EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

SECOND SECTION

DECISION

Application no. 8284/22
Harun AĞSAKALLI
against Türkiye

The European Court of Human Rights (Second Section), sitting on 9 September 2025 as a Committee composed of:

Tim Eicke*, President*,
Jovan Ilievski,
Oddný Mjöll Arnardóttir*, judges*,
and Dorothee von Arnim, *Deputy Section Registrar,*

Having regard to:

the application (no. 8284/22) against the Republic of Türkiye lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 12 January 2022 by a Turkish national, Mr Harun Ağsakallı ("the applicant"), who was born in 1976, is detained in Söke and was represented by Ms B. Has, a lawyer practising in Balıkesir;

the decision to give notice of the application to the Turkish Government ("the Government"), represented by their Agent at the time, Mr Hacı Ali Açıkgül, former Head of the Department of Human Rights of the Ministry of Justice of the Republic of Türkiye;

the Government's observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns an alleged failure by the prison authorities to provide the applicant with appropriate dental care. He relied on Article 3 of the Convention.

2. At the time of the events giving rise to the application, the applicant was detained at Söke T-Type Prison.

3. According to a circular issued by the Ministry of Health on 17 March 2020, due to the COVID-19 pandemic and with the aim of preventing its

spread, a series of precautionary decisions had been taken by the Ministry regarding how medical procedures were to be carried out across the country for the entire population. Among these temporary measures was the postponement, to the extent possible, of non-emergency dental procedures. Emergency and essential dental services were defined as the treatment of serious oral health issues, such as dental diseases causing severe toothache, and life-threatening or uncontrolled dental bleeding. Treatments for symptoms not causing severe pain, such as tooth decay, were postponed to a period when the COVID-19 outbreak had subsided.

4. On 18 August 2020 the applicant underwent a dental examination at the prison. The dentist reported that one of his wisdom teeth had a cavity caused by decay, requiring a dental filling, and put his name on the waiting list for that procedure, informing him that an appointment would be scheduled at a later date. On 6 October 2020 the applicant was examined again. The dentist noted that he was asymptomatic.

5. On 11 November 2020 the applicant underwent another dental examination. The dentist stated that she would be unable to restore his tooth with a dental filling at that time, since the applicant's situation did not fall within the scope of emergency dental practices permitted under COVID-19 measures (see paragraph 3 above). The prison dentist stated that she could, however, extract the tooth. The applicant did not give his consent to the proposed procedure, stating that he did not want to have his tooth extracted when it was possible to have a filling. On 11 and 12 November 2020 the applicant submitted two petitions to the prison administration explaining his situation and requesting a filling for his decayed tooth.

6. On 14 December 2020 the applicant submitted a petition to the Söke enforcement judge, stating that he had not received a response from the prison administration and reiterating his request for medical assistance. On 21 January 2021 the enforcement judge rejected his request, after having gathered information from the prison administration concerning the applicant's dental care. The judge stated that all non-emergency dental practices had been postponed in accordance with a circular issued by the Ministry of Health, and that while the applicant had been offered an extraction instead, he had refused that procedure. The judge further emphasised that in accordance with new COVID-19 measures, non-emergency procedures were recommencing, and that the applicant would have the opportunity to receive the treatment he had requested in his turn. On 24 February 2021 the Söke Assize Court rejected an objection lodged by the applicant against that decision.

7. According to the information submitted by the Government, the applicant did not request a referral to a dentist until the following examination on 23 November 2021, during which the dentist found a vertical fracture in his tooth and considered that a filling was no longer an appropriate treatment and that the tooth would need to be extracted. The applicant once again

refused an extraction. On 1 December 2021 he was transferred to the Söke Oral and Dental Care Centre ("the dental hospital") for a dental examination, where another dentist recommended that his tooth be extracted. The applicant refused an extraction and stated that he would have it done if his condition deteriorated.

8. The applicant lodged an individual application, complaining of a violation of the prohibition of ill-treatment on account of the authorities' alleged failure to provide him with adequate dental care. On 29 December 2021 the Constitutional Court rejected his application as being manifestly ill-founded.

9. According to the medical records drawn up by the dentist at the prison, the applicant was examined on 21 January 2022, 15 February 2022 and 23 March 2022. He further refused an extraction of his tooth on those occasions. The dentist noted that the applicant had stated that he would request an extraction should he start to have symptoms. On 13 May 2022 the applicant requested another dental examination. He was then transferred to the Söke dental hospital, where his decayed tooth was extracted.

10. The applicant argued that the refusal to provide him with dental care tailored to his medical needs had caused him suffering, in violation of Article 3 of the Convention.

THE COURT'S ASSESSMENT

11. The Government argued that the applicant had received the necessary dental care throughout his detention. He had been examined by the prison dentist on seventeen occasions and had been transferred to a dental hospital seven times. He had also received two fillings in other teeth and had undergone dental scaling as part of his dental care. They further emphasised that the initial delay regarding the provision of a dental filling had been on account of COVID-19 measures, which had provided for the postponement of all non-emergency dental practices.

12. The applicant did not respond to the Government's submissions within the permitted time-limit, yet maintained that he still wished to pursue his application.

13. The Court notes that the general principles concerning the national authorities' obligation to protect the health of persons deprived of their liberty and to monitor and provide appropriate medical care have been summarised in *Kudła v. Poland* ([GC], no. 30210/96, §§ 91-94, ECHR 2000-I), and *Rooman v. Belgium* ([GC], no. 18052/11, §§ 143-148, 31 January 2019).

14. In the present case, the Court firstly notes that the decay in the applicant's wisdom tooth was diagnosed on 18 August 2020 and he was placed on the waiting list for a dental filling. Following a further examination on 11 November 2020, it was noted that a dental filling could not be provided at that time on account of the COVID-19 measures in place since 17 March

2020, as the situation of the applicant, who had been found to be asymptomatic, was not a permitted emergency measure at that moment, but that the tooth could be extracted. The applicant refused an extraction. In the absence of any request by the applicant for a further examination, the following examination was carried out on 23 November 2021, that is, one year later. Although the dentist carrying out that examination, as well as the other dentists in the subsequent four examinations stated that the tooth needed to be extracted, the applicant refused that procedure, noting that he would agree to it if he started to show symptoms (see paragraphs 7 and 9 above). The tooth was removed on 13 May 2022 on the applicant's request.

15. In view of these findings, the Court observes that the applicant was regularly examined by a dentist throughout his detention. When his preferred treatment of dental filling could not be carried out due to the COVID-19 measures in place at the time, he was provided with an alternative form of treatment then available, which later became the only appropriate treatment for the dental condition at issue. While the Court acknowledges that a certain delay had occurred in the applicant's treatment, it points out that for a medical treatment provided within prison facilities to be appropriate, the treatment should be at a level comparable to that which the State authorities have committed themselves to provide to the population as a whole (see *Rooman*, cited above, § 147). In the present case, the Court observes that the delays in the applicant's treatment were caused by the COVID-19 measures, which affected the provision of health services to the entire population, including prisoners. Therefore, it is not possible for the Court to conclude that the dental care which the applicant received had been delayed arbitrarily or resulted in the applicant receiving a treatment at a level lower than that provided to the rest of the population.

16. Furthermore, the Court notes that when the extraction of his tooth was recommended to the applicant, he stated that he would agree to it if and when he had symptoms. The dentist who carried out an examination in January 2022 also noted that he was asymptomatic. Considering the repeated findings of the prison dentist that the applicant had been asymptomatic, as well as the applicant's own statements to the effect that he would ask for an extraction once he started having symptoms (see paragraphs 7 and 9 above), the Court cannot discern from the evidence before it that the applicant suffered any serious issues related to his tooth until the moment he decided to have his tooth extracted on 13 May 2022. The Court cannot therefore establish that the delay or the refusal to provide a dental filling, as opposed to an extraction, had a considerable impact on the applicant's health or well-being.

17. Accordingly, the Court concludes that the applicant was able to access a dentist at the prison, was transferred to a dental hospital when necessary, and was provided with the necessary treatment for his dental issues.

18. It follows that the applicant's complaint about the alleged lack of access to appropriate dental care is manifestly ill-founded and must be rejected pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 2 October 2025.

Dorothee von Arnim Deputy Registrar	Tim Eicke President