



*Project on Improving the Effectiveness of Investigation of Allegations of Ill-treatment and Combating Impunity*

## **Roundtable 4**

### **26 March 2019, Ankara**

**Judge House (Dikmen)**

**Subject:** Effective investigation of ill-treatment attributed to law-enforcement / security forces, penitentiary services: securing avenues (safeguards); interaction with the prosecution; disciplinary/administrative framework.

#### Topics

1. Coherence of different domestic legal frameworks and authorities in terms of interaction between the criminal, administrative and disciplinary areas; independence and thoroughness in effective investigation and special complaints (investigation) mechanisms or systems.
2. Domestic practices concerning the prohibition of ill-treatment and relevant international standards

#### Target Groups:

- **Law-enforcement /security forces from the Ministry of Interior (includes Gendarmery)**
- **Military authorities – Ministry of Defence**
- **Penitentiary services** from the Ministry of Justice
- **Prosecutors for the prisons**
- **Judges** from first instance criminal courts, appellate courts, the Court of Cassation, the Council of State and the Constitutional Court.
- **Inspectors** from the Council of Judges and Prosecutors
- **Inspectors** from the MoJ
- **Ombudsman and Human Rights and Equality Institution of Turkey**

Total number of participants: 45

Aims of the Roundtable are the following:

1. Discussing the similar decisions of the Constitutional Court, the Court of Cassation and Council of State, by comparing them with the case-law of the ECtHR;
2. Exchange of opinions concerning the application of the relevant case law of the ECtHR as to interaction of law-enforcement, security and military agencies/authorities and prosecution/judiciary in the effective investigation of alleged acts of ill treatment within criminal, disciplinary and administrative frameworks.
3. Determination of the problems arising from laws or practices in Turkey, and developing recommendations for the solution of these problems and sharing opinions and suggestions about the draft needs assessment / recommendations report being prepared by the experts in relation to the subject.



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# Agenda

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## Day 1 – Tuesday, 26 March 2019

### 09:00 Opening Remarks

- Özlem Demirel Cook, S. Project Officer, Council of Europe, Ankara
- Selim Doğanay, Head of the Human Rights Department, Ministry of Justice
- Michael Ingledow, Head, Council of Europe Ankara Programme Office

### 09:30- 10:30

**Plenary Session:** Presentations by experts about the ECtHR standards/other relevant standards and the national legal disciplinary/administrative framework concerning effective investigation of ill-treatment attributed to law-enforcement / security forces, penitentiary services.

#### Speakers:

**Eric Svanidze, “International Framework” UN, ECtHR and CPT Standards:** interaction of law-enforcement, security and military agencies/authorities and prosecution/judiciary in the effective investigation of alleged acts of ill treatment within criminal, disciplinary and administrative frameworks.(20 min)

**Dr. İmran Kürşad AĞCA, Ministry of Interior, Chief Inspector, “Domestic Practise and legal Framework** to strengthen effective investigation of ill-treatment in terms of interaction between the criminal, administrative and disciplinary areas. (20 min)

### 10:15-10:30 Questions and Answers

### 10:30-10:50 COFFEE BREAK

### 10:50 -13:00 Group Work: Examination of Judgments - 1

Participants will be divided into two groups, with each group being facilitated by an expert. Participants will examine **1 or 2 exemplary judgments** related the subjects. Both groups will focus on **the ECtHR judgments** against Turkey finding a violation. Findings will be compared during presentations between the groups.

#### Group 1: (Eric Svanidze-Moderator)

1. Violation- Taylan v. Turkey (Application No. 3201/09)
2. Violation-Tüzün v Turkey (Application No. 24164/07, 5/11/2013)



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**13:00-14:00 LUNCH**

**14:00-15:30**

**Group Work: Examination of Judgments - 2**

Each group will examine 1 or 2 other cases depends on timing and discussions. While Group 1 will focus on relevant judgment of the ECtHR against another country finding a violation, and the Group 2 will focus on the judgements of the Constitution Court finding violation.

**Group 2: (İlhan Üzülmöz-Moderator)**

1. Violation - Taylan v. Turkey (Application No. 3201/09)
2. Violation- Ahmet Akman v. Turkey (Application No. 33245/05)

**Group 1: Eric Svanidze-Moderator**

1. Foreign Case –Violation (ECtHR): Bekos and Koutropoulos v. Greece (Application no. 15250/02)
2. Foreign Case- Violation(ECtHR): Milic and Nikezic v. Montenegro (Applications nos. 54999/10 and 10609/11)

**Group 2: İlhan Üzülmöz-Moderator-**

1. **Violation (CC):** Deniz Yazıcı, Application No. 2013/6359
2. **Violation (CC) :** Yunus Kalkan, Application No. 2013/4383

**15:30 -15:45**

**COFFEE BREAK**

**15:45 -17:00**

**Group Work: Problems and Suggestions for Solutions**

Based on the cases that they have examined, each group will find 5 to 10 problems arising from legislation or practice and discuss suggestions for the solution of these problems.

**Assess shortcomings (if any) according to Article 3 in terms of:**

- Initiation of appropriate procedures/investigation
- Timeliness of engagement of competent (independent) authority
- Other requirements as to effectiveness of investigation in the context of interaction of the law-enforcement/detaining agencies and prosecution
- Coherence of criminal and disciplinary/administrative procedures.

**17:10-17:45**

**Plenary Session: Sharing the Results of Group Works and Remarks by Experts /Rapporteurs**



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A representative from each group will select a rapporteur to present the results of their group works **in 10 minutes** and there will be a discussion in plenary after each presentation. **10 minutes** will be allocated for the presentation of each group and the discussion.

The experts will share their brief remarks about the main issues addressed during the discussions about the topics on which they have made presentations. They will especially state their opinions concerning how these can be involved in the needs analysis / recommendations report to be prepared. Following these discussions, representatives of the Council of Europe and the Ministry of Justice will close the roundtable meeting.

**17:45**

**CLOSING REMARKS AND END OF THE DAY**