 of 2023, does not concern deprivation of liberty, but merely allows – under exceptional circumstances and for limited periods – the accommodation of unaccompanied minors in separate areas of adult reception centres (see paragraph 31 above).

65. Accordingly, the Court concludes that the applicant's detention could not, in any case, be considered justified under Article 5 § 1 (f) of the Convention.

66. In view of the finding above in respect of the lack of a clear and accessible legal basis for detention, the Court fails to see how the authorities could have informed the applicant of the legal reasons for his deprivation of liberty or provided him with sufficient information in that regard (see *Khlaifia and Others*, cited above, §§ 117 and 132 et seq., and *J.A. and Others v. Italy*, cited above, § 98).

67. The Court therefore concludes that there has been a violation of Article 5 §§ 1 and 2 of the Convention.

2. Article 5 § 4

(a) The parties' submissions

68. The applicant further complained that it had been impossible to challenge the lawfulness of his deprivation of liberty and have his release ordered.

69. The Government reiterated that the applicant had had at his disposal the remedy under Article 700 of the Code of Civil Procedure, within the framework of which the applicant could have requested that the competent court give its ruling without hearing the parties beforehand.

(b) The Court's assessment

(i) General principles

70. The Court reiterates that Article 5 § 4 entitles detained persons to institute proceedings for a review of compliance with the procedural and substantive conditions which are essential for the "lawfulness", in Convention terms, of their deprivation of liberty. The notion of "lawfulness" under paragraph 4 of Article 5 has the same meaning as in paragraph 1, such that a detained person is entitled to a review of the "lawfulness" of his detention in the light not only of the requirements of domestic law but also of the Convention, the general principles embodied therein and the aim of the restrictions permitted by Article 5 § 1 (see *Khlaifia and Others*, cited above, § 128, with further references).

71. The forms of judicial review satisfying the requirements of Article 5 § 4 may vary from one domain to another, and will depend on the type of deprivation of liberty in issue. It is not the Court's task to inquire into what

would be the most appropriate system in the sphere under examination (ibid., § 129; see also *N. v. Romania*, no. 59152/08, § 185, 28 November 2017).

72. The existence of the remedy must nevertheless be sufficiently certain, not only in theory but also in practice, failing which it will lack the requisite accessibility and effectiveness (see *Khlaifia and Others*, cited above, § 130).

73. The Court reiterates that Article 5 § 4 of the Convention, in guaranteeing to detained persons the right to institute proceedings to challenge the lawfulness of their detention, also proclaims their right, following the institution of such proceedings, to a speedy judicial decision concerning the lawfulness of detention and the ordering of its termination if it proves unlawful (see *Denis and Irvine v. Belgium* [GC], nos. 62819/17 and 63921/17, § 187, 1 June 2021, with further references).

74. Proceedings concerning issues of deprivation of liberty require particular expedition, and any exceptions to the requirement of "speedy" review of the lawfulness of a measure of detention call for strict interpretation (see *Khlaifia and Others*, cited above, § 131).

75. The question of whether the right to a speedy decision has been respected must be determined in the light of the circumstances of each case and – as is the case for the "reasonable time" stipulation in Articles 5 § 3 and 6 § 1 of the Convention – including the complexity of the proceedings, their conduct by the domestic authorities and by the applicant, and what was at stake for the latter (see *Ilnseher v. Germany* [GC], nos. 10211/12 and 27505/14, § 252, 4 December 2018, with further references).

76. In principle, however, since the liberty of the individual is at stake, the State must ensure that the proceedings are conducted as quickly as possible (see *Khlaifia and Others*, cited above, § 131).

77. In particular, the Court has clarified that where a decision to detain a person has been taken by non-judicial administrative authorities, rather than a court, the standard of "speediness" of judicial review under Article 5 § 4 comes closer to the standard of "promptness" under Article 5 § 3 (see *Shcherbina v. Russia*, no. 41970/11, §§ 65-70, 26 June 2014, where a delay of 16 days for judicial review of the applicant's detention ordered by a public prosecutor for the purposes of extradition was found excessive).

78. With specific regard to administrative detention of minors in the context of immigration controls, the Court has further emphasised that, while there is a broad consensus in international law against it in keeping with the principle of the "best interests of the child", in those circumstances where minors have nevertheless been deprived of their liberty, particular expedition and diligence are required on the part of the domestic courts in reviewing the lawfulness of their detention (see *G.B. and Others v. Turkey*, no. 4633/15, § 167, 17 October 2019).

(ii) Application of the above principles in the present case

79. The Court notes that, in the present case, the applicant lodged an urgent application under Article 700 of the Code of Civil Procedure, complaining of his *de facto* detention on 19 October 2023 (see paragraph 8 above). The Court reiterates its finding that the applicant cannot be reproached for not requesting the competent court to rule without hearing the parties beforehand (see paragraph 49 above).

80. It further notes that, given the particular circumstances of the applicant – an unaccompanied minor detained in an adults' reception centre – his request under Article 5 § 4 was particularly urgent. However, it took two months for the Catanzaro District Court to only schedule a hearing, which was subsequently postponed until 9 January 2023 (see paragraphs 12-13 above). The Court also observes that the Catanzaro District Court ultimately examined the case only on 14 February 2024 (see paragraph 15 above) – four months after the initial request – by which time the applicant had already been released following the Court's intervention under Rule 39 (see paragraph 11 above).

81. The Court takes into account the fact that, with its order of 14 February 2024, the Catanzaro District Court decided to strike the case out of its list, referring to applicant's lack of continued interest in the urgent measure as a result of his transfer to a suitable facility for unaccompanied minors (see paragraphs 14-15 above).

82. In that regard the Court finds that, in the case at hand, the respondent State cannot be exonerated from its responsibility under Article 5 § 4 on the basis of the applicant's release. Indeed, the applicant's unlawful detention was terminated solely because of the application of Rule 39 (see, *mutatis mutandis*, in respect of Article 13 of the Convention, *M.A. v. Cyprus*, no. 41872/10, § 139, ECHR 2013 (extracts); compare and contrast *Coulibaly v. Belgium*, no. 42975/19, § 49, 24 July 2025, where the Court took into account that the applicant had no longer been deprived of his liberty by reason of his repatriation).

83. In any event, the Court reiterates that a question may still arise under Article 5 § 4 of the Convention where a request for release has been declared "devoid of purpose" following the cessation of the deprivation of liberty, if a judicial review was not carried out in accordance with the "speediness" requirement (compare *Coulibaly*, cited above, § 50, and the case-law cited therein). In the specific circumstances of the present case – where the domestic court ultimately took four months to examine a minor's request under Article 700 of the Code of Civil Procedure – the Court cannot but find that the domestic proceedings were not sufficiently expeditious to meet the standard of "speediness" of judicial review under Article 5 § 4.

84. In the light of the considerations above, there has accordingly been a violation of Article 5 § 4 of the Convention.

II. ALLEGED VIOLATION OF ARTICLES 3 AND 13 OF THE CONVENTION

85. The applicant complained of inadequate conditions of his detention in the Sant'Anna centre. He alleged that the centre had only been intended for adults and had been overcrowded and that unaccompanied minors had found themselves in contact with adults. He also complained of a lack of basic facilities and adequate hygienic conditions, as well as a lack of dedicated services for minors. He further alleged that he had had no effective remedy in respect of this complaint.

86. He relied on Articles 3 and 13 of the Convention, which read as follows:

Article 3

"No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

Article 13

"Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

A. Admissibility

1. The parties' submissions

87. The Government raised the preliminary objection that the applicant had failed to exhaust the available domestic remedies. They argued that the applicant had failed to make proper use of the urgent application for interim relief provided for by Article 700 of the Code of Civil Procedure. In particular, they contended that the applicant had limited his complaint under Article 700 of the Code of Civil Procedure solely to the issue of *de facto* detention (see paragraph 8 above). In their view, complaints in respect of living conditions in the reception centre should also have been raised by means of that remedy. In this regard, they emphasised the subsidiary nature of the atypical precautionary remedy under Article 700 of the Code of Civil Procedure, asserting that it was intended to offer protection in situations not otherwise regulated by the legislation.

88. The applicant reiterated that on 19 October 2023 he had lodged an urgent application under Article 700 of the Code of Civil Procedure with the Catanzaro District Court (see paragraph 8 above). However, he maintained that that had proved ineffective and that he had obtained the transfer to a reception facility appropriate for minors only subsequent to his request under Rule 39 of the Rules of Court (see paragraphs 10-11 above). He further argued that no effective remedy was provided for in the domestic legal system

to challenge the placement of an unaccompanied minor in an adult reception centre.

2. The Court's assessment

89. The Court takes note of the Government's objection as to non-exhaustion of domestic remedies. It considers that this issue is closely linked to the merits of the applicant's complaint that he did not have at his disposal an effective remedy for his complaint under Article 3 of the Convention regarding the allegedly inadequate conditions of his detention in the Sant'Anna centre. The Court therefore finds it necessary to join the Government's objection to the merits of the complaint under Article 13 of the Convention in conjunction with Article 3 of the Convention (see *Volodya Avetisyan v. Armenia*, no. 39087/15, § 25, 3 May 2022; *Neshkov and Others v. Bulgaria*, nos. 36925/10 and 5 others, § 163, 27 January 2015; and *Ter-Petrosyan v. Armenia*, no. 36469/08, § 52, 25 April 2019).

90. The Court notes that these complaints are neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. The application must therefore be declared admissible.

B. Merits

1. The parties' submissions

91. The applicant reiterated his complaint under Article 3 of the Convention that the Sant'Anna centre was intended to house only adults. Relying on the evidence which he provided, he argued that he had found himself in a situation of overcrowding and in close contact with adults (see paragraphs 17-18 and 20-22 above). He further argued that the conditions of accommodation had been extremely poor and unhealthy. He also stated that the Government had failed to submit any supporting evidence as to their argument that the living conditions in the centre had been adequate overall and that specific services had been provided to the applicant in view of his minor age. In addition, he complained under Article 13 of the Convention in conjunction with Article 3 that he had not had at his disposal an effective domestic remedy for his complaints concerning the inadequate living conditions in the reception centre.

92. The Government asserted that, contrary to *Darboe and Camara* (cited above) and *M.A. v. Italy* (no. 70583/17, 31 August 2023), in the present case, the applicant had lawfully been placed in a separate section of the reception centre, dedicated exclusively to minors. This placement had been in accordance with the most recent regulatory framework established by the Cutro Decree (see paragraph 31 above). They further contested the applicant's complaints, arguing that the material conditions had been appropriate overall and that specific standards had been set with regard to

minors' reception conditions within the centre. In particular, they submitted an addendum to the contract concerning the management of the Sant'Anna centre, adopted on 20 September 2023, authorising future increases to staff and services in that regard (see paragraph 23 above). In addition, the Government reiterated that the applicant had had at his disposal an effective remedy under Article 700 of the Code of Civil Procedure. Reiterating the precautionary and subsidiary nature of that provision, they submitted that it could also be relied on in order to complain of reception conditions.

2. The Court's assessment

(a) Exhaustion of domestic remedies and alleged violation of Article 13 of the Convention in conjunction with Article 3 of the Convention

(i) General principles

93. The general principles on exhaustion of domestic remedies were set out in *Vučković and Others* and *Duarte Agostinho and Others* (both cited above).

94. The rule on exhaustion of domestic remedies in Article 35 § 1 of the Convention requires those seeking to bring their case against the State before the Court to first use the remedies provided by the national legal system. Consequently, the High Contracting Parties are dispensed from answering for their acts or omissions in proceedings before the Court before they have had an opportunity to put matters right through their own legal system. The rule is based on the assumption, reflected in Article 13 of the Convention, with which it has close affinity, that the domestic legal system provides an effective remedy which can deal with the substance of an arguable complaint under the Convention and grant appropriate relief. In this way, it is an important aspect of the principle that the machinery of protection established by the Convention is subsidiary to the national systems safeguarding human rights (see *Volodya Avetisyan*, cited above, § 28, with further references).

95. The scope of the Contracting States' obligations under Article 13 varies depending on the nature of the applicant's complaint. With respect to complaints under Article 3 of inhuman or degrading conditions of detention, the Court has clarified that two types of relief are possible: a preventive remedy which is aimed at improving those conditions and compensation for any damage sustained as a result of them (ibid., § 29).

96. The Court has further clarified that the preventive and compensatory remedies have to be complementary in order for the protection of the rights of prisoners under Article 3 of the Convention to be considered effective. The preventive remedy must be capable of bringing an end to the alleged violation or of securing an improvement in the detention conditions. Once the impugned situation has come to an end the person should have an enforceable right to compensation. In the absence of such a mechanism, combining both types of remedy, the prospect of future compensation alone might legitimise

suffering in breach of Article 3 and unacceptably weaken the legal obligation on the State to bring its standards of detention into line with the Convention requirements (see *J.M.B. and Others v. France*, nos. 9671/15 and 31 others, § 167, 30 January 2020; see also *Ulemek v. Croatia*, no. 21613/16, §§ 71-72, 31 October 2019).

97. In the context of preventive remedies, the relief may, depending on the nature of the underlying problem, consist either in measures that only affect the prisoner concerned or – for instance where overcrowding is at issue - in wider measures that are capable of resolving situations of massive and concurrent violations of prisoners' rights resulting from the inadequate conditions (see *Neshkov and Others*, cited above, § 189, and *J.M.B. and Others v. France,* cited above, §§ 207-08).

98. With specific regard to the Italian legal framework, in *Mansouri* (cited above, §§ 100-09), the Court acknowledged the effectiveness of the compensatory remedy under Article 2043 of the Civil Code, in conjunction with the preventive remedy provided by Article 700 of the Code of Civil Procedure, in respect of complaints under Article 5 of the Convention concerning the detention of aliens. In doing so, the Court reiterated the conclusions reached by the Committee of Ministers of the Council of Europe in Resolution CM/ResDH(2021)424 of 2 December 2021 concerning the execution of the judgment in *Khlaifia and Others* (see *Mansouri*, cited above, § 95; see paragraphs 43-45 above). In *Mansouri* (cited above, § 131), the Court found it unnecessary to determine whether the applicant had exhausted those domestic remedies in respect of the complaint under Article 3 of the Convention, finding that it was, in any event, manifestly ill-founded.

(ii) Application of the above principles in the present case

99. The Court notes at the outset that the applicant's detention was ongoing when he lodged his application with the Court (see paragraph 9 above) and that the applicant complained of his placement in an adult reception centre and of the inadequate conditions of his detention therein. Referring to its conclusions in respect of Article 3 of the Convention (see paragraph 122 below), the Court considers that the applicant has an arguable complaint under the Convention. Article 13 is therefore applicable in the present case (compare, *Darboe and Camara*, cited above, § 196).

100. In this regard, the Court's task is to assess whether there existed a preventive remedy capable of bringing an end to the alleged violation or of securing an improvement in the detention conditions (see paragraph 96 above) and whether such a remedy was effective in the circumstances of the case. In this regard, the Court reiterates that the nature of the underlying problem raised by the specific case should be taken into account when assessing the adequacy of preventive remedies and the related measures (see paragraph 97 above).

101. The Court takes into account the Government's argument that Article 700 of the Code of Civil Procedure provides for a subsidiary and atypical preventive remedy which could, in principle, serve as a means of securing an improvement in the material conditions of aliens held in administrative detention or held, like the applicant, in *de facto* detention.

102. In this regard, the Court also takes into account the conclusions reached by the Committee of Ministers of the Council of Europe in Resolution CM/ResDH(2021)424 of 2 December 2021 concerning the execution of the judgment in *Khlaifia and Others*, indicating that the combination of preventive and compensatory civil-law remedies under the Code of Civil Procedure and the Civil Code might allow migrants in administrative detention to bring complaints related to their living conditions and obtain adequate redress in the event that those conditions amounted to ill-treatment.

103. However, having regard to the specific circumstances of the case and the nature of the applicant's complaint, the Court notes that, similarly to *Darboe and Camara* (cited above, §§ 179-80), the essence of the applicant's grievance under Article 3 of the Convention in the present case concerns not merely the poor living conditions within the Sant'Anna centre, but also his placement in an adult reception centre and the resulting proximity to and close contact with adults (see paragraph 17 above). The Court further reiterates that in *Darboe and Camara* (cited above, § 180) these circumstances were considered in themselves problematic with regard to minor applicants' vulnerability and dignity.

104. In the light of the considerations above, the Court finds that, in order to meet the requirements of Article 3 and Article 13 of the Convention, a preventive remedy should have been capable not only of improving the applicant's living conditions within the centre, but also of bringing to an end the alleged violation, specifically by securing the applicant's transfer to a suitable facility for minors.

105. In these circumstances, the Court considers that the applicant cannot be reproached for explicitly circumscribing his urgent application for interim relief under Article 700 of the Code of Civil Procedure to the complaint concerning his *de facto* detention (see paragraph 8 above). The Court observes in this regard that the applicant indeed availed himself of the remedy under Article 700 of the Code of Civil Procedure, indicated by the Government, with the specific purpose of obtaining his transfer to a suitable facility. However, as already found under Article 5 of the Convention (see paragraphs 47-54 above), the Court considers that in the circumstances of the present case, the delay in the domestic court's handling of the applicant's complaint rendered the remedy ineffective.

106. In the light of these considerations, the Court concludes that, while his detention was ongoing, the applicant used the domestic remedy pointed out by the Government in so far as it could be of use to him. In the absence

of any further indication by the Government as to which alternative procedural avenue the applicant should have pursued, the Government's objection must be dismissed.

107. The Court accordingly finds that the applicant did not have at his disposal an effective domestic remedy for his grievances under Article 3 of the Convention, in breach of Article 13 of the Convention in conjunction with Article 3.

(b) Alleged violation of Article 3 of the Convention

(i) General principles

108. The general principles applicable to the treatment of people held in immigration detention are set out in detail and are summarised in *M.S.S. v. Belgium and Greece* ([GC], no. 30696/09, §§ 216-22, ECHR 2011) and *Khlaifia and Others* (cited above, §§ 159-62) and, in respect of minors, in *Tarakhel v. Switzerland* ([GC], no. 29217/12, § 99, ECHR 2014 (extracts)), *Darboe and Camara* (cited above, §§ 167-73) and *M.A. v. Italy* (cited above, §§ 37-38).

109. With more specific reference to children, the Court has found a violation of Article 3 of the Convention on a number of occasions on account of the placement in migrant centres of accompanied and unaccompanied minors and, in some cases, on account of their placement in administrative detention centres (see *Darboe and Camara,* cited above, §§ 170-73).

110. As to the specific issue concerning the close contact with adults, in *Darboe and Camara* (ibid., §§ 179-80), the Court found that the fact that the applicant had been considered an adult and had been kept in an adult centre for more than four months until, following the Court's decision to apply Rule 39, the Italian authorities had promptly ordered his transfer to a migrant centre for minors, was in itself problematic with regard to the applicant's vulnerability and dignity (see, similarly, *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium*, no. 13178/03, §§ 50-59, ECHR 2006-XI, and *M.A. v. Italy*, cited above, § 45).

111. The Court has also examined, under Article 3, cases concerning accompanied or unaccompanied minors detained in separated areas of centres also intended for adults. In those cases, the Court has assessed the manner in which the separation from adults was effectively implemented (see *A.M and Others v. France*, no. 24587/12, §§ 49-53, 12 July 2016; *M.D. and A.D. v. France*, 57035/18, § 57 and 67, 22 July 2021; and *N.B. and Others v. France*, no. 49775/20, § 49, 31 March 2022), together with the general suitability of the premises for the accommodation of children, in combination with other factors, such as the applicants' young age and the length of their stay (see *Popov v. France*, nos. 39472/07 and 39474/07, § 95, 19 January 2012; *A.B. and Others v. France*,

no. 11593/12, § 109, 12 July 2016; and *R.R. and Others v. Hungary,* no. 36037/17, §§ 60-64, 2 March 2021).

112. When assessing the suitability of the premises, the Court has, in particular, taken into account whether the material conditions were essentially the same as those provided for adults or whether specific services were provided (see *R.R. and Others v. Hungary*, cited above, §§ 60-64). In cases where the material conditions were not *per se* in breach of Article 3, the Court has sometimes concluded that the detention conditions were in any case inadequate in the light of the duration of the detention as well as other factors (see, for example, *A.B. and Others v. France*, cited above, §§ 113-15; *N.B. and Others v. France*, cited above, §§ 50-53; and *M.H. and Others v. Croatia*, nos. 15670/18 and 43115/18, §§, 193-204 18 November 2021).

(ii) Application of the above principles in the present case

113. The Court notes at the outset that the applicant provided a number of items of evidence in support of his claims (see paragraphs 20-22 above). In particular, he produced the replies provided by the Prefecture of Crotone and by the competent police authority to an NGO's request for access to information concerning unaccompanied minors' conditions within the centre, several reports by NGOs and a report by the National Guarantor of the rights of people detained or deprived of their liberty on its visit to the Sant'Anna centre.

114. In particular, the report by the National Guarantor of the rights of people detained or deprived of their liberty confirmed that, despite the fact that unaccompanied minors were in principle housed in designated areas of the centre, in practice the separation between minors and adults was not effectively implemented. In this regard, the report explicitly noted that minors and adults lived "in close contact". Indeed, notwithstanding the nominal existence of separate zones, it was always possible to gain access from one side to the other side of the centre without restrictions. In addition, on the day of the National Guarantor's visit to the centre, the area designated to house minors was used as a "mixed module" where adults were also hosted (see paragraph 21 above).

115. The Court further notes that the materials submitted by the applicant indicate that no specific services or facilities tailored to the needs of unaccompanied minors were provided within the Sant'Anna centre. The National Guarantor observed indeed the absence of dedicated educational, recreational or psychosocial support services for minors (see paragraph 21 above).

116. The Court reiterates in this regard that in assessing whether conditions of detention or accommodation meet the standards required under Article 3, it attaches particular weight to whether children are afforded conditions and services appropriate to their age and vulnerability, and whether their situation differs meaningfully from that of adults (see the

case-law cited in paragraphs 111-112 above). In the light of the above, the Court finds that the minors' material conditions within the Sant'Anna centre - accommodation, sanitary facilities, and daily routines – did not differ from those provided to the adult population.

117. It is further apparent from the above-mentioned documents that the condition of unaccompanied minors was further aggravated by the impossibility of their leaving the centre, which also constituted a violation of Article 5 of the Convention (see paragraph 65 above).

118. The Court further notes that the Government, for their part, generically maintained that the living conditions in the centre had been adequate overall and that specific standards had been set with regard to reception conditions for minors. In this regard, they submitted an addendum to the contract concerning the management of the Sant'Anna centre, adopted on 20 September 2023, which authorised future increases to staff and services in that connection (see paragraph 23 above).

119. The Court notes, however, that the Government did not show that the improvements referred to in that document had already taken place at the time of the applicant's stay, from June to December 2023. In fact, the addendum provided by the Government was adopted only on 20 September 2023 and merely authorised future increases to the staff, further underscoring the insufficiency of services at the time of the applicant's stay.

120. In the light of these circumstances, the Court finds that the Government failed to provide any evidence that the applicant was placed in conditions adequate for an unaccompanied minor and provided with the services required by his condition.

121. In the light of the considerations above and bearing in mind that the applicant stayed in the centre for more than five months, the Court concludes that the applicant was subjected to inhuman and degrading treatment during his stay in the Sant'Anna centre, in violation of Article 3 of the Convention.

122. There has accordingly been a violation of Article 3 of the Convention.

III. RULE 39 OF THE RULES OF COURT

123. The Court reiterates that, in accordance with Article 44 § 2 of the Convention, the present judgment will not become final until (a) the parties declare that they will not request that the case be referred to the Grand Chamber; or (b) three months after the date of the judgment, if referral of the case to the Grand Chamber has not been requested; or (c) the Panel of the Grand Chamber rejects any request to refer under Article 43 of the Convention.

124. In view of the fact that on 6 December 2023 the applicant was transferred to a facility where his reception conditions as an unaccompanied minor could be ensured (see paragraph 11 above), the Court considers that

the indication made to the Government under Rule 39 (see paragraph 10 above) should be lifted.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

125. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

126. The applicant claimed 30,000 euros (EUR) in respect of non-pecuniary damage.

127. The Government contested this claim.

128. The Court awards the applicant EUR 6,500 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

129. The applicant also claimed EUR 14,629.15 for the costs and expenses incurred before the Court.

130. The Government contested the applicant's claims.

131. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the applicant the sum of EUR 4,000, covering the costs and expenses for the proceedings before the Court.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaints under Article 5 §§ 1, 2 and 4 of the Convention admissible;

2. *Joins* the Government's objection of non-exhaustion concerning Article 3 of the Convention to the merits of the applicant's complaint under Article 13 of the Convention in conjunction with Article 3 and dismisses it;

3. *Declares* the complaints under Article 3 of the Convention and Article 13 of the Convention in conjunction with Article 3 of the Convention admissible;

4. *Holds* that there has been a violation of Article 5 §§ 1 and 2 of the Convention;

5. *Holds* that there has been a violation of Article 5 § 4 of the Convention;

6. *Holds* that there has been a violation of Article 3 of the Convention;

7. *Holds* that there has been a violation of Article 13 of the Convention in conjunction with Article 3 of the Convention;

8. *Decides* to lift the indication of the interim measure to the Government under Rule 39 of the Rules of Court;

9. *Holds*
   (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts at the rate applicable at the date of settlement:
      (i) EUR 6,500 (six thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 4,000 (four thousand euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

10. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 9 April 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Ilse Freiwirth Registrar	Ivana Jelić President