



## France fails to provide adequate medical care for anorexic prisoner

In today's Chamber judgment in the case of [Raffray Taddei v. France](#) (application no. 36435/07), which is not final<sup>1</sup>, the European Court of Human Rights held, unanimously, that there had been:

**A violation of Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights.**

The case concerned the question whether a prisoner suffering from a number of medical conditions including anorexia could be kept in prison despite her state of health, and also whether she received appropriate medical care.

### Principal facts

The applicant, Virginie Raffray Taddei, is a French national who was born in 1962 and is currently in prison in Roanne (France). She is serving various sentences handed down between 1997 and 2007, in particular for embezzlement, forgery of cheques, handling stolen goods and theft (her criminal record mentions 20 convictions since 1994).

She has regularly filed applications for deferment of sentence and/or release on licence on medical grounds, alleging serious health problems. Forensic medical examinations cast doubt on some of her claims but clearly showed that she was suffering from a number of conditions, including serious asthma and chronic respiratory insufficiency, anorexia and Munchausen's syndrome (a psychiatric disorder characterised by the need to simulate an illness).

The medical experts considered whether it was possible to keep Ms Raffray Taddei in prison in view of her state of health. On 3 March 2008 one expert concluded that her condition was incompatible with detention in view of the "worsening of [her] general state", while a month earlier a doctor had requested supplementary examinations concerning her "heavy medical history before determining the possibilities of imprisonment". In April 2008 a hospital treatment record indicated that her "conditions [were] numerous and inter-connected" and that "to keep her in prison, in her present condition, would in principle be deleterious". In the summer of 2008 two experts found, however, that her state of health was compatible with detention. A certificate of February 2009 concluded that "it was desirable to envisage possible alternatives to imprisonment in view ... of the lack of adapted placement for the applicant". In March 2009 an expert stated that "the prisoner's state [was] not ... strictly speaking compatible with ordinary detention or hospital confinement", noted her "precarious state" and concluded that "a return to ordinary detention" was at that time to be "ruled out". He

<sup>1</sup> 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)

further took the view that her “respiratory and metabolic disorders (under-nutrition) [were] worrying and require[d] specialised treatment in a hospital nutrition facility. Another expert in March 2009 found that the applicant’s state of health was “compatible in the long term with continued detention” but that “the applicant nevertheless require[d] appropriate reinstitution of nutrition”. In April 2009 a psychiatric expert stated that Ms Raffray Taddei’s condition required specialised supervision for the treatment of her anorexia and Munchausen’s syndrome. The need for such treatment was confirmed by a psychiatrist in Roanne assigned to the applicant and by the [Inspector-General of Custodial Facilities](#), in December 2009 and March 2010.

A number of medical experts also pointed out that the applicant’s imprisonment away from her family in Corsica (she was imprisoned from 1998 onwards in Rennes, Fresnes and then Roanne) was psychologically problematic for her, and that her refusal to eat had started when she was transferred to Rennes.

As regards her respiratory problems, Ms Raffray Taddei was admitted to hospital on a number of occasions during severe episodes. She had regular medical supervision, medication, and could use an oxygen extractor.

Concerning her anorexia (her weight dropped from 54 kg in June 2008 to 35 kg in April 2009, and since then apparently to 30/31 kg according to the most recent indications), apart from a brief spell in the Fresnes Prison hospital, she was not receiving any specific treatment despite medical recommendations to that effect.

Lastly, on 19 May 2010 the post-sentencing division of the Lyon Court of Appeal upheld the refusal to release Ms Raffray Taddei on licence. Her imprisonment is continuing in the ordinary prison system and according to the Government she receives medical and psychological care on a weekly basis.

## Complaints, procedure and composition of the Court

Relying on Article 3, the applicant complained about her continuing detention and about a failure to provide her with appropriate treatment for her health problems.

The application was lodged with the European Court of Human Rights on 21 August 2007.

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

Peer **Lorenzen** (Denmark), *President*,  
Jean-Paul **Costa** (France),  
Karel **Jungwiert** (the Czech Republic),  
Rait **Maruste** (Estonia),  
Mark **Villiger** (Liechtenstein),  
Isabelle **Berro-Lefèvre** (Monaco),  
Ganna **Yudkivska** (Ukraine), *Judges*,

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

## Decision of the Court

### Continuing detention

The Court observed that Ms Raffray Taddei had, on a number of occasions, requested the deferment of her sentence on medical grounds, but had not argued that her state of health was “incompatible in the long term with [ordinary] detention”. Moreover, at no

time had the requisite conditions under French law been fulfilled such as to establish that her continuing detention was precluded for health reasons (i.e. two concurring opinions by medical experts to the effect that detention was impossible or, according to the most recent statutory provisions, an expert's report indicating a life-threatening medical condition).

The Court could not therefore conclude that the applicant's continuing detention was, in itself, contrary to Article 3.

### **Allegedly insufficient care**

The Court had to examine whether Ms Raffray Taddei – who was certified as suffering at least from severe respiratory problems, anorexia and Munchausen's syndrome – had been receiving appropriate medical care. A lack of such care might constitute treatment in breach of Article 3.

As regards the applicant's respiratory problems, the Court noted that she had been provided with hospital treatment, care and regular medical supervision (in particular at Fresnes Prison). It found that the authorities had not failed in their duty to treat her respiratory disorders.

Concerning the applicant's anorexia, by contrast, the Court observed that while it had been initially treated at the Fresnes Prison hospital, the illness had nevertheless not been brought under control, especially because of the failure to find her an "adapted placement". Confronted with her severe under-nutrition, the doctors had indicated in March-April 2009 that reinstitution of nutrition was urgent and recommended that she be admitted to a specialised service, providing psychotherapy for the treatment of the related Munchausen's syndrome. However, none of those measures recommended by doctors had been followed up. On the contrary, Ms Raffray Taddei had been returned to ordinary detention in June 2009 at a critical point in the development of her illness, and since then her state of health had been worsening, with her doctor in Roanne indicating that "medical supervision in a specialised environment [was] justified". The Court was struck by the contradiction between the care recommended by the doctors and the response of the national authorities, which had failed to consider an alternative to imprisonment that could have reconciled the general interest and the improvement of the applicant's state of health.

The Court further noted that it did not have to decide *in abstracto* how the post-sentencing judge should have responded to Ms Raffray Taddei's request for release, but it was clear that the repeated recommendation of hospital treatment in a specialised environment had not been taken into account by the judge, who had merely noted that the applicant had failed to make a real effort to reintegrate socially. In the Court's opinion, that was a harsh requirement in view of the applicant's mental and physical state and, as a result, there had been no examination of the possibilities of adapted treatment.

Ms Raffray Taddei had thus been transferred to an institution which did not appear to have the facilities necessary for the proper treatment of her illness.

Moreover, that transfer had had the effect of placing her a long way from her home and her children, regardless of the fact that the doctors had noted that she was distressed by the distance, which was one of the causes of her anorexia.

In addition, the Court noted that there had been long and inappropriate procedural delays, involving the examination of a life-threatening condition or a state of health that was incompatible with detention (in particular, the applicant had requested that her

sentence be postponed in March 2008 and had not obtained a final decision on that question until October 2009).

The Court concluded that the failure by the national authorities sufficiently to take into account the need for specialised care in an adapted facility, as required by Ms Raffray Taddei's state of health, combined with her transfers, despite her particular vulnerability and with the prolonged uncertainty following her requests for deferment, were capable of causing her distress that exceeded the unavoidable level of suffering inherent in detention.

The Court therefore found, unanimously, that there had been a violation of Article 3.

#### Article 41

As Ms Raffray Taddei had not submitted any claim for just satisfaction, the Court made no award under that head.

*The judgment is available only in French.*

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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.