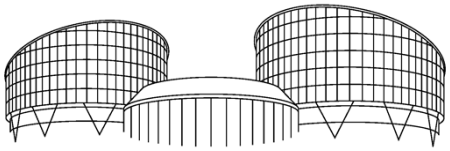

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF CIOFFI v. ITALY

(Application no. 17710/15)

JUDGMENT

Art 3 (substantive and procedural) • Inhuman and degrading treatment of the applicant by police officers at the police station after his arrest in the aftermath of an "anti-globalisation" demonstration • Ineffective investigation

Prepared by the Registry. Does not bind the Court.

STRASBOURG

5 June 2025

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Cioffi v. Italy,

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

Ivana Jelić*, President*,
Erik Wennerström,
Georgios A. Serghides,
Raffaele Sabato,
Alain Chablais,
Artūrs Kučs,
Anna Adamska-Gallant*, judges*,
and Ilse Freiwirth, *Section Registrar,*

Having regard to:

the application (no. 17710/15) 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 an Italian national, Mr Andrea Cioffi ("the applicant"), on 16 June 2015;

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

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

the comments submitted by Italian State Police officers C.S. and F.C., who were granted leave to intervene by the President of the Section;

Having deliberated in private on 29 April 2025,

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

INTRODUCTION

1. The case concerns the alleged ill-treatment of the applicant by law-enforcement officers. The impugned events took place in a police station, following the applicant's apprehension in the aftermath of an "anti-globalisation" demonstration that took place in Naples on 17 March 2001. The case also concerns the alleged inadequacy of the ensuing criminal investigation. It raises issues under Article 3 of the Convention.

THE FACTS

2. The applicant was born in 1972 and lives in Naples. The applicant was represented by Mr G.P. Pezzuti, a lawyer practising in Naples.

3. The Government were represented by their former Agent, Ms E. Spatafora and their former co-Agent, Ms M. L. Aversano.

I. THE EVENTS OF 17 MARCH 2001

4. The Third Global Forum on Reinventing Government was held in Naples from 15 to 17 March 2001.

5. As a reaction to the event, an "anti-globalisation" demonstration was planned to take place at the summit's conclusion on 17 March 2001. This was a demonstration involving activists representing a broad coalition of environmentalist, anarchist and left-wing protest groups, alongside representatives of the "No Global" movement, student collectives and pacifist groups.

6. Security measures were put in place by the Italian authorities. The part of the city where the meeting was scheduled to take place (the city centre) was designated as a "red zone" and cordoned off. Law-enforcement officers from various branches of the police were deployed to patrol and protect it.

7. At a certain point a group of hostile demonstrators attempted to knock down the cordon set up around the red zone. The law-enforcement officers charged against them in an attempt to prevent access to the protected area. Some members of the crowd reacted by throwing hard objects at them, such as rocks, bolts and sticks.

8. A large number of individuals were injured in the clashes, which led to a heavy flow of people into the emergency departments of various city hospitals. At approximately 12 noon ambulances started travelling back and forth between the demonstration site and the various hospitals. Some injured people who had not managed to board the ambulances walked to the hospitals, while others were taken there by local people who had not participated in the demonstrations.

9. At 12.30 p.m. the law-enforcement officers started the process of identifying the individuals in the emergency departments, including both the injured and those who were with them. Following the identification process, all police patrols and officers in the hospitals received orders via radio instructing them to transfer the people being treated in the hospital emergency departments to the "Virgilio Raniero" police station ("the police station").

10. A deputy chief of police (*vice questore*) was entrusted with coordinating the police's activities at the police station. He deployed thirteen officers to the entrance to guard the building. He also designated the police station's break room as the place where the individuals taken into custody were to be held. He delegated authority over the persons held there to two senior officials, C.S. and F.C.

11. Eighty-five individuals were taken to the police station.

12. The applicant was among the individuals retrieved from one of the city hospitals and taken to the police station. According to the findings of the domestic courts the applicant was transferred to the police station at some point between 12.30 and 13.00 and released shortly after 5.30 p.m.

II. CRIMINAL PROCEEDINGS AGAINST THE LAW-ENFORCEMENT OFFICERS

13. Following a preliminary investigation, thirty-one law-enforcement officers of different ranks were charged with offences in connection with the events of 17 March 2001. These included kidnapping (*sequestro di persona*) with the aggravating factor that it had been carried out by State officials abusing their authority; unlawful personal searches and inspections (*perquisizione e ispezione personali arbitrarie*); destruction and damage of property (*danneggiamento*); abuse of office; forgery committed by State officials in the drafting of public documents (*falsità ideologica commessa dal pubblico ufficiale in atti pubblici*); criminal coercion (*violenza privata*); and bodily harm (*lesione personale*), including, *inter alia*, causing contusions to the applicant's head and back, with a number of aggravating factors, such as committing the offence while exercising a public function, operating in a number greater than five, taking advantage of the vulnerability of the injured, and using service batons to commit the offence.

14. On 13 July 2004 they were committed to stand trial in the Naples District Court. The applicant joined the proceedings as a civil party alongside nineteen other individuals.

A. Proceedings before the Naples District Court

15. The Naples District Court's judgment was issued on 23 January 2010. Its findings may be summarised as follows.

16. As to the establishment of the facts, the court described what it considered to be proven in connection with what it defined as "egregious conduct" (*gravissime condotte*) towards individuals at the police station, which included the applicant. The court found that the evidence gathered during the investigation and produced at trial demonstrated that the events had occurred in the manner described by the victims and that it allowed for a sufficiently precise reconstruction of the facts.

17. The court found that it was established that upon their arrival at the police station, the individuals taken into custody had been made to walk through a hallway surrounded by law-enforcement officers who took turns slapping, kicking, tripping, spitting on and verbally abusing them; that they were forced to kneel with their hands behind their heads and remain in an uncomfortable position, even those who were visibly injured or disabled; that they had to undergo searches while standing naked and barefoot on a floor covered in blood and urine, for a time exceeding that required for searches, while simultaneously undergoing physical and verbal abuse; that they had to remain silent at all times and were not allowed to communicate with their lawyers or inform their family members that they had been taken into custody; that they were not allowed to use mobile or public telephones in

order to communicate their whereabouts, with mobile telephones being seized and, in certain cases, damaged; that they were beaten and subjected to various form of physical abuse; that they were subjected to threats and verbal abuse in connection with their sexual, religious and political preferences; and that they were not allowed to tend to basic personal needs such as eating, drinking or using the toilet.

18. It was found that the applicant, in particular, had been subjected to several beatings. It further emerged that he had been forced to kneel on the floor with his face to the wall and his hands behind his head while waiting to be searched, alongside the other individuals who had been taken to the police station. In order to enforce that posture, he had been shoved, kicked and punched from behind. The court found that this treatment had persisted notwithstanding the applicant's repeated requests to know the reasons for his being held at the police station. Furthermore, he had not been allowed to use a telephone in order to communicate his whereabouts and his mobile phone had been damaged.

19. The court also found that when the applicant had identified himself as a trainee lawyer and had asked the officers to explain why he was being held, given that he had not been formally arrested and had already been identified at the hospital, he had been subjected to further physical abuse, which the court described as "very violent", and verbal abuse to the point that he had been compelled to desist, a circumstance which the court considered to be "particularly unacceptable". The court also singled out the applicant as among the recipients of "particularly odious" insults and threats. In this connection, the court considered that the applicant, who had been referred to with contempt by officers as "the little lawyer" (*l'avvocatino*) had become a "designated target" for the law-enforcement officers, who had attempted to instil fear in him by threatening him, stating that they knew where he lived, and could get to him at any moment.

20. The applicant had been subjected to two searches in the police station toilets shortly after his arrival. One search had been carried out by the same police officers who had retrieved him from the hospital. Despite his protests, he had signed a search record which stated that a dangerous item, identified as a "keychain", had been found in his possession. However, prior to his release, he had been supplied with a different search record, which stated that he had been searched by an officer he had not seen before.

21. As to the law, with respect to the offences of aggravated bodily harm, criminal coercion, unlawful personal searches and inspections, and destruction of property, the court decided that the proceedings had to be discontinued because the applicable statutory limitation periods had expired.

22. With regard to the offence of aggravated kidnapping, the court convicted ten law-enforcement officers. The court observed that the events that had unfolded in the police station had amounted to a "suspension of constitutional guarantees". It found that the individuals detained there had

been deprived of their liberty without proper justification, and that this deprivation had been carried out by means of "unacceptable operational practices". The court drew a distinction between the offence of kidnapping and the lesser offence of unlawful arrest, concluding that the former was the more suitable legal classification. The court emphasised that there was no legal authority that could justify the indiscriminate retrieval and transfer of every person being treated in the city's emergency departments to the police station, without at least first verifying the reasons why they were in hospital. The foregoing acts, which were described as a "sweep" (*rastrellamento*), were based, in the court's view, on the fallacious premise that every single person in the emergency departments had not only taken part in the demonstration, but had also been actively involved in the clashes with law enforcement and could be considered to have engaged in the commission of a criminal offence. The court observed that a number of individuals who had been taken to the police station had had nothing to do with the demonstration, such as one man who had been in the emergency department because, earlier that day, he had been involved in a motorcycle accident. It also pointed out that while one of the purposes had allegedly been to identify suspects, this was not credible as many individuals, including the applicant, had already been identified by law-enforcement officers in the city hospitals. Others had been released from the station having been neither identified nor searched. The court concluded by excluding the applicability of legislation authorising arrests in "exceptional" and "urgent" situations, given that the impugned conduct on the part of the officers had not been carried out as an immediate consequence of the commission of an offence by demonstrators or even in the immediate aftermath of the demonstration. The court also pointed to evidence that several officers had attempted to create *ex post facto* justifications for their conduct.

23. Three officers filed an express waiver of the statutory limitation period in their case (*rinuncia alla prescrizione*). Among them were two officers who, along with eleven other officers, had been charged with aggravated bodily harm including, *inter alia*, causing contusions to the applicant's head and back. The court found that those officers had not been at the police station at the time the physical abuse against the applicant had taken place and could therefore not be held responsible for those specific injuries sustained by the applicant. However, one of them, R.M., was found to have beaten and caused injuries to another individual who joined the proceedings as a civil party.

24. Two officers, R.M. and D.T. had been charged with the offence of criminal coercion. The court found that, at the police station, between 12.30 and 5.30 p.m., a number of law-enforcement officers had engaged in conduct which had consisted of compelling the individuals in custody, including the applicant, by the use of physical violence and threats, to obey unlawful orders and adopt behaviour that was not in any way justified on grounds of public

order or safety. The court added that such conduct was aimed at arousing feelings of inferiority and could be defined as "inhuman and degrading" treatment. The court also noted that the testimony of all the victims showed that none of them had filed criminal complaints immediately after the events about the abuse they had suffered, which it attributed to the fear and intimidation they had endured at the police station.

25. The court concluded that, while R.M. and D.T. could not be held responsible for specific episodes of abuse, aside from the conduct for which R.M. had been found guilty on different charges (see paragraph 23 above), they had been aware of what was happening but had done nothing to prevent it. Nor had they alerted the higher-raking officers present at the police station. In particular, D.T. was found to have permitted a colleague to physically assault a number of individuals. The court concluded that the officers were guilty of criminal coercion.

26. As to the sentences imposed on the convicted individuals, the officers convicted of kidnapping were given prison sentences ranging from two years to two years and eight months. R.M. and D.T., who were convicted of both kidnapping and criminal coercion – and additionally, in the case of R.M., of bodily harm (see paragraph 23 above) – were sentenced to two years and six months' and two years and two months' imprisonment, respectively. As an ancillary penalty, the court suspended all the convicted officers from public office for a period equivalent to the length of their principal sentence.

27. However, the court found that four of the convicted officers, C.S, F.C, R.M. and D.T., were eligible for a full pardon (*indulto*) under Law no. 241 of 29 July 2006 and their principal sentences were therefore remitted (*condonate*) in their entirety. The remaining officers' main and ancillary penalties were suspended and the court ordered that the conviction should not appear on their criminal record.

28. The court further recognised the civil parties' right to damages, although it dismissed their application for an advance payment of damages pending final determination thereof and instructed them to apply to the civil courts for quantification of the award. The convicted individuals were also ordered to pay the civil parties' costs and expenses.

B. Proceedings before the Naples Court of Appeal

29. On an unspecified date fourteen law-enforcement officers lodged an appeal with the Naples Court of Appeal.

30. By decision of 9 January 2013 the Naples Court of Appeal amended part of the District Court's judgment.

31. With regard to the offence of kidnapping, the court rejected the arguments put forward by certain officers who had been convicted at first instance to the effect that the lower court had erred in the legal classification

of the offence. They had contended, *inter alia*, that the offence of unlawful arrest was better suited than kidnapping to describe the conduct in question.

32. After addressing and dismissing the grounds of appeal, the court found that, in so far as the offence of kidnapping was concerned, the proceedings against the officers who had been convicted by the District Court ought to have been discontinued because of the expiry of the relevant statutory limitation periods. The court further overturned the ancillary penalty imposed by the District Court suspending them from public office (see paragraph 26 above).

33. The Court of Appeal upheld the convictions of two officers, R.M. and D.T., for the offence of criminal coercion, and sentenced them to a prison term of ten and six months respectively. However, the court suspended their sentences and the ancillary penalties of suspension from public office. It further ordered that the conviction should not appear on their criminal record.

34. Finally, the court upheld the civil parties' right to compensation, although it dismissed their application for an advance payment of damages pending their final determination, as it considered that it did not have sufficient information to allow it to quantify the pecuniary and non-pecuniary damage sustained.

C. Proceedings before the Court of Cassation

35. Ten law-enforcement officers lodged appeals on points of law with the Court of Cassation, which were filed with the registry on 16 March 2015. By decision of 9 October 2015, they were dismissed by the Court of Cassation.

III. SUSPENSION FROM DUTY AND DISCIPLINARY PROCEEDINGS

36. Following a provisional order by the preliminary investigations judge that C.S. and F.C. be placed under house arrest, issued on 24 April 2002 and served on them on 26 April 2002, they were suspended from duty.

37. On 11 May 2002 C.S. and F.C. returned to their duties by order of the Chief of Police, following the revocation of the house arrest measure.

38. On 10 December 2014 the Chief of the State Police issued a notice launching a disciplinary investigation in connection with the events of 17 March 2001 in the police station. Allegations of misconduct were levelled at C.S. and F.C., who were accused of serious negligence in the discharge of their duties in connection with the events that had taken place there and of having thereby damaged the prestige of the police force and their duty station in terms of impartiality, credibility and public trust. Under applicable provisions, such misconduct, if established, entailed the sanction of suspension from office for one to six months.

39. On 19 December 2014 and 29 December 2014 respectively, C.S. and F.C. were served with the notice.

40. On 10 December 2015 the State Police Central Disciplinary Board unanimously found that F.C. had committed disciplinary offences in connection with the harassment of and physical violence inflicted on the individuals held at the police station. It considered, *inter alia*, that even though no eyewitness evidence had been produced indicating that F.C. had materially assisted, carried out, or been in a position to prevent acts of physical violence or harassment, it was apparent that, unlike C.S., he had been on duty inside the police station for a significant period of time (at least six hours). This finding was considered sufficient for the official's disciplinary liability to be established. While acknowledging the extreme confusion that had arisen within the police station at the relevant time, it did not appear objectively plausible to the Board that F.C. had failed to detect anything unusual, or that, having become aware of the existence of traces of blood in the bathroom, he had not at least felt the need to investigate the causes of such traces, if only for the sake of scrupulousness. Therefore, in the Board's view, F.C. had not displayed the diligence expected of a State Police official in a management role in carrying out the important task entrusted to him, namely supervising the activities of the officers present inside the police station so as to avert the possibility of any unlawful action whatsoever. By way of sanction, the Board found it appropriate to apply a lighter penalty than the one provided for *in abstracto* in the applicable provisions and directed that a written warning (*richiamo scritto*) be issued by order of the Chief of the State Police. F.C. was cleared of other disciplinary offences.

41. On the same date C.S. was cleared of all disciplinary offences.

42. On 17 March 2016 F.C. lodged an appeal with the Latium Regional Administrative Court against the order of the Chief of the State Police imposing the disciplinary sanction of a written warning. He argued that he had been subjected to unequal treatment since C.S. had been cleared in relation to the same events. Those proceedings were ongoing at the time when the third-party intervention was submitted on 15 June 2016.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. RELEVANT OFFENCES UNDER THE ITALIAN CRIMINAL CODE

43. Under Article 323 (abuse of public authority) of the Criminal Code, a public official or person responsible for a public department who, in the course of his or her duties or service, intentionally and in breach of legal or statutory provisions, procures for himself or others an unfair pecuniary benefit or causes an unfair disadvantage to others, is subject to a prison sentence of between six months and three years.

44. Article 582 (bodily harm) provides that anyone who causes bodily harm to another person, resulting in that person's mental or bodily injury, may be sentenced to a term of imprisonment ranging from three months to three years.

45. Under Article 605 (kidnapping), whoever deprives someone of his or her personal freedom will be punished by a term of imprisonment ranging from six months to eight years.

46. Under Article 610 (criminal coercion - *violenza privata*), a person commits an offence when, by use of violence or threat, he or she compels a person to perform or refrain from performing an act.

47. The Criminal Code states that the common aggravating circumstances include commission of the offence for futile or abject reasons (Article 61 § 1), commission of the offence in order to conceal another offence (Article 61 § 2), infliction of abuse or cruel acts on a person (Article 61 § 4) and, lastly, commission of the offence by abusing the authority inherent in the exercise of public office or in breach of the duties inherent in the exercise of public office.

II. TIME-BARRING OF CRIMINAL OFFENCES AND PARDON (*INDULTO*)

48. The relevant domestic law provisions, as applicable at the material time, are set out *Cestaro v. Italy*, no. 6884/11, §§ 96-102, 7 April 2015.

III. OFFENCE OF TORTURE

49. The offence of torture was introduced in the Italian Criminal Code by Law no. 110 of 14 July 2017.

50. Article 613 *bis* (torture) of the Criminal Code provides that anyone who, through the use of violence or serious threats, or acting cruelly, causes acute physical suffering or verifiable psychological trauma to a person deprived of personal liberty or entrusted to his or her custody authority, supervision, control, care or assistance, or who is in a vulnerable state, is to be punished by four to ten years' imprisonment if the offense is committed through multiple acts or involves inhuman or degrading treatment. When the offence is committed by a public official, the penalty is five to twelve years' imprisonment. Aggravating circumstances may also apply, depending on the consequences of the acts for the victim.

THE LAW

I. PREMIMINARY ISSUES

A. The Government's request to exclude the third-party submissions

51. The Government pointed out that third-party interventions must pursue the goal of enhancing the Court's knowledge by providing fresh information or additional legal arguments relating to the relevant general principles for settling the case. In the present case, however, they argued that the third-party submissions were irrelevant to the issues raised by the case and that the third parties had merely used their right to intervene as a pretext to argue in favour of their position in connection with the impugned events and of the incompatibility of the conduct of the criminal proceedings against them with the Convention. The Government thus invited the Court to assess the content of the intervention in the light of its appropriateness and pertinence. They further requested that the third-party submissions be excluded from the case file or, alternatively, disregarded by the Court in its decision-making process.

52. The Court does not consider it necessary to rule on this request, or to assess the pertinence or appropriateness of the submissions or parts thereof, as, in any event, it will only take into account those observations that may be relevant to the examination of the applicants' complaints (see, *mutatis mutandis*, *Cestaro v. Italy*, no. 6884/11, § 127, 7 April 2015, and *Executief van de Moslims an België and Others v. Belgium*, nos. 16760/22 and 8 others, § 47, 13 February 2024).

B. Whether the applicant raised a complaint under Article 3 of the Convention

53. The Court notes that in their observations of 6 October 2016, made in reply to those of the applicant, the Government argued for the first time that the applicant had not raised a complaint under Article 3, in particular with regard to the alleged ill-treatment, or in any event had not done so with sufficient precision, and that, accordingly, the Court should disregard that Article in its entirety.

54. The Court reiterates that the scope of a case "referred to" the Court in the exercise of the right of individual application is determined by the applicant's complaint or "claim" – which is the term used in Article 34 of the Convention (see *Fu Quan, s.r.o. v. the Czech Republic* [GC], no. 24827/14, § 137, 1 June 2023, and *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 109, 20 March 2018). A complaint in Convention terms comprises two elements, namely factual allegations (that is, to the effect that the applicant is the "victim" of an act or omission) and

the legal arguments underpinning them (that is, that the said act or omission entailed a "violation by [a] Contracting Party of the rights set forth in the Convention or the Protocols thereto"). These two elements are intertwined because the facts complained of ought to be seen in the light of the legal arguments adduced and *vice versa* (see *Radomilja and Others*, cited above, § 110, and *Grosam v. the Czech Republic* [GC], no. 19750/13, § 88, 1 June 2023).

55. The Court observes that, in the application form's section devoted to the statement of the facts, the applicant stated that he had been taken to and held at the police station, where he had been subjected to ill-treatment by law-enforcement officers. The paragraphs following that statement described the physical and verbal abuse suffered by him as it emerged from the factual findings of the domestic courts. Article 3 was then explicitly listed in the part of the application form concerning the violations complained of. In addition, in the section of the application form devoted to domestic remedies, the applicant stated that, with regard to his complaint concerning "inhuman and degrading treatment", he had joined the criminal proceedings against the police officers as a civil party and, in that capacity, had sought redress before the judicial authorities for the injuries and humiliation he had suffered. The Court would add that, in his observations, the applicant further elaborated on his initial submissions, in particular as to the ill-treatment allegedly suffered at the hands of the police, and expressed his views on the legal classification of such treatment in the light of the Court's case-law under Article 3 of the Convention.

56. In view of the considerations outlined above, the Court is satisfied that a complaint under Article 3 may be said to have been lodged in a manner which does not lead it to second-guess whether it has been raised or not (see *Fu Quan, s.r.o.*, cited above, § 145). It therefore dismisses the Government's preliminary objection in this regard.

II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

57. The applicant complained about the circumstances of his detention at the police station, where he had been ill-treated by police officers. He further complained that the ensuing criminal proceedings against the police officers involved, which in his view had been lengthy, had become statute-barred, and that this had in turn allowed offences against him to go unpunished. He relied on Articles 3 and 6 of the Convention.

58. Being the master of the characterisation to be given in law to the facts of the case (see *Radomilja and Others*, cited above, §§ 114, 124 and 126, 20 March 2018), the Court considers that the applicant's complaints as outlined above should be examined solely from the standpoint of the substantive and procedural aspects of Article 3 of the Convention (see, for a similar approach as regards the time-barring of the proceedings, *Cestaro*, cited above, § 129; *Bartesaghi Gallo and Others v. Italy*, nos. 12131/13 and 43390/13, § 89, 22 June 2017; and *Blair and Others v. Italy*, nos. 1442/14 and 2 others, § 82, 26 October 2017).

59. Article 3 of the Convention reads as follows:

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

A. Admissibility

1. Victim status

60. The Government submitted that, in the criminal proceedings, the domestic courts had thoroughly examined the impugned events, strongly condemned the acts of violence and harassment committed to the applicant's detriment and acknowledged the suffering he had endured as a consequence of that conduct. They stated that they fully endorsed the findings of fact of the national courts and emphasised that the first-instance court, in particular, had described such conduct as amounting to inhuman treatment, having thus carried out an assessment based on the principles embodied in the case-law under Article 3. Secondly, the domestic courts had recognised the applicant's right to compensation. In this connection, they reiterated that the statute-barring of some of the offences during the criminal proceedings in question had not deprived the applicant of the opportunity to subsequently bring civil proceedings to obtain the payment of compensation for the damage sustained. The Government argued that the authorities had therefore fully restored the applicant's rights and that he could no longer claim to be the victim of a violation of Article 3 of the Convention.

61. The Court notes that the Government's objection in relation to the applicant's victim status raises issues which are closely linked to the examination of the effectiveness of the investigation under the procedural limb of Article 3 of the Convention. For this reason, and consistently with the approach it has adopted in similar cases (see *Cestaro*, cited above, § 136, and *Azzolina and Others v. Italy*, nos. 28923/09 and 67599/10, § 98, 26 October 2017) the Court finds that the Government's objection with regard to victim status should be joined to the merits of the case.

2. Non-exhaustion of domestic remedies

62. In their additional observations and submissions on just satisfaction, the Government for the first time raised an objection that domestic remedies had not been exhausted, on the ground that, having obtained acknowledgment of his right to compensation in the criminal proceedings, the applicant had subsequently failed to bring civil proceedings to determine the compensation due in respect of the damage sustained on account of the impugned ill-treatment.

63. The Court reiterates that, under Rule 55 of the Rules of Court, any plea of inadmissibility must be raised by the respondent Contracting Party, in so far as the nature of the objection and the circumstances so allow, in its written or oral observations on the admissibility of the application. Any omission by the Government to raise such objections in their initial observations on the admissibility of the case may lead the Court to conclude that they are estopped from raising those objections at a later stage in the proceedings (see *Khlaifia and Others v. Italy* [GC], no. 16483/12, §§ 51-54, 15 December 2016). The Court notes that Government have not explained why, in the present case, their objection concerning non-exhaustion was not raised in their initial written observations on the admissibility of the application. Nor have they provided any explanation for the delay in raising their objection. Moreover, the Court discerns no exceptional circumstances which might have exempted the Government from their obligation to raise the objection in a timely manner (see *Khlaifia and Others*, cited above § 52). It follows that the Government are estopped from raising this objection.

3. Conclusions on admissibility

64. The Court notes that the applicant's complaints are neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. They must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The applicant

65. The applicant pointed out that the domestic courts had confirmed his account of the ill-treatment he had suffered at the hands of the police. In particular, he had been subjected to several beatings, spat on and forced to kneel on the floor with his face to the wall and his hands behind his head. He had not been allowed to use his phone to communicate his whereabouts and his phone had been destroyed. He stated that when he had identified himself as a trainee lawyer and requested explanations for his having been taken into custody, for which he saw no legitimate reason, he had been subjected to more physical and verbal abuse. He cited the first-instance court's finding to the

effect that he had become a "designated target" for the law-enforcement officers, who had attempted to arouse feelings of fear in him through threats.

66. As to the legal classification of the treatment to which he had been subjected, he considered that it amounted to torture for the purposes of the Court's case-law, since in his view it had been inflicted with a punitive and retaliatory intent.

67. He added that the fear and anguish he had experienced as a result of this treatment ought to be taken into account by the Court. He emphasised that the treatment he had endured was in no way attributable to actions on his part. He also contested the Government's submission to the effect that the impugned events had occurred because of the difficult situation caused by clashes between the police and demonstrators, as those events occurred several hours after the clashes and not during the demonstration itself.

68. The applicant focused on the failure to punish the law-enforcement officers and argued that, despite the domestic courts' acknowledgment of the seriousness of the offences at issue, those responsible had not received appropriate punishment. Most of the offences had gone unpunished as a result of the expiry of statutory limitation periods, which were too short in relation to the time necessary to conduct in-depth investigations in cases as complex as the one under scrutiny. Indeed, while the applicant argued that the proceedings had been lengthy, he nevertheless conceded the Government's submission that the proceedings had lasted fourteen years because the case was particularly complex, concerned a large number of police officers and many victims, in an exceptional context of police violence.

69. He further submitted that the sentences that had been handed down, which were the minimum sentences applicable for the related offences, were derisory in comparison to the seriousness of the offences committed. The effectiveness of criminal sanctions had been further undermined, in his view, by the application of pardons and suspended sentences.

70. He submitted that the Italian legal framework had proved to be inadequate for the purposes of punishing the violations complained of and providing the necessary deterrent effect to prevent similar violations from occurring in the future.

71. The applicant added that some of the officers involved in the impugned events had not been subjected to disciplinary sanctions, that they had been suspended from duty for only a few days, that most of them were still in active service and that some had even been promoted.

72. Lastly, he emphasised that he remained without compensation fourteen years after the impugned events and argued that any award of damages after bringing civil proceedings could not, in any event, have afforded sufficient redress for a violation of his rights under Article 3 since those responsible had gone unpunished.

(b) The Government

73. The Government argued that the events that had taken place in the police station had unfolded against the background of the difficult atmosphere stemming from the clashes between demonstrators and the police during the Third Global Forum in Naples. They further considered that the applicant, who had joined the criminal proceedings against the officers as a civil party, had had the opportunity to submit his grievances to the domestic courts in connection with the inhuman and degrading treatment to which he had been subjected and obtain damages from those responsible for the impugned conduct.

74. The Government further submitted that what they described as "deplorable acts" committed by police officers during the identification operations constituted criminal offences and that the Italian State had responded adequately, through the courts, with a view to restoring the rule of law, which had been undermined. The Government further stated that they fully endorsed the findings of the national courts, which had harshly condemned the conduct of the police officers involved.

75. The Government also argued that the State had complied with its positive obligation flowing from Article 3 of the Convention to conduct an effective investigation. They submitted that the authorities had taken all the measures required by the Court's case-law to identify those responsible for the impugned ill-treatment, prosecute them, and impose appropriate penalties on them. Moreover, the victims' right to claim damages had been acknowledged and they had been awarded the reimbursement of their legal costs.

76. As to the length of the criminal proceedings, in their view, it could be justified by the complexity of the case, the difficulties encountered in identifying the perpetrators, and the number of victims.

77. As to disciplinary measures, the Government pointed out that eight of the officers involved in the impugned events had been subjected to disciplinary proceedings at the conclusion of which they had received a "written warning". The proceedings against one officer had been dismissed.

78. Lastly, the Government emphasised that the impugned events had been of a truly exceptional nature and ought not to be viewed as forming part of an established practice in Italian law-enforcement. They also called the Court's attention to the fact that human rights courses had become part of police training and that, since 2003, the training of law-enforcement personnel had included training on the European Code of Police Ethics adopted by the Committee of Ministers of the Council of Europe.

2. The third-party interveners

79. C.S. and F.C. submitted information concerning, amongst other things, the criminal proceedings brought against them in connection with the

events that had taken place at the police station on 17 March 2001, their suspension from duty, the disciplinary proceedings instituted against them, and the development of their careers following the impugned events.

80. Concerning their suspension from duty, both C.S. and F.C. stated that they were suspended for fifteen days during the investigation (see paragraphs 36-37 above).

81. Turning to the disciplinary proceedings, C.S. was cleared of all disciplinary offences (see paragraph 41 above). By contrast, F.C. was found liable for misconduct and was sanctioned with a "written warning" (see paragraph 40 above). He appealed against that decision before the administrative courts (see paragraph 42 above).

82. As to career development, at the time the submissions were lodged, F.C.'s occupation was described as unrelated to police activities. C.S., on the other hand, had been promoted from Deputy Chief of Police to a senior management role in 2011.

3. The Court's assessment

(a) Whether the applicant was subjected to treatment prohibited by Article 3

(i) General principles

83. The Court refers to the general principles concerning the substantive limb of Article 3 as set out in *Bouyid v. Belgium* ([GC], no. 23380/09, §§ 81-90, ECHR 2015).

84. The Court has considered treatment to be "inhuman" because, *inter alia*, it was premeditated, was applied for hours at a stretch and caused either actual bodily injury or intense physical and mental suffering. Treatment has been held to be "degrading" when it was such as to arouse in its victims feelings of fear, anguish and inferiority capable of humiliating and debasing them and possibly breaking their physical or moral resistance, or when it was such as to drive the victim to act against his or her will or conscience (see *Gäfgen v. Germany* [GC], no. 22978/05, § 89, ECHR 2010).

(ii) Application to the present case

85. Turning to the facts of the present case, the Court observes at the outset that the domestic courts established in considerable detail the different forms of ill-treatment to which the persons held at the police station, and the applicant in particular, had been subjected (see paragraphs 15 to 34 above). As the Court finds no cogent reason to depart from such findings, and noting the Government's statement to the effect that they fully endorsed the findings of the national courts, it regards the ill-treatment complained of as proven.

86. In particular, the Court notes that, upon their arrival at the police station, the individuals held there, which included the applicant, were made to walk through a hallway lined by law-enforcement officers who, amongst other things, took turns slapping, kicking, and tripping them (see

paragraph 17 above). The applicant had also been forced to kneel on the floor with his face to the wall and his hands behind his head, and in order to enforce that posture, he had been shoved, kicked and punched from behind by officers (see paragraph 18 above). What further emerges from the findings of the domestic courts is that the applicant was also subjected to several beatings and that he sustained contusions to the head and back (see paragraphs 18 and 23 above). The physical abuse against the applicant was described as "very violent" by the first-instance court, which also found that he had become a "designated target" for the officers (see paragraph 19 above). The Court notes that there has not been and, on the basis of the material available to it, there can hardly be any suggestion that the treatment to which the applicant was subjected while entirely under the authorities' control, as described above, was made necessary by his conduct (see *Bouyid*, cited above §§ 88 and 100-01).

87. The Court further notes that the first-instance court singled out the applicant as among the recipients of "particularly odious" verbal abuse (see paragraph 19 above). This conduct had aimed, according to that court, to instil and prolong a state of fear in the applicant. The Court also notes that, as emphasised by the applicant and as shown by the findings of the domestic courts, the applicant identified himself as a trainee lawyer and requested explanations, as he stated he did not see any reason for his transfer to the police station, there having been no formal arrest, and having already undergone an identity check by the police at the hospital (see paragraph 19 above). The first-instance court described the applicant's attempts to obtain information as having been met by further physical and verbal abuse, to the point that he had had no choice but to desist, a circumstance which the court referred to as "particularly unacceptable" (see paragraph 19 above). Moreover, this treatment had been coupled with the inability of the applicant, who spent approximately five hours in the police station, to contact the outside world in order to make his situation known (see paragraphs 16 and 18 above). In the Court's view, there can be little doubt that these circumstances must have caused the applicant considerable emotional and psychological distress.

88. Having regard to all the foregoing elements, the Court concludes that the applicant was subjected to treatment contrary to Article 3 of the Convention, and that such treatment should be regarded as both inhuman and degrading.

(b) Whether the authorities carried out an effective investigation

(i) General principles

89. The Court reiterates that, where an individual makes an arguable claim that he has been ill-treated by the State authorities in breach of Article 3, that provision, read in conjunction with the State's general duty under Article 1

of the Convention, requires by implication that there should be an effective official investigation. The general principles which apply in determining whether such an investigation was effective for the purposes of Article 3 were restated by the Court in its *Cestaro* judgment (cited above, §§ 205-12).

90. In particular, the Court recalls that, for an investigation to be considered effective under Article 3 it should be capable of leading to the identification and punishment of those responsible. If this were not the case, the general legal prohibition of torture and inhuman and degrading treatment, despite its fundamental importance, would be ineffective in practice and it would be possible in some cases for agents of the State to abuse the rights of those within their control with virtual impunity (see *El-Masri v. the former Yugoslav Republic of Macedonia* [GC], no. 39630/09, § 182, ECHR 2012).

91. In assessing the effectiveness of an investigation, the Court has considered its outcome and that of the ensuing criminal proceedings, including the sanction imposed as well as disciplinary measures taken, as decisive. It is vital in ensuring that the deterrent effect of the judicial system in place and the significance of the role it is required to play in preventing violations of the prohibition of ill-treatment are not undermined (see *Gäfgen*, cited above, § 121).

92. The Court has previously held that where a State agent has been charged with crimes involving ill-treatment, it is of the utmost importance that criminal proceedings and sentencing are not time-barred and that measures such as the granting of an amnesty or pardon should not be permissible (see *Abdülsamet Yaman v. Turkey*, no. 32446/96, § 55, 2 November 2004, and *Cestaro*, cited above, § 208).

93. As regards disciplinary measures, the Court has on many occasions held that where a State agent has been charged with crimes involving ill-treatment, it is important that he or she be suspended from duty during the investigation or trial and dismissed if he or she is convicted (see *Cestaro*, cited above, § 210, and *Saba v. Italy*, no. 36629/10, § 78, 1 July 2014).

(ii) Application to the present case

94. Turning to the facts of the present case, the Court notes at the outset that thirty-one law-enforcement officers, including high-ranking officials and police officers were prosecuted and tried for various offences under the Italian Criminal Code in connection with the ill-treatment committed at the police station, including aggravated bodily harm, aggravated criminal coercion, abuse of office, and kidnapping (see paragraphs 13 and 14 above). However, it notes that the prosecution of all offences was discontinued as time-barred (see paragraphs 16 and 32 above), except in the case of the officers who had filed an express waiver of the statutory limitation periods (see paragraph 33 above). The Court notes, as underlined by the Government and conceded by the applicant (see paragraphs 68 and 76 above), the particular complexity of the proceedings, as they concerned a large number

of police officers and many victims. Nevertheless, the Court can only conclude that, despite the domestic courts' having established that physical and mental ill-treatment in various forms had been meted out against the individuals held at the police station, including the applicant, at the hands of law-enforcement officers (see, in particular, paragraphs 16 and 18 above), the time-barring of the offences, as provided for by the applicable legal framework, prevented the establishment of criminal responsibility and – if appropriate – punishment of those responsible in connection with the majority of the acts forming part of the treatment in question.

95. In connection with the above finding, the Court would also point out that in its *Cestaro* judgment it invited Italy to introduce legal mechanisms capable of, amongst other things, preventing those responsible for acts of torture and other types of ill-treatment from benefiting from measures incompatible with the case-law of the Court, including statute-barring, which can, in practice, prevent the punishment of those responsible for acts contrary to Article 3, despite all the efforts expended by the prosecuting authorities and the courts (see *Cestaro*, cited above, §§ 242-46).

96. Moreover, the Court observes that, while it is true that convictions for criminal coercion, in particular, were handed down by the Court of Appeal with respect to the two officers who had requested a waiver of the statutory limitation period, and that prison sentences (of ten and six months) were imposed, the domestic court suspended the execution of the prison sentences and the ancillary penalty involving a ban from public office, and further ruled that the conviction would not appear on their criminal record (see paragraph 33 above). While the Court acknowledges the role of the national courts in determining the appropriate sentence for an offender, its task is to ensure that a State's obligation to protect the rights of those under its jurisdiction is adequately discharged, which means that it must retain its supervisory function and intervene in cases of manifest disproportion between the gravity of the act and the punishment imposed (see *Gäfgen*, cited above, § 123, and *Sabalić v. Croatia*, no. 50231/13, § 109, 14 January 2021). In the circumstances of the present case, the Court is not convinced that the authorities' response, in particular with respect to the suspended sentences and ancillary penalties and the non-disclosure on the criminal record, can be considered adequate in view of the seriousness of the acts of which the officers were convicted in their capacity as agents of the State (see paragraphs 24 and 25 above). The Court also notes that, at first-instance, pursuant to Law no. 241 of 29 July 2006 laying down the conditions for pardon (*indulto*), the sentences imposed in connection with certain offences were remitted in their entirety (see paragraph 27 above).

97. Turning to the disciplinary sphere, the Government have not indicated whether the officers who were charged with offences in connection with the impugned ill-treatment (see paragraph 13 above) were suspended from their duties during the investigation or trial. As to C.S. and F.C, they submitted in

their third-party comments that they were suspended from their duties for fifteen days during the investigation pursuant to a provisional order by the preliminary investigations judge that they be placed under house arrest (see paragraphs 36-37 above).

98. Moreover, it is apparent from the third-party submissions that disciplinary proceedings were instituted against C.S. and F.C.. While C.S. was cleared (see paragraph 41 above), F.C. was found liable with regard to a disciplinary offence and was sanctioned with a "written warning" (see paragraph 40 above). As to the other officers involved in the impugned events, while the Government stated that disciplinary proceedings had been brought against a total of eight of them, who were found liable and were all sanctioned with a written warning, they did not furnish any further details or submit supporting documentation in relation to these proceedings.

99. Having regard to all of the above, the Court is not persuaded that the authorities' overall response to the impugned ill-treatment in the instant case can be considered adequate in terms of its capacity to punish the inhuman and degrading treatment at issue and as having sufficient deterrent effect to prevent the commission of future acts similar to those complained of by the applicant. It follows that the requirements of an effective investigation have not been fully satisfied in the present case.

(c) Whether the applicant has lost his victim status

100. The Court reiterates that it falls first to the national authorities to redress any violation of the Convention. In the present case, it acknowledges the fact that the domestic courts thoroughly examined the impugned events, established the circumstances of the applicant's ill-treatment and recognised his right to compensation, as emphasised by the Government.

101. However, in cases of wilful ill-treatment by State agents in breach of Article 3, the Court has repeatedly found that, in addition to acknowledging of the violation, two measures are necessary to provide sufficient redress. Firstly, the State authorities must have conducted a thorough and effective investigation capable of leading to the identification and punishment of those responsible. Secondly, an award of compensation is required where appropriate or, at least, the opportunity to apply for and obtain compensation for the damage sustained as a result of the ill-treatment (see *Gäfgen*, cited above, § 116).

102. Given the Court's findings to the effect that the investigation was not effective (see paragraph 99 above), it cannot but conclude that the applicant may still claim to be a "victim" of a breach of his rights under Article 3 of the Convention. Accordingly, the Government's objection must be dismissed.

(d) Conclusion

103. The Court finds that there has been a violation of Article 3 of the Convention under both its substantive and procedural limbs.

III. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

104. The applicant further complained that he had been unlawfully taken to and detained in the police station, without having been informed of the charges against him, and without having been brought before a judicial authority, and that he had not been given the possibility of contacting a family member or a lawyer, contrary to the requirements of Article 5 of the Convention. He also contended that there were no effective remedies available to him in respect of his complaints, in breach of Article 13 of the Convention. In the latter connection, he alleged that it had been impossible for him to obtain compensation – as was his recognised right – in the context of the criminal proceedings, without having to lodge a fresh action with the civil courts.

105. Having considered the facts of the case, the manner in which the remaining complaints were raised, the succinctness of the parties' observations with respect to these complaints, and the Court's findings under Article 3 above, which addressed certain elements of relevance under Article 5 (see, in particular, paragraph 87 above) and under Article 13 (see paragraphs 100-102 above), it considers that it has dealt with the main legal questions raised by the case and that there is no need to examine the admissibility and merits of these complaints.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

106. 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

107. The applicant claimed a global amount of 30,000 euros (EUR) in respect of pecuniary and non-pecuniary damage.

108. The Government considered that claim to be excessive and argued that it had not been sufficiently substantiated.

109. The Court notes that the applicant did not elaborate on his request for compensation in respect of pecuniary damage in his just satisfaction claims; it therefore rejects that request. However, it awards the applicant

EUR 30,000 in respect of non-pecuniary damage alone, plus any tax that may be chargeable.

B. Costs and expenses

110. The applicant also claimed EUR 5,000 for the costs and expenses incurred before the Court.

111. The Government noted that the applicant had not made a quantified claim in this respect.

112. 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 were actually and necessarily incurred and are reasonable as to quantum. In the present case, the Court notes that the applicant has failed to particularise and submit supporting documents in respect of his claim. In such circumstances, the Court makes no award.

FOR THESE REASONS, THE COURT,

1. *Dismisses*, unanimously, the Government's preliminary objection to the effect that the applicant had not raised a complaint under Article 3 of the Convention;

2. *Decides,* unanimously, to join to the merits the preliminary objection concerning loss of victim status and, having examined it, *dismisses* it;

3. *Holds*, unanimously, that the Government are estopped from raising the objection that domestic remedies have not been exhausted;

4. *Declares*, unanimously, the complaint concerning Article 3 admissible;

5. *Holds*, unanimously, that there has been a violation of Article 3 of the Convention under both its substantive and procedural limbs;

6. *Holds*, by five votes to two, that there is no need to examine the admissibility and merits of the complaints under Articles 5 and 13;

7. *Holds,* unanimously, 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, EUR 30,000 (thirty thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

8. *Dismisses*, by five votes to two, the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 5 June 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Ilse Freiwirth	Ivana Jelić
Registrar	President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the joint partly dissenting opinion of judges Serghides and Adamska-Gallant is annexed to this judgment.

JOINT PARTLY DISSENTING OPINION OF JUDGES SERGHIDES AND ADAMSKA-GALLANT

1. The present case concerns the alleged ill-treatment of the applicant by law-enforcement officers. The impugned events took place in a police station, following the applicant's apprehension in the aftermath of an "anti-globalisation" demonstration that took place in Naples on 17 March 2001. The case also concerns the alleged inadequacy of the ensuing criminal investigation. The case raises issues under Article 3, 5, 6 and 13 of the Convention.

2. We agree with point 5 of the operative provisions of the judgment that there has been a violation of Article 3 of the Convention under both its substantive and procedural limbs as well as with the rest of the points apart from point 6, holding that there is no need to examine the admissibility and merits of the complaints under Articles 5 and 13, and also point 8, dismissing the remainder of the applicant's claim for just satisfaction.

3. In particular, we are against what the judgment decides in paragraph 105, namely, that having dealt with the main legal questions raised by the case, it considers that there is no need to examine the admissibility or merits of the complaints under Articles 5 and 13. Dismissing a complaint without examining its admissibility or merits not only contravenes the duty to provide reasoned decisions but may also set a concerning precedent that weakens the protective function of the legal framework as a whole. Each complaint, especially grounded in fundamental rights, deserves a thorough and independent assessment, irrespective of how it may relate to or overlap with others (see, on this subject, Judge Serghides' partly dissenting opinion in *L.F. and Others v. Italy*, no. 52854/18, 6 May 2025, and the many other separate opinions cited therein).

4. In our humble view, given the gravity of the police conduct in question, it was particularly important in this case to examine the circumstances surrounding the alleged violation of Article 5. The national courts classified the police actions at the hospital – specifically, the indiscriminate removal and transfer of all individuals receiving emergency treatment to the police station without any verification – as "kidnapping" (*sequestro*). By failing to address this aspect of the complaint, the Court missed an opportunity to confront a serious rights violation and to reaffirm that the core purpose of Article 5 is to protect individuals against arbitrary deprivation of liberty.

5. We are also against the approach used by the judgment in paragraph 58 in absorbing or embedding the Article 6 complaints – which surprisingly were not even communicated – into the Article 3 complaint, examining them solely from the standpoint of the procedural and substantive aspects of Article 3. Such an approach cannot be compatible with the autonomous and independent nature of these two Articles, the concept of individual application, the principle of the rule of law or the legitimacy of the Court.

6. In conclusion, we consider that both approaches followed in paragraphs 58 and 105, respectively, are legally erroneous and that one contradicts the other.