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

SECOND SECTION

DECISION

Application no. 40924/19
Ali TAŞ
against Türkiye

The European Court of Human Rights (Second Section), sitting on 1 July 2025 as a Committee composed of:

Tim Eicke*, President*,
Jovan Ilievski,
Gediminas Sagatys*, judges*,

and Dorothee von Arnim, *Deputy Section Registrar,*

Having regard to:

the application (no. 40924/19) 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 22 July 2019 by a Turkish national, Mr Ali Taş ("the applicant"), who was born in 1969 and lives in İzmir;

the decision to give notice of the complaint concerning Article 3 of the Convention 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, and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The application concerns the prison authorities' alleged refusal to provide the applicant with certain medical items prescribed by a doctor, which, according to the applicant, was in violation of Article 3 of the Convention.

2. At the time of the events, the applicant was detained in İzmir F-Type Prison for his alleged membership of an organisation described by the

Turkish authorities as the "Fetullahist Terrorist Organisation/Parallel State Structure".

3. On 4 December 2017 the applicant underwent a medical examination at a public hospital in İzmir. A medical report drawn up following that examination recommended the use of a heater for his knees, a corset to relieve his sciatica and herniated lumbar disc, and an orthopaedic pillow. A heater was delivered to the applicant on 12 December 2017 upon his request.

4. On 2 February 2018 the applicant submitted a petition to the prison administration, stating that he had requested the relevant medical equipment from the administration by a petition dated 7 December 2017, and that he had not received any responses in the two months following his request. He asked about the outcome of his petition and requested the authorities to allow his family to bring the necessary equipment, as it had not been provided to him by the prison authorities.

5. On 6 February 2018 the applicant lodged a complaint with the İzmir enforcement judge, stating that the prison authorities had disregarded his petitions and requesting, in general terms, that the enforcement judge remedy the violations of his rights.

6. On 14 February 2018 the applicant submitted a new petition to the prison administration, requesting them to procure the medical equipment prescribed by the doctor. On 16 February 2018 the prison administration procured an orthopaedic pillow and a corset and delivered them to the applicant.

7. On 19 February 2018 the İzmir enforcement judge rejected the applicant's request, stating that his petition of 2 February 2018 concerned his request from the prison administration to allow his family to provide him with the relevant medical equipment, and that such a method was not foreseen by the relevant regulations which required that medical equipment prescribed by a doctor should be requested from the prison administration. The judge did not address in any way the applicant's claim that he had actually lodged such a petition on 7 December 2017. He further found that, in line with the relevant regulations, there did not exist any obstacles for the applicant to request the procurement of the medical equipment from the prison administration.

8. On 28 February 2018 the İzmir Assize Court upheld that decision.

9. On 10 April 2019 the Constitutional Court dismissed the applicant's individual application as being manifestly ill-founded.

10. The applicant argued that the failure of the prison authorities to provide him with an orthopaedic pillow and a corset, which had been prescribed by a doctor, constituted treatment contrary to Article 3 of the Convention.

THE COURT'S ASSESSMENT

11. The Government contested the applicant's allegations, arguing that the application should be declared inadmissible for abuse of the right of individual application. They submitted that in his application form, the applicant had failed to inform the Court that he had already received the medical equipment in question before lodging the present application, a fact essential for the examination of the case. In that regard, they provided the Court with a document signed by the applicant, stating that he had received the items concerned. Alternatively, they argued that the application was manifestly ill-founded as the applicant had been provided with the necessary material and as there was nothing in the case file to indicate that he had suffered from any health issues as a result of the alleged delay in their procurement.

12. The applicant argued that the prison authorities had failed to respond to his petition of 7 December 2017. He did not challenge the Government's submissions regarding the delivery of the medical equipment to him on 16 February 2018.

13. The Court will not assess whether the applicant has abused the right of individual application for the purposes of Article 35 § 3 (a) of the Convention, as it considers that in any event the application should be rejected for the following reasons.

14. The Court reiterates that ill-treatment must attain a minimum level of severity if it is to fall within the scope of Article 3. The assessment of this minimum is relative; it depends on all the circumstances of the case, such as the duration of the treatment, its physical and mental effects and, in some cases, the sex, age and state of health of the victim (see, among other authorities, *Muršić v. Croatia* [GC], no. 7334/13, § 97, 20 October 2016).

15. The Court also refers to *Kudła v. Poland* ([GC], no. 30210/96, §§ 91-94, ECHR 2000-XI), and *Valašinas v. Lithuania* (no. 44558/98, § 102, ECHR 2001-VIII) with regard to the general principles concerning the national authorities' obligations to protect the health of persons deprived of their liberty and to monitor and provide appropriate medical care. In particular, the State must ensure that a person is detained in conditions which are compatible with respect for his human dignity, that the manner and method of the execution of the measure do not subject him to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention and that, given the practical demands of imprisonment, his health and well-being are adequately secured (ibid.).

16. In the present case, the Court notes that the applicant failed to demonstrate that he submitted a petition on 7 December 2017, requesting the prison administration to procure him the relevant medical equipment. While he provided the Court with a number of petitions in which he had asked the prison administration about the outcome of his petition of

7 December 2017, he did not submit that petition itself or any corroborating evidence to establish that it had been submitted to the prison administration.

17. The Court further notes that once the applicant submitted a petition to the prison administration on 14 February 2018, in line with the relevant regulations concerning the procurement of medical equipment in prisons, an orthopaedic pillow and a corset were procured and delivered to him on 16 February 2018, that is, only within two days.

18. Even assuming that the applicant submitted a petition to the prison authorities on 7 December 2017 and requested the relevant medical equipment in line with the relevant regulations, the Court cannot but note that he was provided with the prescribed medical equipment within a period of two months and ten days, which cannot be considered excessively lengthy in view of the nature of the material in question. In that regard, the applicant did not substantiate, notably by providing the Court with medical reports, that he experienced physical or psychological suffering attaining the threshold so as to fall within the scope of Article 3 due to that delay.

19. In light of the foregoing, the Court cannot conclude that the applicant was subjected to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention or that the prison administration neglected their obligation to protect his health and well-being.

20. It follows that the application is manifestly ill-founded and must be dismissed under 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 28 August 2025.

Dorothee von Arnim Deputy Registrar	Tim Eicke President