



*Garante Nazionale
dei diritti delle persone private della libertà personale*

President

Renata Degener

Section Registrar, First Section

European Court of Human Rights

Council of Europe

F-67075 Strasbourg Cedex

France

(Re.: ECHR-LE14.8bP3 of 19 June 2023)

26th June 2023

Application no. 14273/22

Brunetti v. Italy

Interest in exercising the right to intervene as third party

Dear Section Registrar,

In reply to your President's invitation to exercise the right to intervene as third party, the National Guarantor for the Rights of Persons Deprived of Liberty [hereinafter "NG"], in my person as President and legal representative, respectfully appreciates your request and is ready to intervene in the above case, pursuant to Article 36(2) of the Convention and under Rule 44(3) of the Rules of Court.

About the NG

By virtue of its appointment as National Preventive Mechanism (NPM) under the UN Optional Protocol to the Convention Against Torture (OPCAT), ratified by Italy, the NG regularly monitors places where persons are or may be deprived of liberty, as defined in article 4 OPCAT, with a view to strengthening, when necessary, the protection of these persons against torture and other cruel, inhuman, or degrading treatment or punishment. It makes recommendations to the relevant authorities, aimed at improving the conditions of deprivation of liberty and the treatment of the persons concerned. Moreover, it submits proposals and observations concerning existing or draft legislation to the relevant authorities.

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About the case and its development

The above application concerns the case of an Italian citizen, Federico Brunetti, who committed a crime but was provisionally recognized not liable for prosecution due to his suffering from psychiatric disorder and drug addiction (person suffering from partial insanity). Nevertheless, he was not moved to a specialised structure (Residence for the Execution of Security Measures – hereinafter “REMS”), but was detained for a significant period of time, first in “Regina Coeli” prison in Rome and subsequently in the “Sandro Pertini” hospital psychiatric service (*Servizio Psichiatrico Diagnosi e Cura* – from now on “SPDC”), also in Rome, under penitentiary police surveillance, while waiting for such a placement. In the view of this Authority, the case can raise issues with regard, *inter alia*, to the prohibition of torture and inhuman or degrading treatment or punishment under article 3 of the Convention (on account of his prolonged detention in conditions incompatible with his state of health and without receiving adequate medical treatment), and to the right not to be deprived of liberty except “in accordance with a procedure prescribed by law” under art.5§1 of the Convention (on account of his detention in prison and in an SPDC, under penitentiary surveillance, which was not, as such, based on a court order but the result of the lack of accommodation in a REMS).

Without any prejudice about the case, the NG considers that it could be significant to make the Court aware of the developments after the period of deprivation of liberty suffered by the applicant and referred to in the complaint.

On 24 February 2022, the plaintiff was finally moved from the SPDC to a REMS in Rieti (in the Latium region), in application of the Court order of 23 June 2021, where he remained under the appropriate restrictive security measure up to 13 September 2022, when the measure was revoked and a control security measure in the community was adopted (*libertà vigilata* – supervised liberty).

On 23 December 2022, he was remanded in custody in “Regina Coeli” prison after having committed a new crime (domestic violence and attempted blackmail), waiting for a new assessment of his mental capacity in order to set his liability for prosecution about this new crime.

On 2 March 2023, the applicant was moved to “Rebibbia NC” prison (Latium region) and then on 12 May 2023 he was transferred to “Civitavecchia NC” prison (Latium region) and again to “Velletri” prison (Latium region) on 7 June 2023. Reportedly, all movements were due to security reasons.

On 16 June 2023, the applicant was accompanied to the local Court in Rome for the official assessment of his psychiatric conditions at the time the crime was committed. Back to “Velletri” prison, he was put in solitary confinement for a couple of days, reportedly under strict supervision. In the same ward he was placed in a double cell which he shared with another inmate, but on June 19, he beat his cellmate to death.



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On 24 June 2023, he was transferred to another prison in Turin ("Lorusso e Cutugno" prison), in Piedmont region, where a psychiatric unit is operational.

About the NG intervention

The nature of the NG as a public institution, the scope of its remit, and its powers as NPM provide it with particular insight to assist the Court in evaluating the case. Consequently, the NG is really interested in intervening as third party in the proceedings, and it reserves its right to submit written observations on the case examined upon the Court's request.

Respectfully,

Mauro Palma