



Roundtable 2

20 December 2018, İstanbul

Renaissance Istanbul Polat Bosphorus Hotel,

Subject: Medical and forensic expert reports and investigation of ill-treatment allegations

Topics

1. Access to a doctor as safeguard against ill-treatment and its importance for securing eventual investigation of relevant cases/allegations
2. Documenting and reporting medical evidence and effective investigation of ill-treatment

Target Groups:

- **Doctors (physicians and forensic doctors)** both working for the National Forensic Institute and Ministry of Health,
- **Ministry of Health representatives** in charge of ensuring/applying framework of screening of detainees (during police custody); admission and medical treatment of prisoners (convicted + remand, in particular)
- **Prosecutors and judges** (including Constitutional Court and Court of Cassation),
- **Medical staff** based in some prisons where the medical units/planted medical professionals (MoJ said it is possible – i.e. 2 staff can be invited from Silivri Prison?)
- **Representatives of some civil society institutions** (i.e. Medical Association, IHOP, Human Rights Foundation, Association of Forensic Experts, representatives of the local bar association in human rights centres)

Total number of participants: 40

Aims of the Roundtable are the following:

1. Discussing the similar decisions of the Constitutional Court and the Court of Cassation, 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 and the Turkish High Judiciary in the investigation of alleged acts of ill treatment especially in access to a doctor as safeguard against ill-treatment and its importance for securing eventual investigation of relevant cases/allegation and documenting and reporting medical evidence and effective investigation of ill-treatment
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.



Agenda

20 December 2018, İstanbul

Day 1 - Thursday, 20 December 2018

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 framework concerning access to a doctor as safeguard against ill-treatment and its importance for securing eventual investigation of relevant cases/allegations and medical evidence and effective investigation of ill-treatment.

Speakers:

Eric Svanidze, “ECtHR and CPT Standards concerning access to a doctor as safeguard against ill-treatment and its importance for securing eventual investigation of relevant cases/allegations, documenting and reporting medical evidence and effective investigation of ill-treatment (20 min)

Dr Ömer Müslümanoğlu, Forensic Doctor (MD), Vice-President, Forensic Institution of Turkey, MoJ, “Relevant National Legislation and National and International Human Rights Standards”: Recovering and processing medical evidence and effective investigation of ill-treatment and role of the medical doctors (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. One of the judgments will belong to the Constitutional Court, and the other one will be an ECtHR judgment against Turkey finding a violation and no violation. **The first group will focus more on the ECtHR judgments while the second group will focus more on the judgements of the Constitution Court.**



Group 1: (Eric Svanidze-Moderator)

1. **Violation: CASE OF SALMANOĞLU AND POLATTAŞ v. TURKEY**
(Application no. 15828/03)
2. **No-Violation: CASE OF DİLEK ASLAN v. TURKEY** (Application no. 34364/08)

Group 2: (İlhan Üzülmmez-Moderator)

1. **Violation : SINAN IŞIK JUDGMENT**, app. No: 2013/2482 – (Constitution Court)
2. **Violation: SÜLEYMAN GÖKSEL YERDUT** app. No. 2014/788, 16/11/2017- (Constitution Court)

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. One of the judgments will be a relevant judgment of the ECtHR against another country finding a violation, and the other one will be an ECtHR judgment about Turkey finding no violation.

Group 1: Eric Svanidze-Moderator

1. **Foreign Case –Violation: CASE OF BARABANSHCHIKOV v. RUSSIA** (Application no. 36220/02)
2. **Foreign Case- No Violation: CASE OF TADIĆ v. CROATIA** (Application no. 10633/15)

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Group 2: İlhan Üzülmmez-Moderator

1. **Violation - CİHAN KOÇAK JUDGMENT** app. No. 2014/12302, 21/9/2017 (Constitution Court)
2. **No-Violation- CASE OF NEZİR ADIYAMAN** (Application no.. 6042/09) ECtHR

15:30 -15:45

COFFEE BREAK

¹ Additional reading for participants

Diri vs Turkey (Application No. 68351/01)

Ozcan and Others vs Turkey (Application No. 18893/05)

Yelden and Others vs Turkey (Application No. 16850/09)

Zeynep Avcı vs Turkey (Application No. 37021/97)



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) under the procedural limb of Article 3 in terms of:

- Medical examination after detention (timeliness, scope)
- Screening arrangements (out of hearing/presence of non-medical staff)
- Quality of initial medical documentation
- Access to a doctor of detainees' choice
- Reporting obligation and format
- Avenues and timeliness of engagement of forensic doctors
- Adequacy of methods and conclusions, including in terms of psychological consequences
- Access of alleged victims/lawyers to medical documentation.

17:00-17:30

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

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.

17:30

CLOSING REMARKS AND END OF THE DAY



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

Day 2 - Friday, 21 December 2018 (Ad-hoc Meeting)

09:00- 12:30

Working on the Recommendations Paper
MoJ, national and international consultants, CoE staff