

Press release issued by the Registrar

**CHAMBER JUDGMENT
HOROZ v. TURKEY**

The European Court of Human Rights has today notified in writing its Chamber judgment¹ in the case of *Horoz v. Turkey* (application no. 1639/03).

The Court held:

- by 5 votes to 2, 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, who had been taking part in a hunger strike while held in pre-trial detention.

[\(The judgment is available only in French.\)](#)

1. Principal facts

The applicant, Elif Horoz, is a Turkish national who was born in 1937 and lives in Istanbul.

Her son, Muharrem Horoz, who was born in 1966, was placed in pre-trial detention after being arrested by police on 3 August 1999.

The public prosecutor at the Ankara National Security Court sought his conviction for attacking the constitutional order of the State and various terrorist acts committed on behalf of an illegal organisation.

In 2001, while detained in the Kandira F-type prison, Mr Horoz joined a hunger strike organised in protest against the so-called F-type prisons, which provided for one- to three-person cells instead of dormitories. This strike became a "death fast", in which only sugared water and vitamins were accepted.

Mr Horoz was hospitalised on several occasions in June and July 2001 after losing consciousness. During the first emergency hospitalisation, he refused any treatment after being resuscitated.

¹ Under Article 43 of the Convention, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

In a report of 30 July 2001, the Institute of Forensic Medicine diagnosed a “terminal failure as a result of insufficient nutrition” and recommended that Mr Horoz be released for six months on the ground that his state of health was incompatible with imprisonment.

On 1 August 2001 the Ankara National Security Court dismissed the application for release lodged by Mr Horoz’s lawyer, firstly on the basis that conditional release on health grounds, provided for in the Code of Criminal Procedure, applied to “convicted persons” and not to individuals in “pre-trial detention”, and secondly, on the basis that treatment could be provided in the prison wing of a civilian hospital.

Mr Horoz, who was hospitalised in the prison wing of the Kocaeli civilian hospital and been in a coma since 27 July 2001, died on 3 August 2001.

Following the allegations made by his lawyer to the effect that the prosecutor and judges involved in this case had acted in an arbitrary manner and caused Mr Horoz’s death, the Minister of Justice opened an investigation. On 31 May 2002 an order was issued stating that there was no case to answer.

2. Procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 3 December 2002 and declared admissible on 14 September 2007.

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

Françoise **Tulkens** (Belgium), *President*,
Ireneu **Cabral Barreto** (Portugal),
Vladimiro **Zagrebelsky** (Italy),
Danutė **Jočienė** (Lithuania),
Dragoljub **Popović** (Serbia),
Nona **Tsotsoria** (Georgia),
Işıl **Karakaş** (Turkey), *judges*,

and also Sally **Dollé**, *Section Registrar*.

3. Summary of the judgment²

Complaint

Relying in particular on Article 2 (right to life), Mrs Horoz alleged that the judicial authorities’ refusal to release her son, contrary to the opinion of the Institute of Forensic Medicine, had led to his death.

Decision of the Court

Article 2

² This summary by the Registry does not bind the Court.

The Court noted that Mr Horoz's death had resulted from his hunger strike, and that his mother had not complained either about her son's conditions of detention or of an absence of appropriate treatment.

Furthermore, while it would have been desirable for Mr Horoz to be released following the report by the Institute of Forensic Medicine, it had no evidence permitting it to criticise the judicial authorities' assessment of the information in that report.

Nor does it find any element enabling it to challenge the conclusion that there was no case to answer in the investigation conducted by the Minister of Justice.

The authorities had amply satisfied their obligation to protect Mr Horoz's physical integrity, specifically through the administration of appropriate medical treatment; indeed, they could not be criticised for accepting Mr Horoz's clear refusal to allow any intervention, even though his state of health was life-threatening. Thus, it was impossible for the Court to establish a causal link between the State Security Court's refusal to release the applicant's son and the latter's death. The Court also noted that, since Mr Horoz had been in hospital from 27 July onwards, immediate intervention and treatment would have been possible.

Accordingly, it concluded that there had been no violation of Article 2.

Judges Tulkens and Popović expressed a joint dissenting opinion, which is annexed to the judgment.

The Court's judgments are accessible on its Internet site (<http://www.echr.coe.int>).

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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.