CASSATION: TURNS DOWN SOLLECITO APPEAL FOR DAMAGES

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Penalty Sent. Sect. 4 Num. 42014 year 2017 President: IZZO Fausto Rapporteur: MENICHETTI Carla date of audience: 28/06/2017	Penalty Sent. Sect. 4 Num. 42014 year 2017 President: IZZO Fausto Rapporteur: MENICHETTI Carla date of hearing: 28/06/2017	Penalty Sent. Sect. 4 Num. 42014 year 2017 President: IZZO Fausto Rapporteur: MENICHETTI Carla date of audience: 28/06/2017
Judgment	JUDGMENT	Judgment
On the action brought by: SOLLECITO Raffaele	On the action brought by: SOLLECITO Raffaele	On the action brought by: SOLLECITO Raffaele
Against the order of the 27/01/2017 of the Court of Appeal of Florence	against the ordinance of 27/01/2017 of the COURT OF APPEAL OF FLORENCE	Against the order of the 27/01/2017 OF THE COURT OF APPEAL OF FLORENCE
Heard the report by Councillor CARLA MENICHETTI; Read/Hear the conclusions of the PG	heard the report by the Councilor CARLA MENICHETTI; read / hear the conclusions of the PD	Upon hearing the report carried out by Councilor CARLA MENICHETTI; read/after hearing the Opinion of the PG
A0	A0	A0
Court of Cassation-unofficial copy	Court of Cassation - unofficial copy	The Court of Cassation - Copy unofficial
Considered IN fact	WRITTEN IN FACT	Considered in fact
1. By order of 27 January 2017 the Court of Appeal of Florence rejected the request for reparation by Raffaele Solicito for the unjust detention suffered between 6 November 2007 and 3 October 2011 in the context of the criminal proceedings which had seen him Defendant of the offences referred to in	1. By an order of 27 January 2017, the Court of Appeal in Florence dismissed the request for repair by Raffaele Sollecito for the unjust imprisonment between 6 November 2007 and 3 October 2011 in the criminal proceedings which had having been found guilty of the offenses	1. By order dated 27 January 2017, the Corte d'appello di Firenze rejected the request for advanced repair by Raffaele solicitous for the unjust detention suffered between 6 November 2007 and 3 October 2011 in the context of criminal proceedings that he had seen the accused of

articles 575 to 573 paragraph 1 N. 5 C.P., 4 L.N. 110/75, 609 bis and ter N. 2 C.P., 624 bis, 367 and 61 N. 2 C.P., from which it had been acquitted for failing to commit the fact (except from the contravention declared prescribed) with a judgment made by the Court of Ca Creating on March 27, 2015, of annulment without postponement of the condemnation pronounced on appeal.

In that ordinance, the Territorial Court considered that the applicant had, with his own behaviour and gravely negligent attitude, contest to give cause to the precautionary measure of this and to its maintenance over time and saw, therefore, severe fault The recognition of compensation under art. 314 C.P.P.

It was found that from the initial phase of the preliminary investigations, starting from the first statements of 2 November 2007 immediately following the finding of the corpse of Meredith Kercher, killed in the evening before, the reminder had made narrations Contradictory

referred to in Articles 575-573, paragraph 1, 5 cp, 4 Ln110 / 75, 609 bis and 2 cp, 624 bis, 367 and 61 cn 2 cp, for failing to do so (except for the declared violation prescribed) by a judgment delivered by the Court of Cassation on 27 March 2015, with no annulment of the sentence pronounced in appeal.

In that order, the Territorial Court held that the applicant, by his own aggravated behavior and attitude, was in charge of giving rise to the precautionary measure and the maintenance thereof over time and therefore perceived a serious defect in the recognition of the indemnity of to the art.314 cpp

He found that from the initial stage of preliminary investigations, from the initial statements of November 2, 2007 immediately after the finding of the corpse of Meredith Kercher, killed in the previous evening, Sollecito had made contradictory narratives and among them

offenses referred to in Articles575-573 subparagraph 1 n.5 c.p., 4 L.n.110/75, 609 bis and ter n.2 c.p., 624 bis, 367 and 61 n.2 c.p., from which had been acquitted for not having committed the fact (except from contravention declared prescribed) with the judgment given by the Court of Cassation on 27 March 2015, annulment without referral of the condemnation pronounced on appeal.

In said order of the Territorial Court considered that the applicant had, with his behavior and attitude culpable, competition to give cause to precautionary measure de qua and its maintenance in time and saw, therefore, grave misconduct ostativa recognition of compensation referred to in art.314 c.p.p.

Noted that since the initial phase of the preliminary investigation, starting from the initial statements of 2 November 2007 immediately following the discovery of the corpse of Meredith Kercher, killed in the previous evening, the Reminder had made contradictory narratives

and irreconcilable, as well as not truthful, on how he had spent the hours from the late afternoon of the I November 2007 and if he had always remained, even during the night, in the company of the coimputed Amanda Knox, to whom she was sentimentally Tied. It was pointed out that the reminder of the reentry time at home around 20.00/20.30, in a first version alone and then with Knox, had been denied by the head Popovic Jovana; That the assertion that he had worked on the computer during the evening and until midnight had been denied by the analysis of the processor, remained on to download files, but on which there had been no human interaction between 9:10 and 05:32 hours; That at 05:32 the computer had been activated to listen to music, and the phone of the reminder turned on at 6.00, and therefore it was not true that the two young, unique present in the house, had slept all night until 10.00; That, contrary to the other statement, the examination of the printouts of the father was not received either on his fixed user or on the mobile phone after the PM. 2040.

irreconcilable, as well as untruthful, how he had spent the hours since the late afternoon of November 2007 and whether he was always there, even at night, in the company of the co-defendant Amanda Knox, to whom he was sentimentally tied. He pointed out that the statement by Sollecito about the time of returning home around 20.00 / 20.30, in a first version alone and then with Knox, had been denied by Popovic Jovana; that the assertion that he had been working on the computer during the evening and until midnight had been denied by the computer's analysis, left on to download files but had no human interaction between 21.10 and 5.32 ; that at 5.32 the computer had been activated to listen to music, and the Sollecito's phone turned on at 6.00, so it was not true that the two young people in the house had slept all night until 10.00; that, contrary to other statements, from the examination of the tabs no father's phone call was received either on his fixed or cellular phone after 20.40.

and irreconcilable, beyond that not true, on how he had spent the hours from late afternoon of the November 2007 and if he had remained always, even during the night in the company of coimputata Amanda Knox, which was sentimentally linked. Showed that what is stated by the Reminder about the curfew at home around the hours 20.00/20.30, in a first version alone and then together with the Knox, had been refuted by the Heads Jovana Popovic; that the statement that he had worked to the computer during the evening and up to midnight was contradicted by the analysis of the processor, been running to download files, but on which there had been no human interaction between the hours of 21.10 and hours 5.32; that at 5.32 the computer was turned on to listen to music, and the cellular phone of the nudge running toward 06.00, and therefore it was not true that the two young people, who are the only ones present in the house, had slept all night until 10.00; That contrary to other statement from the examination of the tabulated no phone call of the Father was received nor on its fixed users nor

on the phone after the 20.40.

Beyond any investigation into the grounds of such lies, the judges of the reparation considered that they had clearly constituted the clues of responsibility from the same subject then investigated, capable of corroborating the other elements which According to the investigators showed his involvement in the murder and the crimes connected to it, and to confirm therefore the validity of an interpretation in an unfavourable sense to the reminder, so as to be sufficient evidence for his conviction in the first Able. The making of such contradictory and false statements had therefore strongly contributed to the first to induce the Prosecutor of the Republic at the Tribunale di Perugia

Beyond any inquiry into the grounds of such lies, the judges of the remedy considered that they themselves clearly had the clues of responsibility from the same subject investigated, able to corroborate the other elements which according to the investigators demonstrated its involvement in the " murder and related crimes, and thus confirm the validity of an interpretation in a way unfavorable to the Solicitude, so as to take on sufficient evidence for his conviction at first instance. Having made such contradictory and false statements had therefore strongly contributed to initiating the Prosecution of the Republic at the Tribunale di Perugia

Beyond every survey on grounds of these lies, the judges of the repair believed that the same blatantly consisting of signs of responsibility coming from the same subject then investigated, capable to corroborate the other elements that according to investigators showed his involvement in the murder and in the crimes connected thereto, and then confirm the validity of an interpretation which is unfavorable to the attentive, so much so as to become a sufficient evidence for his sentence in the first instance. Having made the declarations thus contradictory and false had therefore strongly contributed to induce first the Prosecutor of the Republic at the Court of Perugia

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To issue the decree of Detention on 6 November 2007, then the G.I.P. at the same court to issue, as a result of the confirmation of the detention, the order of custody in prison on 8

to issue the decree on 6 November 2007, then the G.I.P. at the same Tribunal to issue, following the validation of the detention, the custody order in custody on 8 November

To issue the decree of stationary on 6 November 2007, then the G.I.P. by the same Court to emit, following validation of the retainer, the order of custody in prison on 8

November 2007, still the Court of review to pronounce on November 30 2007 Order for refusal of the first request for the revocation of the custodial measure, the Court of Cassation with judgment of L April 2008 to confirm the precautionary measure, reaffirming the subsistence-as far as the judge of the legitimacy is assessed-of other Clues consisting in the finding in the House of the reminder of a knife with the DNA of the victim and in the room of the latter of a shoe imprint compatible with those worn by him (elements of which was later denied the referrability to the reminder), Finally, the Court of Assise of Perugia to maintain the measure for about four years. The silence maintained after the interrogation of the guarantee of November 8, 2007, without modifying the previous versions about its movements between the evening from the I. November 2007 and the next morning, nor explain their irreconcilability with the objective data emerged from the examination of telephone records and computer interactions, and especially with the presence of Knox in the House of murder, presence

2007, the Court of First Instance again to rule on 30 November 2007 an order rejecting the first application for revocation of the custodial measure , the Court of Cassation sentenced April 2008 to confirm the precautionary measure, arguing that the existence - as judged by the judge of legality - of other indications of the finding of the victim's DNA in the house of Solution of a knife with the DNA of the victim in the room of the latter, a footprint compatible with the ones he wore (elements later denied its relevance to the Solicitude), and finally the Court of Assise of Perugia to maintain the measure for about four years. The silence kept after the warranty interrogation of November 8, 2007, without or modifying the previous versions about its movements from evening to night. November 2007 and the following morning, nor explain their irreconcilability with the objective data emerging from examining telephone tabs and computer interactions, and especially with the presence of Knox at the House of Murder, a presence deemed certain and largely proven by the judgment of the Court of

November 2007, yet the Court of Review to pronounce the 30 November 2007 order dismissing the first request for withdrawal of the measure custodiale, the Cour de Cassation by judgment the 1 April 2008 to confirm the precautionary measure, reaffirming the existence - for what can be evaluated from the judge of legality - other clues consisting in finding in the house of the reminder of a knife with the DNA of the victim and in the room of the latter to an imprint of shoe compatible with those from him worn (Elements which was later denied the traceability to the attentive), finally the Court of Assizes of Perugia to maintain the measure for about four years. The silence maintained after the questioning of warranty of 8 November 2007, without nor modify previous versions about their movements between the evening from the I. November 2007 and the next morning, nor explain their contradiction with the objective data which emerged from the examination of the telephone tabulated and interactions to the computer, and especially with the presence of the

held Certain and widely proved by the judgment of acquittal of the Court of Cassation, and therefore constituting "procedural truth", he had undoubtedly competition to make

Cassation, and thus constituting "procedural truth", had undoubtedly made a

Knox in home theater of the murder, presence considered certain and widely tested by the acquittal of the Court of Cassation, and therefore constituting "procedural truth", had then undoubtedly competition to suggest

The reminder guilty by the court of Assyrians of Perugia, with consequent maintenance of the measure in question. Even the definitive ruling acquittal had considered that an "element of strong suspicion" was constituted by the confirmation of Knox's statements that they remained both in the House of him throughout the evening and night between the ' L ' and 2 November 2007, and that yet another element of suspicion resided "in the substantial failure of the alibi linked to other, alleged, human interactions in the computer of belonging": therefore-it is observed in the ordinance in question-even the judge who had pronounced the acquittal had recognized Whereas the statements made by the reminder in the early stages of preliminary investigations had been such as to generate a strong suspicion

the Accused guilty of the Court of Assise of Perugia, consequently maintaining the measure in question. Even the definitive assertion ruled that an "element of strong suspicion" was the confirmation of Knox's statements that both of them remained in his house all night and night between 1 November and 2 November 2007, and that yet another element of suspicion resided "in the substantial failure of the alibi linked to other, claimed, human interactions in the computer belonging": therefore - observes in the order in question - even the judge who had pronounced the acquittal had recognized that the statements made by the Soliciting in the early stages of preliminary investigations had been such as to give rise to a strong suspicion on his part, and were therefore likely to aggravate the

The nudge guilty by the Court of Assizes of Perugia, with consequent maintenance of the measure in question. Even the definitive judgment assolutoria had considered that a "strong element of suspicion" was constituted from the confirmation of the declarations of the Knox to be remained both in house of him throughout the evening and night between 1 and 2 November 2007, and that yet another element of suspicion lived "in substantial failure of the alibi linked to other, alleged, human interactions in the computer of membership": therefore - it can be observed in the order in question - even the judge who had pronounced the acquittal had recognized that the declarations made by the reminder in the early stages of the preliminary investigation had been such as to give rise to a strong suspicion to its load, and were therefore suitable

at its expense, and had therefore been appropriate to aggravate the circumstantial framework, to the point that it should be assessed as sufficient to justify The emission and then the maintenance of the measurement.

context of the investigation, in order to assess it as sufficient to justify the issue and then the maintenance of the measure.

to aggravate the circumstantial framework, to the point that it evaluate As sufficient to justify the emission and then maintaining the measure.

2. Appealed to the solicitor, by means of the defender of confidence, complaining with only reason breach of law and vice of motivation in order to the failure to accept the instance of reparation.

The censorship is developed by deepening three aspects: the absence of decisiveness of the statements made by the reminder in relation to the application and the maintenance of the unjust precautionary measure; The pathological inusability of the statements of the reminder of 5 November 2007, for failure to take account of the breach of the right of defence; The erroneous assessment of the alibi offered by the then defendant.

It is argued that the inaccuracies present in the accounts of the reminder to the investigators were

2. Appealed the Solicitation, through the Defender of Confidence, by soliciting, for the sole reason, a breach of law and a vice of reasoning regarding the failure to accept the repair case.

Censorship is developed by deepening three aspects: the lack of decisiveness of the statements made by the Solicit in relation to the application and maintenance of the ingrained precautionary measure; the pathological uselessness of the Statement of Solicitation of 5 November 2007, for failure to consider the violation of the right of defense; the erroneous evaluation of the alibi offered by the then imputed.

It is argued that the inaccuracies in the Solicitors' accounts of investigators referred only

2. Has brought the nudge, through the defender of trust, complaining with single reason violation of the law and failure to state reasons in order to non-acceptance of the instance of repair.

The censorship is developed by deepening three aspects: the absence of decisiveness of the statements made by the reminder with respect to the application and maintenance of the unjust precautionary measure; the pathological inoperable of declarations of the reminder on 5 November 2007, for failure to take account of the breach of the rights of defense; the erroneous assessment of the excuses offered by the then accused.

It argues that the inaccuracies in the stories of the nudge investigators referred exclusively to the times in which Amanda

related only to the times when Amanda Knox, at the time her coimputed, was

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Was in his company during the evening and the night between L ' and 2 November 2007 while others were the elements, the result of macroscopic errors of investigative evaluation, which had unjustly led to the imprisonment of today's appellant, such as the imprint of Shoe found at the site of the crime, erroneously attributed to him, and possession of a knife to knife felt at the Origin compatible with the weapon used for the murder, also clue then came less.

The statements of 5 November 2007 as an informed person on the facts were suffering from obvious pathological inusability, because they were assumed in breach of article 63, paragraph 2, C.P.P., and nonetheless they were given in the contested order and held For the application and maintenance of the precautionary measure.

to the times in which Amanda Knox, at that time co-defendant, was

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he was in his company during the evening and night between November and November 2, 2007, while many others were the result of macroscopic mistakes in the investigative assessment that had unjustly led the present claimant, such as the imprint of a shoe found on the crime scene, wrongly attributed to him, and the possession of a knife that was originally considered to be compatible with the weapon used for the murder, a clue that then failed.

The declarations of 5 November 2007 as a person informed of the facts were marked by evident pathological inoperability, because they were taken in violation of Article 63 paragraph 2, cpp, although they were reported in the contested order and considered to be 'application and maintenance of the precautionary measure.

Knox, at the time his coimputata, was

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in his company during the evening and night between 1 and 2 November 2007 while well other elements were the fruit of macroscopic errors of assessment investigative, which had carried out in prison unjustly today the applicant, which the impression of the shoe found on the place of the offense, to him erroneously attributed, and possession of a jack-knife retained at the origin is compatible with the weapon used to murder, clue also then failed.

The Declarations of 5 November 2007 on the quality of the person informed on the facts were suffering from obvious pathological inoperable, because taken in violation of art.63, paragraph 2, C.P.P., and nevertheless have been reported in the contested order and deemed conclusive for the application and the maintenance of the precautionary measure.

Furthermore, as pointed out by the Court of Cassation in the acquittal judgment, it was not at all irrelevant to ascertaining the exact time of the death of the Kercher, especially in a circumstantial procedure such as that in question, being inescapable assumed Invoices for the verification of the alibi offered by the reminder, according to the investigation aimed at ascertaining the possibility of the alleged presence in the victim's house at the time of the murder.

Yet, as the Court of Cassation found in the absolute ruling, it was not at all irrelevant to ascertain the exact time of Kercher's death, especially in an inquiry such as the one in question, since it was an inescapable factual assumption for the verification of the offered alibi by the Solicitude, in the light of an investigation to ascertain the possibility of his presence in the victim's home at the time of the murder.

Still, as pointed out by the Court of Cassation in judgment assolutoria, was not irrelevant to the assessment of the exact time of the death of Kercher, species in a circumstantial process such as the one in question, since the inescapable factual precondition for the verification of the excuses offered by the reminder, in function of the investigation to establish the possibility of the alleged its presence in the house of the victim at the time of the murder.

For those reasons, the applicant concludes for annulment of the contested order.

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For these reasons the applicant concludes for the annulment of the contested order.

3. The Attorney general has concluded for the refusal of the appeal.

3. The Attorney General concluded for the rejection of the appeal.

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The Ministry of Economy and Finance has been established, which has requested confirmation of the measure.

The Ministry of the Economy and Finance was formed, which requested the confirmation of the measure.

It is the Ministry of Economy and Finance that has asked for the confirmation of the measure.

The applicant filed replica memory to the reliefs moved by the general advocate of the State.

The applicant filed a copy of the memo of the State Attorney General.

The Applicant has filed reply to the reliefs moved by the Attorney General of the State.

Considered IN law

CONSIDERED IN LAW

Considered in law

1. The application shall not be established.

1. The action is unfounded.

1. The appeal is not well founded.

2. The applicant's defender, in the Act of Appeal submitted to the examination of this board, underlines several times the substantial irrelevance-for the purpose of the refusal of the requested compensation-of the statements made by the reminder during the preliminary investigations, Referring some passages of the definitive judgment acquittal which had annulled without postponement the sentence of conviction made by the Court of Appeal of Florence, by way of multiple "dyscrasias, inconsistencies and errors in Iudicando, which affected AB IMIS the estate Overall of the argumentative structure "and had not failed to detect" resounding GB or amnesia investigative and guilty omissions of investigation activity "and therefore a" deplorable carelessness in the phase of preliminary investigations ".

It is argued that in the face of the general failure of the hypoaccusatory hypothesis and of investigations conducted with superficial and erroneous methods, also the uncertainties in the declarations

2. The appellant's defender, in the action for annulment of this College, repeatedly stresses the substantial irrelevance of the statements made by the Soliciting in the course of preliminary investigations for the purpose of refusing the compensation sought, a definitive assertion that he had annulled the sentence of conviction made by the Court of Appeal in Florence for a number of "discretions, inconsistencies and mistakes in judiy, which abimis abimis the overall tenuity of the arguing structure" and had not failed to detect "clamorous defaillances or investigative amnesia and guilty of omissions in investigative activities" and thus a "deprecabile pressapochism in the preliminary investigation phase".

It is argued that in the face of the general failure of the accusatory hypothesis and of investigations conducted with superficial and erroneous methods, the uncertainties in the statements

2. The defender of the applicant in the act of burden subjected to the scrutiny of this College, repeatedly highlights the substantial irrelevance - for the purposes of the refusal of compensation required - the statements of the reminder in the course of the preliminary investigation, returning some steps of the definitive judgment assolutoria who had canceled without referral to the court judgment rendered by the Court of Appeal of Florence, via plural "discrasie, inconsistencies and errores in iudicando, that inficiavano ab imis overall tightness of argumentative structure" and did not fail to detect "blatant defaillances or investigative amnesia and guilty omissions of investigative activity" and therefore a "regrettable imprecision in the stage of preliminary investigations".

It is argued that in the face of the general failure of the hypothesis accusatoria and surveys conducted with surface methods and erroneous, also the uncertainties in the declarations

Surrendered by the defendant were unfit to assume a deformed value for the investigators, and therefore today they cannot constitute an element of an impediment to the recognition of the right to reparation.

The defensive reasoning is not set correctly.

The request for compensation for unfair detention ex art. 314 C.P.P. follows a judgment of absolution which ascertains the unjustified assumption of the accusatory hypothesis on the outcome of the judgement of Merit: this constitutes a prerequisite for advancing the application of reparation but is not sufficient for its acceptance, It also postulates the rule that the person concerned has not given or contest to give cause to the protective custody suffered by wilful intent or gross negligence.

Therefore, it is not enough to recall the gaps in the investigation and preliminary surveys, however, having to

rendered by the then accused were unsuitable to take on a patrolling value for the investigators and therefore can not now constitute an element of fault in recognizing the right to repair.

Defensive reasoning is not set correctly.

The claim for compensation for unjust imprisonment ex art. 314 c.p.p. it comes to an acquittal ruling finding the unfounded allegation of the merits of the merits judgment: this constitutes the necessary prerequisite for the initiation of the repair order but is not sufficient for its acceptance, and also states that the person concerned did not give or contest to cause custody to be carried out with gross negligence or guilt.

It is not enough, therefore, to call into question the gaps in the investigation and the preliminary investigations,

Made by the then accused were unfit to assume a valency depistante for investigators and therefore today may not constitute an element of guilt ostativo the recognition of the right to repair.

The defensive reasoning is not set correctly.

The request for compensation for unjust detention ex art. 314 C.P.P. follows to an acquittal which ascertains the viciousness of accusatoria hypothesis on the outcome of proceedings on the merits of the case: this is necessary precondition for advancing the instance of repair but is not sufficient for its acceptance, also by postulating the rule that the person concerned has not given or competition to give cause to custody suffered with intent or gross negligence.

Not enough therefore invoke the shortcomings of the investigation and of the preliminary investigation, since it is necessary to

ascertain the existence of a severely negligent or intentional behaviour of the person who has carried out a synergistic action with respect to the adoption and Maintenance of the custodial measure.

The consolidated case-law of this court (sect. A., sent. N. 43 of 13/12/1995, and sent. N. 34559 of 26/6/2002 and subsequent conforms) states that the notion of gross negligence referred to in article 314, paragraph 1, C.P.P. precludes the right to repair the unjust Detention, it must be identified in that conduct which, in spite of other results, is, by obvious, gross negligence, imprudence, neglect, failure to comply with laws, regulations or disciplinary rules, a situation that constitutes a non- Intended, but foreseeable reason for the intervention of the judicial authority, which is sostanzi in the adoption or maintenance of a restrictive measure of personal freedom. In this respect, according to the reasoning developed by the judge of legitimacy, the Court of the reparation must base its deliberations on concrete and precise facts, examining the conduct (both procedural

however, in order to verify the existence of a severely harmed or misleading behavior of the person who has acted synergistically with regard to the adoption and maintenance of the custodial measure.

The consolidated case law of this Court (Sec. Un., Sent no.43 of 13/12/1995 and no. 344559 of 26/6/2002 and subsequent amendments) states that the notion of gross negligence 'art.314, paragraph 1, cpp the right to reparation of illiquid detention must be identified in the course of conduct which, despite the result of other results, poses obvious macroscopic negligence, imprudence, neglect, disregard of laws, regulations or disciplinary rules, a situation such as constitutes an unintended but foreseeable reason for the intervention of the judicial authority, which is based on the adoption or maintenance of a restrictive measure of personal liberty. In this respect, according to the reasoning developed by the judge of lawfulness, the court of justice must base its deliberation on concrete and precise facts by examining the conduct (both procedural and procedural) held by the

check however the existence of a behavior culpable or negligent of the person who has done a synergic action with respect to the adoption and maintenance of measures custodiale.

The settled case law of the Court (Sez.a., sent.n.43 of 13/12/1995, and sent.n.34559 OF 6/26/2002 and subsequent compliant) says that the concept of gross negligence referred to in art.314, paragraph 1 P.P.C. ostativa of right to repair of the unjust detention must be singled out in that conduct that, while striving to other results, lay down, for obvious macroscopic, negligence, imprudence, neglect, failure to comply with laws, regulations or disciplinary rules, a situation such as to constitute a not desired, but predictable reason of intervention of the judicial authority, that you sostanzi in the adoption or maintenance of a measure restricting personal freedom. In this respect, according to the reasoning developed by judge legality, the judge of the repair must base its deliberations on concrete facts and precise, examining the conduct (both extra procedural

and procedural) held by the applicant before That after the loss of personal liberty, in order to establish, with ex-ante evaluation (and according to a logical motivational process completely autonomous compared to that followed in the merit trial), not if such conduct intact extremes of crime-indeed, to well see, this It is the assumption, granted, of the Court of reparation-but only if it has been the assumption that it has ingenerated, even if in the presence of error of the proceeding authority, the false appearance of its configurability as criminal offence, giving rise to the Detention with a relationship of "cause and effect", providing conviction that, if adequate and appropriate, is uncensored in the legality.

applicant both before and after the loss of personal freedom , in order to establish, ex ante evaluation (and according to a logical motivation entirely independent of the one followed in the process of merit), not if such conduct is the ultimate in crime - indeed, well-seeing, this is the presupposition, the judge of the repair - but only if it was assumed that, even if, in the presence of an error of the injured party, the false appearance of its configurability as a criminal offense resulted in a "cause and effect" detention, , providing motivation for conviction that, if appropriate and appropriate, is incensurable in legitimacy.

procedural that) held by the applicant both before and after the loss of personal freedom, in order to establish, with ex ante evaluation (and according to an iter motivational logic of all autonomous with respect to the one followed in the process of substance), not whether such conduct intact extremes of crime - indeed, well see, this is a prerequisite, discounted, of the judge of the repair - but only if it was the assumption that has fuelled, albeit in the presence of an error of the competent former, the false appearance of its configurability as a criminal offense, Giving rise to detention with relationship of cause and effect", providing the conviction achieved grounds that if adequate and reasonable, incensurabile is in place of legitimacy.

It must therefore be clearly distinguished the logical operation of the judge of the criminal prosecution, aimed at ascertaining the existence of a crime and its commission by the defendant, from that of the Court of the reparation,

It is therefore necessary to distinguish clearly the logical operation of the judge of the criminal proceedings, in order to ascertain the existence of a crime and its commission by the defendant, by the judge of the repair, who,

It must therefore be clearly distinguished the logic operation proper to the judge of the criminal process, aimed at ascertaining the existence of an offense and its Commission on the part of the defendant, from that of

which, while having To operate, if necessary, on the same material, must follow a logical-motivational "ITER" entirely autonomous, having "in relation to this aspect of

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Decision.... full and ample freedom to evaluate the material acquired in the process "in order to

To control the occurrence or not of the conditions for the recognition of the right to benefit, (thus Sez. N. 43/1995 cited), checking whether the defendant's conducts were to be a condition factor (even in the competition with the error of others) to Production of the detention event, as the relationship between the criminal judgment and the judgement of the repair is resolved only in the conditioning of the first in relation to the assumption of the other.

And then, on the basis of these principles, the contested Ordinance should be assessed in order to ascertain whether, without prejudice to the

although he must, on the same material, it must follow a completely autonomic logic-motivational "iter", having "in relation to this aspect of the

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decision .... full and wide freedom to evaluate the material acquired in the process "in the end

to check whether or not the conditions for the recognition of entitlement to benefit (recalled in Sez.Un.n.43 / 1995), whether or not the conduct of the defendant posed as a conditioning factor (also in competition with the other mistake) to the production of the holding event, so that the relationship between criminal judgment and the judgment of the repair solves only in the conditioning of the first with respect to the assumption of the other.

And then, according to those principles, the contested order must be assessed in order to ascertain whether, while the elements acquired in

the judge of the repair which, while having to operate, possibly on the same material must follow a "iter" logic motivational-totally independent, having "in relation to this aspect of the

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Decision.... full and wide freedom to assess the material acquired in the process" in order

To check the occurrence or not of the conditions for recognition of the right to benefit, (so Sez.a.n.43/1995 cited), verifying whether the conduct of the defendant laid as penalizing factor (also in competition with the others error) to the production of the event detention, so that the relationship between criminal proceedings and judgment of the repair is resolved only in the packaging of the former with respect to the assumption of the other.

And then, on the basis of these principles should be assessed on the contested order to check if - without prejudice that captured items to process

evidence that the elements acquired in the process have not been deemed sufficient to reach a conviction-the behaviour of the reminder has had, As already mentioned, a synergistic role in relation to the adoption and maintenance of the restrictive measure, so as to constitute today an obstacle to the recognition of compensation.

3. Considers the college that the Court of Appeal of Florence provided adequate and correct justification for the measure of rejection, conforming to the recalled case-law of legitimacy.

As regards the reference, in the contested order, to the statements made by the reminder on 5 November 2007, deemed unusable because it was assumed without the defensive guarantees, and therefore object of censure in today's appeal, it is observed that the Court of Florence has Mentioned only because they are challenged by the G.I.P. during the examination of the guarantee of 8 November 2007 for the validation of the catch and repeatedly recalled by the reminder, in the presence of the defender, to deny the

the proceedings were not deemed sufficient to render a judgment pronounced, the conduct of the Solicitation had, as already mentioned, a synergistic role in adopting and maintaining the restrictive measure, thus constituting a barrier to the recognition of compensation.

3. Does the College believe that the Court of Appeal in Florence has provided a fair and correct statement of reasons for the rejection decision, in accordance with the case-law referred to above.

As regards the reference in the contested order to the statements made by the Solicitation on 5 November 2007, which it considered unsuitable for having been made without defensive defense and therefore subject to censorship in the present appeal, it is noted that the Court of Florence referred only to it contested by the GIP during the security interrogation of November 8, 2007 for the validation of the detention and repeatedly referred to by the Solicitude, in the presence of the defender, to deny the truthfulness.

were not considered sufficient to reach a preliminary condemnation - the behavior of the nudge has had, as already said, a synergistic role with respect to the adoption and the maintenance of the restrictive measure, so as to constitute today obstacle to the recognition of compensation.

3. Considers the College that the Corte d'appello di Firenze has provided reasonable and proper justification of the decision rejecting, complying to callback jurisprudence of legitimacy.

As far as the reference in the contested order, the statements made by the reminder on 5 November 2007, deemed unusable because taken without the defensive guarantees, and therefore subject to censorship in the present action, it can be observed that the Court of Florence has mentioned only because contested by the G.I.P. during the interrogation of warranty of 8 November 2007 for the validation of the retainer and repeatedly recalled expressly from the reminder, in the presence of the defender, to deny the

veracity.

It is, moreover, acquired as a given objective that the movements of the reminder on the evening of I November 2007 and during the subsequent night have been described in a different way in the various statements, and have found punctual denials in every respect , that is, as noted by the judges of the repair-with reference to the use of the computer, to the calls received from the father and especially to the presence of his and Knox in the house of murder, always denied. On the point, which was repeatedly mentioned in the acquittal judgment, in considering the evidence of the reminder that is marked by intrinsic and unyielding contradictory, it is expressed in the same way: "Its presence at the place of the murder, and in particular In the room where the crime was committed, it is linked to the only biological trace found on the clasp of the bra closure, in order to which the report cannot, however, be sure any, since that trace is insusceptible to second amplification, In spite of its smallness, so is an element lacking in circumstantial value. It

It is further captured as an objective goal that the movements of Sollecito on the evening of November 2007 and the following night have been described in a different way in the various declarations and have found punctuation in every respect, ie - as noted the judges of the repair - with reference to the use of the computer, the phone calls received from his father and especially his presence and Knox in the homicide house, always denied. On this point, the abovementioned assertive judgment, in holding the probative picture of the Solicitude marked by intrinsic and irreducible contradiction, is thus literally expressed: "His presence on the site of the murder, and particularly in the room where he was committed crime, is linked to the only biological trace found on the brachment closure of the bra, in the sense that its referencing can not, however, be certain, since that trace is insensible to second amplification, due to its smallness, so it is element but there is still a strong suspicion that he was, actually, present in the house of Pergola Street, the night of the murder, at a

veracity.

It is also acquired as a given objective that the movements of the nudge the evening of the November 2007 and in the course of the next night have been described in a manner that is always different in the various declarations, and have found denials punctual under every aspect, namely - as detected by the judges of the repair - with reference to the use of the computer, and calls received from the Father and above all to his presence and of the Knox in the house of the murder, always denied. On that point, the mentioned several times assolutoria judgment, in considering the probative framework to load of the nudge marked by the intrinsic and irreducible contradictory, thus expresses quote: "its presence on the place of the murder, and notably in the room where the delict was committed, is bound only to the biological track found on the lug of the closure of the bra , in order to which traceability cannot however be no certainty, since that track is insuscettibile of second amplification, given its limited such that it is element lacking

remains, nevertheless, strong suspicion that he was, indeed, present in the House of Via Della Pergola, the night of the murder, at a time, however, that it was not possible to determine. On the other hand, certain the presence of Knox in that house, seems scarcely credible that he was not with her "(so on page 49, which is referred to in the contested Ordinance)..... and very strange that Knox" did not

time, however, which could not be determined.On the other hand, certain the presence of Knox in that house, it seems poorly credible that he would not be with her "(see page 49, which is referred to in the complaint or rdinanza) ..... and it's strange that Knox "does not have it

circumstantial value. It remains, however, a strong suspicion that he was truly present in the house in via della Pergola, the night of the murder, in a moment, however, that it was not possible to determine. On the other hand, certain that the presence of the Knox in that house, seems scarcely credible that he is not with her" (so to p.49, to which reference is made in the contested order).....and very strange that the Knox "has not

Called immediately the fidanzato....il which should have been the first person to whom

Asking for help ", while another element of strong suspicion descended from the denial of the alibi offered by Knox on the presence of both in the applicant's house on the night of the murder, since the two boyfriends had been seen together in the city until midnight.

The presence of Knox at home at the time of the murder and the denial of his alibi, together with the contradictory statements of

immediately called the boyfriend .... who should have been the first person to whom

ask for help ", while another element of strong suspicion came from Knox's denial of the oblique on the presence of both at the applicant's house on the night of the murder, as the two boyfriends were seen together in the city until midnight.

The presence of Knox at home at the time of the murder and the denial of his alibi, together with the contradictory statements of

Called just the boyfriend....which would have to be the first person

Ask for help", while another element of strong suspicion descended from the refutation of the excuses offered by the Knox on the presence of both of them in the house of the applicant on the night of the murder, given that the two engaged couples were seen together in the city till 24.00.

The presence of the Knox in the house at the time of the murder and the denial of his alibi, together with the contradictory

the reminder, never heard again during the course of the debate, have therefore strengthened the conviction of the presence also of the reminder in Casa di via della Pergola, helping to form in the G.I.P. the prospect of its involvement in the crimes attributed to him that led him to the application of the measure.

4. On the deceitful and contradictory statements of the reminder, even with reference to the alibi provided for the evening and the night of interest, the territorial Court has dwelt in depth where, in denying the reparation for the competition Of the person concerned to cause the unjust detention, he considered evident, in the light of the procedural truth reconstructed by the judgment acquittal about the certain presence of Knox in the House of Kercher at the time of the murder, that if the reminder had said Immediately, without subsequent contradictions, that the girl had remained distant from him in the hours of the fact, and had reported precisely the hour when she had come to her house as well as the conditions, presumably

the Solicitude, which were never heard in the course of the debate, therefore strengthened the conviction of the presence of Sollecito in the house of Via della Pergola, helping to form the GIP the prospect of his involvement in the crimes attributed to him that led him to the application of the measure.

4. On the lying and contradictory statements of the Solicitude, also with reference to the furnishing provided for the evening and the night concerned, the Territorial Court has focused in depth where, in refusing to repair the contest of the person concerned to cause the 'unfair detention, he found it evident, in the light of the procedural truth reconstructed by the absolute ruling about the presence of Knox at Kercher's house at the time of the murder, that if the Soliciting had said immediately, without further contradictions, that the girl had remained far from him in the hours of the fact, and he had reported precisely the time he had come to his home and the allegedly altered or even disturbed conditions in which he was at that

statements of the nudge, ever more strongly felt in the course of the trial and therefore have strengthened the conviction of the presence also of the nudge in the house in via della Pergola, helping to form in the G.I.P. the prospect of its involvement in the crimes he attributed that brought him to the application of the measure.

4. On the statements misleading and contradictory of the nudge, also with reference to the excuse given for the evening and night that affect the Court planning has looked in detail where, in denying the repair for the competition of the person concerned to cause the unjust detention, considered obvious in the light of truth procedural reconstructed from the judgment assolutoria about the significant presence of the Knox in house of Kercher in the moment of the murder, that if the reminder had said immediately, without subsequent contradictions, that the girl had remained away from him in the hours of the fact, and had reported in a precise manner the time had come to his house as well as the conditions, presumably

altered or even upset, in which she was in That moment, his procedural position would have been undoubtedly different, appearing probable that he would not have been even investigated or, however, that he would not ravvisandosi reluctance or mendacio in his statements, if investigated, the precautionary requirements They would have been considered absent or less serious, causing the judges to apply at most a less severe measure. Similarly, such requirements would have appeared less serious if he had avoided providing alibis immediately denials, such as the reference to the father's call, or if he had explained the irreconcilability of his statements with the objective elements emerged with certainty Investigations, such as the use of the computer at 05:32 or its mobile phone at 6.00 a.m., which, from the order of the Court of Review issued twenty-four days after the commencement of the detention, were assessed Symptomatic of a sleepless night, indirectly demonstrating the occurrence of exceptional events, on which the person concerned has

moment, his procedural position would surely be It seems probable that he would not even be investigated or, in any case, that, seeing no reticence or misgivings in his inquiries, if he investigated, the precautionary requirements were considered to be absent or not serious, prompting judges to apply to a less severe measure. Similarly, such requirements would have become less serious if he had avoided providing alibi immediately denied, as the reference to his father's phone call, or had explained the inconsistency of his allegations with the objective elements emerging with certainty from the investigation, such as the use of computers at 5.32 o'clock or at 6.00 o'clock in the mobile phone, elements which, following the order of the Court of First Instance issued twenty-four days after the commencement of the detention, were considered symptomatic of a sleepless night, indirectly demonstrating the occurrence of exceptional events on which the person concerned has always wanted to silence. If he had intervened after the

altered or even upset, where she was in that moment, Its procedural position would certainly have been much different, appearing likely that he would not have been even investigated or however that, not ravvisandosi reticence or mendacio in its statements, if investigated, the precautionary needs would have been considered absent or less serious, inducing the judges to apply a maximum of a measure less severe. Similarly these needs would have seemed less serious if he had avoided to provide an alibi immediately denied, as the reference to the call of the father, or if he had explained the contradiction of its statements with the objective elements emerged with certainty from surveys, as the successful use of the computer to the hours 5.32 or his cell phone at 06.00 a.m., elements that, starting from the order of the Court of Review issued twenty-four days after the beginning of the state of detention, were evaluated symptomatic of a sleepless night, demo indirectly of the occurrence of exceptional events, on which the person concerned has always

always wanted to be silent. If he had intervened after the murder, he would have to declare it to the investigators and explain the reasons for the falsehood of the above-mentioned statements and, above all, the motives, other than the participation in the crime, of the traces attributed to him (not those Mentioned in the interim measures) that he could have left only at a later time. If he had been present at home at the time of the crime and had not at all participated, as the ruling acquittal of 27 March 2015 considered possible, stating that he could not exclude a "mere connivance not punishable" of the two defendants in the light of " Absolute lack of biological traces related to them... in the room of murder ", equally the immediate admission of their presence at home and

murder, he should have told the investigators and explained the reasons for the falsehood of the allegations examined above and, above all, the reasons, other than the participation in the crime, of the traces attributed to him (not those mentioned in the precautionary measures) leaving it only at a later time. If he had been present in the house at the time of the crime and had not participated in it, as the assassination sentence of March 27, 2015 deemed it possible, claiming that he could not rule out a "mere non-punishable connivance" of the two defendants in the light of the "absolute lack of biological traces to them ... in the murder room ", equally the immediate admission of their presence in the home and

wanted to remain silent. If then had occurred after the murder, would have to declare it to investigators and explain the reasons of the falsity of the statements examined above and especially the reasons, different from the participation in the crime, of the tracks attributed to him (not those mentioned in precautionary measures) which could have left only at a later time. What if it was present in the house at the time of the crime and there had not participated as the judgment assolutoria of 27 March 2015 has thought possible, saying that it could not exclude a "mere connivance not punishable" of the two defendants in the light of "absolute lack of biological traces to their referable...in the room of the murder", equally immediate admission of their presence in the house and

Of total strangeness to the crime (inevitably accompanied by a clear explanation of what happened) would have probably changed in a favorable sense to the

of the total extraneous nature of the crime (inevitably accompanied by a clear explanation of what had happened) would have greatly altered the solicitous procedural

The total extraneity of the crime (inevitably accompanied by a clear explanation of what happened) would very probably changed in favor of the reminder on its

reminder of his procedural procedure.

It is a logical reasoning, immune from the denounced complaints.

In addition to already remembering secret, deceitful and contradictory statements and silence kept by the reminder-on which the denial of compensation is based-the judges of the repair have still negatively assessed the conduct of the applicant Morning of the discovery of the corpse of the Kercher, constituting a further falsehood not denied in the judgment acquittal, with specific reference to the fact that, contrary to what was claimed by the reminder, he called the Carabinieri at least ten minutes After the arrival at the site of the crime by the postal police, so as to further the causally suitable element to determine a decommissioning for investigators reflected in the precautionary plan, as statements underlying to be logically Interpreted as a desperate attempt to credit the false argument of having denounced promptly, as logic would have liked, and not evidently just because induced by the accidental arrival of the postal police,

process in a favorable way.

This is a logical reasoning, immune to the denounced censures.

In addition to recalling reticent, misleading and contradictory statements and the silence provided by Sollecito - which is based on the denial of compensation - the repair judges have still negatively assessed the applicant's conduct on the morning of the finding of Kercher's corpse, constituting a further fallacy not disproved in the absolute ruling, with particular reference to the fact that, contrary to what the Solicitation claimed, he called the Carabinieri at least ten minutes after the arrival at the crime scene by the postal police, so as to lead to further an element which is causally capable of causing a screening for investigators reflexive on the precautionary level, since statements made to be logically interpreted as a desperate attempt to credit the false claim of having denounced in a timely manner as logic would have wanted, and not obviously just because of the random arrival of the Police postal, alarming

proceedings.

This is a logical reasoning, immune from the alleged complaints.

In addition to the already existing remember declarations secretive, misleading and contradictory and to silence cherished by the Reminder - on which is based the refusal of compensation - the judges of the repair have still negatively evaluated the conduct preserved down by the applicant on the morning of the tempering of the corpse of Kercher, constituting a further falsehood not contradicted in judgment assolutoria, with specific reference to the fact that, contrary to what the reminder, he called the Carabinieri at least ten minutes after arrival at the place of the offense by the Postal Police, so as to elevate to further element causally suitable to determine a depistamento for investigators riflessosi on precautionary plan, since prestantisi declarations to logically be interpreted as a desperate attempt to accredit the false thesis of Having denounced promptly, as logic would have liked, and obviously

the alarming situation disvelatasi upon arrival In Via della Pergola.

situation revealed on arrival in via della Pergola.

not only because induced by the random arrival of the Postal Police, the alarming situation disvelatasi upon arrival in via della Pergola.

5. On the outcome of this correct logical reasoning, the court of Florence concluded for the existence of the impediment to the recognition of the right to reparation for the unjust detention, having the instant, with the conduct described above, competition with intent or Gross negligence on the issue and the continuation of the maximum precautionary measure, reaffirming that a different conduct, which had avoided contradictory or blatantly false statements or that had provided an immediate explanation of their incongruity respect To the various emergencies of the investigation, it would have prevented the birth or the consolidation of the suspicion of the participation in the murder of the young Meredith Kercher.

5. At the expense of such a correct logical reasoning, the Court of Florence concluded that the cause of obtaining the right to repair for unjust imprisonment had been granted, having the instant, with the conduct described above, competed with guilty or guilty serious at the time of issuance and the continuation of the maximum precautionary measure, reiterating that a different conduct that had avoided contradictory or obviously false statements or that provided an immediate explanation of their inconsistencies with regard to the various emergencies of investigations would have avoided the birth or consolidation of suspected involvement in the murder of young Meredith Kercher.

5. The outcome of the correct logical reasoning the Court of Florence has concluded for the subsistence of the cause ostativa the recognition of the right to reparation for the unjust detention, having the instant, with the conduct described above, competition with intent or gross negligence to the emission and to the continuation of the maximum precautionary measure, reiterating that a different attitude that had avoided contradictory statements or manifestly false or that it had provided an immediate explanation of their inconsistencies with respect to the different emergencies of investigations, would have avoided the birth or consolidation of suspicion of involvement in the murder of the young Meredith Kercher.

The arguments which led to the denial of the claimed compensation are, moreover, conforming to the most often ruled by this Supreme Court.

The arguments that led to the denial of the required compensation are, moreover, in line with what has been decreed by this Supreme Court.

The arguments that have led to the denial of the compensation required are the rest in conformity with what most times ruled by this Supreme Court.

With specific reference to the reluctance, to the Mendacio or to the silence kept, constitutes a consolidated principle that deals with defensive choices wholly legitimate, which however well can be assessed by the Court of the repair in malicious terms or severely Negligent in relation to the fact that it has been causally engraved on the precautionary plan, if they have been translated in the failure to attach the facts favorable to the declarant, who thus failed to provide a reasonable clarification capable of attributing a different meaning To the extent of the circumstantial compendium used for precautionary purposes (sect. 4, N. 29917 of 9/7/2014, Rv. 259941).

With particular reference to reticence, mendacy, or silence, it is a consolidated principle that is a matter of legitimate defensive choices, but it can well be judged by the court of repair in terms of maladministration or serious misconduct in relation to having causal effect on if they have been translated in the absence of allegations of facts favorable to the declarant, thereby failing to provide sufficient clarity to attribute a different meaning to the scope of the contextual summaries used for precautionary purposes (Sect. 4, no. 29917 of 9/7/2014, Rv.259941).

With specific reference to the reticence, mendacio or to silence serbati, constitutes consolidated principles that question of defensive choices of all legitimate, that however well can be assessed by the judge of the repair in terms or malicious seriously negligent action in relation to the fact of having causally engraved on the precautionary plan, if they are translated into non-assertion of facts favorable to the declarant, that in this way he has failed to provide a reasonable clarification able to give a different meaning to the flow rate of the compendium circumstantial used for protective measures (Sez.4, n.29917 OF 9/7/2014, Rv.259941).

The court in fact, in order to assess the existence of the gross negligence on the recognition of the right to reparation, may consider the silent behaviour-although lawfully held in the course of the criminal proceedings-since the

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In order to assess the existence of the gross negligent guilty plea of ??recognition of the right to repair, the court may consider silent conduct - albeit legitimately held during the criminal proceedings - since the

Court of Cassation - unofficial copy

The Court in fact, to assess the existence of serious misconduct ostativa the recognition of the right to repair, may take into consideration the behavior silent - while legitimately held in the course of the criminal proceedings - since the

The Court of Cassation - Copy unofficial

The right to equitable reparation presupposes a conduct by the person concerned to clarify his position by the allegation of those circumstances, which contradict the accusation or win the reasons for caution (sect. 4, No. 40291 of 29/10/2008, Rv. 242755) and Whereas, if known in a timely manner, they would not have allowed the determination or continuation of the deprivation of liberty (sect. 4, N. 40902 of 31/10/2008, Rv. 242756).

the right to fair reparation presupposes a person's conduct capable of clarifying his position by affirmation of those circumstances which he or she knows, which contradict the allegation or win the cautionary grounds (Section 4, No 40291 of 29 / 10/2008, Rv.242755) and that, if they were known in a timely fashion, they would not have allowed or could continue to be deprived of liberty (Section 4, No 40902 of 31/10/2008, Rv.242756).

Right to fair repair presupposes a conduct of the person concerned liable to clarify his position by the accusation of those circumstances known to him, which counteract the accusation or win the reasons of caution (Sez.4, n. 40291 of 29/10/2008, Rv.242755) and that, if known promptly, would not have allowed the occurrence or the continuation of the deprivation of liberty (Sez.4, n.40902 OF 31/10/2008, Rv.242756).

The same is the case with regard to the alibi, in the sense that the conduct of the suspect who has provided an alibi revealed in the false immediacy, while constituting the exercise of the right of defence, may take relief for the purpose of ascertaining the subsistence The prohibitive condition of wilful intent or gross negligence, if, in the presence of a circumstantial picture already in itself, contributes to strengthening the conviction of him guilty (sect. 4, N. 47746 of 16/10/2014, Rv. 261068).

The same is true with regard to alibi, in the sense that the conduct of the suspect who has provided an alibi revealed in false immediacy, even if it constitutes the exercise of the right of defense, may be relevant for the purpose of establishing the subsistence of the ostative condition of the guilty verdict or of gross negligence, if, in the presence of an already meaningful contextual framework, it contributes to reinforcing the conviction of his guilt (Sect.4, No.47746 of 16/10/2014, Rv.261068).

The same applies as regards the alibi, in the sense that the conduct of the suspect that has provided an alibi revealed in the immediacy false, while constituting the exercise of the right of defense, it may be appropriate for the purposes of ascertaining the existence of the condition of ostativa intent or gross negligence, if, in the presence of a circumstantial framework already in itself significant, contributes to strengthen the conviction of his guilt (Sez.4, n.47746 OF 16/10/2014, Rv.261068).

6. It must then be conclusively to believe that

6. It must then be concluded that the

6. Must then conclusively considered

the contested order resists the complaints proposed by the applicant, having the court of Florence well addressed in fact and in law, with logical and legally impeccable reasoning, all aspects of Request.

It follows the rejection of the appeal and the appellant's conviction to pay the procedural costs and the recast of that incurred by the resistant Ministry, which has carried out a relevant and timely defence, liquidated in a thousand euros.

P.Q.M.

Rejects the appeal and condemns the appellant to pay the procedural costs and to the recast of the costs incurred by the Ministry of Economy in total €1,000.00.

So decided in Rome on June 28, 2017

contested order resists the applicants' objections, since the Court of Justice has dealt with all the aspects of the application in fact and in law, with logical and legally inconceivable reasoning.

The rejection of the appeal and the appellant's condemnation of the costs of the proceedings and the reimbursement of the one held by the Resident Ministry, which held a pertinent and timely defense, was liquidated in a thousand euros.

P.Q.M.

The appeal shall be ordered and the applicant shall be ordered to pay the costs of the proceedings and the reimbursement of the costs incurred by the Ministry of the Economy, totaling € 1,000.00.

So decided in Rome on June 28, 2017

that the contested order resists to the complaints put forward by the Applicant, having the Court of Florence is well addressed in fact and in law, with logical reasoning and legally irreproachable, all aspects of the request under examination.

It follows that the application should be dismissed and the condemnation by the applicant to pay the costs and to recast that incurred by the Ministry resistant, which has played a relevant and timely defense, settled in a thousand euro.

P.Q.M.

Rejects the appeal and condemns the applicant to pay the costs, as well as the recasting of the costs incurred by the Ministry of the economy and liquid into a total of € 1.000,00.

So decided in Rome on 28 June 2017