

## ANKARA BAR ASSOCIATION HUMAN RIGHTS CENTRE<sup>1-2</sup>

### REPORT ON THE ALLEGATIONS OF TORTURE AT THE ANTI-SMUGGLING BUREAU AND THE ANTI-TERRORISM BUREAU OF THE ANKARA PROVINCIAL GENERAL DIRECTORATE OF SECURITY

(20 DECEMBER 2019)

**Subject:** This hereby is the report on the interviews and investigations conducted by the Ankara Bar Association Human Rights Center regarding the allegations of torture at the Anti-Smuggling Bureau of the Ankara Provincial General Directorate of Security on 18 December 2019, and at the Anti-Terrorism Bureau of the mentioned Directorate on 19 December 2019.

#### STATEMENT OF FACTS:

On the matter of torture at the Anti-Smuggling Bureau of the Ankara Provincial General Directorate of Security, we were first informed on 18 December 2019 by one of our colleagues that his client had been unofficially taken to an “interview”, wherein he was subjected to torture and ill-treatment. Later on, the incident appeared in the media and became known to the public as well. Our colleagues at the Ankara Bar Association Human Rights Center have immediately been commissioned and they paid a visit to the Anti-Smuggling Bureau to meet the alleged victim to put his statements, requests and complaints on record. They have put the person’s account with regard to torture and ill-treatment in writing in the form of minutes. The detainee who was worried about his safety asked of our colleagues to visit him on a regular basis, as he thought he might be subjected to torture and ill-treatment again after their visit. Our colleagues from the Human Rights Center of our Bar Association have regularly visited the detainee.

Our colleagues from the Human Rights Center have met another detainee who was reportedly tortured on 19 December 2019 at the Anti-Smuggling Bureau of the Ankara Provincial General Directorate of Security, and his testimony regarding torture and ill-treatment was also put on record.

On 19 December 2019, one of our colleagues informed the Bar Association that her husband was taken into custody and when she went to see her husband, he told her that he has been unofficially taken to such an “interview” and was subjected to torture and ill-treatment therein. This incident has also been reported in the media, thus becoming publicized. So, some of our colleagues from the Ankara Bar Association Human Rights Center have been immediately commissioned and they paid a visit to the Anti-Terrorism Bureau of the Ankara Provincial General Directorate of Security to meet with the alleged victim to put his statements, requests and complaints on record. They put the person’s account with regard to torture and ill-treatment in writing in the form of minutes.

#### The Visit to the Anti-Smuggling Bureau and Unfolding Events

<sup>1</sup> This report was published in Turkish by the Human Rights Centre of Ankara Bar Association <https://twitter.com/ankarabarosuihm/status/1210646342286159872?s=20>

<sup>2</sup> Translation was published by parliamentarian Mr. Omer Faruk Gergerlioglu <https://www.omerfarukgergerlioglu.com/genel/the-unofficial-translation-of-the-report-of-the-ankara-bar-association-human-rights-center-on-the-allegations-of-torture-at-the-anti-smuggling-bureau-and-the-anti-terrorism-bureau-of-the-ankara-provin/13449/>

## Meeting with the Persons Reported to Have Been Subjected to Torture and Ill-Treatment

Our delegation members from the Human Rights Center had meetings with the persons who were reported to have been subjected to torture and ill-treatment. Their accounts were recorded in minutes and signed. (The identities of the interviewees are kept confidential in this report).

**The statements of the first detainee, also recorded in minutes, regarding allegations of torture and ill-treatment is as follows:** The interviewee stated that he was taken to “interviews” where he was forced to become a “confessor” by way of threats and insults. The detainee said that he was taken to such an “interview” twice and that his ward mates have also been “interviewed”.

The detainee said that he was first taken out of his ward on 18 December 2019 after the Dhuhur prayer and taken to the 5<sup>th</sup> floor of the same building, put into -according to his estimate- the third or the fourth room on the left, instructed by those in the room to take his clothes off, left only with his underpants, held there in fetal position for more than an hour, occasionally slapped in the face, punched in the head; while the torturers were saying “*Become a confessor, then we will reinstate you to your job, otherwise your wife will also be fired! You have kids [think about them]. If you don’t cooperate we will extend your custody for the third time and we will keep bringing you here every day and do the same things until you talk!*” The interviewee added that he was held in fetal position for 3 hours and subsequently the same individuals said to him: “*Think long and hard, come to your senses. We will be picking you up again at 12 am midnight.*”, and that a perpetrator with long hair threatened him by saying: “*I will throw you out of the window and say that you jumped [committed suicide]; you will perish.*”

The interviewee told that, afterwards, he was taken back to his ward, his lawyer arrived at around 20:00 and he told his lawyer what he was subjected to. After his lawyer’s departure and the Isha prayer, the interviewee was taken back again by the law enforcement agents to the fifth floor. There, one of the individuals in the room yelled at him, saying “*Did you make a complaint to the lawyer? You are advising other people as well, we hear everything*”. The interviewee was instructed to undress, this time including his underpants, was brought to fetal position, one of the perpetrators treaded on his right heel, another one kicked his right shoulder fiercely, punched hard at the back of his head a couple of times. The interviewee reported that there were two individuals in the room. One of them was a tall, dark-skinned person with a stubbly beard and long hair that was tied on the back. The interviewee said that this individual told him “He was also from Malatya” and that he was the person who tortured him the most. And the other individual was of medium height with a round face and lightly-grayed hair.

The interviewee stated that both perpetrators insulted and swore at him countless times, saying “*I will f..k your mom, I will f..k your wife. You are a traitor, you are a terrorist. We will f..k you. I will take you to all hospitals one by one and introduce you to everyone as a faggot. I will really f..k you if you don’t tell this to your lawyer also.*” The interviewee said that the torture went on continuously, he was constantly punched at the back of his head, and when the perpetrators paused swearing at him after another round of beating, they would say: “*Speak! Confess! [Otherwise] I will take you to jail personally and have you incarcerated for 15 years minimum!*” The interviewee stated that he was kept in fetal position all the time during the whole ordeal and that the severity of the strikes to his body were always such as to not leave any sign of battery. Afterwards, they got him dressed and seated on a chair, he was again hit on his head, one of the perpetrators slapped his face multiple times using both hands and said to him: “*I will extend the duration of your custody for a third time and make this place hell for you until you get out. So, I am giving you one last chance; go back to your ward, think hard and come to your senses. Come back here if you decide to speak*”. The interviewee also stated that he was video-recorded while he was naked and in fetal position.

The same interviewee reported that another person that stayed in the same ward with him told to him that he [was also taken to such an “interview” and] was stripped completely naked, one of the agents approached him from behind, forced him to bend over, saying “*I will f..k you here now. Oh, your anus is very hairy and dirty, but I will still f..k you*”.

The same interviewee reported that another ward mate told him he was not stripped naked, but he was beaten with kicks and smacks, and was subjected to heavy insults and swearing.

The same interviewee reported that another ward mate told him that he was smacked from wall to wall while being handcuffed behind the back, was subjected to heavy insults, was kept waiting and not allowed to go to the toilet for hours, and thus forced to urinate on himself twice. The interviewee stated that this person was taken for “interviews” for 3 or 4 times.

When asked about his requests, the interviewee said: “*I am asking that the Ankara Bar Association take on this matter and protect me; because they will do the same things again. They will even do more; when I first told what they did to my lawyer, they took me for a second time and tortured me worse than the first time, and implied that they will continue to do so. They might torture me again because I told you everything. Therefore I ask of you to come visit me on a regular basis.*”

**The statements of the second detainee, also recorded in minutes, regarding allegations of torture and ill-treatment is as follows:**

• Just as the first one, the second interviewee stated that he was taken to “interviews” where he was forced to become a “confessor” by way of threats and insults.

The interviewee told that they were given stale and insufficient food, there were times when they stayed as 21 people in a ward made for 5, they had to sleep on bare floor due to insufficient number of beds, the floor was cold and the number of blankets were not enough, he was denied his regular medication for four days despite his epilepsy, that he was also priorly taken to such “interviews” but hadn’t been subjected to ill-treatment before, but pressured a great deal to “confess”.

The interviewee said that he was taken to the 5<sup>th</sup> floor of the same building on 19 December 2019 at around 16:30 and was put in a room where there were five men, whom he described as:

- tall, brunet, bushy mustache, gray hair and medium weight;
- approximately 1.60m of height, blond, overweight;
- medium height, very long beard, wearing glasses;
- medium height, brunet, dark beard with mustache, dark hair;
- medium height, beard, blond, thin.

The detainee stated that the moment he stepped in the room, he was told to “Tell what you know.”, and when he asked what they wanted to learn, he was immediately severely insulted, and the one who swore at him was the first man he described [above]. Then, he was stripped completely naked and made to lay on the floor. At that point he told the perpetrators he suffered a paralysis on his left-hand side and also informed them of his other medical conditions. In return, they intentionally punched and kicked him on his left side. He told them that he had implants on the right side of his head, but they smacked him deliberately on that part of his head, in the meantime saying to one another “*Let’s f..k him now so he speaks*”. Then he was shown a list of names and was told to confess “that he knew those people and that they were affiliated with the

organization”, but he refused to do so and told them that he did not recognize the names. In response, he was threatened by: “You will be staying here at least for another 3 days; we will be seeing you again.” Then he was told to wear his clothes and was taken back to the ward by the thin, fair-skinned, blond man. The victim reported the ordeal lasted for three hours and added that four other people in his ward (indicating their names) were also taken upstairs one by one, and that whoever came back dropped themselves on the floor and cried, shut themselves off for a long time and subsequently said that they were subjected to the same treatment.

When asked about his requests, the interviewee said: “My request is to be visited at regular intervals. I ask of the Bar Association to follow up on this. The doctor is not fulfilling his duties.” The interviewee cried during the interview, which was observed by our delegate members and duly noted down in the report.

## **The Visit to the Anti-Terrorism Bureau and the Unfolding Events**

### **Meeting with the Person Reported to Have Been Subjected to Torture and Ill-Treatment**

Our delegation members from the Human Rights Center had a meeting with the person who were reported to have been subjected to torture and ill-treatment in a very small, glazed place that could be easily watched and heard from the outside (our colleagues were able to easily hear the conversations outside of the room). Moreover, law-enforcement officers were constantly walking around and waiting before the glass, one officer was incessantly standing on the outside of the glass watching the interview and the interviewee had to whisper when expressing himself. The interview was carried out under these conditions, and the account of the interviewee was recorded in minutes and undersigned together with the person exposed to torture and ill-treatment (The identity of the interviewee is kept confidential in this report).

**The statements of the detainee, also recorded in minutes, regarding allegations of torture and ill-treatment is as follows:**

The interviewee stated that he was taken to “interviews” where he was forced to become a “confessor” by way of threats and insults.

The interviewee told that during the house search, he was molested by Police Officer “I...” when he asked why the officer in question was present while female officers were searching a room where his wife’s underwear were. Afterwards, when they got in the car, that officer told him: ***“I didn’t say anything [back there] where your wife and mother were around, but I will f.ck you! Don’t forget my face, come to me again even after the tide turns.”***

The interviewee stated that they were taken together with seven persons to D Bureau Directorship for interrogations one by one toward the night of Wednesday (18.12.2019), that there were 7-8 people that interrogated him, that one of them was a bellied and portly man with goatee and long white hair tied at the back who repeatedly swore at him. He said that an empty [glass] sparkling water bottle and some olive-oil were placed in front of him, and that man, pointing at those, said to him: ***“I’ve prepared these for you; I will impale you. You bastard, I will f.ck you! We will release you tomorrow morning from here, it’s up to you where you go but we will take you again, and no one will know who has taken you. We have special interrogation methods, you must know of those.”*** threatening and torturing the interviewee this way.

The interviewee expressed that a lot of pressure was exerted on him at the D Bureau Directorship, being told that he was “just a little [insignificant] piece of shit”. He said that he was then brought out of the room into

the corridor and was forced to stand there on one foot for 1,5 hours in the presence of a police officer. Meanwhile, other people were brought into the interrogation room and he heard the shouting and swearing coming from the inside.

The interviewee said that he refused to “confess”, a police officer asked his colleagues “whether to put him in no. 2 or no. 3”, he was constantly being hustled and bustled, the food they were given was so bad that it was inedible, he stayed with 2 other roommates in a room only for 2, with one sleeping on the ground, and the others were also subjected to similar ill-treatment.

He added that when he was being taken back to his ward after the “interview”, it was ordered that he be taken with his hands cuffed behind the back.

The interviewee reported that the showers and restrooms were unusable and in terrible condition, he was threatened with his wife, the perpetrators attempted to also include his wife regarding the charge of being a member of a [terrorist] organization, and they threatened that he wouldn't be able to walk anymore after they were done with him [if he didn't cooperate].

When asked about his requests, the interviewee said: ***“I ask of the Bar Association to follow up on my case, to keep my identity anonymous and to be visited on a regular basis.”***

## **ASSESSMENTS**

The interviewed individuals stated that they were subjected to torture and ill-treatment.

Article 17/3 of the Constitution on prohibition of torture stipulates that: *“No one shall be subjected to torture or mal-treatment; no one shall be subjected to penalties or treatment incompatible with human dignity.”*

Article 3 of the ECHR states that: *“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”*

Article 1 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment states: *“For the purposes of this Convention, the term “torture” means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.*

*This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.”*

Torture and ill-treatment are thus prohibited by international and domestic norms.

Article 4 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is as follows: *“Each State Party shall ensure that all acts of torture are offences*

*under its criminal law. Likewise, attempts to commit torture and an act by any person which constitutes complicity or participation in torture shall be considered offences.*

*Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.”*

International norms stipulate that torture shall be defined as a crime and criminal sanctions should be applied. And Turkey is one of the state parties to the above-mentioned convention.

Article 94 of the Turkish Criminal Code is as follows: *“(1) Any public officer who causes severe bodily or mental pain, or loss of conscious or ability to act, or dishonors a person, is sentenced to imprisonment from three years to twelve years.”*

*(2) Offences shall be punished to imprisonment from 8 years to 15 years if committed against;*  
*a) a child, a person who is unable to defend himself physically or mentally or a pregnant woman,*  
*b) a lawyer or other public servants for their official duties.*

*(3) In case the act of offence is committed as sexual harassment, the offender shall be sentenced to a penalty of imprisonment for a term of 10 to 15 years.*

*(4) Any other person who participates in the commission of this offense shall be sentenced in a manner equivalent to the public officer. (*

*5) If the offense is committed by negligence, the punishment to be imposed shall not be reduced.”*

As per Turkish Criminal Code, the offence of torture entails criminal sanctions. In this respect, taking the above findings into account, an investigation should be launched immediately against those concerned. And if it is determined that the allegations are correct as a result of an investigation to be conducted in accordance with international standards, law enforcement personnel who have assaulted the physical and mental being of the suspects, first and foremost those who condoned or committed the crime of torture, should be identified and punished in a manner proportionate to their actions.

For this purpose; it is necessitated and required by law to carry out the following:• Considering that the law-enforcement officers assigned to conduct the proceedings might be the suspects of a possible investigation into torture and ill-treatment of the detainees, those officers should be removed from the investigation to prevent further acts of torture and ill-treatment and to ensure that the investigation is conducted properly. • In order to ensure that daily medical examinations are carried out in compliance with the İstanbul Protocol to which Turkey is party, the necessary directives should be given. • All suspects who are currently kept under the custody of the Anti-Smuggling Bureau and the Anti-Terrorism Bureau of the Ankara Provincial General Directorate Of Security should, without delay, be brought before a public prosecutor for their testimonies to be taken without waiting for the completion of the police interrogations. • Considering the possibility that the crime of torture has indeed been committed, an ex officio investigation should be launched, an effective and sufficient judicial investigation to establish the material truth and to identify the perpetrators should be conducted, particularly to collect evidence and prevent possible obfuscation of the evidence; members and units of the Provincial Gendarmerie Organization should be employed for this investigation, and members and units of the Police Force should not be directly deployed in this particular case, in compliance with article 160(2) and 154 of the Turkish Criminal Code No 5271. • All of the raw CCTV footage of relevant locations; starting with the places in different detention facilities where the suspects were held in Ankara Provincial General Directorate of Security, and all footage from the Anti-Smuggling and Anti-Terrorism Bureaus including those of the cameras overlooking the entrances and exits from all sides should immediately be collected in a manner conducive to enable the determination of the moments when the detained suspects

were taken for the “interviews” and the identification of all the law-enforcement officers of interest. It is important that this is done without delay, as it is known that previously such requests concerning allegations of battery and torture by law-enforcement agents against both lawyers and suspects were met with the response that all footage was deleted after being kept for 30 days. And, as disposing of the footage will clearly mean obfuscation of the evidence pertaining to the allegations of torture and ill-treatment, legal obligations to collect and secure all the evidence must be fulfilled. • Detection and identification procedures, in line with the descriptions of the interviewees about their torturers, should be made. • Considering that the law enforcement officers conducting the investigation may be the suspects of a possible investigation of torture and ill-treatment, the personnel involved in the said operations should be suspended until the investigation into the alleged torture and ill-treatment is completed. • Detention wards should be supervised; overcrowding and other custody conditions unfit for human dignity should be eradicated.

In this respect, we submit to the public that, if requested by the Ankara Chief Public Prosecutor’s Office, we are ready to submit the minutes and official records penned by our Bar Association Board and Center Members, and we will continue, as the Ankara Bar Association, our legal struggle in all areas to eradicate torture and ill-treatment. 20 December 2019

**ANKARA BAR ASSOCIATION HUMAN RIGHTS CENTER**