



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

FIRST SECTION

CASE OF PELLE v. ITALY

(Application no. 23710/24)

JUDGMENT

STRASBOURG

21 May 2026

This judgment is final but it may be subject to editorial revision.

In the case of Pelle v. Italy,

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

Frédéric Krenç, *President*,

Raffaele Sabato,

Alain Chablais, *judges*,

and Liv Tigerstedt, *Deputy Section Registrar*,

Having regard to:

the application (no. 23710/24) 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 3 August 2024 by an Italian national, Mr Francesco Pelle (“the applicant”), who was born in 1977, is detained in Parma and was represented by Mr F. Giampaolo, a lawyer practising in Bovalino Marina;

the decision to give notice of the application to the Italian Government (“the Government”), represented by their Agent, Mr L. D’Ascia, *Avvocato dello Stato*;

the parties’ observations;

Having deliberated in private on 30 April 2026,

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

SUBJECT MATTER OF THE CASE

1. The application concerns the alleged incompatibility of the applicant’s state of health with detention and the failure to provide him with adequate medical treatment in prison.

2. The applicant was arrested in 2008 and later sentenced to life imprisonment for serious crimes, including homicide and mass murder (*strage*). He suffers from lower limb paraplegia and uses a wheelchair.

3. In 2009 the Locri Assize Court replaced his detention with house arrest on health grounds, to enable him to undergo physiotherapy.

4. In 2011 a medical expert appointed by the same court concluded that his state of health was still incompatible with detention, noting that the prison system was unable to provide the necessary physiotherapy treatments.

5. The applicant subsequently went into hiding from 2019 until 2021, when he was arrested in Portugal and later extradited to Italy. He was first detained in a Rome prison and later in Saluzzo Prison and Oristano Prison.

6. On 14 March 2022 the applicant lodged a complaint with the Cagliari supervisory judge (*magistrato di sorveglianza*) under section 35 *bis* of Law no. 354 of 1975, arguing that the prison administration had failed to provide him with adequate rehabilitation treatment.

7. On 8 April 2022 a psychiatrist prescribed the applicant a 120-day daily rehabilitation programme, which could be extended.

8. On 11 May 2022 the Cagliari supervisory judge upheld the applicant's complaint and ordered that he be provided with the treatment indicated in the physiatrist's report.

9. The applicant was subsequently transferred to a Cagliari prison, where he underwent 19 physiotherapy sessions between June and August 2022.

10. He was later transferred to a Milan prison, and finally to Parma Prison on 13 August 2022. There, he was placed in a special cell adapted for paraplegic prisoners. He also began receiving assistance with personal hygiene and daily tasks.

11. In November 2022 the applicant underwent ten sessions of physiotherapy at Parma Prison.

12. On 21 January 2023 the Parma prison health authorities acknowledged that "the applicant require[d] permanent physiotherapy treatment" and that, as the prison "[d]id not have a rehabilitation unit" and lacked the necessary personnel, it "[could] not provide intensive and continuous physiotherapy programmes".

13. On 20 February 2023 the applicant's privately retained doctor confirmed that he required daily physiotherapy treatment.

14. On 25 February 2023 the applicant lodged a request with the Bologna Supervisory Court for the deferral of his sentence on health grounds or for his detention to be replaced with house arrest in accordance with Article 147 of the Criminal Code and section 47 *ter* of Law no. 354 of 1975. He argued that the prison authorities were unable to provide the physiotherapy he needed.

15. On 22 May 2023 the Parma prison health authorities deemed the applicant's state of health compatible with detention, without explaining how physiotherapy would be provided.

16. On 8 June 2023 the applicant requested the appointment of a medical expert to assess whether his state of health was compatible with detention, specifically in the context of his permanent need for physiotherapy.

17. On 31 July 2023 the Bologna Supervisory Court rejected the applicant's requests, without appointing a medical expert to assess his state of health. In particular, the court noted that the applicant was detained in a special cell adapted for paraplegic prisoners, and that assistance was provided for his daily needs. The Supervisory Court added that the applicant had undergone ten physiotherapy sessions in November 2022, and that further sessions had been scheduled.

18. The applicant appealed, arguing among other things that no further physiotherapy sessions had been provided since November 2022.

19. On 30 December 2023 the applicant's privately retained doctor reiterated that he required daily physiotherapy treatment.

20. On 8 April 2024 the Court of Cassation dismissed the appeal.

21. After the lodging of the present application, on 10 October 2024 the Bologna Supervisory Court rejected another request for the deferral of the

applicant's sentence or for his prison detention to be replaced with house arrest.

22. On 5 February 2025 the prison psychiatrist prescribed the applicant a rehabilitation programme involving the use of a standing frame. Functional electrical stimulation and a pedal exerciser were also recommended.

23. On 22 April 2025 the applicant's privately retained doctor reiterated that he must receive daily, comprehensive physiotherapy.

24. In April 2025 a standing frame was provided to the applicant, who started using it under the supervision of a rehabilitation technician in May 2025.

25. Before the Court, the applicant complained that his continued detention in prison without adequate physiotherapy treatment constituted a breach of Article 3 of the Convention.

THE COURT'S ASSESSMENT

26. The Government argued that the applicant had failed to exhaust the domestic remedies available to him within the meaning of Article 35 § 1 of the Convention. In particular, they maintained that, instead of lodging a request for the deferral of his sentence on health grounds, or for his detention to be replaced with house arrest, the applicant should have requested the Cagliari supervisory judge to implement the decision dated 11 May 2022 (see paragraph 8 above). Regarding his detention in Parma Prison, the Government further argued that the applicant should have lodged a complaint under section 35 *bis* of Law no. 354 of 1975 with the Parma supervisory judge.

27. The Court reiterates that where more than one potentially effective remedy is available, the applicant is only required to use one remedy of his or her choice (see, among many other authorities, *Micallef v. Malta* [GC], no. 17056/06, § 58, ECHR 2009, and *Nicolae Virgiliu Tănase v. Romania* [GC], no. 41720/13, § 177, 25 June 2019).

28. In the present case, the applicant made use of the remedy provided by section 35 *bis* of Law no. 354 of 1975 in 2022 and obtained a favourable decision, which however remained for the most part unenforced (see paragraph 8 above). Furthermore, the applicant made use of the remedy provided by Article 147 of the Criminal Code and section 47 *ter* of Law no. 354 of 1975 (see paragraph 14 above), and the Court has already acknowledged the effectiveness of that remedy in order to contest the adequacy of medical treatment provided in prison (see *Provenzano v. Italy*, no. 55080/13, §§ 103-06, 25 October 2018).

29. In the light of the foregoing, the Court considers that the applicant was not required to make use of additional remedies and therefore dismisses the Government's objections.

30. The Court notes that 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.

31. The general principles concerning the obligation to preserve the health and well-being of prisoners, in particular by the provision of the required medical care, have been summarised in *Roman v. Belgium* ([GC], no. 18052/11, §§ 144-48, 31 January 2019).

32. The applicant argued that he could not be adequately treated in prison and complained, in particular, of the authorities' failure to provide him with physiotherapy.

33. The Government argued that the applicant was being detained in a special cell adapted for paraplegic prisoners, that assistance was provided for his daily needs, and that he had undergone numerous specialist consultations. Regarding the requested physiotherapy, the Government stated that several sessions had been provided and that, contrary to the assertions of his privately retained doctor, the only possible therapeutic intervention was outpatient physiotherapy, as a result of the applicant's chronic clinical condition.

34. The Court notes that medical reports and judicial decisions indicated the need for the applicant to receive regular physiotherapy, to the point that house arrest was considered necessary in 2009 and 2011 (see paragraphs 3 and 4 above). The need for constant physiotherapy was reiterated in a physiatrist's report dated 8 April 2022, as well as in the decision of the Cagliari supervisory judge dated 11 May 2022 (see paragraphs 7 and 8 above).

35. Despite those indications, it appears that the applicant underwent only 19 physiotherapy sessions between June and August 2022 and ten further sessions in November 2022 (see paragraphs 9 and 11 above).

36. On 21 January 2023 the health authorities at Parma Prison acknowledged that "the applicant require[d] permanent physiotherapy treatment" (see paragraph 12 above). That need was subsequently reiterated by the applicant's privately retained doctor on 20 February 2023, 30 December 2023 and 22 April 2025 (see paragraphs 13, 19 and 23 above).

37. Despite those indications, no further physiotherapy sessions were provided after November 2022, including the outpatient sessions mentioned by the Government in their observations (see paragraph 33 above). Only a standing frame was provided in April 2025 (see paragraph 24 above).

38. The Court also notes that the Bologna Supervisory Court deemed the applicant's state of health compatible with detention, without appointing a medical expert, on the basis of a report from the prison health authorities dated 22 May 2023 (see paragraphs 15 and 17 above). However, that report did not explain how physiotherapy would be provided, despite a report from only four months earlier acknowledging that "the applicant require[d] permanent physiotherapy treatment" and that the prison "[could] not provide

intensive and continuous physiotherapy programmes” owing to a lack of a rehabilitation unit and personnel (see paragraph 12 above).

39. In his appeal against the Bologna Supervisory Court’s decision, the applicant drew attention to those inconsistencies and the failure to actually provide physiotherapy treatment after November 2022. However, the Court of Cassation confirmed the appropriateness of the physiotherapy treatment without addressing the issues raised by the applicant specifically (see paragraph 20 above).

40. The Court considers that these considerations are sufficient to conclude that the applicant did not receive adequate medical care while in prison. It therefore considers that the treatment to which the applicant was subjected as a result exceeded the unavoidable level of suffering inherent in detention and amounted to “inhuman and degrading treatment” within the meaning of Article 3 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

41. The applicant did not submit a claim for just satisfaction. Accordingly, the Court considers that there is no call to award him any sum on that account.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;
2. *Holds* that there has been a violation of Article 3 of the Convention.

Done in English, and notified in writing on 21 May 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Liv Tigerstedt
Deputy Registrar

Frédéric Krenc
President