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This Factsheet does not bind the Court and is not exhaustive

Hunger strikes in detention

Death during or following hunger strike

Horoz v. Turkey

31 March 2009

The applicant's son died in 2001 while in prison after going on hunger strike to protest against the introduction of "F-type" prisons, designed to provide living spaces for two to three persons instead of dormitories. Before the European Court of Human Rights, the applicant complained in particular that the judicial authorities' refusal to release her son, contrary to the opinion of the Institute of Forensic Medicine, had led to his death.

The European Court of Human Rights held that there had been **no violation of Article 2** (right to life) of the European Convention on Human Rights with regard to the death of the applicant's son, since it had been impossible to establish a causal link between the refusal to release him and his death. It observed that the death in this case had clearly been the result of the hunger strike. The applicant had not complained either about her son's conditions of detention or of an absence of appropriate treatment. While it would have been desirable for the subject to be released following the report of the Institute of Forensic Medicine, there had been no evidence permitting the Court to criticise the judicial authorities' assessment of the information contained in it. Nor had it found any element enabling it to challenge the conclusion that there had been no case to answer in the investigation conducted by the Minister of Justice. The Court therefore found that the authorities had amply satisfied their obligation to protect the applicant's son's physical integrity, specifically through the administration of appropriate medical treatment, and that they could not be criticised for having accepted his clear refusal to allow any intervention, even though his state of health had been life-threatening.

Ceesay v. Austria

16 November 2017

See below, under "Medical care / treatment during hunger strike".

Forced feeding of prisoners staging a hunger strike

Nevmerzhitsky v. Ukraine

5 April 2005

Several times during his detention, as a result of having gone on hunger strike, the applicant was subjected to force-feeding, which he claimed had caused him substantial mental and physical suffering, in particular given the manner in which it was carried out: he had frequently been handcuffed to a chair or heating facility and forced to swallow a rubber tube connected to a bucket with a special nutritional mixture. The applicant also maintained that whilst remanded in custody he had been deprived of adequate medical treatment for the various diseases that he suffered from, and that the conditions of detention (notably being placed in an isolation cell for 10 days while on hunger strike) had also been in breach of Article 3 (prohibition of torture and inhuman or degrading treatment) of the Convention.

The Court first observed that "a measure which is of therapeutic necessity from the point of view of established principles of medicine cannot in principle be regarded as inhuman

and degrading. The same can be said about force-feeding that is aimed at saving the life of a particular detainee who consciously refuses to take food. The [Court] must nevertheless satisfy [itself] that the medical necessity has been convincingly shown to exist … Furthermore, [it] must ascertain that the procedural guarantees for the decision to force-feed are complied with. Moreover, the manner in which the applicant is subjected to force-feeding during the hunger strike shall not trespass the threshold of a minimum level of severity envisaged by the Court's case law under Article 3 of the [European] Convention [on Human Rights which prohibits torture and inhuman or degrading treatment]. …" (§§ 94-95 of the judgment).
In the present case the Court held that there had been a **violation of Article 3** (prohibition of torture) of the Convention in respect of the force-feeding of the applicant. The Ukrainian Government had not demonstrated that there had been a medical necessity to force-feed the applicant. It could only therefore be assumed that the force-feeding had been arbitrary. Procedural safeguards had not been respected in the face of the applicant's conscious refusal to take food. The authorities had further not acted in the applicant's best interests in subjecting him to force-feeding. Whilst the authorities had complied with the manner of force-feeding prescribed by the relevant decree, the restraints applied – handcuffs, mouth-widener, a special tube inserted into the food channel – with the use of force, and despite the applicants resistance, had constituted treatment of such a severe character warranting the characterisation of torture. The Court also held that there had been a **violation of Article 3** (prohibition of degrading treatment) of the Convention in respect of the conditions of the applicant's detention and the lack of adequate medical care.

Pandjikidzé and Others v. Georgia

20 June 2006 (decision on the admissibility)
Relying on Article 3 (prohibition of inhuman or degrading treatment) of the Convention, the first applicant complained in particular about the lack of reaction on the part of the competent authorities to his 115-day hunger strike between February and May 2001 while he was held in pre-trial detention.
Concerning the hunger strike by the applicant, to show disagreement with the criminal proceedings against him, the Court observed that he had never been force-fed and had not complained to the Court that the authorities should have taken such action. Even though his state of health must have declined, it did not appear from the case file that his life had been exposed to an obvious danger as a result of the authorities' attitude, and therefore that force-feeding would have been justified by any "medical imperative", or that he had been deprived of medical treatment appropriate to his state of health, or that he had been medically unfit to remain in prison. The Court therefore declared the complaint **inadmissible** as being manifestly ill-founded under Article 35 (admissibility criteria) of the Convention.

Özgül v. Turkey

6 March 2007 (decision on the admissibility)
The applicant went on hunger strike in June 2001 while he was in prison. A few months later he was admitted to a hospital ward reserved for prisoners, but he refused treatment. The Institute of Forensic Medicine examined him and diagnosed him with Wernicke-Korsakoff syndrome[1], recommending that his sentence be suspended for six months. His request for release having subsequently been denied, he was sentenced to life imprisonment in February 2002. One month later, when his health deteriorated, the doctors decided to impose treatment on him. The applicant complained in particular about the authorities' medical intervention against his will on 15 March 2002.
As to the medical intervention complained of by the applicant, the Court observed that Article 3 (prohibition of inhuman or degrading treatment) of the Convention imposed an obligation on the State to protect the physical well-being of persons deprived of their

[1]. Encephalopathy consisting in the loss of certain cerebral functions, resulting from a deficiency of vitamin B1 (thiamine).

liberty, for example by providing them with the requisite medical assistance. The persons concerned nevertheless remained under the protection of Article 3, whose requirements permitted of no derogation. In the present case, the Court noted that the applicant had been under permanent medical supervision in a hospital since late December 2001. Until 15 March 2002 the doctors had not imposed treatment, but on that date they noted a deterioration of his state of health and found medical intervention and force-feeding to be necessary. Thus, for as long as the applicant's medical condition had been satisfactory the doctors had respected his wishes and they had only intervened when a medical necessity had been established. They had then acted in the applicant's interest, with the aim of preventing irreversible damage. Moreover, it had not been established that the aim of the medical intervention was to humiliate or punish him. It could be seen from the file that there had never been any question of using means of restraint. The Court thus found the complaint **inadmissible** as being manifestly ill-founded under Article 35 (admissibility criteria) of the Convention.

Ciorap v. Republic of Moldova

19 June 2007

In this case the applicant complained in particular about his conditions of detention, force-feeding after had had decided to go on a hunger strike, and the national courts' refusal to examine his complaint about the force-feeding because he had not paid the court fees.

The Court held that there had been a **violation of Article 3** (prohibition of torture) of the Convention regarding the applicant's force-feeding. There was in particular no medical evidence that the applicant's life or health had been in serious danger and there were sufficient grounds to suggest that his force-feeding had in fact been aimed at discouraging him from continuing his protest. Furthermore, basic procedural safeguards prescribed by domestic law, such as clarifying the reasons for starting and ending force-feeding and noting the composition and quantity of food administered, had not been respected. Lastly, the Court was struck by the manner of the force-feeding, including the unchallenged, mandatory handcuffing of the applicant regardless of any resistance and the severe pain caused by metal instruments to force him to open his mouth and pull out his tongue. Less intrusive alternatives, such as an intravenous drip, had not even been considered, despite the applicant's express request. The Court therefore found that the manner in which the applicant had been repeatedly force-fed had unnecessarily exposed him to great physical pain and humiliation, and, accordingly, could only be considered as torture.

In the present case the Court also held that there had been a **violation of Article 6** (right to a fair trial) of the Convention, as the applicant had been denied access to a court as a result of the Supreme Court's refusal to examine his complaint regarding the force-feeding because of his failure to pay the court fee. It found that, in view of the serious nature of his claim, the applicant should have been exempted from paying the fee, regardless of his ability to pay.

Rappaz v. Switzerland

26 March 2013 (decision on the admissibility)

The applicant, who had been imprisoned for various offences, embarked on a hunger strike in an attempt to secure his release. He alleged that, in refusing to release him despite his decision to continue his hunger strike, the domestic authorities had placed his life in danger. He also complained that the refusal to release him had amounted to inhuman and degrading treatment.

The Court declared the application **inadmissible** as being manifestly ill-founded, finding that the Swiss authorities had not failed in their obligation to protect the applicant's life and to provide him with conditions of detention compatible with his state of health. With regard in particular to the decision to force-feed the applicant, the Court observed that it had not been established that the decision had been implemented. It also considered that the decision in question had reflected a medical necessity and had been attended by sufficient procedural safeguards. Nor was there any reason to believe that,

had the decision been implemented, the manner in which it was put into practice would have been in breach of Article 3 (prohibition of inhuman or degrading treatment) of the Convention.

Indication of interim measures[2] by the Court to put an end to a hunger strike

Ilaşcu and Others v. Republic of Moldova and Russia

8 July 2004 (Grand Chamber)

In 1993 the applicants were sentenced by a court of the Transdniestrian region, the first applicant to death and the other applicants to terms of 12 to 15 years' imprisonment, for various offences. They had complained in particular about the proceedings leading to their conviction and had alleged that their detention had thus been unlawful. They also complained about the conditions of their detention. On 28 December 2003 the third applicant had gone on hunger strike to protest, in particular, about the prison administration's refusal to authorise him to receive a parcel from his wife containing food and a fur hat.

In a decision of 12 January 2004, the President of the Court's Grand Chamber invited the Moldovan and Russian Governments, pursuant to Rule 39 (interim measures) of the Rules of Court, to take all the necessary measures to ensure that the third applicant, who had been on hunger strike since 28 December 2003, had conditions of detention that were consistent with his rights under the Convention. The parties were also invited, in accordance with the Rules, to provide information on the implementation of the interim measures thus indicated. In a decision of 15 January 2004, the President of the Grand Chamber also invited the third applicant, pursuant to Rule 39, to end his hunger strike. On 24 January 2004 his representative informed the Court that his client had ended his hunger strike on 15 January 2004.

Rodić and Others v. Bosnia and Herzegovina

27 May 2008

This case concerned the detention of the applicants who had all four been convicted of war crimes against Bosnian civilians. They were placed in the prison of Zenica (a high-security prison where most inmates were Bosnians) in August 2004, February 2005, May 2005 and October 2004 respectively. The applicants complained, in particular, of having been persecuted by other inmates from their arrival at the prison until their transfer to the prison hospital wing. On 8 June 2005 the applicants went on hunger struck to draw the public's attention to their situation. They were immediately placed in isolation in the prison hospital service. On 15 June 2005 the Ministry of Justice of Bosnia and Herzegovina ordered the applicants' transfer to another prison, for security reasons. The applicants complained unsuccessfully to the Constitutional Court of Bosnia and Herzegovina about the failure to enforce that decision. They were eventually transferred to Mostar prison between November 2005 and October 2006.

In decisions of 25 June 2005 (for the first applicant) and 29 June 2005 (for the other three), the President of the Court's Chamber to which the application had been allocated invited the applicants, pursuant to Rule 39 of the Rules of Court, to end their hunger strike. They did so on 1 July 2005.

[2]. These are measures adopted as part of the procedure before the Court, under Rule 39 of the Rules of Court, at the request of a party or of any other person concerned, or of the Court's own motion, in the interests of the parties or of the proper conduct of the proceedings. The Court will only issue an interim measure where, having reviewed all the relevant information, it considers that the applicant faces a real risk of serious, irreversible harm if the measure is not applied. See also the factsheet on "Interim measures".

Mass hunger strikes and use of force by the authorities

Karabet and Others v. Ukraine

17 January 2013

In January 2007 the applicants, who were all serving prison sentences, took part in a hunger strike with other prisoners to protest about their conditions of detention. A week later the prison authorities conducted a security operation using officers and special forces. Immediately after the search, a group of prisoners whom the authorities considered to be the organisers of the hunger strike, including the applicants, were transferred to other detention facilities. The applicants complained of having been ill-treated during and after the security operation, and that the investigation into these allegations had been ineffective. They further submitted that their personal belongings had not all been returned to them following their hasty transfer to different detention facilities.

The Court held that there had been a **violation of Article 3** (prohibition of torture) of the Convention **under its substantial limb**, on account of the ill-treatment the applicants had been subjected to. It was a commonly accepted fact that the protests by the prisoners had been confined to peaceful refusals to eat prison food, without a single violent incident being reported. They had further demonstrated a willingness to cooperate with prison department officials. While it had been impossible for the Court to establish the seriousness of all the bodily injuries and the level of the shock, distress and humiliation suffered by every single applicant, there had been no doubt that the authorities' unexpected and brutal action had been grossly disproportionate and gratuitous, taken with the aim of crushing the protest movement, punishing the prisoners for their peaceful hunger strike and nipping in the bud any intention of their raising complaints. It must have caused severe pain and suffering and, even though it had not apparently resulted in any long-term damage to their health, could only be described as torture. The Court also held that there had been a **violation of Article 3** of the Convention under its procedural limb, as the investigation into the applicants' allegations of ill-treatment had not been thorough or independent, had failed to comply with the requirement of promptness and had lacked public scrutiny. Lastly, the Court found a **violation of Article 1** (protection of property) **of Protocol No. 1** to the Convention on account of a failure by the prison administration to return the applicants' personal belongings.

Leyla Alp and Others v. Turkey

10 December 2013

The applicants, all women, were being held in Çanakkale Prison in October 2000, when a hunger strike was staged in prisons to protest against a plan for "F-type" prisons, which had provided for smaller living units for prisoners. On 19 December 2000 the security forces intervened in around 20 prisons. Violent clashes occurred during the operation, known as "Back to life". A gendarme and four prisoners died in Çanakkale Prison. The applicants complained notably of having been injured during the operation and alleged that the use of force had been excessive and disproportionate. They further submitted that the investigation and proceedings conducted by the national authorities had been ineffective.

The Court, finding that the use of force had not been disproportionate to the aim pursued, i.e. the suppression of a riot and/or the defence of any person from violence, held that there had been **no substantive violation** of the Convention in respect of the applicants who had been injured during the operation. It further held that there had been a **procedural violation of Article 2** (right to life) of the Convention in respect of one of the applicants, and a **procedural violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention in respect of five other applicants, finding that the investigation and proceedings conducted by the national authorities had failed to satisfy the requirements of promptness and reasonable expedition implicit in the context of the positive obligations at issue.

See also: ***Vefa Serdar v. Turkey***, judgment of 27 January 2015; ***Songül İnce and Others v. Turkey***, judgment of 26 May 2015.

Medical care / treatment during hunger strike

Palushi v. Austria

22 December 2009

The applicant, a national of the former Socialist Federal Republic of Yugoslavia at the time of the events, alleged that, when held in custody in Vienna Police Prison with a view to his expulsion for illegal residence, prison officers had ill-treated him. Placed in solitary confinement immediately afterwards, he further complained about being refused access to a doctor.

The Court noted in particular that the applicant, who had already been on hunger strike (with the risks that that implied such as loss of consciousness) for three weeks, had been placed in solitary confinement based on the assessment of a paramedic who had received only basic training, and had been refused access to a doctor until the third day of his solitary confinement. Taken together, those factors had to have caused him suffering and humiliation going beyond what had been inevitable in a situation of detention. In the Court's view the applicant had therefore been subjected to degrading treatment on account of the lack of medical care provided in solitary confinement until he had been allowed to see a doctor, in **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention.

Ceesay v. Austria

16 November 2017

This case concerned the death of the applicant's brother, a Gambian national, in detention pending his expulsion. The latter was on hunger strike. On the day of his death, he had been taken to hospital for examination and his fitness for detention had been confirmed. On his return at around 11 a.m. he was placed alone in a security cell, which did not contain a water outlet. A police officer checked on him every 15 to 30 minutes. At 1.20 p.m. he was declared dead by an emergency doctor. The autopsy concluded that he had died of dehydration, combined with the fact that he had been a carrier of sickle cell trait, a fact of which he had been unaware. The applicant complained that there had not been an effective and comprehensive investigation into his brother's death and that the causes of his death had remained unclear. He further maintained that the medical assistance provided to his brother during his hunger strike had not been in accordance with the law.

The Court held that there had been **no violation of Article 2** (right to life) of the Convention. There was, in particular, no indication of shortcomings in the public prosecutor's investigation, which had been closed as no sufficient evidence had been found to indicate misconduct on the part of the persons in charge. The public prosecutor had relied on the comprehensive autopsy report and expert medical report, which had clearly stated that death through the use of force could be excluded, and that the applicant's brother had died of dehydration, combined with the fact that he had been a carrier of sickle cell trait. The Court also held that there had been **no violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention. As regards, in particular, the steps to be taken in the event of a hunger strike, it noted that clear instructions had been issued by the Ministry of the Interior to the authorities, which had been prepared after consultations with its medical service and various NGOs. There was no indication that those instructions were in themselves insufficient or unclear, or that overall in the instant case they were not sufficiently followed. Furthermore there had been no indications that the applicant's brother suffered from sickle cell disease and he had not been aware of it himself. At the time, even hospitals did not conduct standardised tests for that blood anomaly. The authorities could not be blamed for not having given appropriate instructions at the outset to conduct such a test for the applicant's brother.

Ünsal and Timtik v. Turkey

8 June 2021 (decision on the admissibility)

This case concerned the conditions in which the applicants had been kept in the hospital where they had been transferred as a result of the hunger strike they had started in protest against their detention. Subsequently, the first applicant was released, and the second applicant died in hospital as a result of her hunger strike. The applicants complained in particular of being held in detention, alleging that the hospitals they had been held in were dedicated to Covid-19 pandemic treatment. They considered themselves at risk due to their fragile state of health caused by their hunger strike.

The Court declared the application **inadmissible** as being manifestly ill-founded. Making an overall assessment of the relevant facts on the basis of the evidence adduced before it, it concluded that this was not a situation in which the necessary medical care or treatment of the detainees required measures other than those adopted. In particular, with regard to the specific case of detainees who voluntarily put their lives at risk, the Court reiterated that facts prompted by acts of pressure on the authorities could not lead to a violation of the Convention, provided that those authorities had duly examined and managed the situation. This was the case in particular where a detainee on hunger strike clearly refused any intervention, even though his state of health would threaten his life. The Court also observed that the applicants were assisted by relatives and were extensively informed about all possible effects of the hunger strike, as well as the type of treatment which would be administered if they accepted it. However, the applicants categorically refused examination and treatment, and did not comply with the invitation of the Court for them to stop the hunger strike and to cooperate with the medical authorities. Lastly, the Court noted that the relevant judicial and administrative authorities had immediately recognised the risks which the hunger strike entailed for the applicants' health and life and taken the steps they considered necessary to alleviate those risks. The national authorities could not therefore be criticised for not having properly examined and managed the situation as required by the Convention.

Re-imprisonment of convicted persons suffering from the Wernicke-Korsakoff syndrome[3]

In the following cases, the applicants had all been sentenced to prison terms on account of their membership of terrorist organisations. They embarked on hunger strike in order to protest against the use of "F-type" prisons, designed to provide living spaces for two to three persons instead of dormitories. The applicants' prison sentences were suspended on medical grounds, as they were suffering from Wernicke-Korsakoff Syndrome as a result of going on prolonged hunger strike while in prison. The applicants alleged mainly that their re-imprisonment would entail a violation of Article 3 (prohibition of inhuman or degrading treatment) of the Convention.

These applications were part of a group of 53 similar cases. From 24 June 2004 onwards, the Court indicated various interim measures to the parties under Rule 39 of the Rules of Court (interim measures[4]) to ensure the proper conduct of the proceedings. From 6 to 11 September 2004 a delegation of judges from the Court travelled to Turkey on a fact-finding mission to visit prison facilities. They were accompanied by a panel of experts whose task was to assess the medical fitness of the applicants to serve their prison sentences.

Tekin Yıldız v. Turkey

10 November 2005

The applicant was diagnosed with Wernicke-Korsakoff Syndrome in July 2001. His sentence was suspended for six months on the ground that he was medically unfit, and

[3]. Encephalopathy consisting in the loss of certain cerebral functions, resulting from a deficiency of vitamin B1 (thiamine).
[4]. See footnote 2 above.

the measure was extended on the strength of a medical report which found that his symptoms had persisted. A warrant was issued for his arrest in October 2003 after he was suspected of having resumed his activities with the terrorist organisation. On 21 November 2003 he was arrested and sent back to prison. Despite an early ruling that he had no case to answer, he remained in prison for eight months and it was not until 27 July 2004 that he was finally released.

The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention on account of the applicant's re-imprisonment from 21 November 2003 to 27 July 2004. It observed in particular that the fact that an applicant had inflicted harm upon himself by going on a prolonged hunger strike did not release a State from any of its obligations towards such persons under Article 3. Considering, in the instant case, that the applicant's state of health had been consistently found to be incompatible with detention and that there was no evidence to cast doubt on those findings, it found that the domestic authorities who had decided to return the applicant to prison and detain him for approximately eight months, despite the lack of change in his condition, could not be considered to have acted in accordance with the requirements of Article 3. The Court further held that **there would be a violation of Article 3** of the Convention if the applicant was re-imprisoned without there being a marked improvement in his medical fitness to withstand such a measure[5].

Lastly, under **Article 46** (binding force and execution of judgments) de la Convention, the Court judged it necessary, on an exceptional basis, to indicate to the Turkish State the measures it considered appropriate to remedy certain problems which had come to light regarding the official system of forensic medical reports in operation in Turkey.

Sinan Eren v. Turkey

10 November 2005

The applicant was diagnosed as suffering from Wernicke-Korsakoff Syndrome in October 2002 and his sentence was suspended as a result. In January 2004 a medical report concluded that the suspension of his prison sentence was no longer justified on medical grounds and a warrant was issued for his arrest. The applicant absconded. Alleging that the stay of execution of his sentence had been lifted based on a medical report of no scientific value and which clearly contradicted the previous medical reports, the applicant submitted in particular that he was suffering from Wernicke-Korsakoff Syndrome and that his possible return to prison would constitute a violation of Article 3 (prohibition of inhuman or degrading treatment) of the Convention.

The Court held that there had been **no violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention. It observed in particular that, having examined him on 11 September 2004, the panel of experts appointed by the Court had unanimously concluded that the applicant was not suffering from any neurological or neuropsychological disorders that made him unfit to live in prison conditions. The Court could only share its own experts' opinion and it therefore considered that the applicant's return to prison would not in itself constitute a violation of Article 3 of the Convention.

See also: ***Balyemez v. Turkey***, judgment of 22 December 2005.

Eğilmez v. Turkey, Hun v. Turkey, Mürrüvet Küçük v. Turkey and Güllü v. Turkey

10 November 2005

In March or April 2003 the applicants were diagnosed as suffering from Wernicke-Korsakoff Syndrome and their sentence was suspended as a result. Between September and December 2003 medical reports concluded that the suspension of their prison sentences was no longer justified on medical grounds and warrants were issued for their arrest. As regards the first, third and fourth applicants, although the European Court had asked them, during its fact-finding mission to Turkey in 2004, to go for a medical examination at the University Hospital, they had failed to do so. As for the second applicant, on 11 September 2004 he went to the University Hospital at the Court's

[5]. On this point, see, in the same vein, the ***Gürbüz v. Turkey***, ***Kuruçay v. Turkey*** and ***Uyan v. Turkey*** judgments of 10 November 2005.

request where he was examined by the panel of experts appointed by the Court. However, he refused to consent to the further monitoring which the panel of experts considered necessary.

The Court noted that, despite firm warnings to first, third and fourth applicants that their applications were liable to be struck out of the Court's list, they had nevertheless failed to submit themselves to medical examination by the Court's panel of experts on 11 September 2004 as part of the fact-finding mission. It further noted that, although the second applicant had been asked to comply with a final interim measure that had been indicated to him so that an additional medical report required by the panel of experts could be obtained, he had failed to do so, allegedly because of administrative difficulties. The Court considered that the applicants had no right to hinder the establishment of the facts in their own cases in such a way after being warned of the consequences. Consequently, it decided under Article 37 § 1 (c) (striking out applications) of the Convention that the continued examination of the applicants' complaints regarding the risk of re-imprisonment was no longer justified and **decided to strike** them **out of the list**.

Media Contact:
Tel.: + 33 (0)3 90 21 42 08