



## French authorities failed to comply with their positive obligation to protect the right to life of an inmate who hung himself in prison

In today's **Chamber** judgment<sup>1</sup> in the case of **Isenc v. France** (application no. 58828/13) the European Court of Human Rights held, unanimously, that there had been:

**a violation of Article 2 (right to life)** of the European Convention on Human Rights.

The case concerned the applicant's son's suicide 12 days after he was admitted to prison.

The Court found in particular that a medical check-up of the applicant's son, M., when he was admitted was a minimum precautionary measure. The Government submitted that M. had had a medical consultation but did not furnish any document to corroborate that submission.

In the absence of any evidence of an appointment with the medical service, the Court found that the authorities had failed to comply with their positive obligation to protect the applicant's son's right to life. It did not take into account the fact that the medical service responsible for prison inmates – the SMPR among others – did not come under the authority of the prison administration. The Court had already observed that collaboration between the supervising and the medical staff fell within the remit of the domestic authorities.

The Court found that the arrangements for collaboration between the prison and the medical services in supervising inmates and preventing suicides, although provided for in the domestic law, had failed to operate in the present case.

### Principal facts

The applicant, Bedrettin Isenc, is a Turkish national who was born in 1961 and lives in Bordeaux. He is the father of M., who was born in 1984 and committed suicide in prison.

In November 2008 M. was remanded in custody in Bordeaux-Gradignan Prison. In ordering his detention, the investigating judge stated in the individual note to the prison governor concerning the accused that M.'s behaviour gave reason to fear that he might seek to harm himself, and that he should be monitored.

On 25 November 2008, the day after he was taken into custody, M. was placed in the "new arrivals" wing. On 5 December 2008, at the end of the reception stage, he was placed in a cell with two other inmates. On the afternoon of 6 December 2008, after he had been left alone while both his cellmates were taking a shower, M. hanged himself using a sheet which he tied to the bars of the cell window.

On 9 July 2009 Mr Isenc lodged a claim for compensation with the Ministry of Justice, seeking EUR 60,000 in compensation for the pecuniary and non-pecuniary damage sustained as a result of his son's death. He also applied to the Bordeaux Administrative Court for an order against the State requiring the latter to pay him the compensation claimed. The court dismissed his application.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution).

Mr Isenc appealed. In a judgment of 29 November 2011 the Administrative Court of Appeal upheld the lower court's judgment and found that no specific recommendation had been made to the prison authorities by the regional medical and psychological service ("the SMPR") – which does not come under the authority of the prison administration – that had examined M. the day after his arrival in the prison.

Mr Isenc lodged an appeal on points of law, which the *Conseil d'État* (Supreme Administrative Court) declined to examine.

## Complaints, procedure and composition of the Court

Relying on Article 2 (right to life), and on the Court's judgment of 19 July 2012 in the case of *Ketreb v. France*, Mr Isenc alleged a violation of M.'s right to life.

The application was lodged with the European Court of Human Rights on 16 September 2013.

Judgment was given by a Chamber of seven judges, composed as follows:

Angelika **Nußberger** (Germany), *President*,  
Ganna **Yudkivska** (Ukraine),  
André **Potocki** (France),  
Faris **Vehabović** (Bosnia and Herzegovina),  
Síofra **O'Leary** (Ireland),  
Carlo **Ranzoni** (Liechtenstein),  
Mārtiņš **Mits** (Latvia),

and also Claudia **Westerdiek**, *Section Registrar*.

## Decision of the Court

### Article 2 (right to life)

The Court reiterated that Article 2 enjoined the State to refrain from the intentional and unlawful taking of life, but also to take appropriate steps to safeguard the lives of those within its jurisdiction. However, such an obligation had to be interpreted in a way which did not impose an impossible or disproportionate burden on the authorities.

The Court observed that M. had only recently arrived at the prison, that initial period being known to be a delicate one. He had committed suicide 12 days after being remanded in custody and the day after being placed in a shared cell.

The investigating judge had drawn the prison authorities' attention to M.'s fragile condition and recommended particularly close monitoring, pointing out that it was his first time in prison. The Court noted that the day after M. had been admitted to prison a police officer had filled out the form for identifying detainees presenting a suicide risk. That document indicates suicidal tendencies and contains the words "spontaneously describes himself as having suicidal inclinations". That information was recorded in the information form drawn up by the officer as evidence of a fragile state of mind in respect of which it was decided to alert the SMPR the following day. In the Court's opinion, the investigating judge's note and the above-mentioned form were at least indications that M. had suicidal inclinations and therefore presented a suicide risk. After receiving that information the authorities should have known that there was a real and immediate risk that M. would try and take his own life.

The Court noted that various measures had been taken both before M. had been placed in a cell with two other inmates and when he was actually placed there and that the authorities had alerted the SMPR regarding M.

The Court found that when placing him in the shared cell the authorities had established a special monitoring measure consisting in checking on him every hour. The Court observed, however, that the 2002 circular issued by the head of the Prison Service stipulated that care of an inmate in distress could not be reduced to monitoring measures alone. It concluded that the stricter monitoring measure implemented by the authorities was insufficient to conclude that the State had complied with its positive obligation to protect M.'s life. The Court also noted that the prison authorities had placed M. in a cell with two other inmates in order to avoid leaving him alone and so that they could support him, but observed that neither inmate had been present when M. had committed suicide.

The Court considered that a medical check-up of M. on his admission to prison was a minimum precautionary measure. The Government submitted that M. had had a medical consultation but failed to furnish any document corroborating that submission and thus had not proved that M. had been examined by a doctor.

In the absence of any proof of an appointment with the prison medical service, the Court considered that the authorities had failed to comply with their positive obligation to protect the applicant's son's right to life. It could not take account of the fact that the medical service responsible for prison inmates – the SMPR among others – did not come under the authority of the prison administration. The Court had already noted that collaboration between the supervising staff and the medical staff fell within the remit of the domestic authorities. The Court observed that, although provided for in the domestic law, the arrangements for collaboration between the prison and medical services in supervising inmates and preventing suicides had not worked.

The Court concluded that there had been a violation of Article 2 of the Convention.

#### [Article 41 \(just satisfaction\)](#)

The Court held that France was to pay the applicant 20,000 euros (EUR) in respect of non-pecuniary damage and EUR 6,588 in respect of costs and expenses.

*The judgment is available only in French.*

---

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on [www.echr.coe.int](http://www.echr.coe.int). To receive the Court's press releases, please subscribe here: [www.echr.coe.int/RSS/en](http://www.echr.coe.int/RSS/en) or follow us on Twitter [@ECHRpress](https://twitter.com/ECHRpress).

#### **Press contacts**

[echrpress@echr.coe.int](mailto:echrpress@echr.coe.int) | tel.: +33 3 90 21 42 08

**Denis Lambert (tel: + 33 3 90 21 41 09)**

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Nina Salomon (tel: + 33 3 90 21 49 79)

Inci Ertekin (tel: + 33 3 90 21 55 30)

**The European Court of Human Rights** was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.