

Ankara Bar Association , TOMAK

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Subject: Ankara Bar Association TOMAK Written Information Submission to the 57th UN CAT Turkey Session, April-May 2016, Geneva

1-) Presentation of the Organization: Ankara Bar Association TOMAK (Committee of Lawyers for the Intervention to Social Incidents) is a registered body before the Ankara Bar Association since 2013. The main activity of the committee is to provide free legal aid to citizens of Turkey whose right to protest is violated by the state authorities or third parties.

2-) List of Cases and Incidents: In relation to article 19 of the Convention Against Torture (CAT), we would like to raise these four torture and ill-treatment related cases and incidents that were reported by our appointed lawyers within 2016.

In Relation to Article 2 and 12 of the CAT:

I- Name of the victim : C.G. (the victim's consent is not obtained in terms of making public his full name and surname)

Date and place of the incident: 15.01.2016; the corner of Yüksel and Konur Street, Kızılay, Ankara

Name of the appointed lawyer: Ms. Nihan ERDOĞAN

Summary of the incident: C.G is a disabled person who was assigned at the day of the incident in a stand of a syndicate which has aimed to raise money for the people who could not go out due to an illegal administrative decision of the State party in eastern part of Turkey, namely in Sur and Silopi was taken into custody and handcuffed by the police. C.G actually became permanently disabled right after 10th October 2015 bombing in Ankara and he can walk only with crutches.



C.İ, a witness of the incident who was also taken into custody with C.G stated that there were 15-20 undercover police officers and around 30 riot squads at the moment of detention but they handcuffed them despite the presence of these figures.

Moreover, we reported that the doctor who had examined C.G did not mention in his issued health report any evidence of torture and ill treatment although C.G showed the doctor handcuff traces on his wrists. Plus, we noticed that the doctor did not question and reflect on psychological consequences of being handcuffed in his health report.

Lastly, we would like to mention that the incident has been still investigated by the police but not by the prosecutor office yet. That is why we cannot give the number of investigation therein.

II- Name of the victim: F.B (the victim's consent is not obtained in terms of making public his full name and surname)

Date and place of the incident: 17.02.2016; in front of *Cengiz* Holding Company, Ankara

Name of the appointed lawyer: Ms. Süheyla OĞUZ

Summary of the Incident: A group of people who wanted to announce a press briefing in order to protest *Cengiz* Holding Company that was about to conduct mining activities damaging environment and nature in Artvin, Kafkasör highland, Cerratepe region were not allowed to do so and thereupon they wanted to organize a sit-in protest in front of the Holding Company. F.B, one of these protesters hit and was detained by the police. In the police car, a police hit his biceps and he broke his arm. F.B requested police officers to go to a hospital for seeking medical help however police made him waited for a long time with other three protesters in the police car. F.B, who was suffering from terrible pain asked police officers many times to call an ambulance or to take him urgently to a hospital. After approximately two hours, police took him to Gazi Mustafa Kemal Hospital and made him waited there for about 20 minutes with the pretext of registration process. Even, two other protesters had sent to the doctor for the issuance of a medical report before F.B. At the end, F.B. could not stand up anymore and tried to talk to police but the police officers had insulted him such as "*shut up, you scumbag!*".

At the end of the examination of the doctor, he was transferred to Gazi University Hospital due to the severity of his situation. There, police officers who were told by doctors that F.B had had to undergo an operation left F.B alone and quit the hospital.

The appointed lawyer, Ms. Süheyla Oğuz reported that when she arrived to the hospital F.B was alone and police did alert neither his family nor his relatives. There, F.B told Ms. Oğuz that police had not informed his parent although he asked them to do so. Even, doctors had not helped

him in informing his family and relatives. Ms. Oğuz reported that she had helped him in calling his mother via her own private cellphone.

After F.B. received sufficient treatment at the hospital, Ms. Oğuz accompanied him to testify in Ankara General Directorate of Security Affairs. In his statement, he said that he wanted to lodge a criminal complaint against police officers on the ground of torture and ill treatment depending on the health report issued by the Gazi University Hospital wherein stated that "on 17.02.2016, patient F.B first seek for help in the Gazi Mustafa Kemal Hospital with the complaint of pain and movement restriction in his left arm. At the end of medical workup and examination, it is diagnosed as left 'humerus diaphysis fracture' and he was transferred to our hospital. We have diagnosed the same and hospitalized him for the operation. He has pain, swelling, sensitivity, deformity, nvd and rom in his left arm."

Lastly, we would like to mention that the incident has been still investigated by the police but not by the prosecutor office yet. That is why we cannot give the number of investigation therein.

In Relation to Article 2, 12, 13 and 14 of the CAT:

III- Name of the victims: M.D.T. (age 14), O.P. (17), L.T. (16), E.Ş. (16), S.S.M. (15), K.Ş.M (16), Ö.K. (14), B.B. (16) / 8 children in total

Date and place of the incident: 23.01.2015, around 16.00 p.m.; Yüksel Street, Ankara

Name of the Appointed Lawyer: Ms. Deniz AKSOY

Summary of the incident: A few child members of Dev-Lis (Revolutionist High School Students' Union) were protesting deaths of many children because of the state violence in Turkey at the day when they would get their schools' semester report. While they were using their right to make peaceful demonstration they had been subjected to sudden and illegal attacks of the riot squad. Therefore, children's right to protest was violated and they had been taken into custody by being dragged on the ground. Although handcuffing children is prohibited by law in Turkish legislation, these children had been handcuffed and subjected to ill treatment. Victim children had continued to face with this type of violence, threats and physical/psychological torture by the police in the police car wherein they were held under unlawful custody. All these actions are verified by the police camera videos. There are concrete medical statements in the Forensic Medicine reports that some of the children were injured.

Then, an investigation was initiated against children because their act was considered as a contradiction to the Law on Meetings and Demonstration (Law no: 2911), however the prosecutor gave a verdict of non-prosecution on the ground that there is nothing illegal in their actions (For more information: Ankara Chief Public Prosecutor's Office, investigation number: 2015/12825)



On the other hand, we, appointed lawyers of Ankara Bar Association deposited a criminal complaint on behalf of children against the police officers that handcuffed minors, took them unlawfully into custody, tortured and ill-treated them. However, the public prosecutor decided not to file a criminal lawsuit against police officers without questioning any police officers on the ground that *“these officers were not in a position to realize that they are children, so there is no crime...”* (For more information: Ankara Chief Public Prosecutor’s Office, investigation number: 2015/106826). Our objection against this decision was rejected by Ankara 2nd Criminal Court of Peace hence the decision became final.

In January 2016, since the police officers whose acts of unlawful detention and torture remained unpunished were regarded as being protected by the State, appointed lawyers of two children lodged an individual application to the Court of Constitution on the ground of *“violation of the right to legal remedies, right to an effective remedy, infringement of the right to a fair trial and the prohibition of torture”*. The application is still pending before the Court of Constitution.

IV- Name of the Victims: Ö.U.T. (age 16), E.Ç. (16), M.T. (16), D.Ç. (17), S.S.Y. (17), A.N.M. (16), U.Y.Y. (16), D.Ş.(17), U.D.Y. (17) / 9 children in total

Date and place of the incident: 16.06.2015, around 13.00 p.m.; in front of Turkish Presidential Palace, Beştepe, Ankara

Name of the Appointed Lawyer: Ms. Deniz AKSOY

Summary of the Incident: A few child members of Liseli Genç Umut (High School Students’ Young Hope) came together to commemorate and protest for the 2nd anniversary of Berkin Elvan’s death, a 14-year-old boy slaughtered by a tear gas bullet of riot squad during Gezi Park protests. They went to the avenue at the front of Turkish Presidential Palace and were suddenly attacked by the police while they were performing their right to peaceful meeting and demonstration. Therefore, children’s right to protest was violated and they had been taken into custody by being dragged on the ground and putting their lives in danger in flowing traffic. Although handcuffing children is prohibited by law in Turkish legislation, these children had been handcuffed and subjected to ill treatment. Victim children had continued to face with this type of violence, threats and physical/psychological torture by the police in the police car wherein they were held under unlawful custody. All these actions are verified by the police camera videos. There are concrete medical statements in the Forensic Medicine reports that some of the children were injured.

Then, an investigation was initiated against children because their act was considered as a contradiction to Law on Meeting and Demonstration (Law no: 2911) and the public prosecutor filed a criminal lawsuit against children before the relevant Ankara Juvenile Court. The lawsuit is still pending.

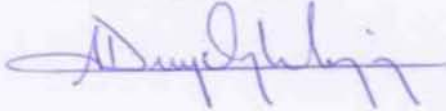


Upon complaints of children against torture and ill treatment of the police officers, the public prosecutor initiated an investigation however decided not to file a criminal lawsuit against police officers who handcuffed minors, took them unlawfully into custody, tortured and ill-treated them and put their lives in danger due to "lack of sufficient evidence" without having even questioned the suspects (For more information: Ankara Chief Public Prosecutor's Office, investigation number: 2015/146478). The objection against this decision was rejected by Ankara 1st Criminal Court of Peace and hence the decision became final.

Please do not hesitate to contact us if you need further information on these reported incidents.

Kind Regards,

Deniz ÖZBİLGİN



Council Member, on behalf of all TOMAK (Committee of Lawyers for the Intervention to Social Incidents) Members