

PRESS RELEASE ABOUT THE DEATHS OF ONUR YASER CAN AND HATICE CAN:
TWO CASES OF MURDER

A BEAUTIFUL PERSON: ONUR YASER CAN

Since the moment we saw the beautiful body of our son in the morgue; since the moment we closed his lovely blue eyes with our own hands, the pain of losing our son has been burning us from within and has been making our hearts bleed.

Our son, who was a trilingual, an architect, a painter, a musician, a water polo athlete, a scuba diver, and an excellent swimmer, had gotten his undergraduate degree in architecture from METU, and had moved to Istanbul for work in November 2009. In June 2010, a day before his birthday, his phone conversation with a drug dealer was detected by police wiretapping and he was caught in the act while buying 11 grams of marijuana. He ended his life on June 23, 2010 because of the torture, sexual harassment, psychological violence and many other inhuman and unlawful acts that he had been subjected to by the police squad who caught him as well as by two other police squads delegated by the first squad to tackle our son.

Our son was full of joy of life and he valued life with love and respect. Having a great sense of humor and positive energy he was the one waited for by his friends in every social gathering. Our son was also a great artist who created many pieces of art throughout his short life. Even without having met him, one can easily understand what a beautiful and creative person he was and how much he enjoyed his life only by looking to his drawings, mini sculptures, architectural projects that he created until his 28th year, and by listening the voice of his drums that he was playing in many musical projects that he was involved. He carried though even much more beauties that were waiting to be materialized and shared with us. His murder with suicide is an expression of the state and police violence that has been on the rise in Turkey in recent years. The interventions in justice that the AKP government has carried out during their 13 years in power deliberately weakened the judiciary mechanisms and legal restrictions that apply to law enforcement agencies and this increasing impunity paved the way for law enforcement agencies to exert systematic and discretionary violence. Hence, our son did not lose his life as a result of a simple suicide, he was murdered by the systematic torture and the

inhuman and unlawful conducts exercised by the law enforcement agencies.

If we had lost our son because of an incurable disease, a car accident, a fight, or a conventional case of suicide for that matter, we would have been left with an unfading pain and suffering and we would have called it destiny.

However, the fact of knowing that 9 policemen (belonging to 3 different teams of three people) directly, and 5-6 chiefs of police, indirectly, caused the death of our son has been killing us more everyday; and even more so because these people are people who live on our taxes, and who, in theory, are supposed to protect us and ensure our security, and not the other way around. It frustrates and outrages us even further to witness the lies, the treachery, the immorality, the plots and intrigues of those who murdered our son, as well as of the authorities who protect them. The tampering of evidence along with the withholding of information has prevented us from calling those who are guilty to account during our quest for justice that we initiated immediately following the death of our son. We are forced to look for justice at the doors of the ECHR and the Constitutional Court of Turkey due to the unlawfulness of justice authorities despite all the evidence, documentation and information that we have gathered together as a result of our superhumanly efforts and thanks to our lawyers. Our efforts to collect evidence, documentation and information have been subjected to various preventions at different stages of our quest for justice, which did nothing, but to escalate and multiply our anger and outrage.

As a matter of fact, we know, since the coup d'état of March 12, 1971 that the law enforcement agencies of the regime that we live in possess fascist features such as torturing citizens, or harming them instead of ensuring their peace and security. For instance, we, the parents, belong to the '78 generation that experienced the fascism of September 12 (coup d'état of 1980) first hand. The current government, which has been in power for the past 12 years, taught us that their frequently pronounced statement of **ZERO TOLERANCE TO TORTURE** was nothing more than **A GIANT LIE**; and it did so in a way that made us pay an enormous cost — that is the **MURDER of OUR SON**.

There was no way for us to bring our son back. However, we could recourse to the law and seek for justice in order to bring those who were responsible for this cruelty to account, and to

ensure that they got punished, at least according to the existing laws. Despite not having been very optimistic about the outcome of our quest for justice in light of our awareness of the systematic problems in our country concerning the implementation of justice, we still wanted to try everything and to do the best we could without losing hope.

However, as a mother, a father and a sister who resorted to the judicial system for the first time in their lives, the further we tried, the more we were pushed away from reaching justice and got into despair. As we tried to disclose the fact that the policemen and their chiefs committed torture on our son, which led to the utmost violation of human rights that is the violation of our son's right to live, we learned the ugly details of how and why they could dare to do it; we discovered whom and what they trusted. We found many gaps and ambiguities that were voluntarily left in the related laws. We witnessed the degree to which the public servants who committed such a crime were unlawfully protected and the extent to which those who have power could hide or destroy evidence and information. We saw how it is possible that a legal case on torture, which is a crime against humanity and which requires an effective and detailed investigation, was simply deemed **NOLLE PROSEQUI** (i.e. voluntary dismissal of charges, in this case, torture charges). All these showed us how groundless the statement of “**ZERO TOLERANCE TO TORTURE**” was.

A BEAUTIFUL PERSON, GREAT MOTHER: HATICE CAN

Hatice worked in the Head Office for the Women's Status and Issues — today's Ministry of Family — for many years. She was an economist. She obtained her master degree in public administration at the Institute of Public Administration for Turkey and the Middle East (TODAIE) after the age of 45. She was fluent in English. She worked as Co-Consultant in various EU projects that were implemented. She played a very significant role in the making of currently existing laws about women's rights in Turkey and she always stood at the front rows in the struggle for women's rights. She had suffered from mobbing because of her socialist revolutionary opinions, and because she was one of the few people who dared to insist on remaining unionized under the Union of Healthcare Workers (SES) despite high top-down pressure against unionization. As she was approaching the age of 50, the pressure she was under during her late career made her decide to retire as Specialist in Women's Rights — title she earned as a result of the THESIS she prepared and defended and in which she put a

lot of effort and hard work.

The above summary, which only reveals a portion of the struggles Hatice Can went through during her life, already shows us what a wonderful woman she was. In order to understand how wonderful she also was as a mother, it would be enough to read what she told to journalist **Ismail Saymaz**, who, as part of his book titled ***ZERO TOLERANCE IN THE HANDS OF THE POLICE***, covered the story of **Onur Yaser Can's MURDER**.

“I first brought him into being inside me, then hugged him to my bosom and nursed him; he became a big man and I kept asking myself how come I was not able to be there the moment he needed me... I had thought to myself, now that Onur left this world, the sun will rise no more, the world will not go on; there shall be no life. But his father never stopped seeking for justice back then. Honestly, my intention was to go to where Onur went. I did not eat; I did not drink; I lost weight. They didn't let me go behind him. They put me in hospital. When I recovered, I said to myself, Hatice, Onur is taken away from your life and your husband is doing the right thing so get on the path that he is on. I have a son but he is a youngster of 28; he will not age. I am 55. I have spent my life with him for 27 years. Half of my life... In our struggle for justice, I know that we are attempting the impossible. But now I feel like I rendered Onur back to being a 2-year-old. We have come a little way. It is like I am re-raising him, Mr. Ismail.”

“Onur was such a productive kid. I do not know how much longer I will live, but I simply wish to live enough to keep what he has left us alive. This world will know that Onur Yaser was subjected to an injustice. This is what I take my power from. I am retired. Believe me, everyday I sit in front of the computer and I struggle for justice for my son as one goes to work; this is what keeps me going... Onur's life is taken away from him, the life he loved, the life he lived with such affection. No one had the right to do it. He just wanted to continue his life. The way he believed in. As a friend, as a human, with the values he believed in, resisting against the injustices that capitalism brings along, against the massacre of the environment... Nobody could have been able to make Onur design a project for a shopping mall, you know? His aim was to produce projects that respected the historical

landscape, the environment and the humans. He was going to be a famous architect, and he was going to be it with the values he believed in. Our country lost a valuable person who rarely comes up. This shouldn't be that easy..."

For 3.5 years, we struggled side by side with Hatice. Sometimes she gave hope to me, and sometimes me to her. Despite our suffering, we spent days and nights trying to collect evidence, documents, or information that normally the prosecutors were supposed to collect. When we submitted what we gathered together to the judiciary, our hopes rose, believing at times that the criminals would actually get punished in light of these tangible realities.

Instead, what we have witnessed, as parents, was that the legal authorities were actually protecting the police through the Nolle Prosequi verdicts as opposed to punishing them regardless of the awful crime that the police forces had committed — that is the death of our son. No fair decision came out of the judiciary processes that could ease our suffering. Finally, Hatice's power to live and to keep up the struggle against the injustices in this country we have been facing was exhausted. The morning of March 2, 2014, she died by jumping out of the window of her room.

Doesn't the interview with journalist Saymaz show that Hatice's hope for life would still be present if the accused law enforcement agency members had a bit of conscience, if the judges and prosecutors with university degrees and with an oath to interpret and apply the law correctly had a bit of conscience, and if justice was served? Yes, it does. As a matter of fact, we had continued our struggle for justice side by side long after this interview, UNTIL HER MURDER. This is the SECOND MURDER THAT WE HAD TO BEAR. The injustices and cruelty we have been facing are what led our two dearests to death even though they loved to live and even though they carried all the grace and beauty of life in themselves to live and to cherish other lives. Those who MURDERED our son, Onur Yaser Can, are also the MURDERERS of Hatice.

TORTURERS!!!!... TORTURERS!!!

Exactly one day prior to his birthday, on June 2, 2010, our son was caught in the act by a police squad (#1) of three, whose members included the Chief of the Wiretapping Department of the Narcotics Division, Hakan Aydın, as the team leader, and two fellow police officers named Onur Ülker and Muhammet Ogun, who, at the time, were assigned the duty to conduct routine wiretapping of a gang involved in drug trafficking under the Criminal Procedure Law section 35. Our son was subjected to various lawless acts including torture, sexual harassment and abuse at the İstanbul Police Department (İEM) Narcotics Division Bureau (İNP) where he was held upon his capture, because his phone conversation with a drug dealer was detected by the abovementioned WIRETAPPING. In this phone conversation, one of the things our son said to the drug dealer was that he (Onur Yaser) got his (the drug dealer's) phone number from two female friends. The name of these female friends was the information that the policemen were behind. They tried to get Onur to confess using means of torture.

They first performed an illegal **FULL-ON BODY CAVITY SEARCH** on Onur Yaser inside the Police Station. According to the law(code 28/regulations on judicial and prevention search), full-on body cavity search can only be performed when a suspect is under arrest or legal custody, and even then it requires the written permission of a public prosecutor; it cannot be performed when the suspect is simply captured which was the case of our son. Besides according the same law, the search shall be carried out in a manner that would least violate the person's sense of shame; initially the clothes on the tipper part of the person's body shall be removed, and the clothes on the lower part of the body shall be removed after those on the upper part of the body are worn. The search shall be made only for search purpose and should be concluded within as short a time period as possible. Neither of these requirements was met in the case for our son. In violation of the mentioned law, Onur Yaser was stripped naked and arbitrarily made crouch on the floor and cough several times. Again when he was fully naked he was kept waiting facing the wall for a long time. Meanwhile, he was subjected to sexual harassment. He was verbally assaulted, humiliated and was forced to listen the voice of a man begging to the police during his interrogation. After about two and a half hours of interrogation, this first team of policemen couldn't get the confession that they needed from our son, because our son was smart and honest; he did not even know what slyness and deception were and he was too honorable and merciful to give out the names of his two

female friends. So the policemen decided to subject him to torture one more time until they had achieved their goal, and with even more SECTARIAN and RACIST HATRED and GRUDGE once they realized that our son was of ALEVI origins when they checked his identity records and found out that he was from Antakya/Samandağ (the chief of police is from Gaziantep/İslahiye, and one of the police officers is from Kahramanmaraş — two cities with a majority Sunni population neighboring Antakya. From the biased and sectarian point of view of these police officers, “being from Antaya/Samandağ” only means one thing — “being Alevi”). With this purpose in mind, and with the aim of hiding the torture, the sexual harassment and the abuse that they exercised on our son at İNP, the first (#1) squad had assigned the duty to deal with our son to another police squad (#2), consisted of Chief of the Police Soner Gündoğdu and two other police officers, named Salih Bahar and Yunus Başay. On June 3, 2010, the Chief of this second police squad, Soner Gündoğdu, **PLAYED THE GOOD COP** and called our son to ask him politely to come back to the Police Station at Vatan Avenue, where the Narcotics Division Bureau was, for a second time in order to fix some overlooked errors in certain documents concerning him. During this second time that Onur Yaser went to the Narcotics Division Bureau a few days after his first capture, the second team (#2) forced our son to sign a total of eleven falsified statements and reports they have composed in collaboration with the officers from the first squad (#1). These forged documents claimed that it was the second police squad (#2) who captured our son on June 2, 2010. They later tried to hide the fact that our son had signed a statement and documents the first time he was held tortured at the Police Station by the first team. They tried to make it seem like as if these were the first documents that our son had ever signed. Our son was again subjected to **TORTURE AND THREATS** during this procedure. Another team of torturers (#3), Chief of Police Officer Şükrü Velioğlu and police officers Ramazan Şen and Emre Tuncel were assigned by the first squad team (#1) to keep our son under constant and illegal physical surveillance, to abuse and threaten him, and to force him to confess the names of those two female friends for 21 days, until the day our son died. In other words, they persisted in torturing him. Our son was caught with 8 grams of marijuana in total, and could only be penalized, at the most, with probation. **However, we know from the statements given by Onur Yaser’s friends with whom he talked during this 21-day period that Onur Yaser was threatened otherwise by these policemen and was told, “You can’t get away with probation for smoking,” “You will be punished with 5 to 15 years of prison for possessing and providing,” or “You will suffer horribly in prison.” All this was to get him to confess the names of his two friends.**

Despite it's their legal duty, the police did not inform Public Prosecutors Mehmet Berk and Savas Kırbaş about our son's capture. Nor did they inform the Beyoğlu District Public Prosecutor Mehmet Nuri Gür, who was on duty at the night of the arrest.(According to the Criminal Procedure Law (CMK) section 250, because our son was captured as a result of the detection of his phone conversation through the wiretapping involving narcotics, the policemen who captured him were supposed to inform and to take directives from Public Prosecutors Mehmet Berk and Savas Kırbaş who led investigations on organized narcotics-related crimes. Despite the written claims in the Prosecutor Consultation and Directives Report that the policemen had talked to and received directives from the Beyoğlu District Public Prosecutor Mehmet Nuri Gür, Hatice and I found out that no prosecutor was informed of our son's capture when we talked to Mehmet Berk and Mehmet Nuri Gür separately. Furthermore, during these conversations, we learned that THE PUBLIC PROSECUTION OFFICES ONLY FILED RECORDS OF THOSE WHO WERE TAKEN IN CUSTODY AND PUT IN JAIL, AND NOT OF THOSE WHO SIMPLY GET CAPTURED). **Thus, all records, including the FALSIFIED STATEMENTS AND REPORTS, were SIMPLY POLICE RECORDS. NO PUBLIC PROSECUTER WAS INFORMED of the capture and the records WERE HIDDEN ON PURPOSE.** There happens to be no record belonging to the Public Prosecution Office concerning our son, during the period between his capture (2-3 June) and his death (23-24 June). This fact does not simply reveal that our son was subjected to torture, sexual assault and cruelty for several hours — from 21:20 on June 2, 2010, the time he was captured until 02:00 on June 3, 2010, the time he went back home. It also shows that he had been **KEPT UNDER CONSTANT ILLEGAL AND OFF-THE-RECORDS POLICE SURVEILLANCE FOR 22 DAYS UNTIL HIS DEATH.**

What this situation unveils is that certain ambiguous and unclear statements within the laws and regulations concerning the rights and duties of security forces, for instance the difference between being captured and being arrested/taken in custody, give way to circumstances where policemen, whose acts fall OUTSIDE OF THE LIMITS OF SUPERVISION due to the aforementioned gaps and ambiguities, can capture anyone, and with the lack of practical obligation to inform Public Prosecutors in cases of capture, can hold anyone captive for hours

and even for days within the boundaries of police facilities or even at some unknown place without anybody knowing. And during this period of capture, the policemen can perform all kinds of torture and mistreatment, take advantage of those they keep captive, and exercise all kinds of violations of human rights, including the right to life, if they want to. That is why, it is of **UTMOST IMPORTANCE AND NECESSITY** that this vicious gap within the laws and regulations, which paved the way to our son's **MURDER BY WAY OF TORTURE**, and to the eventual **MURDER OF HIS MOTHER, WHO COULDN'T BEAR THAT PAIN ANYMORE**, be filled **IMMEDIATELY**.

The filing of our son's death was done by the first police squad (#1) on the day of his death (June 24, 2010), which indicated that the police forces were aware of his death. However, the nine police officers involved in the case, as well as their chiefs and police inspectors, **who all certainly knew that they were responsible of our son's death, prepared a police report in a HURRY and PANIC on June the 26, 2010 with the aim to DESTROY EVERY SINGLE EVIDENCE, DOCUMENT, AND INFORMATION, which would have allowed them to CLOSE THE CASE AND HIDE THEIR CRIMES**. The report of death was deliberately and intentionally not enclosed in this final police report. On the June 29, 2010, Public Prosecutor Faysal Polat, who was unaware of our son's death, filed a criminal indictment against our son due to "smoking marijuana" based on the police report in question. On July 7, 2010, Judge Canan Küçükali approved this indictment, set a court date, filed a court order against our son and got a court summons sent to his address in Istanbul. However, there existed a MERNIS (Central Registration Administration System) record of our son's death, which was processed on June 24, 2010 and which was signed and confirmed by Judge Küçükali on July 6, 2010. Thus, Judge Küçükali summoned our MURDERED son to a court hearing the day after she confirmed his death.

Our son was one of the only two people who were caught in the act among tens of others who were detected as "smokers" through wiretapping as part of the operation against a drug gang. The police report on him was composed only after his death, and in HASTE and PANIC. The report had the sole purpose to DESTROY EVERY SINGLE EVIDENCE, DOCUMENT, AND INFORMATION so that THE POLICEMEN COULD CLOSE THE FILE AND HIDE THEIR CRIMES. The prosecutor's indictment was filed only 3 days

after the composition of police report. It was approved within a week and our son was summoned to a court hearing as a result. Nonetheless, the police report on Y.K. — the other individual who was caught in the act through wiretapping just two hours prior to our son's capture — was prepared on June 18, 2010 with no delay (the fact that Y.K. was also detected through the same wiretapping and captured by the police was an information that was deliberately and intentionally hidden from us). However, for some reason, it took up until August 20, 2010 to file an indictment on Y.K. There is an obvious difference between the timeline of procedures regarding our son and the timeline of procedures regarding Y.K. It is of great concern to us that this difference indicate that the prosecutor and the judge who were assigned to our son's case shared the same HASTE and PANIC that the law enforcement officers felt in trying to CLOSE OUR SON'S FILE and to DESTROY ALL EVIDENCE, DOCUMENTATION and INFORMATION in order to be able to COVER UP THEIR CRIMES.

INCREDIBLE UNLAWFUL PRACTICES AND CRIMES AGAINST JUSTICE CONTINUE

1. No Medical Examination Report on Admission was prepared. The excuse was that our son did not physically resist to being captured, so there was no need for medical examination.
2. Even though it is a constitutional right to speak to someone (relatives, friends, a lawyer, etc.), or to get someone informed about your circumstances in cases of detention and arrest, nobody, including his relatives, was informed about our son's detention. It is claimed that Onur Yaser willingly waived his constitutional right in question with a signature.
3. Even though the police are legally binded to remind the suspects that the latter have a right to have a lawyer during their interrogation, nobody mentioned it to our son. Onur Yaser was intentionally not asked if he needed a lawyer; no lawyer was present during his interrogation.
4. It was the first police squad (#1), the very team who had conducted his interrogation and exercised torture, that took our son to see a doctor in order to get a Medical Examination Report upon Release.

5. The doctor conducted a medical examination while the first police squad (#1) members were present at the doctor's office. Such presence obviously violates the Istanbul Protocol (Manual recommended by UN, on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment).
6. The Medical Examination Report upon Release that was prepared did not state even the most basic information that should be included in a medical examination report such as psychological and physical wellbeing, careful examination of the body for sign of any sexual assault or harassment etc. The report simply concluded that there was "No sign of violence or brutality," even though no psychological examination or any other necessary examinations for that matter had been carried out.

The abovementioned articles 4, 5 and 6, and the concluding remark on the Medical Examination Report — "No sign of violence or brutality" — were clear signs that the report in question was FAKE and had been prepared by a CORRUPT DOCTOR.

7. Even though our son was supposed to be released after the Medical Examination Report upon Release was completed, he was held at an unknown place for another 1,5 hours during which he was subjected to more torturing (Nonetheless, the abovementioned Y.K., the individual who was also detected setting up a purchase for weed through the same wiretapping that detected our son, was captured on act on June 2, 2010 — 2 hours before our son was captured. Then, he was released immediately after his Medical Examination Report upon Release was completed).
8. There exist claims that our son did not demand/refused to receive copies of the statement he gave and signed during his first detention. Supposedly, nor did he want copies of the fake statements that he was forced to sign during his second detention, or of any other documents involved. The claims go as far as suggesting that the torturer policemen offered to give him copies but our son did not take the offer. Claiming that our son refused to get copies of statements he signed or of documents involved in the situation is the same as suggesting that our son, by not wanting to know

what he signed under, voluntarily accepted to put himself under doubt, and to go through psychological torture in addition to the physical torture that he had already been subjected to. Our son might have been detained for the first time in his life, but he graduated from a top-notch college (METU) in Turkey; he was incredibly smart; he spoke three languages; he was an architect, a painter, a musician, a water polo athlete, a scuba diver, and an excellent swimmer. Claiming that a person of his qualities and level of intelligence was willing to put himself under such scrutiny and doubt by voluntarily refusing to receive copies of documents, especially when he was supposedly offered to have them, is utter non-sense.

9. As part of the investigation (file number 2010/74) conducted by Public Prosecutors Mehmet Berk and Savaş Kırbaş with alleged charges of Organized Drug Trafficking under the Criminal Procedure Law (CMK) Article 250, drug cartel phone lines were being wiretapped. There were nine different court orders that approved wiretapping — the first one given on April 13, 2010, and the last two on June 22, 2010. Among all the 29 “users” detected in wiretapped conversations, ONLY our son and Y.K. were caught in the act on June 2, 2010, within two hours of difference.

Our son gave power of attorney to a lawyer on June 21, 2010. Curiously, right after this attempt by our son to seek legal protection, narcotics carried out a raid against the drug cartel members on June 22-23, 2010. The timing of this operation seems odd given the fact that two new court orders that ordained the continuation of wiretapping had just been passed on June 22, 2010. Moreover, the whole police investigation against this drug cartel had been going on for only two months at the time of this raid. What is even more odd is that only 550 gross grams of weed was captured as a result of this raid, for which dozens of narcotics were mobilized. **When we met with Prosecutor Mehmet Berk, who led the investigation, during our quest for justice for our son, he told us that these kinds of narcotics investigations took at least 6 months, usually more. He also said that a raid was a method of operation that was carried out only if a BIG DRUG DELIVERY or a meeting with DRUG BARONS were to take place.** He remarked that he was very upset with the narcotics that they had timed the operation very poorly, and that they had found only 550 grams of marijuana as a result. The strangeness of the timing and of the consequences of the

raid in question, combined with Mehmet Berk's statements, **does not only reveal that EVERY STEP OF OUR SON WAS UNDER CONSTANT SURVEILLANCE** given the fact that the raid in question, as rushed and poorly timed as it obviously was, was carried out nonetheless as soon as our son put himself under legal protection — that is the day after our son gave power of attorney to a lawyer. It is also **A DEFINITE PROOF** that the narcotics had been cooperating with the drug cartel and timed the operation in a way that allowed the cartel members to avoid a heavy penalty.

There had been 14 other “smokers/users,” who had been detected via wiretapped phone calls at different times (i.e. before or after our son was captured) as part of the same investigation in question; the police had filed reports on all of them. On June 22-23, 2010, which was when the cartel members were captured in a raid as part of this investigation (file number 2010/74) and got arrested on charges against Organized Drug Trafficking under the Criminal Procedure Law (CMK), Article 250, the narcotics police called all these other fourteen “smokers/users” and **INVITED THEM** to the Narcotics Division Bureau so that they could **IDENTIFY** cartel members. Once they arrived to the police station, they were each considered captured for the sake of formality. They went through the procedure of identification of the cartel members and gave statements to the police. All necessary police reports were also filed. Our son, Onur Yaser Can, was indicted and summoned for trial based upon a court order that approved “un-classified broad police search” as stated in the police report on him. However, all other fourteen people were indicted and put on trial under this specific investigation with file number 2010/74. Furthermore, our son was asked to come back to the police station for a second time on the pretext of fixing some overlooked errors in certain documents concerning him. There also were multiple errors with respect to the information (such as time and date) in the police reports on these fourteen other “smokers/users,” which were later **sent to the Public Prosecution Office to make part of THE PROCESS OF TRIAL WITHOUT ARREST. However, unlike our son, none of these fourteen people were ASKED TO COME BACK to the police station AGAIN to fix errors.**

There are yet another 20-25 people whose phone conversations were detected

through wiretapping of phone calls and who got classified under their phone numbers (and not under their names) as “smokers/users.” Even though these people could also have been easily identified via their phone numbers, such identification was apparently not deemed necessary. So an important question to ask here is: **IS THERE ANY LEGAL JUSTIFICATION FOR IDENTIFYING CERTAIN PEOPLE AND PUTTING THEM ON TRIAL BECAUSE OF A CRIME THEY COMMITTED WHILE NOT IDENTIFYING OR NOT TAKING A SINGLE LEGAL ACTION AGAINST CERTAIN OTHERS WHO COMMITTED THE SAME CRIME?**

10. On June 23, 2010, the day of the operation against the drug cartel, the lawyer who was our son's legal attorney went to the Police Station where the Narcotics Division Bureau was in order to get copies of the records concerning our son. However, the police refused to give her any copies by saying, **“Onur Yaser is a part of an important narcotics investigation. The case is confidential thus records that are part of the case could not be shared with anyone.”** His attorney, in return, insisted that Onur Yaser Can granted her power of attorney, which meant that the police were legally binded to give her copies of any records concerning her client even if the case was confidential. She also added that she would file a petition to get the copies if necessary and she asked the policemen to speak to their superior. It was only then that the policemen were willing to give her the copies. After a long wait, the policemen gave him copies of the “Substance Weight Record” and the “Statement Record.” **They then asked his attorney to “BRING ONUR YASER BACK to the police station the next day SO THAT HE CAN RE-GIVE A STATEMENT TO THE POLICE.”** Moreover, the copies of the Statement Record revealed that the deputy chief of police that had taken Onur’s statement never signed and validated it.

After having heard that he needed to go back to the police station to re-give a statement, our son, who had already been subjected to enough unlawful and inhumane treatment and who had been under a VICIOUS PHYSICAL SURVEILLANCE, jumped out of his forth-floor window on June 23, 2010, in order to avoid enduring the inhumane torturing, assault and sexual abuse one more time. We believe that he committed this act not with the intention to die, but only with an intention to get injured so that he wouldn't have to go back to the police station on that night. *(Our conviction that his*

intention was not to die is based upon a random, daily conversation we had with our son the last time we visited him at his apartment on April 24-27, 2010: When he was sitting on the low barrier-wall of his terrace, which did not have any further structure of protection such as a fence or a bannister to prevent someone from falling down, we warned him to be careful not to fall down. He replied humorously and said, “whatever mom...one would at most break his legs falling down from this height”) We were not there when he jumped off his window. We later learned that he was still alive after he hit the ground and that he crawled for about 3-4 meters towards the garden wall to ask for help. When neighbors finally heard his cry for help, they unfortunately and IRRESPONSIBLY first called the police, and then the 112 medical emergency line. The police arrived to the scene immediately whereas the ambulance got there very late. The ambulance first took our son to the Şişli Etfal Hospital, however, there they were told that the brain surgeon who must treat him was “supposedly” in surgery. Our son was thereupon taken to the Okmeydani Hospital. However, by the time he was finally able to receive medical treatment at a hospital, it was too late. The delay in the necessary urgent medical intervention resulted in the MURDER of our son.

We filed a criminal complaint against the 112 Medical Emergency Line staff as well as against some doctors at the Şişli Etfal and Okmeydani Hospitals. However, the Governorship of Istanbul did not permit an investigation to take place and overturned our complaint. Upon our appeal to the Administrative Court against this rejection, we managed to get an investigation to start. During the court hearing, the **Fifth Civil Judge of Istanbul** unfortunately **slandered us with the claim that we were only after getting FINANCIAL REDRESS**. During the second court hearing, we stated that his words were biased and hurtful, and that they were not based on any concrete evidence. It was only then that **the judge stated that he was “wrong,” and that he “owed us an apology.”**

11. During the early stages of our quest for justice about our son’s murder, we filed a criminal complaint against only six police officers (the number of suspects later increased to 13 as we found out further information and evidence over time about others having been involved in our son’s murder) with charges of **“aggravated torture and sexual assault.”** Curiously, the prosecutor of the case changed two times within

the first 11 months of the investigation. The last prosecutor, Muammer Akkaş, gave a non-prosecution decision (deemed the case Nolle Prosequi) and dismissed the charges of torture on the suspects. Before that, the first prosecutor, Halil Çalık, had presented himself unannounced at the Narcotics Division Bureau with a court order, which gave him permission to get an expert witness to check the meta-data saved in the narcotics computers. **The expert report that was based upon those meta-data confirmed that five police officers committed “forgery in 11 official records.”** What is problematic and odd here is that Prosecutor Çalık, when he was present at the Narcotics Division Bureau and demanded access to the police computers, did not, for some reason, ask to check the camera recordings of the Police Station. If he had done so, it would have been possible to have visual records that could serve as evidence that our son had been tortured. Instead, Prosecutor Çalık preferred to make a written request to the Narcotics Division Bureau later on to get the camera recordings. Therefore, PROSECUTOR ÇALIK, WHO TOOK MEASURES TO INVESTIGATE UPON AND COLLECT EVIDENCE FOR THE CLAIMED FORGERY IN OFFICIAL DOCUMENTS, COMPLETELY NEGLECTED TO TAKE THE NECESSARY AND TIMELY STEPS TO INVESTIGATE UPON AND COLLECT EVIDENCE FOR THE CLAIMS OF TORTURE.

The Head of the Narcotics Division, Cengiz Malbeleği, was immediately assigned to a new duty at the Police School shortly after our son’s death, even though it had been only nine months since he became the Head of the Narcotics Division. Mahir Çakallı, the new Head of the Narcotics Division who replaced Cengiz Malbeleği, **for the lack of a better word, MOCKED the prosecutor by providing him 10 CDs that simply included the camera recordings of the elevators, stairs and corridors inside the Narcotics Division Bureau. He claimed that there was no camera recording of the first interrogation room where our son got questioned and tortured. Furthermore, it was claimed that there was no camera recording of the cafeteria area, where the policemen interrogated our son, tortured him, and threatened him to sign 11 forged documents when he went there for the second time** (In fact, Prosecutor Akkaş obtained **an Expert Witness Report prepared by a computer engineer, which concluded that there was no evidence of torture based upon the available camera recordings.** It was on the grounds of this report that he deemed the

case Nolle Prosequi). What is more, Prosecutor Akkaş had decided to prepare indictment on only two police officers with charges of forgery in official documents even though it was evident that **ten** police officers willingly forged documents. As for Prosecutor Ali Çelebi, he went along with Prosecutor Akkaş's decision and, again, prepared indictment on only two police officers without examining any of the expert reports and evidence in the case file. The trial had continued for a year. Neither our objections, nor our demands to extend the charges in the indictment to the other eight police officers were accepted. As a result, the 6th High Criminal Court of Istanbul found the two accused police officers, Soner Gündoğdu and Salih Bahar, guilty of forgery without any consideration of expert witness reports and other evidence. They were sentenced to 2.5 years in prison (the mandatory minimum penalty) and debarment from state employment. On April 2014, the Court of Cassation overturned the decision of the 6th High Criminal Court of Istanbul. The case will yet to be reevaluated on 21 October 2014 at 6th High Criminal Court of Istanbul. Our individual application to the European Court of Human Rights (Council of Europe) in objection to the NOLLE PROSEQUI decision for alleged torture charges was accepted and the judicial process under ECHR still continues.

12. As the trial at the 6th High Criminal Court of Istanbul was going on, two chief inspectors of police carried out an administrative investigation upon our complaint to the General Directorate of the Turkish National Police. The conclusion of this investigation was deliberately delayed until after the verdict of the 6th High Criminal Court of Istanbul. Just as it was the case in the judicial investigation, the expert witness reports and other evidence were not taken into consideration in the administrative investigation. The obvious contradictions between the **six** police officers' statements during the judicial investigation and their statements during the administrative investigation were not deemed worthy of scrutiny either. In parallel with the decision of the 6th High Criminal Court of Istanbul, the Disciplinary Council of the City of Istanbul, which oversaw the administrative investigation, only found the same two police officers, Soner Gündoğdu and Salih Bahar, guilty and acquitted the other **four police officers**. In other words, **THE STATE PROTECTED ITS TORTURERS**. The two police officers that were found guilty were only sentenced to **ONE-DAY SALARY CUT — AN IMMORAL AND REMORSELESS PENALTY** considering the gravity of their crime and its

consequences.

13. Upon our objection, the Judicial Council of the 8th Administrative Court of Istanbul **ANNULLED** the verdict of the administrative investigation which was a verdict that simply protected the torturers. The Judicial Council also drafted a resolution that included the following seven clauses, which **BASICALLY CONFIRMED THE EXISTENCE OF THE EXERCISE OF TORTURE:**

(1) Onur Yaser was held in the Narcotics Division Bureau from 21:20 to 23:45 without having been medically examined. In his statement dating August 13, 2010, the police officer who signed the Body Search Report claimed that they had only performed a hands-on body search (pat-down search) on Onur Yaser to check if he carried any prohibited products or items. However, his chief, Hakan Aydın, confessed in his own statement given on the same date, that they performed a **FULL-ON BODY CAVITY SEARCH** on Onur Yaser inside the Police Station, during which there was nobody else in the room and Onur Yaser was required to get completely naked. **THIS ACTION WAS OF A KIND THAT MIGHT HAVE DAMAGED ONUR YASER'S PHYSICAL AND PSYCHOLOGICAL INTEGRITY. IT IS ALSO THE KIND THAT MIGHT HAVE MADE ONUR YASER FEEL SCARED, THREATENED, AND HUMILIATED. DESPITE THE POSSIBLE PHYSICAL AND PSYCHOLOGICAL HARM DONE ON THE SUBJECT (ONUR YASER), HIS MEDICAL EXAMINATION REPORT UPON RELEASE, timed 23:54 ONLY FOCUSED UPON WHETHER THERE WAS ANY ASSAULT AND FORCE OR NOT.**

(2) There was no evidence that the medical examination was conducted in a confidential manner and that no police officer was present in the room during the examination (The official correspondence of the Haseki Education and Research Hospital dating April 15, 2010, file number 164, confirmed this fact).

(3) Onur Yaser was not put in a detention room at the Police Station.

(4) There was no information or no camera record that reveals the conditions under

which Onur Yaser was held at the Police Station until he was embarked upon to the abovementioned hospital. Only the camera recordings of the elevators, stairs and corridors in the Police Station were provided to the court as evidence.

- (5) The originals of the initial official reports or statements were not kept. When the official reports and statements were prepared for a second time, no explanation was provided as to what happened to the initial reports or why there was a need to re-arrange them. For instance, **THE SUSPECT WAS ASKED TO PROVIDE A STATEMENT FOR A SECOND TIME AND THE POLICE LATER PRETENDED AS IF IT WAS THE FIRST TIME HE WAS GIVING A STATEMENT.**
- (6) The re-arrangement of the official documents was not done on legal grounds. For instance, it was not based upon an official/legal request that the suspect came back to the police station. Moreover, all of these second-time procedures were handled in the cafeteria area for which no camera recording was (was claimed to be) available.
- (7) Moreover, the Ministry of Internal Affairs and the defendant party also investigated the case independently from the trial process. The evaluation that resulted did not only carry various internal contradictions. It was also based upon offense and charges (forgery) that were less significant than the alleged offense and charges (torture) and only two staff members were found guilty.

As a result, our court determined that **THE ADMINISTRATIVE INVESTIGATION ABOUT THE CASE IN QUESTION IS NOT ONE IN WHICH THE DEFENDANT, THE NARCOTICS DIVISION, COULD PROVE, WITH NO DOUBT, THAT THE ACTIONS ALLEGED BY THE PLAINTIFF DID NOT TAKE PLACE.** Neither did this administrative investigation present enough evidence that could acquit the defendant's staff or that could prove that the staff had done everything by the book.

Based upon all abovementioned facts, OUR COURT DECIDED THAT THE ADMINISTRATIVE INVESTIGATION, which was carried out by the defendant party in order to evaluate the rightness and appropriateness of the procedures and the

treatment concerning the deceased individual, **IS OF SUPERFICIAL, INEFFECTIVE AND INCOMPLETE NATURE.**

14. The Governorship of Istanbul appealed the verdict of the 8th Administrative Court of Istanbul that decided to annul the verdict of the administrative investigation. Furthermore, **in an attempt to invalidate THIS FAIR DECISION of the 8th Administrative Court of Istanbul and to make any legal objection from our part to the annulment of the court's verdict seem unnecessary, in other words to make themselves and their punishment look good while at the same time protecting the torturers,** the Governorship of Istanbul **REMORSELESSLY** mobilized the Disciplinary Council of the City of Istanbul, and made them **change their sentence from ONE-DAY SALARY CUT to 300 DAY-LONG RIGHT TO SENIORITY FREEZE.**

15. We filed an objection at the 5th Administrative Court of Istanbul for the annulment of the change that the Disciplinary Council made in their sentence. However, the Judicial Council of the 5th Administrative Court of Istanbul overturned our objection on the grounds that the Disciplinary Council's decision to change the sentence only concerned "the internal affairs of the police" and that we "are not entitled to make a judicial claim because the change doesn't concern" us, even though the situation was part of the legal process about our son's murder. We applied to the Turkish Council of State to appeal the decision of the Council of 5th Administrative Court of Istanbul that was **OUTRIGHT UNJUSTNESS.**

16. We made legal requests to the General Directorate of the Turkish National Police within the scope of our constitutional Right to Information. In our requests, we stated that two police officers were found guilty due to a crime classified as infamous and were sentenced to debarment from profession. We expressed that it would be acceptable to wait until the verdict of the Court of Cassation before the sentence came into effect. However, we asserted that it is unbearable for us to see that the police officers who **FORGED DOCUMENTS — yet another infamous crime —** were still on duty, because such forgery played a significant role in our son's MURDER. We pointed out that there existed many legal precedents in which **the debarment of police officers** who were sentenced to such penalty due to less serious crimes **became**

effective with no consideration of the verdict of the Court of Cassation. We made legal references to the Code of Ethics and Regulations of the Turkish National Police in support of our demands. However, **the sole response we got** from the General Directorate of the Turkish National Police **to our various requests was, “we prefer waiting for the verdict of the Court of Cassation.”** This response frustrates us and makes us bleed even further.

17. Despite various barriers and injustices we faced, we managed to gather various written and visual evidence, documentation and information together as a result of the judicial and administrative trials, and thanks to our own efforts and determination throughout our quest for justice. Based upon the evidence, documentation and information we had, we filed a new criminal complaint against **thirteen (in total) police officers and chiefs** on August 2012, two years after our son’s murder, with various alleged charges including, **1. aggravated torture and sexual assault; 2. forgery of official documents; deliberate use of official documents to the detriment of others/to the benefit of some; and destruction of official documents; 3. misleading judicial authorities by hiding and destroying evidence; neglect of duty; and malpractice.** We filed an additional criminal complaint in which we provided all written and visual evidence, documentation and information that we could gather together, which amounted up to an additional 30 pages of enclosed document. Unfortunately, the history only repeated itself. To begin with, the prosecutor of the case changed in the middle of the judiciary process and neither **the first prosecutor, Tuncay Yardımcıoğlu**, nor **the second one, Abdullah Yıldırım**, followed the proper procedures. Tuncay Yıldırım oğlu did not bother to collect any further evidence other than having some written correspondences to request the files from the previous case. He did not even ask the accused police officers and chiefs to re-testify. Similarly, Abdullah Yıldırım **deemed the case NOLLE PROSEQUI** 10 days after he was assigned to the case without having done any further investigation. We appealed the verdict before the Constitutional Court of Turkey in form of Individual Application and our appeal has been on hold to this date.

18. In 2011, we finally managed to make a legal request to the Supreme Board of Judges and Prosecutors (HSYK) for the implementation of new judicial and administrative

investigations on the police chiefs who denied the existence of unjust and inhumane treatments, as well as on the prosecutors and judges who committed judicial scandals including deeming the cases Nolle Prosequi. As part of our request, we submitted all evidence, documentation and information we had as of 2011 to the HSYK. We also shared with them all additional evidence, documentation and information we found after 2011. Various departments within HSYK decided, "There was no need for any investigation." They did so without even looking at the evidence, documentation and information we submitted to them, let alone collecting further evidence or asking the accused public servants to re-testify. We appealed the HSYK decision before the General Council of HSYK, which consisted of seventeen members. **Four CONSCIENTIOUS members of the General Council approved our objection while thirteen others voted against it; therefore our appeal was overturned by majority rule.** Unfortunately, it is not legally allowed to appeal the verdicts of the General Council of HSYK.

CONCLUSION AND OUR DEMANDS

In this press release, we tried to articulate the details of **THE INHUMAN UNLAWFUL CONDUCTS AND THE CRIMES AGAINST JUSTICE** that we have experienced throughout our quest for justice for our son. The police have tried to hide, obscure and destroy the written and visual evidence, documentation and information. We have been taken for a fool by various authorities whenever we made legal requests within the scope of our right to information. None of the demands, complaints, or appeals that we made before different courts and public prosecution offices was taken seriously. We were scolded, insulted and slandered many times. Despite everything, we never gave up on trying and we collected as much written and visual evidence, documentation and information as possible, which took a superhuman effort. How could the prosecutors and judges not see or react against this

INHUMAN UNLAWFULNESS DESPITE ALL EVIDENCE? How could they, the very people who are supposed to maintain justice, bear causing more unlawfulness by deeming the cases Nolle Prosequi, overturning our appeals, and neglecting their duties?

We made an individual application to the European Court of Human Rights when the Bakırköy District 13th High Criminal Court overturned our appeal against the first Nolle Prosequi verdict. Similarly, our individual application to the Constitutional Court of Turkey came after the Bakırköy District 16th High Criminal Court overturned our appeal against the second Nolle Prosequi verdict.

It was at this stage of our quest for justice that we lost our dear Hatice Can — YET ANOTHER MURDER before our eyes caused by the very inhuman unlawful conducts that we have been fighting against. **IF THERE STILL EXIST SOME BRAVE, HONEST, AND CONSCIENTIOUS PUBLIC PROSECUTORS AND JUDGES OUT THERE, we ask them to step forward on behalf of the public and the justice, and to disclose all the inhuman unlawful conducts and the crimes against justice by annulling the Nolle Prosequi verdicts without waiting for the decisions of the European Court of Human Rights and the Constitutional Court of Turkey.** Since it is not legally allowed to appeal against the HSYK decisions, we ask these public prosecutors and judges to initiate new judicial and administrative investigations on all accused police officers and police chiefs as well as on all prosecutors and judges who protected them. It is judges' and prosecutors' duty by default to do all necessary investigations and prosecutions when anybody commits a crime regardless of whom the person/people might be — whether it is a law enforcement officer who commits a crime or a legal authority who fails to apply the law, or else. **WE WANT TO KEEP ON HOPING THAT THERE ARE JUDGES AND PROSECUTORS OUT THERE WHO VALUE THEIR DUTY ABOVE ALL. WE WANT TO KEEP ON HOPING THAT THE MURDERERS OF OUR BELOVED ONES SHALL GET PUNISHED. WE WANT TO KEEP ON HOPING THAT THOSE TORTURERS, IMPOSTORS, LIARS, CORRUPTED ONES AND THEIR ACCOMPLICES SHALL BEAR THE CONSEQUENCES OF THEIR CRIMES THROUGHOUT THEIR WHOLE LIFE. OTHERWISE;**

**WE WOULD SAY,
TO HELL WITH YOUR LEGAL SYSTEM!
WE COULDN'T MANAGE TO DISCLOSE YOUR LIES, DECEPTIONS, TRAPS AND DIRTY
TRICKS!
BUT,
FOR AS LONG AS YOU SUPPORT AND PROTECT YOUR TORTURERS,
FOR AS LONG AS YOU MURDER YOUR OWN PEOPLE ONE BY ONE,
YOU AND YOUR MURDERERS ARE DOOMED TO LIVE AND DIE IN SHAME!**

MARCH 10, 2014

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EZGİ SEVGİ CAN: SISTER- DAUGHTER

ENCLOSED DOCUMENTS:

1. A NOTE HANDWRITTEN BY ONUR YASER CAN IN WHICH HE REVEALS TO HIS FRIENDS THE TORTURE, SEXUAL ASSAULT AND ABUSE THAT HE WAS SUBJECTED TO.
2. A TOTAL OF 14 PHOTOS THAT SHOW 1. THE CAPTURE OF ONUR YASER CAN BY CHIEF OF POLICE HAKAN AYDIN AND POLICE OFFICER ONUR ÜLKER, 2. OUR YASER CAN ON HIS WAY FROM THE NARCOTICS DIVISION BUREAU TO THE HOSPITAL FOR THE MEDICAL EXAMINATION UPON RELEASE, DURING

WHICH HE WAS ACCOMPANIED BY CHIEF OF POLICE HAKAN AYDIN, POLICE OFFICER ONUR ÜLKER AND POLICE OFFICER MUHAMMED ONGUN, WHO WAS ONE OF THE POLICE OFFICERS WHO TORTURED ONUR YASER CAN AT AN UNKNOWN LOCATION INSIDE THE NARCOTICS DIVISION BUREAU.