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La Corte Edu sulla violazione dell'art. 2 in seguito alla morte di un uomo sottoposto dagli agenti di polizia a misura di contenimento
(CEDU, sez. I, sent. 15 gennaio 2026, ric. n. 32707/19)

Nella decisione qui annotata la Corte Edu si è pronunciata contro l'Italia in merito alla violazione dell'art. 2 della Convenzione nella sua duplice valenza sostanziale e procedurale.
I fatti attengono alla morte di un uomo il quale, durante un intervento di polizia, era deceduto dopo essere stato immobilizzato e mantenuto in posizione prona per circa venti minuti.
In punto di diritto, la Corte ricorda che l'uso della forza (quale scriminante ex art. 2, par. 2) deve risultare "assolutamente necessario" e, specialmente se praticato dagli agenti di polizia, deve essere sufficiente regolato dal diritto nazionale nel quadro di un sistema di garanzie adeguate ed efficaci contro l'arbitrarietà e l'abuso della forza.
Nel caso di specie, la Corte rileva che - nonostante l'iniziale immobilizzazione forzata dell'uomo apparisse "assolutamente necessaria" a causa dello stato di forte agitazione in cui Egli si trovava – il suo successivo mantenimento in posizione prona per circa venti minuti abbia determinato, insieme ad altre concause, il decesso dell'uomo.
A tal riguardo, i giudici contestano innanzitutto la mancanza, all'epoca dei fatti, di linee guida che fornissero istruzioni chiare e adeguate su come mettere gli individui in posizione prona, al fine di ridurre al minimo i rischi per la salute e la vita della persona interessata. Inoltre, le autorità statali non avrebbero adempiuto adeguatamente al loro obbligo positivo di formare i propri agenti delle forze dell'ordine in modo tale da garantire che possedessero il livello di competenza richiesto nell'impiego di tecniche di immobilizzazione come la posizione prona.
Tuttavia, accanto e oltre la violazione sostanziale dell'art. 2, i giudici hanno riscontrato anche una violazione procedurale del medesimo parametro nella misura in cui sono state rilevate delle carenze in termini di conformità dell'indagine al requisito di indipendenza, rilevando in particolare come alcuni degli agenti di polizia direttamente coinvolti nei fatti contestati avessero poi condotto le prime indagini, raccogliendo le dichiarazioni dei testimoni la stessa notte dell'accaduto.

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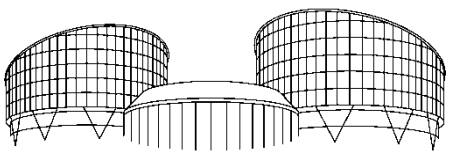

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF XXX v. ITALY

(Application no. 32707/19)

JUDGMENT

STRASBOURG

15 January 2026

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 XXX v. Italy,

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

Ivana Jelić, *President*,

Erik Wennerström,

Raffaele Sabato,

Frédéric Krenc,

Alain Chablais,

Artūrs Kučs,

Anna Adamska-Gallant, *judges*,

and Ilse Freiwirth, *Section Registrar*,

Having regard to:

the application (no. 32707/19) 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 ten Italian nationals ("the applicants"), whose details are indicated in the appended table, on 27 May 2019;

the decision to give notice to the Italian Government ("the Government") of the complaints concerning Articles 2 and 3 of the Convention;

the parties' observations;

Having deliberated in private on 2 December 2025,

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

INTRODUCTION

1. The case concerns the death of the applicants' relative, R.M., in the course of a police intervention and the alleged ineffectiveness of the ensuing criminal investigation. It raises issues under Article 2 of the Convention.

THE FACTS

2. The applicants' details are set out in the appended table. They were represented by Ms A. Mascia and Mr F. Anselmo, lawyers practising in Verona.

3. The Government were represented by their Agent, Mr L. D'Ascia, and by Mr M. Di Benedetto, State Attorney.

4. The facts of the case, as established by the domestic courts and submitted by the parties, may be summarised as follows.

I. The events of 3 march 2014

5. Between 1.00 and 1.20 a.m. on 3 March 2014, several calls were made to the emergency services in Florence reporting an individual, later identified as R.M., exhibiting signs of agitation and serious mental distress. In particular, they reported that someone was running down the street crying desperately for help. He was reported to have taken a mobile phone from someone in a restaurant and to have been shouting that he was being followed and that "something bad was going to happen" as he ran down the street.

6. When the first *carabinieri* patrol, comprising Officers S.C. and D.A., arrived on the scene, they found R.M. kneeling on the pavement with his arms outstretched.

7. According to a timeline established by the first-instance court and confirmed at subsequent levels of jurisdiction, the subsequent sequence of events was as follows:

"- At 1.21 a.m. [S.C.] called 112 by radio and said that [R.M.] had been stopped. [S.C.] was transferred to 118 and the operator [told him] that ... the ambulance [was on its way].

- at 1:21:36 a.m. *Carabiniere* [L.M.] called the 118 service from the operations centre asking for an intervention and reported: 'there's a man completely out of his mind, bare chested, screaming, there are already cars on the spot, we are trying to calm him down ... if you send them too ... he's really out of his mind', and the 118 operator classified the intervention as relating to a psychiatric [episode]. In the first phase, according to witnesses, the *carabinieri* tried to calm R.M. down verbally and then [attempted to] restrain him[.] All of them [were] standing up for [the first] few minutes;"

8. The evidence in the case file shows that a second *carabinieri* patrol, comprising Officers A.D. and V.C, arrived on the scene and intervened in the operation. The four *carabinieri* surrounded R.M., who tried to escape and, in resisting the officers, hit D.A. in the head. Then, according to the first-instance court's timeline:

"- at 1.23 or 1.24 a.m. R.M. was placed on the ground and handcuff[ed]; at this point he was kicked two or three times by V.C.;

- from 1.24 to 1.28 a.m. R.M., in a prone position and handcuffed, continued to struggle for a few minutes (according to [one] witness [for] three, four or five minutes; according to [another] witness, five minutes);

- at 1.27 a.m. a third patrol was called, while *Carabiniere* D.A. proceeded to identify those present;

- [from] 1:27:08 [to] 1:28:28 a.m. [one witness recorded] video footage, in which R.M.'s movements and desperate cries could be perceived;

- then, at about 1.29 a.m., R.M. stopped speaking[;] another four minutes passed before the ambulance [staffed by Red Cross volunteers, including first responder C.M.] arrived at 1.33 a.m.;

- at 1:33:38 a.m. [a member of the] 118 team called the control centre to request the intervention of an ambulance with a doctor;

- at 1.44 a.m. an ambulance with a doctor arrived."

9. Before the doctor reached the scene, the third patrol car with two additional officers arrived.

10. When the ambulance with a doctor and a nurse on board arrived the doctor recognised that R.M. was in cardiac arrest, turned him over, began performing cardiopulmonary resuscitation (CPR) and administered adrenaline.

11. At 2.12 a.m. the doctor called the emergency services, to report that the person being rescued was in a state of cardiac arrest. R.M. was being taken to hospital by ambulance.

12. R.M. was officially declared dead at 3 a.m. at the hospital.

II. The INVESTIGATION into r.m.'s death

A. The first steps in the investigation

13. At 3.05 a.m., Officers V.C. and A.D. took a witness statement *(assunzione di sommarie informazioni*) from the Red Cross volunteer C.M. at the hospital, in the emergency room where R.M. had been taken.

14. Between 3 and 3.10 a.m. Captain C., the officers' superior, informed the public prosecutor of R.M.'s death. They agreed to entrust the investigation to the investigations unit (*nucleo investigativo*) of the *carabinieri*.

15. At 3:10 a.m. Captain C. and Officer S.C. registered a criminal complaint and took a statement from a witness whose mobile phone had allegedly been stolen by R.M. and who had been present at the scene of the incident.

16. At 3:30 a.m. the head of the investigations unit ordered officers on duty at the *carabinieri* scientific department to photograph the scene and carry out first investigative acts.

17. Between 4 and 7 a.m. officers from the *carabinieri* investigations unit took witness statements.

B. The opening of proceedings

18. On 3 March 2014, the public prosecutor's office at the Florence District Court opened proceedings against persons unknown. The public prosecutor instructed the *carabinieri* and the State police to carry out investigative activities aimed at reconstructing in detail the events surrounding R.M.'s death.

19. On 4 March 2014, the public prosecutor appointed an expert to carry out toxicological tests to determine whether there had been any narcotic and/or alcoholic substances in R.M.'s system when he died and, if there were, whether they could have caused or contributed to his death. The prosecutor further appointed two forensic medical experts to determine the cause of death.

20. On 30 April 2014, the public prosecutor's office opened an investigation against four officers, S.C., D.A., A.D. and V.C, for offences referred to in Articles 110 and 584 of the Criminal Code relating to manslaughter committed with others (*omicidio preterintenzionale in concorso con altri*). The Red Cross volunteers and medical and nursing staff who intervened to assist R.M. were investigated for offences under Article 113 of the Criminal Code relating to cooperation in causing death by negligence (*cooperazione nell'omicidio colposo*) and Article 589 of the Criminal Code – causing death by negligence (*omicidio colposo*).

C. The forensic medical expert reports

21. At a hearing held on 22 May 2014, an initial consensus was put forward by the medical experts appointed by the prosecutor in conjunction with the experts representing R.M.'s relatives, who identified a complex, combined mechanism of intoxication, cardiac dysfunction, and asphyxiation as the probable cause of death.

1. The forensic expertise on the cause of death

22. On 11 September 2014 the forensic medical experts appointed to establish the cause of death submitted their report. According to the experts, the results of the toxicological-forensic examination indicated that R.M. had been a habitual cocaine user and that, at the time of his encounter with the *carabinieri*, he had been in a state of acute cocaine intoxication which had triggered a behavioural and pathological condition classified as "excited delirium syndrome". Since the mid-1980s the relevant literature had been increasingly replete with papers and case reports of individuals exhibiting behavior attributable to this syndrome, although the term used to describe it was more recent. The joint occurrence of delirium, psychomotor agitation and excitement distinguished this syndrome from others, and among the triggering factors were the use of narcotics such as cocaine or alcohol, and the presence of a mental disorder.

23. Defining the clinical picture of such a syndrome was considered increasingly important, given the fatal outcomes that could result from it, to the point that in the years prior many associations of clinicians had developed guidelines to be followed in order to make accurate diagnoses, prevent deaths and improve the knowledge of both law-enforcement and health professionals on the issue. In that latter connection, the report noted that, despite the low reporting rate of deaths associated with the syndrome – partly explained by the fact that some deaths took place without witnesses – the majority of reported deaths occurred during or after intervention by law-enforcement or health professionals. It had also been noted in the literature that deaths often occurred after a period of apparent calm, during or after restraint manoeuvers by law-enforcement officers and attempts by the subject to free him or herself. This had led to growing attention being paid to the methods of arrest, immobilisation and restraint employed by law enforcement when confronted with individuals in such a state. The report mentioned guidance issued by some associations of physicians as of 2009, which included a recommendation that excited delirium syndrome be viewed as a medical emergency and that the police and healthcare services be alerted simultaneously. Another recommendation when dealing with such subjects was that the use of force should be kept to a minimum and medical intervention should be provided as quickly as possible to limit the release of catecholamines and the development of metabolic acidosis, both of which were important factors leading to the death of individuals experiencing excited delirium.

24. The report then reviewed studies investigating the particular role that immobilisation in a prone position might play in leading to the death of individuals experiencing the above-mentioned syndrome. Some of those studies showed that the prone position had interfered with respiratory mechanics, while other studies stated that the evidence of the causal connection was less certain. In certain cases where the heart had already been weakened by drugs such as cocaine, this had led to fatal consequences. In other studies autopsies had revealed signs of asphyxia in the causes of deaths, referred to as "positional asphyxia", arising from breathing difficulties when individuals were immobilised in certain positions. In that context, the report noted recommendations on restraint in United Kingdom prisons issued in 2005, which stated, *inter alia*, that for agitated or violent subjects the prone position should be avoided unless strictly necessary, that any form of chest compression should be avoided, and that in the event of a medical emergency the prisoner should be released immediately to allow medical staff to provide timely assistance.

25. Turning to the manner of R.M.'s death, which was recorded as cardio-circulatory arrest, the experts noted that the circumstances were consistent with those reported in the literature: the death

had occurred after the subject had been immobilised by law enforcement and after a period of apparent calm. An electrocardiogram (ECG) performed on R.M. showed asystole, in which cocaine intoxication had undoubtedly played an important causal role. Another element of undoubted importance was that the dynamics of the arrest and subsequent immobilisation and R.M.'s struggle to free himself had induced an additional release of catecholamines. There was also evidence of asphyxiation. The experts could not establish whether and to what extent direct compression of R.M.'s neck, reported by witness testimony and supported in the evidence by a faint but bilateral haemorrhage in the lateral cervical region, had contributed to the asphyxia. However, the experts were certain that the asphyxia was relatable to R.M.'s having been held in a prone position for a prolonged period, which reduced respiratory dynamics. In summary, R.M.'s acute cocaine intoxication, the stress caused by his immobilisation and attempts to free himself, and the prone position in which he had been held were all factors that had contributed, jointly, to his death.

26. With regard to the time of death, it was noted that, according to the chronology reconstructed by the investigating authorities, R.M. appeared to have been alive at 1.33 a.m., when the first ambulance arrived. One of the first responders, who had approached R.M. to check his vital signs, put her hand under his mouth and apparently felt him breathing. The experts noted the unscientific nature of the manoeuvre, which they found to have been undoubtedly incorrect, and concluded that it was likely that the R.M. had already been in an unconscious state at that stage, as no words or movements were reported. Between 1.35 and 1.44 a.m. R.M. went into cardiorespiratory arrest. The doctor who arrived at 1.44 a.m. had attempted to resuscitate him, but to no avail. R.M. had already been dead when he arrived at the emergency room and the death, or at least the irreversible phase that preceded it, had occurred between 1.35 and 1.44 a.m. The experts stated that the asphyxiation would in all likelihood not have occurred if R.M.'s respiratory activity had been facilitated by placing him in a supine, seated or standing position. They also noted that the first responders, based on the available evidence, had limited themselves to establishing the presence of vital signs by unscientific means, without taking any measures to facilitate R.M.'s respiratory dynamics.

27. They concluded that the prolonged maintenance of R.M. in a prone position, with the resulting asphyxia, in view of his concurrent state of intoxication and adrenergic dynamics, had reduced the chances of recovery and thus of avoiding death. They emphasised that the mortality rate of cardiac arrest is high and that the chances of success of CPR with a defibrillable rhythm decreased by 7-10% with every minute that passed without intervention. It could be concluded with near certainty that the lethal outcome of the situation had already been determined by the time of the doctor's intervention.

2. The toxicology report

28. On 5 January 2015 the toxicology report prepared by the expert appointed by the prosecutor was submitted. It found that R.M. had consumed a significant quantity of cocaine, resulting in acute intoxication at the time of the impugned events. This finding could have been indicative of toxic psychosis and a state of "excited delirium".

III. The criminal proceedings

A. Committal for trial

29. On 11 November 2014 the public prosecutor's office requested the committal for trial of the four *carabinieri* officers and the three Red Cross volunteers for causing death by negligence under

Article 589 of the Criminal Code (*omicidio colposo*) and Article 113 of the Criminal Code relating to cooperation in causing death by negligence (*cooperazione nell'omicidio colposo*). In the charge relating to the officers, the negligent conduct was identified as having maintained R.M. in a prone position following his immobilisation and handcuffing, which reduced his respiratory activity.

30. On 21 November 2014 the preliminary investigations judge of the Florence District Court set the preliminary hearing for 8 January 2015. On that date the applicants joined the proceedings as civil parties.

31. On 3 February 2015 the preliminary investigation judge, upon the confirmation of the indictment issued by the public prosecutor, ordered that the seven accused be committed for trial. V.C. was also committed for trial for causing bodily harm aggravated by abuse of power.

B. Proceedings in the Florence District Court

32. By judgment of 13 July 2016 the Florence District Court found Officers V.C., S.C. and A.D. guilty of the offences under Articles 113 and 589 of the Criminal Code for having, in complicity, caused the death of R.M. on 3 March 2014 by cardiorespiratory arrest brought about by acute cocaine intoxication associated with asphyxia. In particular, after having immobilised and handcuffed R.M. they had held him to the ground from 1.30 to 1.45 a.m. in a pose likely to reduce his respiratory dynamics. As a result, the Florence court sentenced V.C. to eight months' imprisonment and S.C. and A.D. to seven months' imprisonment. The court acquitted D.A. and the Red Cross volunteers.

33. The court began by examining the facts of the case, tracing the sequence of events that had occurred on the evening at issue and the circumstances that had culminated in the intervention of law enforcement. Those included R.M.'s having grabbed a taxi driver by the neck saying things such as "you're one of them too, you can't do this to me", R.M.'s having thrown around road signs, harassing a passer-by, attempting to stop and get into passing cars, shouting at the top of his voice with his chest exposed, entering a restaurant and taking someone's mobile phone, and then breaking the glass door of a restaurant that he had entered. The court then established a timeline of the events that followed (see paragraph 8 above).

34. As to the cause of death, following a review of the medical experts' reports submitted during the trial, the court concluded that R.M.'s death by cardio-circulatory arrest could be attributed to a combination of factors, each of which had contributed to a state of catecholaminergic stress, and that those were: acute cocaine intoxication; immobilisation by the police in an attempt to restrain him and, on the other hand, his attempts to free himself both before and after immobilisation; and the prone position in which he had been held, albeit without any thoracic compression, from the time he was handcuffed.

35. With regard to the reasons for the use of force by the officers, the court considered that R.M.'s conduct had to be taken into account in order to define the context in which the officers had acted. It was clear from numerous eyewitness accounts that the police intervention had stemmed from the need to stop him in order to ensure his safety and that of the public, and also to identify him, as he was suspected of having committed offences for which arrest could have been envisaged. The court thus found that the handcuffing and immobilisation on the ground of R.M. carried out by the *carabinieri* had to be considered justified. Once handcuffed, it had also been logical and correct that they had maintained him in that position until he had calmed down, for a period of time that common sense would suggest was appropriate to his condition. However, the Court considered that

– although the *carabinieri* had been justified in having handcuffed R.M., in placing him in a prone position and in keeping him in that position for a period of about two minutes (from 1.29 to 1.31 a.m.) necessary for observation – their keeping him in that prone position for longer than that and even after he had fallen silent had been unlawful.

36. The court considered that the basis for its assessment should be the behaviour expected of a "model police officer" who had undergone training based on the knowledge disseminated and in use at the time of the event. The handcuffing and prone positioning procedures used on R.M. were in accordance with a circular issued in 2008 (see paragraphs 59-61 below) relating to immobilisation and handcuffing. The court then cited another circular that had been issued on 30 January 2014, which included references to the prone position (see paragraphs 62-65 below), but found that that it had not yet entered into force at the material time and that no training had been delivered to the officers with respect to that circular. It noted that, during his testimony, Captain C. had acknowledged that the latter guidelines dealt with the risk of positional asphyxia associated with the prone position, which, prior to the date of issue of the 2014 circular, had been the subject of general knowledge but had not been mentioned in previous regulatory texts or been the subject of specific training. Nor could it be argued that the defendants should have relied on their own personal knowledge, because that would have meant allowing officers to disregard orders, with the consequent risk of arbitrary conduct. The court therefore ruled out the possibility of liability for the breach of written precautionary rules. At the same time, the court emphasised that the officers had not employed any thoracic compression or exerted pressure on any other parts of R.M.'s body in excess of the limits established in a scientific study submitted by the civil parties. The court noted in that connection that the asphyxia identified by the medical experts had not been caused by compression but had rather been positional.

37. Nevertheless, the court determined that a negligent failure to act (*colpa di tipo omissivo*) was at issue. Such a conclusion could be drawn from the holding of R.M. in a prone position by the officers even after R.M. had entered a state of calm – that is after 1.31 a.m. – in particular in view of the absence of vital signs, which required the officers to have intervened or to have called the emergency services instead of passively waiting for the ambulance with the doctor to arrive at 1.44 a.m. Their actions, in the court's view, indicated an "obstinate conviction" that although R.M. had become motionless and silent he still needed to be restrained, regardless of his actual behaviour/condition. The offence was constituted by their failure to act promptly to change the position in which R.M. was being held, since the medical experts found that the asphyxiation had been linked to the officers holding him in a prone position. The officers had had a duty of care towards R.M. once he had been handcuffed and restrained, particularly because they themselves had created a source of danger. The lawful alternative behaviour which would have been warranted in the court's view would have been to ask questions or move R.M., thus making it possible to detect his loss of consciousness and to intervene by placing him in a supine or sitting position, unfastening his handcuffs, allowing the ambulance personnel to monitor him and, if necessary, to administer CPR. Had they acted thus there was a high logical and statistical probability that the incident would not have occurred. As indicated by the medical experts appointed by the public prosecutor, the chances of success of CPR decrease by 7-10% with every minute that passes without intervention.

38. The court also examined the allegations, raised by the civil parties to the proceedings, that attempts had been made to mislead the investigation and manipulate evidence. It found that V.C. and A.D.'s conduct had not been unlawful. They had legitimately obtained information from the Red Cross volunteer C.M. as the events had just taken place, they had not yet been under investigation, their intervention had been ongoing and they had had to be proactive to assist with the reconstruction of what had happened. During the trial, the officers' hierarchical superior, Captain C., reported that he had learned that V.C. and A.D. had taken statements from C.M. in the emergency room on their own initiative. That was also considered legitimate, given that at the time they had still been unaware that the investigation had been assigned to the investigative unit of the *carabinieri*. The court did not find evidence that the volunteer C.M. had been coerced into providing a favourable version of events. She had subsequently been heard on two further occasions, in normal and more reassuring circumstances, having had time and the opportunity to clarify the events in her mind, without changing her version of events, at least in terms of certain essential aspects. Consequently, there was insufficient evidence to substantiate the assertion that the statements made by her in the immediate aftermath of the event had been influenced by the *carabinieri*. The court considered that, in any event, her subsequent status as a defendant had influenced her overall reliability, as it could not be discounted that C.M. had progressively reinforced elements intended to justify her actions in subsequent interviews. Lastly, the court noted that C.M. was an experienced first responder, trained in CPR and the use of a defibrillator, which she had previously used in other rescue operations, and was therefore trained to operate in emotionally stressful situations, even in the presence of deceased persons. There was no reason why the *carabinieri* should have questioned her psychological stability at the moment of the interview at the hospital. As regards the witness whose statement had been taken by Officer S.C. and Captain C., his statement was found to be free from all suspicion of manipulation as he had never changed his account of the events. The court noted that the officers had also searched certain locations frequented by R.M. for evidence related to the event, which it considered to have been an entirely legitimate action on their part, as otherwise they could have been accused of malicious omission if they had not made any effort at all to gather such evidence.

39. D.A. was acquitted because at the time when his three colleagues were involved in the impugned acts he had left the scene to have his wound treated and to identify witnesses.

40. The Red Cross volunteers were also acquitted. Eyewitness statements and the defendants' own accounts enabled the circumstances to be reconstructed unequivocally. This included the volunteers' attempts to apply a saturation meter on R.M.'s finger, which once applied produced no results, and their requests to the officers to place R.M. in a supine position for more thorough monitoring. The officers refused, citing R.M.'s dangerousness. In the face of opposition from the officers, vital signs were checked by placing a hand under R.M.'s mouth. Amongst other things, the court noted that under Red Cross protocols rescuers can only intervene in a safe scenario. In the event that the situation is deemed to be unsafe, the rescuers have to request support from the operations centre. In this particular instance, it was clear that law-enforcement officers had classified the scenario as unsafe. The court decided to acquit them on the basis that the assessment of the risk within which they were forced to operate was not their responsibility.

41. With regard the kicks given to R.M. by one of the officers, the judge ruled that that part of the case, which involved the offence of causing bodily injury, could not be examined owing to the absence of a criminal complaint.

C. Proceedings before the Florence Court of Appeal

42. By a judgment of 19 October 2017 the Florence Court of Appeal upheld the conviction of V.C., S.C. and A.D. and the acquittal of D.A. and the Red Cross volunteers.

43. The court agreed with the assessment of the cause of death formulated by the medical experts, according to which R.M.'s death could be attributed to three causes that had brought on catecholaminergic stress, namely acute cocaine intoxication compounded by his attempts to free himself from immobilisation and the prone position in which he had been kept. That position resulted in a limitation of R.M.'s respiratory activity and, consequently, his oxygen supply, which was particularly critical given his pre-existing intoxication.

44. As to the justification for resorting to the use of force, the officers had intervened following numerous phone calls to the police. In the court's view it must have appeared very likely, because of R.M.'s disturbed state and the number of violent acts against people and property reported up to that point, that he could continue to commit similar acts. Accordingly, in apprehending R.M., the *carabinieri* had been carrying out their duty of maintaining public safety, and thus ensuring that he was stopped and did not escape their control, to prevent him from harming not only others but himself as well.

45. The court first noted that the evidence showed that R.M had been in a severe state of physical and mental agitation when confronted by the *carabinieri*. Attempts to calm him down verbally had been useless: the *carabinieri* had initially approached him with their hands raised above their heads and tried to establish dialogue, but he had kept screaming, appeared delirious, and would not keep still. Four *carabinieri* had stood around him in a semicircle and followed him as he walked away. There was then what the court described as inevitable physical contact to try to stop him and attempt to handcuff him, which he had resisted, hitting one of the *carabinieri* in the process. The *carabinieri*, therefore, had had no other alternative but to apply force to immobilise him once the attempt to calm him down by intervening with raised hands and trying to talk to him had failed. Even so, the court held that, considering R.M.'s evident pathological condition, the use of force had to have been kept to a minimum and that constant monitoring of R.M.'s condition had been imperative.

46. However, the officers' keeping of R.M., who had been in a seriously disturbed state, immobilised in a prone position had prevented him from receiving the oxygen he needed, which had proved to be lethal. The officers had failed to consider that R.M.'s behaviour after immobilisation – vocally expressing discomfort and asking for help, then gradually losing strength and speaking with a progressively weaker voice, and finally becoming unresponsive and falling silent – could have been a sign of breathing difficulties. The court found it significant that after R.M. had stopped moving one of the Red Cross volunteers who had arrived in the meantime had raised his eyelid without provoking any reaction on R.M.'s part, when such a reaction should have been immediate and instinctive. R.M.'s state of calm could therefore have been interpreted as a loss of consciousness, and that consideration should have obliged the officers to change his position. Furthermore, the court found no justification for keeping R.M. immobilised in a prone position when there were four officers present who could have restrained his hands and feet in a different position while still

ensuring his safety and that of others. Despite that, R.M. had been kept immobilised in a prone position even after he had fallen still, as confirmed by several witnesses, including one of the police officers involved, albeit without any proven compression to the thoracic, scapular or back area.

47. The court of appeal found that it had not been necessary for the officers to have had any medical knowledge to know that the prone position made breathing difficult even without direct compression to the chest owing to the compression of the front part of the pulmonary apparatus, especially when the body was in contact with a hard surface such as a road with the arms handcuffed behind the back and the legs pinned down.

48. Nevertheless, the officers had kept him in the prone position, carelessly neglecting to consider that the obvious breathing difficulties R.M. was experiencing entailed a risk of asphyxiation, which had been, in the court's view, foreseeable in the circumstances. The duty of care towards the individual under their authority and whose safety they were bound to protect had obliged them to consider that risk. Furthermore, the court reiterated that use of physical coercion had to meet the requirements of necessity and proportionality, and could be considered justified only to the extent that it was strictly necessary to achieve immobilisation.

49. In relation to the actions of the *carabinieri* in the immediate aftermath of the incident and the alleged manipulation of evidence, the court conceded that the fatal outcome of the police operation could, in all likelihood, have provoked significant worry on the part of the officers. Nevertheless, it found that the contested actions had not resulted in any detectable alteration of evidence.

50. In upholding the acquittal of the Red Cross volunteers, the court relied on the fact that their testimony had been coherent and consistent and that the officers had told them that R.M. was very agitated, aggressive and dangerous. The court noted that when one of the volunteers, C.M., had asked if they could change R.M.'s position in order for her to monitor him more closely, the request had been denied. That had been confirmed by Officer V.C.'s testimony – he had told her that R.M. was dangerous despite his lack of movement. An officer who had arrived in the third patrol car (see paragraph 9 above) also reported that, when one of the volunteers approached R.M. to attach a saturation meter to his finger, another officer had warned her of the extreme agitation R.M. had exhibited up to that point, adding that he could not rule out the possibility of R.M.'s posing an immediate threat. The court observed that, in the meantime, Officer A.D. had been holding R.M.'s ankles and Officer V.C. had been holding his handcuffed wrists.

D. Proceedings before the Court of Cassation

51. By a judgment of 15 November 2018, deposited in its registry on 29 November 2018, the Court of Cassation reversed the judgment of the Florence Court of Appeal on the ground that the acts or omissions at issue did not constitute an offence. In particular, the court considered that the officers' conviction was deficient in terms of the subjective element of the offence and the concrete foreseeability of the harmful event. This resulted in the officers' acquittal.

52. The Court of Cassation first acknowledged that the lower courts had established and analysed at length all the factual elements on which their conclusions were based. It considered sound the reasoning on the basis of which the lower courts had found the intervention of the officers to have been legitimate. It reiterated the factual findings as to the dangerous conduct displayed by R.M. and his severe psychophysical agitation. According to the well-reasoned conclusions reached by the lower courts, the officers had had no alternative but to stop R.M. because he had appeared to pose

a danger to himself and others, especially given that their attempts to calm him down had failed, that R.M. had attempted to flee and that he had hit an officer.

53. It noted that the determination of the three-fold cause of R.M.'s death was correct. His death had been caused by catecholaminergic stress resulting from the combination of three factors: acute cocaine intoxication; R.M.'s immobilisation and attempts to free himself both before and after immobilisation; and the prone position in which he was held, albeit without any chest compression. The judgment being appealed against did not contain any defect of reasoning regarding the existence of a causal link between the protraction of the prone position in which the R.M. had been held and the fatal outcome.

54. The court then examined the methods used by the officers to carry out the intervention and considered whether they could be considered excessive. The court considered the decision to introduce new guidelines for officers in January 2014 (see paragraphs 62 - 65 below) clearly indicated that there had been a need to impart new knowledge to law-enforcement personnel on safety risks when confronted with persons in a state of psychophysical agitation caused by illness or consumption of alcohol and/or narcotic substances, both for the individual involved and the officers. Such information had obviously been lacking until then and that, in the court's view, could not be ignored when assessing the concrete foreseeability of the death. Moreover, the court noted that at the time of the events the 2014 circular had been issued but had not entered into force as the procedural steps for its doing so had not been completed at that point and could not have been known to the officers involved in the incident. The operational reference point known to the defendants at the relevant time was therefore the 2008 circular, which contained the procedure of handcuffing the suspect and placing him or her face down on the ground with the suspect's hands behind his or her back and with the officer's shin or knee on the suspect's neck as a means of restraint.

55. The court also emphasised the fact that the lower courts had limited the initial offence in so far as they had ultimately held that the accused had engaged in culpable conduct by omission from the moment R.M. had stopped moving and talking and, after a few minutes of observation, should have realised what had been happening. The lower courts therefore had had to address, and had done so in a contradictory manner, the *ex ante* foreseeability of the fatal outcome. The Court of Cassation considered that the officers could not have been expected to recognise the seriousness of the situation and the consequences which could have resulted from it, and did not find convincing the elements identified by the lower courts. It noted that the Red Cross volunteers had arrived two to three minutes after R.M. had stopped speaking and it had not occurred to them, who had more medical experience, that R.M. was in imminent danger or had had breathing difficulties. Nevertheless, according to the lower courts, the officers should have realised that themselves, since it was well known that it is more difficult to breathe when lying on the ground in a prone position and handcuffed. R.M.'s silence could have had at least two other possible interpretations, namely that the delirium had subsided and he had decided to stop resisting the *carabinieri*, or that he had merely been pretending to have calmed down in order to be able to react again when the officers' guard was down. In conclusion, the degree of predictability in the case at hand seemed difficult to discern. Therefore, according to an *ex ante* assessment, what could and should have been expected

from the "rational agent" in the limited period of time during which the negligent omission was alleged to have occurred was not clear.

56. The fact that the event in question had not been foreseeable, as the officers had had no specific expertise in the matter, could furthermore have been deduced precisely from the need felt by the *carabinieri* authorities to intervene in 2014 in a regulatory manner by means of a new circular which had been intended to equip officers with more precise operational provisions for dealing with cases such as the one in question.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. domestic law and practice

57. Article 53 of the Criminal Code provides that no sanction may be imposed on:

"a public official who uses or orders the use of weapons or other means of physical coercion in order to fulfil a duty of their office, when compelled to do so by the need to repel violence or overcome resistance to the authority [of the State]..."

58. Article 53 has been interpreted in the Court of Cassation's case-law as meaning that the use of force is subject to the principles of necessity and proportionality; therefore, it is a last resort. For example, judgment no. 41038 of 16 June 2014 states that, in order for the defence provided for by Article 53 of the Criminal Code to apply, the use of weapons and, in general, of force and any means of physical coercion, must constitute a last resort (*extrema ratio*) in the choice of means necessary for fulfilling the duty at issue. The defence is only admissible when other methods of intervention are impracticable or when the limits of gradualness dictated by the needs of the specific case are exceeded, provided that the principle of proportionality is also respected. This is understood as a necessary balancing of conflicting interests in relation to the specific situation.

Police circulars

1. *Circular no. P-11/2008 titled "Procedures for action by the* carabinieri *military police in the performance of their duties"*

59. Chapter 10 of the guidelines, titled "Arrest and Detention of Suspects", deals with handcuffing techniques and states that:

"i) handcuffs are a means of restraint which can be used safely. Therefore, they must be used taking into account the following factors: i) the dangerousness of the person, the risk of escape and the circumstances of the environment; ii) the manner in which handcuffing is carried out must in any case preserve the dignity of the person; iii) in order to prevent any aggressive action or self-harm, handcuffs are applied with the hands behind the back."

60. The different procedures for handcuffing to be used in different situations are listed along with explanatory photographs. Point D5 shows the procedure for "handcuffing on the ground", a technique used when arresting a "particularly dangerous person" or an individual "showing signs of resisting police action". The instructions accompanying the photographs read as follows:

"The patrol leader instructs the suspect to first assume a position on his [or her] knees and then to lie on the ground in a prone position, face turned to the left, his [or her] arms outstretched to the sides and legs spread. The [officer] takes the subject's right hand with his [or her] left hand and, bending down, folds the arm at the elbow to place the hand behind the subject's back; the [officer] then instructs the subject to bring the second arm behind the body so that the intervening officer can complete the handcuffing of the left wrist using the upper ring of the handcuffs; in order to obtain

greater stability in the position and, at the same time, to obtain total control of the subject, the intervening [officer] places [his or her] ... right knee on the suspect's neck and ... kneels on the ground with the other leg, keeping the subject's arm immobilised; the [officer] then proceeds to handcuff the subject, first securing the wrist of the immobilised limb with the ring of the handcuffs; the [officer] then conducts a search of the handcuffed subject. ..."

61. In the section of the document devoted to professional ethics there is a specific part dealing with the use of force in police operations which reads as follows:

"The use of force in police interventions must, in addition to being limited to the cases expressly established by law:

- always be considered an exceptional measure;
- be strictly proportionate to the achievement of the intended objectives.

Police interventions must, in any case, safeguard respect for everyone's right to life, even though [interventions] may result in the loss of human life as a consequence of the legitimate use of force in specific circumstances."

2. *Circular no. 1168/483-1-1993 issued on 30 January 2014 by the general command of the* carabinieri *titled "Operational interventions concerning individuals in a state of psychophysical agitation resulting from illness or caused by alcohol and/or drugs".*

62. The circular specifies, by way of introduction, the reasons for which it was issued, namely the particularly complex nature of interventions concerning individuals in a state of psychophysical agitation consequent to pathologies or caused by the abuse of alcohol and/or narcotic substances. Factors such as the unpredictability of reactions and the possibility of unforeseen complications in such individuals' state of health have to be taken into account in such interventions to minimise the risks to the physical safety of all those involved.

63. It then lists different steps to be taken in such circumstances, which include acquiring as much information as possible about the person and his or her concrete behaviour, informing a hierarchical superior at the operations centre in order to coordinate the intervention of additional law-enforcement personnel in adequate numbers, and requesting the assistance of emergency medical services. In the absence of an imminent risk of violence, whether of self-harm or violence directed at others, the officer is called upon to assess whether it is possible to wait for the state of agitation to subside naturally.

64. With specific regard to the immobilisation of such individuals, the circular provides that, should the use of force be rendered unavoidable by, for example, the need to safeguard the individual's physical integrity, it should be carried out – if possible in collaboration with health professionals – in a manner that avoids the risks deriving from prolonged altercations or protracted immobilisations, especially immobilisations on the ground in a prone position. A footnote in that section specifies that thoracic compression may lead to positional asphyxia.

65. As to the manner in which immobilisation should be carried out, an adequate number of officers must position themselves at the subject's sides, holding him or her up, if possible in a vertical position, so as to avoid impediments to vital functions and any collateral injuries. The force used must be strictly functional to overcoming the subject's resistance and exercised only for the time necessary to apply restraining equipment and/or possibly administer sedative medication.

3. *Circular no. 1168/483-18-1993 of 19 January 2016 titled "Operational interventions: self-defence devices for personnel and progressive use of force".*

66. On 19 January 2016 circular no. 1168/483-18-1993 replaced the 2014 circular. It contained similar references to those in the previous circular on the possibility of unforeseen risks to the health of persons in a state of psychophysical agitation induced by drugs, alcohol or illness (see paragraph 62 above) and reiterated the need for the use of force only to be strictly functional to overcoming resistance. It also mentioned the distribution of "tonfa" defensive batons and pepper spray for the protection of law-enforcement personnel, which would increase safety and, if necessary, allow for the gradual and proportionate use of force when officers were confronted with individuals in the aforementioned state.

4. *Circular no. 113/7-57-1-2014 of 19 February 2019 titled "Interventions concerning individuals in a state of psychophysical agitation"*

67. On 19 February 2019 circular no. 113/7-57-1-2014, which replaced the 2016 circular, integrated Chapter 10 of circular no. P-11/2008 (see paragraphs 59-61 above) by incorporating the contents of the 2016 circular on the necessity and proportionality of the use of force, in addition to a further section on how to support medical staff during ambulance transport to the emergency room. References to unforeseen risks to the health of persons in a state of psychophysical agitation, present in the previous circular, were omitted from this text.

II. international law and practice

Council of Europe

68. In the document CPT/Inf/E (2002) 1 – Rev. 2010, published on 8 March 2011, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) noted, in respect of the deportation of foreign nationals, that in cases where resistance was encountered, escort staff usually immobilised the detainee completely on the ground, face down, in order to place him or her in handcuffs. Keeping a detainee in such a position – in particular in the event that escort staff put their weight on various parts of the body (for example, exerting pressure on the ribcage, placing knees on the back, immobilising the neck) after the person concerned has put up a struggle – entails a risk of positional asphyxia. The CPT has made it clear that the use of force and/or methods of restraint capable of causing positional asphyxia should be avoided whenever possible and that any such use in exceptional circumstances must be subject to guidelines designed to reduce to a minimum the risks to the health of the person concerned.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 2 OF THE CONVENTION

69. The applicants complained, under Article 2 of the Convention, that their relative had died as a result of an excessive and disproportionate use of force by police officers and that the State had also failed in its positive obligation to protect his life in several respects. They further contended that the investigation into the relevant circumstances had not been effective. Article 2 reads as follows:

"1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

2. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:
(a) in defence of any person from unlawful violence;
(b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
(c) in action lawfully taken for the purpose of quelling a riot or insurrection."

A. Admissibility

1. Victim status of applicants nos. 5, 9 and 10

70. Although the Government did not lodge an objection concerning the applicants' victim status based on their relationships with the deceased, this aspect of compatibility *ratione personae* calls for consideration by the Court of its own motion (see *Vardanyan and Khalafyan v. Armenia*, no. 2265/12, § 69, 8 November 2022).

71. The Court has recognised that close family members, including a parent, spouse, child, sibling, nephew, or uncle of a person whose death is alleged to engage the responsibility of the respondent State can themselves claim to be indirect victims of an alleged violation of Article 2 of the Convention (see *Kotilainen and Others v. Finland*, no. 62439/12, §§ 51-52, 17 September 2020; *Andronicou and Constantinou v. Cyprus*, 9 October 1997, *Reports of Judgments and Decisions* 1997-VI, *Yaşa v. Turkey*, 2 September 1998, § 66, *Reports* 1998-VI; and *Fabris and Parziale v. Italy*, no. 41603/13, §§ 37-41, 19 March 2020). On the other hand, the Court has previously found that the victim status of cousins, unlike that of close family members such as those listed above, is not automatically recognised by the Court (see *Fabris and Parziale,* cited above, § 38; and *Belkÿza Kaya and Others v. Turkey*, nos. 33420/96 and 36206/97, §§ 45-47, 22 November 2005).

72. In the present case, the Court notes that the applicants listed at nos. 5, 9, and 10 in the appended table are cousins of the deceased. The only factor apart from their family relationship put forward, in general terms, by all applicants in support of their proximity to R.M. was the recognition by the Italian authorities of their status as civil parties in the criminal proceedings concerning R.M.'s death. However, the conditions governing individual applications under the Convention do not necessarily coincide with the national criteria relating to *locus standi*, since the domestic rules on the subject may serve different purposes from those of Article 34 of the Convention. Although there is sometimes an analogy between the respective aims, that is not necessarily always the case (see *Fabris and Parziale*, cited above, § 39).

73. In view of the above, in the absence of information demonstrating that applicants nos. 5, 9 and 10 had a legitimate interest as relatives, and taking into account the fact that close family members of the deceased, such as his parents, wife, son, uncle, nephew, and brother, are parties to the proceedings before the Court, the Court considers that applicants nos. 5, 9 and 10 cannot claim to be a victim of an alleged violation of the Convention and that this part of the application must be declared inadmissible as being incompatible *ratione personae* with the provisions of the Convention (compare *Vardanyan and Khalafyan*, cited above, § 71 and *Fabris and Parziale*, cited above, § 40).

74. As far as the remaining seven applicants are concerned, the Court will continue referring to them as "the applicants" for the sake of convenience.

2. Six-month time-limit

(a) The parties' arguments

75. The Government submitted that the applicants had lodged the application outside the six-month time-limit because they had done so within six months from the date on which the full judgment with reasoning (*deposito delle motivazioni*) of the Court of Cassation had been deposited in its registry: 29 November 2018. In that respect they submitted that the time-limit ought to run from 19 November 2018, that is the date of the hearing at which the Court of Cassation had handed down its final judgment and at which the applicant and her representative had been present, and had therefore become aware of the decision. Given that the application was lodged with the Court on 27 May 2019, the Government concluded that it had been submitted in an untimely manner.

76. The applicants argued that full knowledge of the arguments which had led the Court of Cassation to its decision, in which it had quashed the appellate court's decision without remitting the case to that court, could only have been obtained upon reading the full judgment containing the Court of Cassation's reasoning. That would have an influence on the content of their application to the Court. The applicants also pointed out that that the Italian Government themselves had based their arguments in their submissions primarily on the grounds of the Court of Cassation's judgment and not merely on its operative part. The applicants thus submitted that the relevant date for the running of the six-month time-limit had to be the date on which the full judgment of the Court of Cassation had been deposited in that court's registry, namely 29 November 2018.

(b) The Court's assessment

77. The Court reiterates that according to Article 35 § 1 of the Convention it may only deal with an individual application lodged with it within six months of the date of the final decision in the case[1]. The six-month period starts running from the date on which the applicant and/or his or her representative has sufficient knowledge of the final domestic decision (see *Koç and Tosun v. Turkey* (dec.), no. 23852/04, 13 November 2008). The Court has, however, recognised exceptions to this general rule, in particular where reasons for a decision which are necessary for the lodging of an application were not available to an applicant immediately on the judgment being given (see *Lambin v. Russia*, no. 12668/08, § 20, 21 November 2017).

78. The Court has no difficulty in accepting the need for the applicants in the instant case to familiarise themselves with the complete text of the judgment in order to submit their application, particularly in view of the fact that the Court of Cassation had definitively overturned the conviction of the officers, after they had been convicted at the previous two levels of jurisdiction, without remitting the case to the lower court (see paragraph 51 above). It is clear to the Court that the reasons underpinning such a decision were likely to have an influence on legal arguments in a prospective application before it.

79. As the applicants were able to acquaint themselves with the reasons for the Court of Cassation's decision on 29 November 2018, that ought to be considered the relevant date from which the time-limit laid down in Article 35 § 1 of the Convention began to run. The Court notes that the application was lodged on 27 May 2019, that is less than six months after that date.

80. It follows that the application cannot be declared inadmissible for failure to comply with the six-month time-limit within the meaning of Article 35 § 1 of the Convention.

3. Non-exhaustion of domestic remedies

(a) The parties' arguments

(i) The Government

81. The Government argued that the applicants had failed to exhaust domestic remedies.

82. First, in respect of the part of the complaint concerning the independence of the investigation, the Government argued that the applicants had failed to raise their allegations that there had been attempts to mislead the investigation, in particular with reference to evidence manipulation, in the grounds of their appeal before the Court of Cassation. In reply to the applicants' submissions that there were no grounds in domestic law allowing them to do so, the Government stated that the relevant ground would have been failure to comply with procedural rules, as established by Article 606 § 1 (c) of the Code of Criminal Procedure. Furthermore, the applicants had not filed a criminal complaint against the police officers alleged to have carried out evidence manipulation. They could have used that avenue to report the alleged irregularities and seek the criminal conviction of the officers for procedural fraud.

83. Second, they contended that the issue of an absence of an adequate regulatory framework, and in particular the fact that the circular issued in 2014 (see paragraphs 62-65 above) had been repealed, was not raised in their appeal with the Court of Cassation.

(ii) The applicants

84. As to the first part of the Government's objection, the applicants argued that domestic law allowed for the officers directly implicated in the death of their family member to actively participate in the crucial, early stages of the investigation, and that an assessment of that circumstance was a matter for substantive review by the Court. The applicants argued that in any event the issue could not have constituted grounds for an appeal before the Court of Cassation. They further argued that lodging a criminal complaint for evidence manipulation would not have constituted an effective remedy for their complaint.

85. The applicants contended that the issue of the repeal of the 2014 circular could not have constituted grounds for an appeal before the Court of Cassation, first and foremost as it was a normative change and it could not be challenged on appeal before that court.

86. The applicants considered the Government's submissions to be ambiguous and generic, and that they had failed to cite any precedent to underpin their arguments. Overall, and in any event, they considered that the Government's objections related more to the merits rather than raising real admissibility issues.

(b) The Court's assessment

87. The Court refers to the applicable principles as to the requirement to exhaust domestic remedies under Article 35 § 1 of the Convention, as set out in particular in *Communauté genevoise d'action syndicale (CGAS) v. Switzerland* ([GC], no. 21881/20, §§ 138-43, 27 November 2023).

88. It reiterates, in particular, that the obligation to exhaust domestic remedies requires an applicant to make normal use of remedies which are available and sufficient in respect of his or her Convention grievances. The existence of the remedies in question must be sufficiently certain not only in theory but in practice, failing which they will lack the requisite accessibility and effectiveness (see *Vučković and Others v. Serbia* (preliminary objection) [GC], nos. 17153/11 and 29 others, § 71, 25 March 2014, and *Communauté genevoise d'action syndicale (CGAS)*, cited above, §§ 138-43). To be effective, a remedy must be capable of directly redressing the impugned state of affairs and must offer reasonable prospects of success (see *Balogh v. Hungary*, no. 47940/99, § 30, 20 July 2004, and *Sejdovic v. Italy* [GC], no. 56581/00, § 46, ECHR 2006-II).

89. As regards the burden of proof, the Court reiterates that it is incumbent on the Government claiming non-exhaustion to satisfy the Court that a remedy was an effective one, available in theory and in practice at the relevant time. Once this burden has been satisfied, it falls to the applicant to establish that the remedy advanced by the Government was in fact exhausted, or was for some reason inadequate and ineffective in the particular circumstances of the case, or that there existed special circumstances absolving him or her from this requirement (see, amongst many other authorities, *Akdivar and Others v. Turkey*, 16 September 1996, § 68, *Reports* 1996-IV; *Demopoulos and Others v. Turkey* (dec.) [GC], nos. 46113/99 and 7 others, § 69, ECHR 2010; *McFarlane v. Ireland* [GC], no. 31333/06, § 107, 10 September 2010; and *Vučković and Others*, cited above, § 77).

90. Turning to the first part of the Government's objection, concerning the applicants' failure to raise the violation of procedural rules relating to the alleged attempts to mislead the investigation and manipulate evidence as a ground for their appeal to the Court of Cassation, the Court notes that this part of the objection was articulated without further elaboration. The Court further notes the applicants' statement to the effect that the law did not prohibit officers directly implicated in events such as the ones at issue from actively participating in investigations into them. It observes in this connection that the first instance court found that the officers' conduct in taking certain witness statements contested by the applicants did not disclose any irregularity or unlawfulness (see paragraph 38 above), a fact that was conceded by the Government (see paragraph 148 below). In view of the foregoing, the Government's generic reliance on the fact that interference in investigations such as that alleged to have occurred in the case at hand constituted in the domestic system a violation of the rules of criminal procedure that was apt to be a ground for an appeal on points of law before the respondent State's supreme court is not sufficient to persuade the Court that that was an avenue to be pursued for the purposes of Article 35 of the Convention.

91. As to the possibility of bringing allegations of evidence manipulation via the additional initiation of criminal proceedings against the relevant officers, it is not clear to the Court, in the absence of further elaboration on the Government's part, how the purported remedy – even if ultimately leading to a criminal conviction – would have been capable of directly addressing or redressing the applicants' complaint concerning a lack of independence of the investigation.

92. Turning to the second part of the Government's objection, the Court considers that the repeal of the circular at issue, even assuming that raising such a matter before the Court of Cassation was possible, cannot be considered a self-standing issue that had to be raised, as such, before the domestic courts in order to satisfy the requirements of Article 35 § 1.

93. It follows from all of the above that the Government's non-exhaustion objection must be dismissed.

4. Conclusions on admissibility

94. The Court notes that the complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. Substantive limb of Article 2 of the Convention

(a) The parties' arguments

(i) The applicants

95. The applicants maintained that the force used by the police against R.M., in particular his immobilisation and his being kept in a prone position on the ground, had been greater than necessary and disproportionate, resulting in his death. They argued that R.M. may have been suspected of having committed an offence against property but that he had not posed a threat to others and thus the use of force had not been absolutely necessary. Following R.M.'s immobilisation on the ground and his handcuffing with his hands behind his back, law-enforcement officers had maintained him in a prone position, a practice that was widely considered to be dangerous and was linked to fatal outcomes, namely by asphyxiation.

96. They also contended that the police officers had failed to take adequate steps to protect the life of their relative, who had been a vulnerable individual under their control. In particular, the applicants submitted that the behaviour of the police officers in the minutes following R.M.'s falling quiet had also impeded the adequate monitoring of him and the provision of timely medical assistance to him, which they contended could have been lifesaving. They further asserted that the actions of the police officers in this instance had been influenced by the perception of R.M. as a potentially dangerous individual, which had, in their view, hindered the Red Cross volunteer's attempts to assess R.M.'s condition. They argued that it was only after the arrival of the doctor that the *carabinieri* had been persuaded to turn R.M. on his back.

97. Moreover, they complained of the absence of an appropriate framework regulating the use of force at issue, particularly with regard to immobilisation in the prone position. Those concerns were particularly emphasised in relation to individuals in R.M.'s condition, namely a state of agitation induced by drugs. They pointed to a growing recognition over time of the dangers of the prone position. In this regard, they referred to elements of international practice reported in the case of *Saoud v. France* (no. 9375/02, 9 October 2007, §§ 60-63). They stressed, among other things, the fact that the CPT had commented on the issue of techniques used to restrain individuals and had reiterated the need for guidelines to avoid risks to the health of the individual concerned (ibid., § 61).

98. The applicants submitted that it could be considered to have been generally known, at the time of the events, that the prone position, even without chest compression, could lead to death by asphyxiation and that prolonged immobilisation in such a position significantly increased the risk of death in persons who had consumed alcohol or drugs and were therefore in an agitated state. Indeed, such a risk had been recognised by the *carabinieri* authorities themselves when they, by means of the 2014 circular, acknowledged the need to instruct officers on arrest technique to minimise possible harmful consequences. That circular was the only one providing instructions on the progressive use of force and the only one which mentioned the risks of the prone position in terms of positional asphyxia, especially with regard to subjects in a state of psychophysical agitation resulting from illness, alcohol and/or drugs. However, it was deemed non-binding at the material time. Furthermore, the applicants noted that the 2014 circular had been replaced by another one in 2016 which mentioned the use of the tonfa stick and pepper spray, yet made no mention of dangerous restraint techniques such as the prone position. In the applicants' view, that circular no longer acknowledged the dangers associated with the restraint technique in question, merely making a cursory reference to the principles of proportionality of the use of force without offering any operational guidelines.

99. They also complained of shortcomings in the training of officers with respect to immobilisation techniques in general and, in particular, when dealing with individuals in a state similar to that of their relative. In that regard, they pointed out that, according to the information provided by the Government, the four *carabinieri* involved in the case had each received only one initial training course a considerable time before the events at issue. It did not appear that they had received any specific initial or continuous training on the dangers that might be associated with the use of restraint techniques.

(ii) The Government

100. The Government relied on the findings of the domestic courts to argue that R.M.'s death was the unfortunate result of a combination of causes which did not include any physical violence to his detriment, but which included the prone position he had been placed in, his severe cocaine intoxication and ensuing asphyxia.

101. They emphasised that the national courts had found that the behaviour of the officers had been lawful, legitimate, proportionate and made necessary by the preceding attacks on persons and property of which R.M. had been accused and by his continued state of extreme agitation and dangerousness. The domestic courts had confirmed that the officers' conduct before 1.30 a.m. had been entirely legitimate and that their actions, including the handcuffing of R.M., had been necessary and proportionate for the purpose of maintaining public safety. Thus, in the Government's view, the officers' conduct had been justified by the need to protect the public and by the need to apprehend and arrest a person who had engaged in criminal behaviour.

102. The Government submitted that the use of force should be considered proportionate on the basis of several factors. Once the officers had restrained R.M., who had continued to struggle and shout, they did not apply pressure to the chest and shoulder area, as had been shown in the domestic proceedings. The fact that R.M. had been kept in a prone position for some minutes after he had finished struggling was only one of the causes of death. As the national courts had established on the basis of expert reports, the prone position alone would not have led to the death of a healthy person in the absence of a state of severe alteration. The Government stressed that R.M. had been using cocaine very heavily over the preceding months and that on that evening he had been in a state of delirium owing to acute intoxication, with high stress levels and release of catecholamines occurring even at the mere approach of the police. It had thus been only in combination with other causes that the prone position had proved to be risky in the present case. In that regard, the Government contended that the present case could not be compared to previous cases that had come before the Court such as those of *Saoud* (cited above) and *Semache v. France* (no. 36083/16, 21 June 2018), as the circumstances varied significantly in respect of the immobilisation techniques used, the application of pressure, the medical attention afforded and other risk factors relating to the health of the persons concerned. They underlined the fact that in the case of *Saoud*, thoracic pressure had been applied to the concerned individual's body for thirty-five minutes, and that pressure to the back had been exerted in the *Semache* case. They further emphasised that in the present case the domestic courts had ruled out with certainty the incidence of both thoracic and scapular compression.

103. The Government also submitted that the officers had taken steps to protect R.M.'s life and health in that they had immediately, even before restraining him, notified the ambulance service and that both ambulances had arrived within a few minutes.

104. Turning to the relevant legislative and regulatory framework, Government noted that the reference norm to justify the use of force by law-enforcement officers was Article 53 of the Criminal Code. In accordance with that provision, public officials may use weapons or physical force in cases of violence directed against themselves or against property or persons they have a duty to protect, in order to overcome resistance or to prevent certain offences. That provision, in addition to limiting the circle of persons authorised to use weapons and force, emphasised the need for such use of force to be objectively aimed at achieving the purpose for which it is legally authorised. The case-law of the Court of Cassation strictly interpreted Article 53 and the conditions under which the use of weapons and, in general, of force and any means of physical coercion was lawful, considering it an *extrema ratio*. Uses of force also had to be strictly proportionate to the nature and degree of resistance offered.

105. Over time, the *carabinieri* had issued various regulations on the procedures to be followed during operational interventions against persons in a state of psychophysical agitation or resisting law enforcement. The Government drew attention to the "Procedures for action for the *carabinieri* military police in the performance of the duties" of 2008 (see paragraphs 59-61 above), in force at the material time and still in force, and in particular to the chapter on the arrest and detention of suspects, which deals with handcuffing techniques. Among the latter, they highlighted the part dealing with handcuffing on the ground, a technique used when arresting a particularly dangerous person or one who showed signs of resistance. They also noted and described the content of the circular adopted on 30 January 2014, which dealt with the management of interventions involving persons in a state of serious psychological and physical disturbance owing to illness or drug or alcohol consumption (see paragraphs 62-65 above). They noted that the circular had not yet been operational at the material time, but argued that the officers involved in the events complained of had complied with its contents in substance. Those guidelines had been updated in 2015, but only in terms of practical illustrations, with the rest of the content remaining unchanged. On 19 January 2016 another circular, repealing the 2014 circular and the 2015 update, provided a further update of the operational intervention procedures following provision being made for the use of tonfa defensive sticks and pepper spray, along with references to the management of interventions involving persons in a state of serious psychophysical disturbance. They stressed that the document reiterates the general criteria of progressiveness and proportionality of interventions. On 19 February 2019 a new circular on interventions concerning persons in a state of psychophysical disturbance was issued, incorporating the 2008 guidelines by reiterating the content of the circular of 19 January 2016, which was therefore repealed. Lastly, the Government mentioned a 2013 publication which identified the behaviours that the *carabinieri* must adopt when carrying out their statutory activities (identifications, personal inspections, arrests, receiving complaints, use of weapons) in order to ensure respect for human rights.

106. As far as training was concerned, the Government specified that access to the various functions of the *carabinieri* is subject to basic training courses. Those courses include training on respect for human rights in the performance of duties (use of force, arrest and detention). In the years prior to

the 2014 circular, and since then, all departments of the *carabinieri* provide both basic training courses and periodic refresher courses. The 2014 circular provided that the guidelines should be explained to the officers in the so-called weekly instruction and periodic reports. Since 2015, each *carabinieri* command regularly organises a four-day training course on operational intervention techniques, including a module on interventions against persons in a state of psychophysical agitation.

107. As regards the *carabinieri* involved in the impugned events, the Government submitted that they had undergone specific training courses in addition to the general training mentioned above. S.C. had attended a two-year course for non-commissioned officers in 1990/1992, which had included various theoretical modules on the use of force and physical coercion, as well as practical training in self-defence and handcuffing. V.C. had attended the training course for active *carabinieri* officers in 1999 and 2000, which had included training similar to that attended by S.C. As for A.D. and D.A., they had attended the training course for auxiliary *carabinieri* cadets in 1998 and 2000 respectively, and had been trained in dealing with emergency situations that might arise in the course of their duties and in how to make an arrest, including practical training in self-defence and disarming techniques.

(b) The Court's assessment

(i) General principles

108. Together with Article 3, Article 2 of the Convention enshrines one of the basic values of the democratic societies making up the Council of Europe. The object and purpose of the Convention as an instrument for the protection of individual human beings requires that its provisions be interpreted and applied so as to make its safeguards practical and effective (see, among many other authorities, *Salman v. Turkey* [GC], no. 21986/93, § 97, ECHR 2000-VII; *Giuliani and Gaggio v. Italy* [GC], no. 23458/02, §§ 174 and 177, ECHR 2011 (extracts); and *Boukrourou and Others v. France*, no. 30059/15, § 54, 16 November 2017).

109. The exceptions delineated in paragraph 2 indicate that Article 2 extends to, but is not concerned exclusively with, intentional killing. The text of Article 2, read as a whole, demonstrates that paragraph 2 does not primarily define instances where it is permitted intentionally to kill an individual, but describes situations where it is permitted to "use force" which may result, as an unintended outcome, in the deprivation of life. Any use of force must be no more than "absolutely necessary" for the achievement of one of the purposes set out in sub-paragraphs (a), (b) or (c) (see *Semache*, cited above, § 66).

110. In the light of the importance of the protection afforded by Article 2, the Court must subject allegations of a breach of this provision to the most careful scrutiny, taking into consideration not only the actions of State agents but also all the surrounding circumstances – including such matters as the relevant legal or regulatory framework in place and the planning and control of the actions under examination (see *Makaratzis v. Greece* [GC], no. 50385/99, §§ 57-59, ECHR 2004-XI; *Tekın and Arslan v. Belgium*, no. 37795/13, § 84, 5 September 2017; *Boukrourou and Others*, cited above, § 55; and *Machalikashvili and Others v. Georgia*, no. 32245/19, § 99, 19 January 2023).

111. As regards, in particular, the use of lethal force by police officers, the Court has held that unregulated and arbitrary action by State agents is incompatible with effective respect for human rights. This means that, in addition to being authorised under national law, policing operations must

be sufficiently regulated by it, within the framework of a system of adequate and effective safeguards against arbitrariness and abuse of force, and even against avoidable accident (see *Makaratzis*, cited above, § 58, and *Tekın and Arslan*, cited above, § 84).

112. Article 2 of the Convention also imposes on the State the positive obligation to train its law-enforcement officers in such a manner as to ensure that they have a high level of competence and to prevent any treatment that runs contrary to that provision (see *V v. the Czech Republic*, no. 26074/18, § 87, 7 December 2023).

113. The Court must be especially vigilant in cases where violations of Articles 2 and 3 of the Convention are alleged. When there have been criminal proceedings in the domestic courts concerning such allegations, it must be borne in mind that criminal law liability is distinct from the State's responsibility under the Convention. The Court's competence is confined to the latter. Responsibility under the Convention is based on its own provisions which are to be interpreted in the light of the object and purpose of the Convention, taking into account any relevant rules or principles of international law. The responsibility of a State under the Convention, arising for the acts of its organs, agents and servants, is not to be confused with the domestic legal issues of individual criminal responsibility under examination in the national criminal courts. The Court is not concerned with reaching any findings as to guilt or innocence in that sense (see *Giuliani and Gaggio*, cited above, § 182, and *Maslova v. Russia*, no. 15980/12, § 70, 14 February 2017).

(ii) Application to the present case

114. The case raises issues both in terms of negative and positive obligations under Article 2. The first concerns the negative obligations imposed on the State in the context of the use of force by police officers against the applicants' relative. The second, which is two-fold in the present case, concerns, on the one hand, the State's positive obligation to protect life by putting in place an appropriate legal and administrative framework defining the limited circumstances in which law-enforcement officers may use the type of force at issue and the training of police officers with a view to preventing any treatment that runs contrary to Article 2. The Court will address each of these aspects, as they relate to the different sets of obligations, in turn.

(α) Use of force against the applicants' relative

115. The Court notes that the applicants complained of the use of force against their relative in so far as it concerned his being immobilised and maintained in a prone position by the police officers. It emerges from the findings of the domestic courts in the context of the criminal proceedings that R.M. was immobilised in a prone position on the ground with a view to his being handcuffed, and once that had been carried out he was maintained in that position for approximately twenty minutes (see paragraphs 8 and 33 above). In view of foregoing, and noting that the parties have not disputed those aspects of the factual reconstruction made by the domestic courts, the Court considers the use of force complained of as proven.

– *Causal nexus between the use of force and R.M.'s death*

116. The Court notes at the outset that, as identified in the domestic proceedings on the basis of the medical expert report, a combination of three factors contributed to R.M.'s death: his acute cocaine intoxication; his immobilisation and attempts to free himself; and the prone position in which he was held (see paragraphs 25, 34, 43 and 53 above). As the latter findings are uncontested by the parties and the Court sees no reason to depart from them, it considers it established that the use of

force at issue in the present case, consisting of the immobilisation and holding of R.M. in the prone position, was a contributing factor in his death. The Court is therefore satisfied of the existence of a causal link between the force used and the fatal outcome (compare and contrast *Saoud*, cited above, § 97; *Semache*, cited above, § 77; and *Kalkan v. Denmark*, no. 51781/22, § 121, 27 May 2025).

117. Having established this, the Court must next verify whether the use of force at issue pursued at least one of the legitimate aims referred to in paragraph 2 of Article 2 and whether it was no more than "absolutely necessary" for the achievement of such an aim.

– *Legitimate aim and necessity of the force used*

118. As to the first point, the Court notes the Government's reliance on R.M.'s state of agitation and dangerousness, and on the consequent need to ensure public safety. Indeed, it emerges from the material gathered during the investigation and from the judgments of the domestic courts that the forced immobilisation of the applicants' relative sought to restrain him because his agitation represented a risk to his own safety and to that of others (see, in particular, paragraph 44 above). As the Court has previously recognised the above aim as falling under one of the legitimate aims within the meaning of sub-paragraph (a) of paragraph 2 of Article 2 of the Convention (see *Semache*, cited above, § 80), it will proceed with its analysis on the premise that the intervention did pursue a legitimate aim, while noting that the Government also pointed to another aim as being of relevance in the circumstances, that is to effect R.M.'s arrest.

119. It remains to be assessed whether the use of force at issue may be considered to have been no more than "absolutely necessary" and proportionate in order to achieve that aim. The Court considers it appropriate to begin its analysis on the basis of the following facts. On the evening of the impugned events, several calls had been made to emergency services reporting a man visibly distraught or otherwise very agitated (see paragraph 5 above). It was reported that R.M. had grabbed a taxi driver by the neck, manhandled a passer-by on the street, attempted to stop and enter moving vehicles, and damaged property (see paragraph 33 above). The officers who were dispatched to intervene at the scene in response to the emergency calls reported that R.M. was in an evident state of distress and severe agitation, prompting them to request the assistance of emergency medical services (see paragraph 7 above). R.M. was thus in a recognised state of particular vulnerability requiring a high degree of precaution in the choice of "usual" arrest techniques (see *T.V. v. Croatia*, no. 47909/19, § 58, 11 June 2024). The Court notes that the officers initially approached him with their hands raised above their heads and de-escalation efforts were made, namely by attempting to establish a dialogue with him and calm him down verbally (see paragraphs 33, 35, 45, and 52 above). It is apparent from the case file that those attempts were unsuccessful as R.M.'s state of extreme agitation persisted and he tried to evade the officers. When the officers once again approached him and tried to handcuff him, R.M. offered physical resistance and – whether intentionally or not – injured one of the officers by hitting him in the head. It was at that point that the officers brought R.M. to the ground, immobilised him in a prone position and succeeded in handcuffing him.

120. In the light of the foregoing, the Court accepts that the initial, forcible immobilisation of R.M. on the ground as described above, which was preceded by attempts at de-escalation, may be viewed as having been "absolutely necessary" for the purpose stated in paragraph 118 above.

121. Nevertheless, the Court reiterates that R.M. was maintained in a prone position for approximately twenty minutes after being handcuffed, which, according to the timeline of events established by the domestic courts and uncontested by the parties occurred almost immediately after he was put on the ground (see paragraphs 8 and 33 above). The Court finds it particularly striking that R.M. was maintained in such a position even after he had ceased moving and talking, and had become apparently unresponsive (see paragraphs 8, 35, 45, and 52 above). It also notes that there were four officers present at the scene and more had been called as backup. The Court is unable to discern any compelling argument or evidence to substantiate the alleged absolute necessity – in the interests of safety – of such a prolongation of R.M.'s restraint on the ground in a prone position, which the Court reiterates was established as being among the direct, contributing causes of his death.

122. The State's compliance with its positive obligations remains to be assessed.

(β) Positive obligations to protect the life of the applicants' relative

– *Legal and regulatory framework*

123. The Court accepts, as submitted by the Government and as established by the domestic courts, that under Italian law – namely Article 53 of the Criminal Code – the use of force by law-enforcement officers, which is to be employed as a matter of last resort, is subject to the principles of necessity and proportionality (see paragraphs 57 and 58 above). It also accepts that there were guidelines, albeit of a general nature, in force at the time of the impugned events, providing that the use of force had to be strictly proportionate to the achievement of the purpose for which it was employed (see paragraph 61 above).

124. Nevertheless, in the circumstances of the present case, given that the use of force at issue, which had a proven causal impact on the death of the applicants' relative, involved a specific technique – placement in a prone position – the Court's assessment must consider whether the authorities had issued guidance to law-enforcement officers on the use of such a technique. In this connection, the Court has previously had the opportunity to assess different techniques involving forms of prone restraint in several cases (see *Saoud*; *Semache*; *Tekın and Arslan*; and *Boukrourou and others*, all cited above). It has previously considered that holding a person in the prone position may be dangerous and life-threatening since, in certain circumstances, it can lead to positional asphyxia (*T.V. v. Croatia*, cited above, § 55, and *V v. the Czech Republic*, cited above, § 97).

125. In the recent case of *Kalkan v. Denmark* (cited above, §§ 105-09) the Court provided an overview of how several countries and institutions had updated their directions for the use of the prone position and training information about the risks associated with its use before January 2011, that is the date of the incident at issue in that case.

126. The Court also notes that as early as in 2003 the CPT stated the following in relation to the deportation of foreign nationals by air (see paragraph 68 above):

"In cases where resistance is encountered, escort staff usually immobilise the detainee completely on the ground, face down, in order to put on the handcuffs. Keeping a detainee in such a position, in particular with escort staff putting their weight on various parts of the body (pressure on the ribcage, knees on the back, immobilisation of the neck) when the person concerned puts up a struggle, entails a risk of positional asphyxia. ... the CPT has made it clear that the use of force and/or means of restraint capable of causing positional asphyxia should be avoided whenever possible and

that any such use in exceptional circumstances must be the subject of guidelines designed to reduce to a minimum the risks to the health of the person concerned."

127. Turning to the facts of the present case, the Court notes at the outset the Government's reliance on the domestic courts' finding to the effect that, although R.M. had been held in a prone position, that had been done without any pressure having been applied to his thoracic or scapular area (see paragraphs 36 and 46 above), which – they argued – distinguished the present case from ones in which the prone position had been considered as dangerous to life by the Court, such as *Saoud* (cited above, § 102). While the Court takes note of the Government's argument and agrees that thoracic and scapular compression was ruled out, it observes that the medical experts did not conclusively exclude that there could have been a compression of R.M.'s neck (see paragraph 25 above). It further notes that the conclusions of the domestic courts, based on findings of the medical experts, indicated that the prone position had reduced R.M.'s respiratory dynamics, contributing to positional asphyxia even in the absence of evidence of direct chest and scapular compression (see paragraphs 25 and 37 above).

128. The Court also takes note of the Government's further argument that holding R.M. in the prone position only proved to be life-threatening in combination with other circumstances, first and foremost his severe drug intoxication. The Court accepts that it was the combination of R.M.'s cocaine intoxication, his putting up a struggle during attempts to immobilise him, and his being held in the prone position that, when combined, led to his death (see paragraphs 25, 34, 43 and 53 above). However, in the Court's view, these circumstances do not call into question the proposition that the use of the prone position may pose a risk to life. On the contrary, they reinforce the idea that holding an individual in such a position may present particular risks – of a possibly lethal nature – in particular circumstances, such as when a person is under the influence of drugs.

129. In this latter connection, the Court notes that the experts appointed by the prosecutor had acknowledged in their 2014 report that over time there had been an increase in awareness of the risks to the health of individuals experiencing a combination of delirium, psychomotor agitation and excitement – which became known as "excited delirium syndrome" – attributable to factors including drug intoxication, which R.M. had displayed symptoms of (see paragraph 22 and 23 above). That had been accompanied by awareness that such risks – which could result in fatal outcomes – might be exacerbated by the use of force for the purposes of immobilisation or restraint, for example when the concerned individual struggled to free him or herself, or when held in certain positions. That, in turn, had prompted significant attention on arrest, immobilisation and restraint techniques employed by law-enforcement officers in such situations and, in the years preceding the report, had led medical associations to issue recommendations to, amongst other things, increase awareness amongst law enforcement of the issue and knowledge on the conduct to be followed in order to prevent fatal outcomes (see paragraph 23 above).

130. With regard to the guidelines under which the police officers operated the material time, the Government referred to guidelines issued in 2008 (see paragraph 59 above). The section of the document relied on by the Government was devoted to handcuffing techniques and allowed for the handcuffing of a person on the ground in a prone position in cases where the person concerned appeared particularly dangerous or was resisting. It provided instructions and illustrations on how to immobilise the subject, which involved, *inter alia*, officers placing their knee on the subject's neck

(see paragraph 60 above). However, the document makes no reference to the potential risks associated with the holding of a person in such a position, nor does it contain any consequential guidance on how to minimise such risks. The Court also notes the domestic courts' reliance on the testimony of a hierarchical superior of the officers involved who, while being examined during the trial, cited the 2014 circular as highlighting the risk of positional asphyxia associated with the prone position, which, while being a subject of general knowledge, had not been contained in previous regulatory texts (see paragraph 36 above).

131. The Court further considers that the issuing of a specific circular in 2014 may be viewed as disclosing an awareness on the part of the law-enforcement authorities themselves that persons in a state of physical and mental agitation caused, amongst other things, by the consumption of drugs, were at increased risk of adverse health consequences in relation to the use of force to restrain or contain them, including by means of the prone position, and of the consequent need to provide instructions to their officers in that respect (see paragraph 62 and 64 above). The Court of Cassation considered that the issuing of the 2014 circular specifically on that subject clearly demonstrated that there had been a need to ensure officers' comprehension of the possible risks when confronted with individuals in such a state, both for the officers themselves and for the health and safety of the individual concerned, and of the need to minimise such risks (see paragraphs 54 and 56 above).

132. Although it might be open to question whether that circular could be viewed as providing officers with sufficiently clear and detailed instructions on the use of the prone position when immobilising individuals, at the very least it acknowledged that there might be risks associated with the use thereof, and directed its use be avoided and limited if possible, albeit in very general terms. That being said, as can be seen from the domestic decisions, that circular could not be considered to have been in force at the time of R.M.'s death (see paragraphs 36 and 54 above).

133. In the light of the above, the Court cannot but conclude that the guidelines in place at the relevant time, in so far as they were constituted by the documents relied on by the Government, did not provide clear and adequate instructions on placing individuals in a prone position, with a view to reducing to a minimum the risks to the health and life of the person concerned.

134. Lastly, the Court is also mindful of the fact that the 2014 circular was superseded by another circular in 2016 (see paragraph 66 above), which itself was replaced in 2019 by a new document (see paragraph 67 above). While not temporally material to the impugned events and therefore beyond the scope of its direct assessment, the Court cannot but express concern over the fact that references to possible health risks associated with protracted struggles and prolonged immobilisations, particularly when subjects are placed on the ground in a prone position, and to the need to mitigate such risks, with consequential instructions, were omitted from the 2016 and 2019 circulars, leaving open the question, at least on the basis of the material in the Court's possession, whether and in what way such issues have been considered in guidance materials after the repeal of the 2014 circular.

– *Training of law-enforcement officers*

135. The establishment of guidelines, as addressed in the previous paragraphs, is closely linked to the proper training of law-enforcement officers. The Court notes in that connection the statements at the trial of the officers' hierarchical superior to the effect that the risks associated with the prone position had not been the subject of specific training (see paragraph 36 above). Moreover, at the material time, no training had been delivered with respect to the 2014 circular (ibid.).

136. The Government submitted that the officers involved in the incident at the heart of the present case had received general training between 1990 and 2000, apparently with some variations (see paragraph 107 above). However, the Court cannot gain a sense of that training's content because no relevant supporting documentation was submitted. The Government also mentioned what appears to be general training on human rights for law-enforcement officers which was introduced in 2013. However, it remains unclear whether the officers involved in the impugned events received such training. Otherwise, the Government referred to the introduction – in 2015, and thus subsequent to the events at issue – of a four-day training course on "operational interventions" for all *carabinieri* command teams, which included a module on interaction with subjects experiencing psychophysical agitation.

137. In view of the above, the Court is not satisfied that, at the material time, the State authorities adequately discharged their positive obligation to train their law-enforcement officers in such a manner as to ensure that they possessed the requisite level of competence when employing immobilisation techniques, such as the prone position, that could pose a threat to life.

(γ) Conclusions

138. In view of the above, the Court concludes that there has been a violation of Article 2 of the Convention in its substantive limb.

139. The Court reiterates that it does not follow from its finding of a violation on the above grounds that it intends to voice an opinion on any criminal responsibility on the part of the individuals involved, or in any way call into question the decisions of the domestic courts in that respect (see, *mutatis mutandis*, *Tekın and Arslan*, cited above, § 109, and *Giuliani and Gaggio*, cited above, § 175).

140. Having regard to the above findings, the Court does not consider it necessary to address the applicants' other allegations relating to the monitoring of R.M.'s condition and rendering of medical assistance.

2. Procedural limb of Article 2 of the Convention

(a) The parties' arguments

(i) The applicants

141. The applicants complained about the fact that some of the *carabinieri* officers directly implicated in the incident had carried out investigative measures in the immediate aftermath of the events and that the investigation was subsequently entrusted to a unit belonging to the same *carabinieri* corps to which those officers belonged. In their view, the combination of those shortcomings had tainted the investigation by detracting from its independence.

142. In particular, in the crucial initial phase of the investigation some of the officers involved had taken statements from eyewitnesses, which – in the applicants' view – had entailed a risk that those eyewitnesses could have felt pressured into giving partial or contradictory accounts of the facts and presenting the officers' conduct with respect to R.M. in a more favourable light. They referred, in particular, to the interview with the Red Cross volunteer C.M. conducted by officers V.C. and A.D. on 3 March 2014 at 3.05 a.m., thus shortly after the events. The applicants also pointed to officer S.C.'s interviewing of the witness who had reported that R.M. had stolen his phone. In the applicants' view, the officers involved ought to have abstained from carrying out such investigative

activities from the start. However, there had been nothing in the domestic system to prevent them from taking part in the investigation.

143. They emphasised that the Government did not point to any special circumstances which would have required the officers in question to have been actively involved in the gathering of evidence. They considered that, apart from identifying the persons present at the scene, no other action on their part could be justified.

144. The applicants also considered it a cause for concern that the public prosecutor's office had chosen an investigative unit belonging to the same *carabinieri* corps as the intervening officers to investigate the death of R.M. – even though the death might have been attributable to those *carabinieri* officers – and moreover, had done so in agreement with the senior management of the *carabinieri*. In essence, the public prosecutor had been able to entrust the investigation to the police force to which the suspects belonged owing to the fact that in the Italian legal system the prosecutor may choose freely. For that reason they argued that he could just as easily have entrusted the investigation to the State police or another police force. Because of his failure to do so, all the witnesses had been heard by *carabinieri* belonging to the same corps as the accused and operating in the same city. The applicants argued that it was highly probable that there were close links between the investigators and the accused.

145. The foregoing shortcomings could have, in the applicants' view, affected the scope of the investigation and may have limited the gathering of relevant evidence and, particularly with regard to witness statements, could have had an impact on the charges brought.

146. The applicants argued that the relevant criminal law, as it had operated in the circumstances, did not have a strong enough deterrent effect to prevent unlawful acts. The applicants claimed that the change in the legal characterisation of the offences during the course of the criminal proceedings had entailed that the such proceedings had not been as probing as they should have been. They referred, in particular, to the fact that although the public prosecutor initially decided to prosecute the officers for manslaughter committed with others (see paragraph 20 above), he subsequently requested that they be tried only for causing death by negligence (see paragraph 29 above). They further criticised the first instance court's decision to limit criminally relevant conduct from the moment in which R.M. had become silent, and the court's finding that the 2014 Circular had not been in force at the material time, which further limited the scope of criminal responsibility. Lastly, they pointed to the fact that the repeal of the 2014 Circular while the criminal proceedings were ongoing created a legal vacuum. In their view, these elements underpinned the Court of Cassation's decision to acquit the defendants.

147. In the latter respect, they emphasised that the Court of Cassation had evaluated the foreseeability and avoidability of the fatal outcome and found that the lower courts had arrived at illogical and contradictory conclusions. The applicants argued that the Court of Cassation had exceeded its role of merely reviewing the compliance with the law (*legittimità*) of the contested judgment. Given that the Court of Cassation had found that the grounds for the appellate judgment were erroneous, it should have quashed it and referred the case back to that court. Instead, it had overturned it without referral, thereby acquitting the persons under investigation and closing the case, without the lower courts ever having heard the parties on the question of the foreseeability of the fatal outcome, which was a question relating to the merits of the case.

(ii) The Government

148. In the Government's view, the officers involved in the incident had had to carry out initial investigative measures, such as identifying the persons present at the scene and taking their initial statements, including that of the Red Cross volunteer C.M., in order to avoid the risk of omissions. Relying on the findings of the domestic courts, the Government argued that those acts had been lawful and did not imply any irregularity. In the Government's view, the cause of death had been unclear at the time and there had been no visible wounds on R.M.. Therefore, the most probable hypothesis at that time had been death by cocaine overdose, which had made it necessary to proceed with identifying the possible supplier. They also relied on the first-instance court's finding that the officers' inaction could have exposed them to sanctions for malicious omission (see paragraph 38 above). They also emphasised the fact that all the witnesses had been heard again by the police forces delegated by the prosecutor and also during their examination at the trial, without changing their version of the facts.

149. They stressed the fact that Officer S.C. had involved his hierarchical superior, Captain C., in the investigation and asked him to be present when he took a witness statement. Captain C. had contacted the public prosecutor and agreed with him that the investigative unit, which was an autonomous unit of the *carabinieri*, was to be entrusted with further investigative steps.

150. On 3 March 2014 the public prosecutor had instructed both the *carabinieri* and the State police to carry out investigative activities aimed at reconstructing in detail the events during which R.M. died.

151. The subsequent investigative measures had all been carried out in a timely manner and under the close supervision of the public prosecutor's office. In addition, not only had the results of every investigative measure been made available to the victim's family, but the civil parties' legal representative had also conducted and submitted the results of their own investigations.

(b) The Court's assessment

(i) General principles

152. The relevant general principles have been summarised in the case of *Armani Da Silva v. the United Kingdom* ([GC], no. 5878/08, §§ 229-39, 30 March 2016).

153. In so far as the independence requirement is concerned, in an investigation into a death for which State agents or authorities are allegedly responsible, it is necessary for the persons responsible for the investigation to be independent from those implicated in the events. This means not only a lack of hierarchical or institutional connection but also a practical independence (see *Mustafa Tunç and Fecire Tunç v. Turkey* [GC], no. 24014/05, § 177, 14 April 2015). What is at stake here is nothing less than public confidence in the State's monopoly on the use of force (see *Hugh Jordan v. the United Kingdom*, no. 24746/94, § 106, 4 May 2001; *Ramsahai and Others v. the Netherlands* [GC], no. 52391/99, § 325, ECHR 2007-II; and *Kolevi v. Bulgaria*, no. 1108/02, § 193, 5 November 2009).

(ii) Application to the present case

154. The Court notes at the outset that some of the police officers directly involved in the impugned events conducted initial investigative steps, namely by taking statements from witnesses on the same night of the events (see paragraphs 13 and 15 above). In this respect, the applicants placed particular emphasis on the fact that Officers V.C. and A.D. had interviewed the Red Cross volunteer C.M. immediately after the events and in the emergency room where R.M. had been taken. It was

established in the domestic proceedings that V.C. and A.D. had taken such steps "on their own initiative" (see paragraph 38 above). It further appears from the domestic decisions that the conduct in question could not be regarded as disclosing any irregularity or unlawfulness (see paragraph 38 above). The Court notes that, according to the documents on file, the prosecutor was alerted at around the same time as C.M.'s statement was being taken and, as also stated by the Government, had reached a decision on whom the first investigative acts into the events were to be entrusted (see paragraph 14 above).

155. The Court accepts the particular importance of that Red Cross volunteer as an eyewitness, given that she had been in close proximity to R.M. and the officers for a significant part of the impugned incident, and had had an opportunity to directly interact with and to observe the conduct of the officers. The Court cannot fail to note that the testimony of the first responders figured with some prominence in the Court of Cassation's reasoning leading to the officers' acquittal (see paragraph 55 above). The Court cannot speculate whether C.M. would have made different statements if she had not been interviewed by officers V.C. and A.D., and what impact different testimony might have had on the proceedings, which was what the applicants appeared to have been suggesting, let alone on the proceedings' final outcome. The Court further acknowledges the Government's argument, backed by the findings of the domestic courts, that there was no evidence of the officers having coerced that witness – or the second one, who was interviewed by Captain C. and Officer S.C. – into giving their statements in a certain manner, or that they had exerted any direct pressure on the witnesses. That being said, the Court cannot but be mindful of the real risk of indirect influence or pressure arising from the mere fact that a witness to an incident involving law-enforcement officers has to give a statement on that incident to those very officers. The Court further recognises the critical role of the first investigative steps in setting the investigation's course. In this connection, it acknowledges the importance of first interviews with eyewitnesses conducted immediately after the events and the influence these may have on the establishment of the facts.

156. The Court has previously held that, in certain circumstances, requiring officers on a scene to remain passive until the arrival of independent investigators may result in the loss or destruction of important evidence (see *Alikaj and Others v. Italy*, no. 47357/08, § 104, 29 March 2011). The Government's arguments in this regard hinged on the purported need for the officers to take immediate action to find R.M.'s drug supplier on the suspicion that his death could have been due to an overdose, and on the first instance court's finding, in the context of looking for evidence in places that R.M. had frequented, that their inaction could have been sanctioned for omission of official acts. The Court is not persuaded of the relevance of the aforementioned circumstances, in particular as regards the interview of the Red Cross volunteer. Nor does the Court discern any other circumstances which, in the present case, would have required the officers involved to take immediate action, in particular regarding the need for them to take statements on the circumstances of the incident from eyewitnesses, once the latter had been identified and the scene had been secured (see, *mutatis mutandis*, *Alikaj*, cited above, § 104; *Ramsahai and Others*, cited above, § 338; and *Mižigárová v. Slovakia*, no. 74832/01, § 99, 14 December 2010).

157. The Court finds that the above elements disclose shortcomings in terms of the investigation's compliance with the requirement of independence, leading to the conclusion that there has been a violation of the procedural limb of Article 2 of the Convention on this account.

158. Having made this finding, the Court does not consider it necessary to examine the other shortcomings of the investigation alleged by the applicants.

II. ALLEGED VIOLATION OF article 3 of THE CONVENTION

159. The applicants complained that the immobilisation of R.M., who had been in a vulnerable state, had led to his death by asphyxia, thus causing him extreme pain and suffering and resulting in a violation of Article 3 of the Convention. Under the same provision, they complained that when R.M. was on the ground one of the officers had deliberately kicked him. They also complained that the investigation into the latter aspect of the alleged ill-treatment had not been effective. Article 3 reads as follows:

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

160. Having considered the facts of the case, the parties' submissions and its findings under Article 2 above, the Court 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 the remaining complaints.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

161. 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

162. With regard to pecuniary damage, the applicants referred to the fact that the Court of Cassation had overturned the Court of Appeal's decision to award damages to the civil parties and voiced fears that they might be required to repay the sums obtained in this regard; they asked the Court to take that into account. The Court finds that that claim is not sufficiently substantiated and accordingly dismisses it.

163. The applicants made the following claims in respect of non-pecuniary damage (their relation to R.M. being given in brackets):

a) applicant no. 1 (father) claimed 466,698 euros (EUR);
b) applicant no. 2 (wife) claimed EUR 591,134;
c) applicant no. 3 (mother), claimed EUR 507,433;
d) applicant no. 4 (uncle) claimed EUR 30,000;
e) applicant no. 6 (brother) claimed EUR 591,134;
f) applicant no. 7 (son) claimed EUR 536,500; and
g) applicant no. 8 (nephew) claimed EUR 30,000.

164. In support of the above claims, applicants 1, 2, 3 and 4 referred to a medico-legal examination that they had undergone. The examination concluded that they had suffered varying degrees of psychological damage as recognised in the Italian legal system.

165. The Government considered their claims to be excessive.

166. Taking into account its findings concerning the applicants' complaints and ruling on an equitable basis (see, *mutatis mutandis*, *Ribcheva and Others v. Bulgaria*, nos. 37801/16 and 2 others, § 190, 30 March 2021), the Court considers it appropriate to award the following amounts in respect of non-pecuniary damage plus any tax that may be chargeable:

– EUR 50,000 to applicant nos. 1 and 3 jointly;

– EUR 50,000 to applicant nos. 2 and 7 jointly;
– EUR 20,000 to applicant no. 6;
– EUR 10,000 to applicant no. 4;
– EUR 10,000 to applicant no. 8.

B. Costs and expenses

167. The applicants also claimed EUR 58,853.04 for the costs and expenses incurred before the domestic courts and EUR 30,000 for those incurred before the Court. In addition, they claimed EUR 5,904 for the costs incurred in connection with the medico-legal examination referred to in paragraph 164 above.

168. The Government considered their claims to be excessive.

169. 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, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the applicants jointly the sum of EUR 40,000 covering costs under all heads, plus any tax that may be chargeable to the applicants.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaints brought by applicants nos. 5, 9 and 10 inadmissible as incompatible *ratione personae* with the provisions of the Convention;
2. *Declares* the complaints brought by applicants nos. 1, 2, 3, 4, 6, 7 and 8 under Article 2 of the Convention admissible;
3. *Holds* that there has been a violation of Article 2 of the Convention in its substantive aspect;
4. *Holds* that there has been a violation of Article 2 of the Convention in its procedural aspect;
5. *Holds* that there is no need to examine the admissibility and merits of the complaint under Article 3 of the Convention;
6. *Holds*

(a) that the respondent State is to pay the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts:

(i) in respect of non-pecuniary damage, the following amounts plus any tax that may be chargeable:
– EUR 50,000 (fifty thousand euros) to applicant nos. 1 and 3 jointly;
– EUR 50,000 (fifty thousand euros) to applicant nos. 2 and 7 jointly;
– EUR 20,000 (twenty thousand euros) to applicant no. 6;
– EUR 10,000 (ten thousand euros) to applicant no. 4;
– EUR 10,000 (ten thousand euros) to applicant no. 8.

(ii) in respect of costs and expenses, EUR 40,000 (forty thousand euros), jointly to the applicants plus any tax that may be chargeable to them;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

7. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 15 January 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Ilse Freiwirth Registrar
Ivana Jelić President