



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

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FOURTH SECTION

Application no. 51781/22
Nermin KALKAN
against Denmark
lodged on 3 November 2022
communicated on 24 January 2023

SUBJECT MATTER OF THE CASE

On 11 January 2011 the applicant's son was restrained in prison in a face-down prone position (*brystvendt benlås*) for several minutes, following which he suffered a heart attack. He died in hospital a few days later. The applicant initiated compensation proceedings against the Danish Prison Service in vain. By a judgment of 2 November 2021, which became final on 4 July 2022, the High Court dismissed the applicant's complaints under Articles 2 and 3 of the Convention finding it established, among other things, that the Danish Prison Service had sufficient information and training, and that they had complied with the relevant instructions when using the face-down prone position against the applicant's son, notably that no pressure must be put on the person's back. Moreover, the autopsy report did not conclude that there had been a causal link between the force used and the cause of death, although it could not be ruled out either that it had had an impact.

The applicant complains under Articles 2 and 3 of the Convention.

QUESTIONS TO THE PARTIES

1. Was the applicant's son's right to life, ensured by Article 2 of the Convention, violated in the present case (see for example, *Velikova v. Bulgaria*, no. 41488/98, ECHR 2000-VI)?

2. In particular, did the applicant's son's death result from a use of force which was absolutely necessary for the purposes of paragraph 2 of this Article (see, among others, *Tekin and Arslan v. Belgium*, no. 37795/13, 5 September 2017)?

3. Was the applicant's son subjected to inhuman or degrading treatment or punishment, in breach of Article 3 of the Convention (see, *inter alia*, *Bouyid v. Belgium* [GC], no. 23380/09, ECHR 2015)?