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

FIFTH SECTION

DECISION

Application no. 3132/24
A.B.F.
against Italy

The European Court of Human Rights (Fifth Section), sitting on 4 June 2026 as a Committee composed of:

María Elósegui, *President*,
Gilberto Felici,
Diana Sârcu*, judges*,
and Sophie Piquet, *Acting Deputy Section Registrar*,

Having regard to:

the application (no. 3132/24) 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") on 1 February 2024 by a Tunisian national, Mr A.B.F. ("the applicant"), who was born in 1997, and was represented by Mr A. Raneli, a lawyer practising in Palermo;

the decision to give notice of the complaints raised under Article 3 and Article 5 § 1 of the Convention to the Italian Government ("the Government"), represented by their Agent, Mr L. D'Ascia, and to declare the remainder of the application inadmissible;

the decision not to have the applicant's name disclosed;

the decision to give priority to the application (Rule 41 of the Rules of Court);

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

the observations submitted by the respondent Government and the observations in reply submitted by the applicant;

the comments submitted by the Association for Legal Studies on Immigration (ASGI – *Associazione per gli Studi Giuridici sull'Immigrazione*), which was granted leave to intervene by the President of the Section;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the stay of the applicant, a Tunisian asylum-seeker, in the Trapani-Milo and Caltanissetta-Pian del Lago repatriation centres (CPR – *Centri di Permanenza per i Rimpatri*). The applicant complained under Articles 3 and 5 of the Convention.

2. On 14 November 2023 the applicant arrived on the island of Pantelleria (Trapani) without identification documents. His identity was then established by the *carabinieri* with the help of an interpreter. On that occasion, he was informed of the possibility of applying for international protection, but he declined to do so.

3. On 15 November 2023 the applicant was transferred to the Trapani CPR, and the head of the Trapani local police authority (*questore*) issued a *refoulement* order.

4. As the applicant did not have any identification documents and there were no available planes to deport him, on the same day the *questore* issued an order for his detention in the Trapani CPR for the time strictly necessary to remove the obstacles to escorting him to the border.

The order was validated by a judge of the Trapani District Court following a hearing on 17 November 2023, during which the applicant submitted that he had come to Italy to apply for international protection, contradicting his earlier statements.

5. A new detention order was issued by the specialised section of the Palermo District Court and validated by a decree on 30 November 2023. The applicant appealed against the order to the Court of Cassation, which rejected the appeal on 9 April 2024. The Court of Cassation held that the allegedly late registration of his application for international protection by the authorities had not affected the lawfulness of the detention, that the relevant case-law relied on by the applicant had not been applicable, and that the new detention order had been legally connected to the previous detention measure. It also found that the statutory time-limit for submitting the order to the Palermo District Court for validation had been respected.

6. In the meantime, the applicant lodged an application for review, arguing that, among other things, the relevant time-limits had been breached in respect of the request for validation of the detention order. The Palermo District Court dismissed the application for review by a decree on 10 December 2023.

7. On 22 January 2024 a group of detainees set fire to the Trapani CPR as a protest against the conditions of the facility. Detainees were separated and placed in various open common areas of the centre, since many areas had been rendered temporarily unusable as a result of the damage caused by the fire. Only a few people could be housed indoors; the remaining detainees, including the applicant, were placed in an outdoor common area with no roof, where they were given only blankets to sleep on. Multiple news outlets

reported that about a hundred people were being forced to live outdoors, without mattresses and blankets, and were sharing hygiene facilities designed for ten people.

8. On 25 January 2024 the Trapani police (*Questura*) extended the applicant's detention, as his application for international protection before the Territorial Commission for the Recognition of International Protection (*Commissione territoriale per il riconoscimento della protezione internazionale*) was still pending. The extension was validated on 26 January 2024 by the specialised section of the Palermo District Court. The applicant appealed to the Court of Cassation. Those proceedings were still pending at the time the parties submitted their observations to the Court.

9. On 1 February 2024 the applicant was transferred to a habitable area of the Trapani CPR.

10. On 7 February 2024, following a request by the applicant, the Court applied an interim measure under Rule 39 of the Rules of Court, indicating to the respondent Government to immediately transfer the applicant to a reception facility that would adequately meet his needs. The measure was granted on the same day, and the applicant was transferred to the Caltanissetta CPR.

11. According to the applicant, the Caltanissetta CPR also failed to adequately meet his basic needs.

12. On 8 February 2024 the applicant submitted a request for repatriation to the local police authority and informed it that he wished to withdraw his previous application for international protection. However, on 12 February 2024 he declared his intention to withdraw the request for repatriation and renewed his application for international protection. A new detention order was then issued on the same day and validated on 14 February 2024 by the Caltanissetta District Court. The applicant appealed to the Court of Cassation, and those proceedings were still pending at the time the parties submitted their observations to the Court.

13. On 15 February 2024 the Trapani Territorial Commission declared the applicant's renewed application for international protection inadmissible owing to the lack of any new elements. The applicant appealed to the Court of Cassation, and those proceedings were still pending at the time the present application was lodged with the Court. The applicant was then repatriated on 12 April 2024 via a charter flight.

14. On 19 May 2025 the applicant's representative informed the Court that the applicant had returned to Italy and obtained a provisional residence permit on 8 March 2025. On that date, the applicant had been staying in a reception centre in Syracuse.

15. The applicant alleged that his stays at the Trapani and Caltanissetta CPRs had been in breach of Article 3 of the Convention, owing to the inhuman and degrading conditions of detention he had experienced there. He

further claimed that he had been arbitrarily detained in the CPRs in violation of Article 5 § 1 (f) of the Convention.

THE COURT'S ASSESSMENT

16. The Government raised the preliminary objection that the applicant had failed to exhaust the available domestic remedies. In particular, they submitted that he should have appealed to the Court of Cassation against the decision of the Trapani Territorial Commission of 15 February 2024 declaring his application for international protection inadmissible. The Government also objected that the applicant had failed to appeal to the Court of Cassation against the orders extending his detention on 30 November 2023, 26 January 2024 and 14 February 2024.

17. In reply to the Government's objection, the applicant argued that he had appealed against the decision of the Trapani Territorial Commission of 15 February 2024. He further provided judicial evidence confirming that the last hearing had been scheduled on 30 October 2025.

18. The general principles on the 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 have been reiterated in *Duarte Agostinho and Others v. Portugal and 32 Others* ((dec.) [GC], no. 39371/20, § 215, 9 April 2024). As to 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).

19. The Court cannot but acknowledge that the applicant raised claims at the national level with regard to both the dismissal of his application for international protection and the orders extending his detention.

20. The Court notes firstly that the proceedings before the Court of Cassation concerning the dismissal of the applicant's application for international protection and the orders extending his detention issued by the Palermo District Court on 26 January 2024 and the Caltanissetta District Court on 14 February 2024 were still pending during the exchange of observations between the parties. Accordingly, the Court dismisses the Government's objection of non-exhaustion of domestic remedies concerning the above-mentioned proceedings and finds in any event that the parts of the complaints under Articles 3 and 5 of the Convention relating to those decisions must be regarded as premature.

21. With regard to the order extending the applicant's detention issued on 30 November 2023, the Court observes that the relevant proceedings were finalised by an order of the Court of Cassation of 9 April 2025. In this regard, it should be noted that, within those proceedings, the applicant failed to raise his complaints under Article 3 of the Convention.

22. The Court therefore concludes that the applicant's complaint under Article 3 of the Convention with regard to the order of 30 November 2023 is inadmissible under Article 35 §§ 1 and 4 of the Convention.

23. As to the applicant's complaint under Article 5 of the Convention pertaining to the above-mentioned order, the Court refers to the parties' observations below.

24. The general principles concerning conditions of detention with a view to deportation have been summarised in *J.A. and Others v. Italy* (no. 21329/18, § 58, 30 March 2023).

25. In particular, the applicant claimed that he had been detained in violation of Article 5 § 1 (f) of the Convention. More specifically, he argued that his detention from November 2023 until April 2024 pending repatriation at the two CPRs had amounted to an arbitrary deprivation of his liberty, as the time-limits prescribed by domestic law for the processing of asylum applications had not been observed in his case and, thus, there had been no safeguards against an excessively lengthy detention pending repatriation.

26. The Court considers that only the detention period from 17 November 2023 until 28 November 2023 should be taken into account as, at the domestic level, the applicant only challenged that period, as confirmed by the Court of Cassation in its judgment of 9 April 2025.

27. The relevant framework at national level establishes that, pursuant to Legislative Decree no. 142/2015, the detention of asylum-seekers must not exceed the time strictly necessary to assess their applications. Furthermore, Article 28 *bis* of Legislative Decree no. 25 of 8 January 2008 provides that the examination should be carried out and completed within nine days of the application being referred to the competent asylum authority.

28. The Government maintained that the applicant's detention pending repatriation had been lawful and had not been arbitrary and that its overall length had been adequate given the circumstances of the case, its complexity and the number of appeals raised by the applicant. The asylum proceedings had been conducted with due diligence, in compliance with the relevant legislation on the matter (Legislative Decree no. 286 of 25 July 1998) and with a view to the applicant's removal, and there had been compelling reasons justifying the duration of the asylum proceedings exceeding the statutory time-limits.

29. Furthermore, the Government stated that since the applicant's application for international protection had been pending with the Territorial Commission for the Recognition of International Protection, the detention measure had been extended by the Palermo District Court pursuant to Article 6 of Legislative Decree no. 142/2015. After the applicant had withdrawn his application for international protection, a new detention order had been issued pursuant to Article 6 § 3 of Legislative Decree no. 286/1998. The Government stated that, in the light of those circumstances, the measure had been lawful and in compliance with national legislation.

30. The ASGI (*Associazione per gli Studi Giuridici sull'Immigrazione*) submitted that asylum-seekers' detention should not exceed the time strictly necessary to assess their applications, as outlined in Article 28 *bis* of Legislative Decree no. 25 of 8 January 2008.

31. The Court observes that the applicant's detention from 17 November 2023 until 28 November 2023 was lawful and pursued a legitimate aim, namely the prevention of unauthorised entry into the country (see *Khlaifia and Others v. Italy* [GC], no. 16483/12, § 89, 15 December 2016). In this connection, the Court of Cassation found that the alleged late registration of the applicant's application for international protection had not affected the lawfulness of the detention, that the case-law relied on by the applicant had not been applicable to the circumstances of the case, and that the new detention order had been legally connected to the previous detention measure. It also confirmed that the statutory time-limit for submitting the detention order to the District Court for validation had been respected.

32. In this regard, the Court acknowledges that, as it lasted 11 days, the time spent by the applicant in detention pending repatriation did not exceed the duration prescribed by law at the national level. In the light of the case's procedural complexity, the Court holds that the length of the detention did not amount to a violation under Article 5 § 1 (f) of the Convention (see *J.N. v. the United Kingdom*, no. 37289/12, § 83, 19 May 2016).

33. It follows that this part of the application must be rejected in accordance with Article 35 § 4 of the Convention.

34. The interim measure previously indicated to the Government under Rule 39 in this application therefore ceases to have any basis.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 25 June 2026.

Sophie Piquet Acting Deputy Registrar	María Elósegui President