



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

Published on 10 August 2026

FIRST SECTION

Application no. 6540/26

I.E.

against Italy

lodged on 5 February 2026

communicated on 6 July 2026

SUBJECT MATTER OF THE CASE

The application concerns the prolonged stay of the applicant, who suffers from psychiatric disorders as well as substance and alcohol abuse, in the custodial specialised structure (Residence for Execution of Security Measures – “REMS”) of Spinazzola, notwithstanding a judicial decision ordering his transfer to a non-custodial specialised medical facility (Psychiatric Rehabilitation and Support Community – “Community”).

Since 9 April 2024, the applicant has been placed in the REMS pursuant to a judicial order issued by the Supervisory Judge of Potenza on 16 June 2022. On 9 October 2024, the Supervisory Judge of Foggia found that the applicant’s social dangerousness had diminished and ordered the replacement of the security measure of placement in a REMS with probation in a Community, effective from 26 October 2024. Nevertheless, due to the lack of available places in such facilities, the applicant remained in the REMS. On 1 October 2025, the Supervisory Judge of Bari ordered that, pending the availability of a place in a Community, the applicant should be placed on probation at his home. Consequently, on 7 October 2025, the applicant was released from the REMS.

The applicant complains under Article 5 § 1 of the Convention about the regime of detention to which he was subjected in the REMS between 26 October 2024 and 7 October 2025, arguing that it lacked a legal basis, as it differed from the probation measure ordered by the authorities, and was, in

any event, not justified by his therapeutic needs. The applicant further complains under Article 5 § 5 of the Convention of the absence of domestic remedies by which to obtain compensation for his unlawful detention, and under Article 6 § 1 of the Convention of the failure to enforce the decision by the Supervisory Judge of Foggia ordering his transfer to a Community.

QUESTIONS TO THE PARTIES

1. Has there been a breach of the applicant's rights under Article 5 § 1 of the Convention? In particular, was the applicant's continued detention in the REMS, after the decision ordering his probation with placement in a non-custodial specialised medical facility, "in accordance with a procedure prescribed by law" within the meaning of Article 5 § 1 of the Convention (see *Rooman v. Belgium* [GC], no. 18052/11, § 190, 31 January 2019, and, *mutatis mutandis*, *Sy v. Italy*, no. 11791/20, § 119, 24 January 2022)?

2. Did the applicant have an effective and enforceable right to compensation for his allegedly unlawful detention, as required by Article 5 § 5 of the Convention (see, *mutatis mutandis*, *Sy*, cited above, §§ 141-48)?

3. Has there been a breach of Article 6 § 1 of the Convention as regards the implementation of the decision issued by the Supervisory Judge of Foggia on 9 October 2024 (see, *mutatis mutandis*, *Sy*, cited above, § 153)?