CONCLUSION

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CONCLUSION:

This interim report contains information provided by the Turkish authorities on the observations and suggestions of the CPT report (98)4 adopted on 3 July 1998. It elaborates on an account of measures adopted by the competent departments, in pursuance of the CPT recommendations, between October 1997-December 1998.

Remarks and reflections which have found place in the CPT report but not focused on here will be dealt with in the final report where conclusive data on the ongoing process of remedifying the deficiencies will also be relayed as complementary information.

It is necessary to refer here one more time to the inevitable correlation and the rather delicate balance between human rights and freedoms and the State's indisputable responsibility to protect its citizens. Turkey is one of the few countries which has committed itself to enlarge rights and freedoms, while struggling against one of the most vicious terrorist campaigns aiming at its territorial integrity and national unity.

Nevertheless, the Turkish authorities are dedicated to extend to the period ahead, the close cooperation with the CPT maintained since its foundation, despite the restraints confronted. However, it will be appreciated that some measures recommended in accordance with the CPT specifications are difficult to implement because of the financial burdens they impose. Yet it is beyond doubt that the Turkish authorities will spare no effort to overcome all the difficulties and exceed the restraints with firmness and good will to introduce the priorities encouragingly suggested in the CPT report.

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<u>Annex No:</u> 1

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Regulation on Apprehension, Police Custody and Interrogation

Encl.: Regulation dated 21 August 1998, signed by Hasan Denizkurdu, Minister of Justice and Kutlu Aktaş, Minister of Interior.

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REGULATION ON APPREHENSION, POLICE CUSTODY AND INTERROGATION

PART ONE Aim, Context, Legal Basis and Definitions

Aim

Article 1- The aim of this Regulation is to arrange matters related to the principles and procedures which will be applied by all constables and officers of all Police forces during legal investigation, which will be carried out in line with the information and orders of the Prosecutors of the Republic, the rights of persons apprehended, under custody or under detention and the standards of detention centers, the training, powers and responsibilities of the personnel as to interrogation procedures.

Context

Article 2- The provisions of this Regulation covers all Police forces.

Legal Basis

Article 3- This Regulation has been prepared bearing in mind the Code of Criminal Procedure numbered 1412, the Law on the Establishment and Prosecution Procedures of the State Security Courts numbered 2845, the Law on the Establishment, Mandate and Prosecution Procedures of Juvenile Courts numbered 2253, the Code on the Prosecution of Flagrant Crimes numbered 3005, the Law on the Duties and Jurisdiction of the Police numbered 2803, the Law on the Institution, Duties and Powers of the Gendarmerie numbered 2803, Law on Coast Guard numbered 2692, and the provisions of other relevant legislation.

Definitions

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Article 4- The following is understood by the definitions in this Regulation:

Security Forces: Police, Gendarmerie, Coast Guard and Special Security Forces,

Apprehension: Control, by temporary and de facto restriction, of a person's freedom, without the Judge's order before detention, when there's the need to overcome a danger aiming at public security, public order or against a person's body or life, or when there is a strong trace, indication, circumstantial evidence, and proof that a crime has been committed.

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To take under custody: Temporary control of a person's freedom who has been apprehended according to the law, within the legal period, and without any prejudice to his health, with a view to complete procedures against him until he is turned over to judicial authorities or released.

To take under detention: Temporary control of a person's freedom, in accordance with the law, within the legal period, and without prejudice to his health, until he is turned over to relevant authorities or released.

Cases where a delay may cause problems: Cases when if no immediate action is taken, there is a risk where the suspect may escape, his identity may not be determined, and traces, indication, circumstantial evidence, and proof of the crime may disappear.

Flagrant Crime: Crime committed by a person caught upon objects or indication, trace or circumstantial evidence or proof showing that the crime has been committed just before, or of a person caught by security forces or others during the crime or right after the crime.

Collective Crime: Crimes committed by three or more persons.

Suspect: Persons about whom a preliminary investigation is on course, or a person subject to police inquiry prior to preliminary investigation, or a person unable to prove his identity by a document or through witnesses reliable or known to the police, or a person whose documents' authenticity is suspected and persons who are simply suspected to have committed a crime.

Information gathering: Listening to and registration of the statement of persons who are not yet suspected of having committed a crime, or witnesses, or victims, with a view to determine or clarify a crime.

Taking statements: Listening to and registration of statements of people who are suspected to have committed a crime, by security forces, while informing them of the crime they are suspected to have committed, and reminding them of their right to remain silent and to benefit from defense, and their right to request the collection of evidence to escape from suspicion, according to the provisions of article 135 of the Code of Criminal Procedure.

The accused: A person against whom a public trial has been initiated by the Prosecutor of the Republic upon an alleged crime.

Interrogation: Interrogation of the accused or the suspect by the Judge as a result of a crime.

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The well being of investigation: Investigation carried out in a manner which will not allow for the alteration, destruction or concealment of evidence or the escape of suspects not yet apprehended.

Person Responsible for the Custody and Detention Center: Personnel or the Officer in charge of the Detention Center entrusted to read to persons detained or under custody their rights, to keep records, and to act in accordance with the law.

Custody Unit: Security Forces in charge and authorized to keep under custody, within the legal period, apprehended persons, until the procedure is completed for release or for the transfer to judicial authorities.

Detention Center: Places built with a view to keep suspects or accused persons until the procedure is completed for their transfer to judicial authorities.

PART TWO

Apprehension, Custody and Detention

The Authority to Apprehend, Take into Custody and to Detain

Article 5- Security Forces have the authority to apprehend, bring under custody or detention the following persons:

a) Persons specified by article 127 of the Code of Criminal Procedure and in other legislation:

1) Persons without an arrest warrant, encountered during the crime or pursued for a flagrant crime, with a risk to escape, or those whose identity cannot be immediately determined,

2) Suspects, where there are strong traces, indication, circumstantial evidence and proof that they have committed or have attempted to commit a crime,

3) Persons who do not obey the orders given by the security forces or who do not respect the measures taken,

4) Persons who resist security forces,

5) Persons who must be apprehended for they haven't carried out an obligation stemming from the law or for whom there is an arrest warrant issued by relevant authorities,

6) Persons who buy, sell, possess or use drugs,

7) Persons who are drunk at a level to disturb public order or who attack others under such a condition,

8) Persons who disturb public order, who attempt to attack others and who fight,

b) Provisions set by articles 13 and 17 of the Law on Responsibilities and Jurisdiction of the Police:

1) In line with the principles laid by the law, with a view to implement measures taken for cure, education, and correction in an institution, of persons who constitute a danger for society, such as mentally ill persons, drug and alcohol addicts, and those who may spread diseases,

2) Minors who are decided to be transferred to special institutions or to similar official or private institutions, or to be taken to relevant authorities,

3) Persons who enter the country illegally or who have been decided to be expelled,

4) Those who cannot prove their identity to security forces with a document or through reliable persons or whose document is suspected to be fake,

may be taken under custody or detention for a period not exceeding 24 hours.

In cases enumerated in paragraph 1, part (a), subdivison 1, apprehension may be carried out by anybody in addition to security forces.

The apprehension of suspects for flagrant crimes, the pursuance of which is subject to complaint, committed against minors or against those unable to control themselves due to physical or mental diseases, invalidity or weakness is not subject to complaint.

Apprehension Procedures

Article 6- Apprehension may be carried out within the frame of powers enumerated in article 5 and upon a Judge's decision or the order of the Prosecutor of the Republic.

In cases when apprehension is carried out directly by security forces, the procedure, the name of the person apprehended and the measures taken are immediately communicated to the Prosecutor of the Republic.

The person apprehended is first searched and deprived of elements such as weapons which may harm him or others.

During apprehension, necessary measures will be taken to prevent the destruction or alteration of trace, indication, circumstantial evidence and proof of the crime.

During apprehension, the person will be informed of his right to inform his relatives of his apprehension, the reason for apprehension, and the right to remain silent, regardless of the nature of the crime. During apprehension, informing immediately the relatives of the detained person will depend whether this information will harm the investigation as to the context and subject.

A record will be held for apprehension. A copy of this record will be forwarded to the apprehended person. The person will also be given a signed copy of the "Formulaire on Suspect and Accused Rights" (Annex A) in which it is affirmed that the person has been informed of his rights.

The apprehended person will be taken to a custody center as soon as possible.

Measures to be applied against persons apprehended and to be transferred

Article 7- The person will be handcuffed in cases if he resists, attempts to attack or attacks officials.

If there is a risk for the person to escape, it is at the discretion of the security forces to handcuff him.

Body Search

Article 8- The following provisions will be applied for persons taken to the custody center.

a) Before being taken to the center, they will be searched thoroughly. In case of body search which may cause embarrassment, ladies will be searched by female personnel.

b) Persons will be deprived of objects which may harm them such as belts, ties, ropes, sharp and cutting objects.

c) Belongings and money of persons will be preserved. The amount and serial numbers of the money will be determined, belongings will be described, and the persons taken into custody will be given a document.

Informing Relatives

Article 9- The apprehended person will be given the opportunity to inform relatives through:

a) If accompanied by a person, through that person.

b) By phone if he resides at the place of the crime and if he knows the phone number of his relative.

c) Through the local police station if he does not know the telephone number of his relative.

d) By phone or by establishing contact with the relative if his house is not at the place of the crime.

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If a foreigner is apprehended, his Embassy or Consulate will be informed.

For crimes falling under the jurisdiction of the State Security Courts, the relatives will be informed through the same way if there is no harm to the outcome of the investigation,

If informing relatives of the apprehended person harms the ongoing investigation, this will be specified in the minutes.

Health Control

Article 10- If the apprehended person is to be taken under custody or if he has been apprehended by use of force, his health at the time of the apprehension will be determined by a medical control.

In cases when, the apprehended person's location is changed for any reason, the detention period is extended, he is released, or he is sent to judicial authorities, his condition of health will be determined by a medical report.

The persons whose health has deteriorated or suspected to be in bad condition for any reason during detention period, will be immediately taken to a doctor.

For crimes falling under the jurisdiction of the State Security Courts, in case the detention period is extended, provided the condition that the period between two controls does not exceed 4 days, the apprehended person's health condition will be determined by a medical report.

Medical examination, control and cure are carried out free of charge by forensic institutions, official health institutions or municipality doctors. Doctor's report is written in four copies. One is kept at the detention center, the second one is given to the person when he leaves the detention center, the third one is included in the investigation file, the fourth one is kept at the health institute.

In cases where there is no restriction with regard to the investigation and to security considerations, the doctor and the person will be left alone during the examination.

Detention Center Procedures

Article 11- The admission of the person to the detention center following the search, is done by registration to the "Book of Admissions to the Detention Center" (Annex B).

The following must be observed throughout detention procedures:

a) Those related to the same crime, people hostile to each other, women and men will not be put together. Children will be kept separately from adults.

b) Except for necessity, no more than five persons may be held together at the detention center.

c) Persons may go to the toilet and clean up under the supervision of the officer in charge.

d) Food and drinks are controlled beforehand.

e) If an person displays an aggressive attitude and if he starts harming himself, first he will be tried to be convinced to calm down. Should this not be possible, force may be used to control his action. But, unless it is necessary and unless there is a danger to his or others' life, body integrity or health, force will not be used.

f) Persons, whose aggressive attitude and acts cannot be controlled, will be sent to health institutions for medical care.

g) Expenses related to inform relatives of the apprehended person, feeding, transfer, health preservation and cure will be financed from the national budget allocations.

Book of Admissions of the Detention Center

Article 12- Detention procedures are carried out by registering the detainees in the Book of Admissions. This Book, which is subject to supervision includes:

- a) Identity Information
- 1) Name and Surname
- 2) Father's name
- 3) Sex
- 4) Place and date of birth
- 5) Place of civic registration,
- 6) Family and registration number
- 7) Passport number for foreigners
- 8) Home address, office address and telephone numbers
- b) Information concerning detention
- 1) Imputed crime and reasons for detention
- 2) Place and date of imputed crime
- 3) Name of the officer who issued the apprehension and detention orders
- 4) Name of the Prosecutor of the Republic who has been informed
- 5) Date and time when the Prosecutor of the Republic has been informed

6) Information gathering process section registration

c) Admission procedures

1) Place, date and hour of apprehension

2) Admission date and hour

3) Medical report at admission, date, number and summary

4) Belongings put under custody during the search, signatures of the officer and the detainee

5) Name, surname, rank and signature of the officer at the admission

d) Procedures about the accused

1) Name of the relative informed

2) Name and telephone number of the diplomatic mission informed

3) Information on whether an interpreter has been assigned, name and signature of the interpreter

4) Signed declaration or the person under custody requesting a lawyer

5) If a lawyer is requested, name of the Bar, or the name and surname of his lawyer

6) Name and surname, registration number, arrival time and signature of the lawyer present,

7) Name of the authority which has decided on an extension period, date of the decision, number and period of extension

e) Exit procedure

1) Date and hour of exit

2) Office which has issued the medical report on exit, date, number and summary of report

3) Authority the person under custody has been sent to

4) Date and number of the transfer document

5) Name, Surname and signature of the officer who has taken over the person

6) Belongings returned to the person and his signature

7) Belongings given to the Officer and his signature

8) Temporary leave

9) Additional procedure and results

10) Name, surname, rank and signature of the officer taking care of departure procedure

11) Name, surname, rank and signature of the supervisor

Other necessary information, in addition to those above mentioned, may be added to the Book.

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PART THREE Custody Period, Release and Transfer to Judicial Authorities

Custody Period

Article 13- Custody period of an person whose liberty has been restricted starts as soon as this person is apprehended.

If a person apprehended for crimes committed by one or two persons is not released, he must be arraigned before the competent judge no later than 24 hours, except the necessary time needed for his arraignment before the nearest judge. If the crime falls under the scope of the State Security Courts, this period is 48 hours.

Extension of the Custody Period

Article 14- For reasons such as difficulty in gathering evidence or the presence of a large number of defendants and similar reasons, the Public Prosecutor may prolong this period by a written order up to four days in cases of collective crimes, including for crimes falling under the scope of the State Security Courts.

In spite of the four day extension, if the investigation is still not completed, upon the request of the Prosecutor and the decision of the Judge, the arraignment of suspects before the Judge may be extended to 7 days.

For crimes committed in emergency regions and falling under the scope of State Security Courts, the 7 day period may be extended to 10 days upon request of the Prosecutor of the Republic and the decision of the Judge.

Reference to the Judge against apprehension

Article 15- The petition of the person apprehended must be conveyed to the competent judge as fast as possible, with a view to release him, against the written order of the Prosecutor of the Republic regarding the apprehension procedure or the extension of the custody period, including for crimes falling under the scope of the State Security Courts

Transfer to Competent Authorities or Release

Article 16- The apprehended person will be released immediately by security forces if the reason for apprehension is not determined or if the reason for apprehension no longer exists.

The apprehended person will be sent to the relevant institution if he needs medical assistance.

The custody periods are maximum periods, and procedures for people under custody should be completed in the shortest time possible.

Persons under custody are immediately sent by security forces to the relevant Prosecutor of the Republic without waiting for the custody period to end.

During the custody period, in cases when the reason for custody no longer exists or if no evidence has been gathered against the person, the Prosecutor of the Republic will be immediately informed and the person will be released.

Despite the order issued by the Prosecutor of the Republic on apprehension or extension of the custody period, release order issued by the judge will be immediately put into force.

Prohibition to Apprehend Again

Article 17- A person apprehended and released may not be apprehended and taken under custody again for the same crime, unless there is enough evidence and an order of the Prosecutor of the Republic related to the crime subject to apprehension.

Specific Clause on Minors

Article 18- The following restrictions are in force with regard to the apprehension and interrogation of minors.

a) As it is prohibited by the Turkish Penal Code and the Code on the Law on Juvenile Courts' Establishment, Mandate and Trial Procedures, to punish minors not above the age of eleven, and deaf and mute minors not above the age of 15 on the date of the crime, these persons cannot be apprehended. Upon an offense which necessitates one year or more prison sentence, minors may be apprehended to have their identity and the nature of the crime determined. Minors will be released immediately after determining the nature of the crime. Minors cannot be used in anyway in determining the nature of the crime. Identity of the minors and the nature of the crime will be submitted immediately to the Prosecutor of the Republic to obtain a decision.

b) Minors over the age of eleven, but below the age of fifteen may be apprehended for having committed a crime. These minors will be sent to the Prosecutor of the Republic while their relatives and a lawyer are informed. The preparatory investigation will be carried out by the Chief Prosecutor of the Republic or a Prosecutor of the Republic appointed by him.

c) The preparatory investigation of minors over the age of fifteen and below the age of eighteen may be carried out by security forces. The preparatory investigation will be carried out according to the following provisions:

1) The provisions of the Law numbered 3005 of the Code on the Prosecution of Flagrant Crimes cannot be applied.

2) The parents or the tutor will be informed that the minor has been taken under custody.

3) Except for crimes falling under the scope of the State Security Courts, they may benefit from the assistance of a defense counsel even if they have not requested so, and parents or the tutor may act as a lawyer.

4) Suspected minors' statement may be taken in presence of the lawyer.

5) In cases when it is not determined that this is against his interests or if there is no legal restrictions, parents or the tutor of the minor may be present during statement.

6) Minors will be kept separately from adults.

7) If the crimes defined in the Code on the Law on Juvenile Courts' Establishment, Mandate and Trial Procedures are committed together with adults, the files of the minors will be separated, and the investigation of adults and minors will be carried out separately during the preparatory investigation.

8) Identity and acts of minors will be held secret.

9) In case the victim of the flagrant crime is a minor, there is no need for a complaint to apprehend suspects and carry out investigation for acts where the investigation is related to the complaint of the victim of the crime.

10) Procedures related to minors will be carried out, to the maximum extent possible, by officers with plain clothes. Minors cannot be handcuffed.

11) For minors below the age of eighteen, all kinds of research, which does not have an investigation character and a crime allegation, may be carried out. Traces, indication, circumstantial evidence and proof of the crime will be determined, preserved and documented. Information concerning the suspect will be gathered and all urgent procedures which should not be delayed will be carried out.

PART FOUR Matters Related to the Lawyer

Appointment of the Lawyer

Article 19- The apprehended person or the suspect may appoint a lawyer, as well as his legal representative may do so, in case he has one.

Except for crimes falling under the scope of the State Security Courts, if the person is not able to appoint a lawyer, upon his request, the Bar will appoint one for him. Such a request will be communicated to the Bar immediately by the security forces.

If the apprehended person or the suspect is not over the age of eighteen or if he is deaf or mute or unable to defend himself and if no lawyer is found, without his request, the security forces will inform immediately the Bar to appoint a lawyer.

Meeting with the Lawyer

Article 20- The apprehended person may meet with the lawyer anytime and in an environment where others will not hear the conversation.

With a view not to delay the investigation and upon the request of the apprehended person, without a power of attorney, one lawyer may be present during statement.

Correspondence with the lawyer cannot be subject to control.

In crimes falling under the scope of the State Security Courts, the apprehended person may meet his lawyer only upon extension of the custody period by order of the Judge.

The Right of the Lawyer to examine the case file

Article 21- The Lawyer may examine anytime the minutes of the statement of the apprehended person, all the experts' reports and all other preparatory documents and may obtain copies of them from the security forces. Other information, except those mentioned previously, in the file, may be examined only upon the decision of the Prosecutor of the Republic.

PART FIVE Statement

Principles of Statement

Article 22- Statement may be obtained by constables and police officers under the following principles and codes:

a) The clear identity of the stating person is determined. The stating person must give correct answers to questions relating to his identity.

b) He will be told that he can inform any of his relatives about his apprehension, and these relatives will be informed of his apprehension.

c) The nature of the accusation against him will be explained. He will be reminded that he has the legal right to refrain from making any explanation on the crime attributed to him.

d) He will be told that he has the right to have a lawyer; if he does not have the financial means to hire one, the Bar Association can appoint one for him; if he wishes so, the lawyer may be present during statement without a power of attorney.

e) If the person requests so, the Bar will be informed to nominate a lawyer. The lawyer will be expected to arrive in a reasonable time; in case he doesn't arrive, this will be registered in the minutes and the statement procedure will begin.

f) The person will be given the opportunity to clear away the reasons for suspicion against him and to submit facts in his favor.

g) He will be reminded that he may ask for the gathering of concrete evidence in order to relieve himself from suspicion.

h) Information will be obtained with regard to the civic status of the person.

i) The statement will be carried out in a manner which will not hamper the suspected person to reveal evidence in his favor.

j) Minutes will be kept during his statement.

k) The place and date of the statement, the clear identity of the suspected person, the names and the status of those present during statement, whether the above mentioned rules have been observed during the procedure, if not, the reasons, will be included in the minutes.

1) Minutes, after been read, will be signed by all those present. If someone refrains from signing, the reasons will be specified in the minutes.

The lawyer may not intervene in a way which gives the impression that he is replacing the suspect during interrogation. He may only offer legal assistance. Legal assistance does not mean interventions which may obscure material facts. The lawyer may remind the suspect all his legal rights and all interventions by the lawyer are registered in the minutes. Points (d) and (e) of the first paragraph cannot be applied to a person interrogated for crimes falling under the scope of State Security Courts. Informing the relatives of the suspect of his apprehension/custody is dependent on whether this information will not reveal the context and subject of the investigation. In this kind of crimes, before the statement, the person will be informed of the crimes alleged against him and will be asked whether he wishes to reply on the accusation.

Prohibited Methods in Interrogation

Article 23- The statements of the suspect must be based on his own free will. Statement obtained through forbidden measures, even with the consent of the suspect, cannot be considered as evidence. For this reason, the person under custody,

a) Cannot be submitted to physical or emotional interventions which disrupt free will, such as mistreatment hampering free will, torture, administering medicine by force, tiring, misleading, use of physical force or violence, use of devices.

b) Cannot be promised an illegal benefit.

PART SIX

Detention Center and Interrogation Room

Detention Center and Interrogation Room

Article 24- Detention centers should be at least 7 square meters large, 2.5 square meters high and should be arranged in a way to leave at least 2 meters between the walls. Sufficient natural light and air circulation will be ensured.

Except when necessary, no more than 5 people can be held together under custody.

There will be a sufficient number of fixed and robust seats for people under custody to sit down and sleep.

By taking into account season conditions and material conditions of detention centers, a sufficient number of beds and blankets will be provided for persons who will spend the night in custody.

Necessary measures will be taken to provide sanitary and hygiene conditions.

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The approved Regulation will be hanged at the entrance of the Detention Center.

Interrogation rooms should be independent places, specially prepared, with necessary technical material, internal and external security provided.

Within budget limits, detention and interrogation rooms have to conform with standards.

PART SEVEN Various and Last Provisions

Supervision of Detention and Interrogation Rooms

Article 25- Relevant units of Police forces will carry out supervision to verify the compatibility of detention and custody rooms to standards.

Chief Prosecutors of the Republic, or Prosecutors of the Republic mandated by them, as a prerequisite of their judicial task, examine detention centers, interrogation rooms, the conditions of people under custody, the reasons and duration of custody, and all registration procedures related to custody will be verified by them, and they will report the results in the Book of Admissions of the Detention Center.

Relevant authorities reserve their right to supervise those places as indicated in the legislation.

Secrecy During Preliminary Investigation

Article 26- Any person, until his guilt is proven by a Court decision, is presumed innocent, and preparatory investigation is done secretly. For this reason, during the investigation period, a person under custody cannot be shown to the public, or portrayed in the media as guilty; showing the place of crime with the media; meeting with the media or responding to their questions cannot be allowed, the investigation documents cannot be made public.

Police forces, with a view to inform the public of their activities may inform the media through their relevant units by a press statement and by taking into account the provisions of special legislation related to informing the media by security forces.

Responsibilities

Article 27- Police forces, which have been given by law the authority to apprehend, to detain, to put under custody, and to interrogate are responsible for the implementation of the provisions of this Regulation.

Quality of Personnel

Article 28- Personnel which will implement the tasks given to Police forces by this Regulation must be duly trained.

Training of Personnel

Article 29- Experienced, patient, calm Personnel, familiar with the psychology of suspects, with high degree of comprehension, succeeded in a psycho-technical test may attend training.

The training period and program may be determined with the approval of the Chief of Gendarmerie and General Directorate of Security.

Personnel having succeeded in the training program will be given a certificate by the Chief of Gendarmerie and General Directorate of Security.

Personnel who failed in the training program will be subject to the provisions of In Service Training Directive.

No additional certificate will be given to Personnel who attends repetition or reminder programs.

Temporary Article 1- A training plan will be prepared within three months of the publication of this Regulation for the training of Police forces which will carry out tasks according to this Regulation, and the training of present personnel will be completed in two years.

Abrogated Provisions

Article 30- "Gendarmerie Chief of Staff, Custody, Interrogation and Deposition Regulation" dated 18/1/1996, numbered 318 and "General Directorate of Security, Custody, Interrogation and Deposition Regulation" dated 8/5/1995, numbered 148 have been abrogated.

Entry in Force

Article 31- This Regulation enters into force as of the date of its publication in the Official Journal. (1 October 1998)

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Legislation

Article 32- The provisions of this Regulation is executed by the Ministers of Justice and Interior.

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21/8/1998

APPROVED

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Hasan Denizkurdu Minister of Justice Kutlu Aktaş Minister of Interior

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Annex No: 2

Examples of Human Rights Inspection Forms.

On the spot inspections are carried out by the concerned authorities, without notifying the detention center in advance, as per Regulation issued by the Prime Minister on 3 December 1997 under no: 73

Some examples of the forms are attached hereto.

- Encl.: Official document of the Office of State of Emergency of the Province of Van, dated 16 November 1998 and no: 3059, on the local implementation of the recommendations in the CPT report.
 - Human rights inspection form for Van dated 13 November 1998.
 - Human rights inspection form for Güroymak, Bitlis dated 11 November 1998.
 - Human rights inspection form for Tunceli dated 13 November 1998.
 - Human rights inspection form for Mardin dated 9 November 1998.
 - Human rights inspection form for Yüreğir, Adana dated 6 November 1998.



(RED)

GONLODOR

T.C. VAN İLİ OLAĞANÜSTÜ HAL BÜROSU BAŞKANLIĞI

OLAGANOSTUHAL

16/11/1998

OLÜSHAL: 28-98/3059 KONU : AİÖK'nin Raporu.

İÇİŞLERİ BAKANLIĞINA

(Araştırma, Planlama ve Koordinasyon Kurulu Başkanlığına) ANKARA

İLGİ : a) 06.01.1998 gün ve B050APK0070002-6.2.5/2 sayılı yazınız. b) 14.10.1998 gün ve B050APK0070002.7.1.1/1986 sayılı yazınız.

İlgi (a) yazınız ekinde gönderilen Başbakanlığın 1997/73 sayılı genelgesi ve ilgi (b) yazınız ekinde gönderilen Avrupa İşkenceyi Önleme Komitesi'nin 05707 Ekim 1997 tarihlerinde ülkemize gerçekleştirmiş olduğu ziyaretle ilgili raporunda yer alan tavsiyeler ile İnsan Hakları Uygulamaları Denetleme Formu dahilinde, İlimizde yapılan çalışmalarda;

Konuyla ilgili olarak gerek Başbakanlığın 1997/73 sayılı genelgesinin, gerekse-Avrupa İşkenceyi Önleme Komitesi'nin tavsiyelerini içeren raporunun, İlimiz merkez ve ilçelerinde bulunan güvenlik birimlerimize dağıtımı yapılarak personelin konu hakkında bilgi sahibi olması sağlanmış, ayrıca bundan sonraki uygulamalarda da genelge hükümlerinin titizlikle uygulanması ve söz konusu raporda yer alan tavsiyelere de dikkat edilmesi belirtilmiştir.

Gözaltı yerlerinin uluslararası standartlara uygun hale getirilmesi için İl Emniyet Müdürlüğü'ne bağlı bulunan il merkezindeki (4) Karakol Amirliği ve (8) İlçe Teşkilatı'nın nezarethaneleri için gerekli ödenek, Emniyet Genel Müdürlüğü tarafından gönderilmiş, ancak il merkezi hizmet binasındaki nezarethaneler için ihtiyaç duyulan ödenek henüz intikal etmemiştir. Ödenek geldiğinde gözaltı yerlerinin standartlara uygun hale getirilmesi sağlanacaktır.

İl Jandarma Komutanlığı'na bağlı, bazı İlçe Jandarma Komutanlıklarında standartlara uygun olmayan gözaltı yerlerinin inşaatı devam etmekte olup bu ilçelerde gözaltına alınan şahıslar ise, Cumhuriyet Başsavcılıklarının da görüşleri alınarak standartlara uygun gözaltı yerleri bulunan komşu ilçe Jandarma Komutanlıklarında CMUK ve ilgili yasalar hükümlerine göre gözaltında tutulmaktadırlar.

İnsan Hakları Uygulamaları Denetleme Formu, ilgili güvenlik birimlerince tanzim edilerek ekte gönderilmiştir.

Bilgilerinize arz ederim.

E K İ : (27)adet denetleme formu.

14. 1. 98 057557

GAR

M.Niva2

Vali a. Vali Yardımcısı

İNSAN HAKLARI UYGULAMALARI DENETLEME FORMU

іLİ	: VAN
İLÇESİ	: BÜTÜN İLÇELER
TEŞKİLATI	: JANDARMA
BİRİMİ	; ·
DENETLENEN	: İL J.K.LIĞINA BAĞLI, BÜTÜN İLÇE JANDARMA
	KOMUTANLIKLARI
DENETLEYEN	: ERDAL SARIZEYBEK
	J. YARBAY
	IL J.K. VEKILI
DENETLEME TAR	[H]: 10/11/1998

Varsa Önceki Denetim Tarihleri:/..../199.....

İNSAN HAKLARINA SAYGI, İŞKENCE VE KÖTÜ MUAMELENİN Önlenmesi konusunda denetleme formu

SIRA NO	DENETLEME FORMU	EVET	HAYIR	AÇIKLAMALAR
1	Hazırlanan formlar gözaltının başlangıcında kendisine veriliyor mu?	X		
2	Gözaltına alınanlar kayda geçiriliyor mu?	X		
3	Doktor raporlæri Saglik Bekanlığı'nun staudert formlærina uygun mu?	X		
4	Sanıkların Avukatları ile teması ve yakınlarına haber verilmede CMUK ve "Yönetmenge üyüluyor mu?"	Χ_		•
5	Gözaltına alınanlır yaşal süre içinde adli mercilere sevk ediliyor mu?	X	·-··	-
6	Gözaltı birimlerinin fiziki koşulları Uluslararası standartları uygun mu? (7 m2 genyhk, 2.5 m. Yukrekük, 2 m. Eainde, yeterli aydınlatına re haralandurmaya ralep)	x		Standartlara uygun olmayan Edremit, Çatak, Gürpınar, Muradiye ilçe J.K. hklarında inşaatlarına devam edilmektedir.
7	Nezarethane ve müştemilatı, sıralı amirlerce sık sık denetleyip, yasal olmayan hallerin tesbitinde sorumlular hakkında işlem yapılıyor mu?	X		
8	Sağlık reporları hazırtanırken doktor ile sanık yalnız bırakılıyor mu?	X		
9	Gözaltındakilerin beslenme, sağlık v.b. zorunlu ihtiyaçları karşılanıyor mu?	X		· • · · · · · · · · · · · · · · · · · ·
10	Sorgu yerleri, ses ve görüntü kaydetnıc cihazlarıyla donatılıyor mu?			İlçe J.K.lıklarında sorgu odası olmadığı İl J.K.lığında Stan- dartlara uygun sorgu ünitesi bulunmak- tadır.
11	Sorgulama işlemlerinde tecrübeli ve bilgili uzman personel kullanılıyor mu?	X		······································
12	İşkence ve kötü muamele iddiaları hıkkında gerekli soruşturma gecikmeden yapılıp, suçlu bulunanlar hakkında yasal işlem derhal yapılıyor mu?	X	L 	·
13	Yukarıda sıralanan məddeler kapsamında eksiklik tespit olunan birim veya görevliler hakkında yapılan işlemlere ilişkin bilgiler (Hakkında işlem yapılan birim veya görevli sayısı, yapılan işlemin niteliği-sonucu vb.)			Bu tür suçlamalara manız kalan personel yoktur.

Tarih

: 13.11.1998

Erdal S J. Yarbay İl J.H

INSAN HAKLAKI UYGULAMALARI

TER. MUC, SE. CL. CLOU, HI HAID

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DENETLEME FORMU

	BITLIS
ILÇESİ	:
TEŞKİLATI Birimi	TEM Buro Amirligi
ORNETLENEN (Adi Suyadi Unvar	
DENETLEYEN (Adı Soyadı Onvaz DENETLEME	ARIHI 1 1. 199.8
	matter malifield at the

Varsa Onceki Denetino Tarihieri : # ... / ... / 199,...

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INSAN HAKLARINA SAYGI, İŞKENCE VE KÖTÜ MUAMELENİN Önlenmesi konusunda denetleme formu

NU	DENETLEMENKONUSU	EVET	HAYL	AÇIKLAMALAR	7
1.	Hazniavan formlar afratumn beslangrounds kondisine veniliyer mu ?	x			
2	Gezellune wurneller keptle geçiriliyor my ?	x		······································	
3	Duktor reporten Saglik Bakanlığı'nes mandat formlanna uygun mu ?	X	·		and a second second second second second second second second second second second second second second second
4	Saniklanii Avikatiaa lie lemast vo yakakiine haber verilinedo CMF)K vo Yonetmelige uyuluyar hiu ?	X			-
\$	Ginalima almentar yourd sore iginde add meruliers sork ediliyer nu 7	X			-
6	Odralis hirimlorinin ficiki kogulari Uluslararest standartlara uygun mu 7 17 ni genina 25 m yulardili, 2 m crinde, yeterlaftanlara ve havalardirmiye aship)	x	<u> </u>		-
7	Nezarsthane ve müştemilati, stralı smirjeres sik sik donetlenip, yazal olmayan hallerin teshtinde sorumlular hakkında iştem yapılıyor mu ?	I			-
, ·	Seghk reporters hezartensken doktor ile seriek yelmig bitakirym mit ?	I	 -		1
9	(Jozalindak Berin bestemme, neglik v.b. zorunlu ihtiyaçları karşılanıyor mu?	x		**************************************	
10	Songu yerleri. ses ve görüntö knyilelme cihnzlanyta donauliyor mit ?	-	x	Bitlis Em.Mud.	1
[]	Sorgulama islemicrinde teurobell ve bilgiti uzman pirsenel kullanılıyor nu ?	+		gönderiliyor. Bitlis Emn.Müd.	4
12	iskenos ve kolti musinele iddislavi hakknida gerekli sorusturme geviknie-len yepilip, sugla balunarilar hakkunda yapal islem derhal yanihwr mu?		X	Gönderilivor.	-
13	Yuhanda analaran maddeler kaparnında akriklik tespit ohunu) birim veya görəvliler hakkında yapıları işkemlere ilişkin bilgiler (Hakkında işlem yapıları birim veya görevli sayısı, yaşılan işlemin mieliği-conucu vb.)	$\begin{pmatrix} 1 \\ 4 \\ rek \end{pmatrix}$	Fol.	cnce Id.(1) Amir Me.hakkinda ge- ru:turma başlamı	4

T.C. Igtys, CR. Buckles Ca. Apprime, Furtherna ve Roccolination Kuruly Bestori di Formi

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12.20,00

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INSAN HAKLARI UYGULAMALARI DENETLEME FORMU

11 1 IL ÇESÎ TEŞKİLATI BIRIMI DENETLENEN (Adı Soyadı Ünvanı) :Tunceli :Merkez :Emniyet Müdürlüğü Asayiş Şube Müdürlüğü :\$.Cemalettin ÖZDEMİR Krk.Amirliği :Şeref AKAVCI Başkomiser Ş.C.ÖZDEMİR Karakol Amiri

:M.Ali TÜRKER Tunceli Valisi

DENETLEYEN (Adı Soyadı Ünvanı) DENETLEME TARIHI :13.11.1998 Varsa Önceki Denetleme Tarihleri :

İNSAN HAKLARINA SAYGI, İŞKENCE VE KÖTÜ MUAMELENİN **ÖNLENMESİ KONUSUNDA DENETLEME FORMU**

SNO	DENETLEME KONUSU	EVET	HAYIR	AÇIKALAMA
1	Həzirlarıan furmlar gözaltının başlangıcında kendisine veriliyormu?	x		
2	Gözaltına alınanlar kayda geçiriliyormu ?	x		
3	Dukun Kapratlari Sağlıkbakanlığının standart fontil	x	· · ·	· · · · · ·
4	Sanıkların Avukatları ile teması ve yakınlarına haber verilmede CMUK ve yönetmeliğe uyuluyormu ?	x		
5	Gözaltına alınanlar yasal süre içerisinde adli mercilere sevk ediliyormu ?	x		······································
6	Gözəlti birimlerinin fiziki Koşulları Uluslar arası standartlara uygunmu ? {7 m2 genişlik 2,5 metre eninde,yeterli aydınlatma ve havalandırmaya sahip)	x		· · · · · · · · · · · · · · · · · · ·
7	Nezarethane ve müştemilatı, sıralı Amirlerce sık sık denetlenip, yasal olmayan hallerin tespitinde sorumlular hakkında işlem yapılıyormu ?	x		
8	Sağlık Raporu hazırlanırken doktor ile sanık yalnız bırakılıyormu ?	x	-	
9	Gözaltındakilerin beslenme , sağlık vb. zorunlu ihtiyaçları karşılanıyormu?	x		
10	Sorgu yerleri .ses ve görünlü cihazları ile donatılıyormu ?	x		<u>,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,</u>
11	Sorgulama işlemlerinde tecrübeli ve bilgili uzman personel kullanılıyormu ?	x		
12	İşkəncə ve Kötü muamele iddiatarı hakkında gerakli soruşturma gecikmeden yapılıp, suçlu bulunanlar hakkında gerekli işləm derhal yapılıyormu?	x		
13	Yukarıda sıralanan maddeler kapsamında eksiklik tespit olunan birim veya görevliler hakkında yapılan işlemlere ilişkin bilgiler (Hakkında işlem yapılan birim veya görevli seyraı, yapılan işlemin niteliği-sonucu vb.)			

1 C İÇİŞLERİ BAKANLIĞI-Araştırma-Planlama ve Koordinasyon Kurulu Başkanlığı Formu.

TARIH **İ**MZA MÜHÜR



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DENETLEME FORMU

Ш	MARDİ <i>L</i>			
ÎLÇESI	. Merkez			
TEŞKILATI	Nardin Enniyet Müdürlüğü			
BIRIMI	Kaçakçılık ve Organize Suçlarla Mücadele Şube Müdürlüğü			
DENETLENEN	Tayfun OKTAY			
(Adı Soyadı Ünvanı)	Komiser - Bürolar Amiri			
DENETLEYEN	A.Şahin ÇIMAR			
(Adı Soyadı Ünvanı)	Paşkomiser - Kaç.ve Org.Suç.Hüc.Şb.Md.v.			
DENETLEME TARIHI	:			
Varsa Önceki Denetim Tarihleri :/199				

İNSAN HAKLARINA SAYGI, İŞKENCE VE KÖTÜ MUAMELENİN ÖNLENMESİ KUNUSUNDA DENETLEME FORMU

Sira		····		
DENETLEME KONUSU	EVET	HAYIR	AÇIKLAMALAR	
1- Hazırlanan formlar gözaltının başlangıcında kendisine veriliyor mu ?	x			
2- Oðzaltina alinanlar køyda geçiriliyor mu ?	X			
3- Doktor reporten Seğlık Bakanlığı'nın standart formlarına uygun mu?	X			
4- Samkların Avukatları ile temas etmesi ve yakınlarına haber verilmede CMUK ve Yünetmeliğe uyuluyor mu?	y.			
5- Gözaltma almanlar yasal süre içinde adli mercilere sevk ediliyor mu?	x			
 6- Oʻozalti birimlerinin fiziki koşullari Uluslararası standartlara uygun mu?(7 m2 genişlik, 2,5 m yükseklik, 2m eninde, yeterli sydınlatma ve hav.maya salup) 7- Nevreale and a standard and and a standard and and a stand			Gözaltı birimimiz yoktur.	
ballerin tesbitinde sorumtular hakkında islem vanılıyor mu 2			Nezarethanemiz yoktur.	
8- Sağlık raporları hazırlarırken doktor ile sanık yalnız bırakılıyor mu?	Х			
9- Gözaltındakilerin beslenme, sağlık vb. zorunlu ilitiyaçıları karşılanıyor mu?	X			
porgu yerleri, ses ve görüntü kaydetme cihazlarıyla donatılıyor mu ?			Sorgu yerimiz yoktur.	
11- Sorgulama işlemlerinde teorübeli ve bilgili uzman personel kullamyor mu?			77 17 18	
12- İşkence ve kötü muamele iddiaları hakkında gerekli sonışturma gecikmeden yapılıp, suçlu bulunanlar hakkında yasal işlem derhal yapılıyor mu?			Hakkında soruşturma ğapılar Voktur	
13- Yukanda sıralanan maddeler kapsamında eksiklik tespit olunan birim veya görevliler hakkında yapılan işlemlere ilişkin bilgiler (Hakkında işlem yapılan birim veya görevli sayısı, yapılan işlenim niteliği-sonucu vb.)				

Tarih tinza Mühür

09.11.1998

T C IÇIŞLERI BAHAMLIĞI- Araştırma,Planlama ve Koordinasyon Kumlu Başkanlığı Formu

INSON HAKLARI UYGULAMALARI DENETLEME FORMU

1L1.	: ADANA
1LÇESI,	:YORESIR
TESKILATI	:ARASTIRMA SORGULAMA
BIRIMI	:KISMI
DENETLENEN	:YAGAR YILDIZ
	J.ASTSB.KD.BCVS.
DENETLEYEN	HALIL CELIK
•	J.YÜZBAŞI
	ISTH.S.MODORO
DENETLEME TARIHI	:06.11.1998
VARSA ÖNCEKI	
DENETIM TARIHI	****/***/199

INSAN HAKLARINA SAYGI, ISKENCE VE KOTO MUAMELENIN önlenmesi konusunda denetleme formu

S.N	DENETLEME KONUSU	EVET	HAYIR	ACIKLAMALAR]
1	HAZIRLANON FORMLAR GOZALTININ BAS- LANGICINDA KENDISINE VERILIYOPMU?	X			
2	GGALTINA ALINANLAR KAYDA GEÇIRILI- YORMU ?				
3.	DOKTOR RAFÚŘLÁRI SAŠLIK BAKANLIĞI NIN STANDART FORMLARINA UYGUN OLU- Yor MU ?	X			
₫.	SANIKLARIN AVUKATLARII ILE TEMASI VE YAKINLARINA HABER VERILMEDE CMUM VE YONETHELIGE UYULUYOR MU ?	X			
5	GÖZALTINA ALINANLAR YASAL SÖRE IÇINDE ADLI MAKAMLARA SEVK EDILI- YOR MU ?	X			
E	GÖZALTI BIRIMLERININ FIZIKI KOSUL- LARI ULUSLARARASI STANDARTLARA UY- GUN MU ? (7 M2 GENISLIK 2,5 M.YOK SEKLIK 2 METRE ENINDE,YETERLI AY- DIMLATMA VE HAVALANDIRMAYA SAHIPMI	ri U lara kolla stana amac	luslara Uygun arın be dar <u>t</u> ha Lyla öd	nezarethanele arası standart olmayan Kara elirtildiğini ale getirmek denek talebin muştur.	
7	MEIAPETHONE VE MOSTEMILATI, SIRALI AMURLERCE SIK SIK DENETLENIR, YASAL OLMAYAN HALLERIN TESPITINDE SORUM- LULAR MAKKINDA ISLEM YARILIYOR MU?	x			
8	SAGLIK GAFORLARI HAZIRLANIRKEN DOK TOR ILE SANIK YALNIZ BIRAKICIYORMU	X			

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S.N	DENETLEME KONUSU	EVET	HAYIR	ACIKLAMALAR
9	GOZALTINDAKILERIN BESLEHME SASLIK V.B.ZORUMLU IHTIYACLARI KARSILANI- YOR MU ?	x	· · ·	
10	SORGU YERLERI SES VE GORONTO KAY- DETME CINAZLARIYLA DONATILIYOR MU?	X		
11	SORGULANA ISLEMLERINDE TECROBELI VE BILGILI UZMAN PERSONEL KULLANI- LIYOR MU ?	X		
12	ISKENCE VE KOTO MUAMELE IDDIALARI HAKKINDA GEREKLI SORUSTURMA GECIK- MEDEN YAPILIP SUCLU BULUNANLAR HAK KINDA YASAL ISLEN DERHAL YAPILIYOR MU ?	X		
13	YUKARIDA SIRALANAN MADDELER KAPSA- MINDA EKSIKLIK TESBIT OLUNAN BIRIM VEYA GOREVCILER HAKKINDA YAPILAN ISLEMLERE ILISKIN BILGILER(HAKKIN- DA ISLEM YAPILAN BIRIM VEYA GOREVL SAYISI,YAPILAN ISLEMIN NITELIGI SA YISI VE GOREVI	BU G ISLE YOKT	MYAPIL	DAR HAKKINDA AN PERSONEL
			A	
		A	Yüzb İsth.Ş	391
			••	

ADANA ILI JANDARMA KOMUTANLISINA BASLI BIRLIKLERDE ULUSLARARASI NITELIKLERE UYGUN OLMAYAN NEZARETHANELERIN DURUMU

ALL BIRLIK ADI	STANDARTLARA UYGUNLUSU/DOSONCELER
PEADAG EGNER JANDARMA KRK K.LIGI POZANTI MENREKEZ J.KRK.K.LIGI	UYGUN DEGIL BINA YETERSIZ ARSA YETER- Li ödenek istendi. UYGUN DEGIL BINA VE ARSA YETERSIZ
	UYGUN DEGIL BINA YETERSIZ ARSA YETER- Li odenek istendi.
	UYGUN DEGIL BINA YETERSIZ ARSA YETER- Li odenek istendi. Uygun degil bina ve arsa yetersiz
.SAIMBEYLI MRK.J.KRK.K.LIGI	•
SAIMBEYLI CATAK J.KRK.K.LIGI	
AN HORZUM J.KRK.K.LIBI	UYGUN DEGIL BINA VE ARSA YETERSIZ
.KOZAN GOKDERE J.KRK.K.LIMI	UYGUN DEGIL BINA VE ARSA YETERSIZ
DIKOZAN GAZIKOY J.KRK.K.LIGI	UYGUN DEGIL BINA VE ARSA YETERSIZ
	UYGUN DEGIL BINA YETERSIZ ARSA YETER- LI ODENEK ISTENDI.
2.CEYHAN KOGRELI J.KRK.K.LIĞI	UYGUN DEGIL BINA VE ARSA YETERSIZ
1 YOREGIR YAKAPINAR J.KRK.K.LIGI	UYGUN DEGIL BINA VE ARSA YETERSIZ
*.YÖREGIR ÇINARLI J.KRK.K.LIĞI	UYGUN DEGIL BINA VE ARSA YETERSIZ
YORESIR HACIALI J.KRK.K.LISI	UYGUN DEBIL BINA VE ARSA YETERGIZ
YOREGIR HARKIBEYLI J.KRK.K.LIĞI	UYGUN DEGIL BINA YETERSIZ ARSA YETER- Li ödenek istendi.

MÜSAADE EDEN MZALIDIR OKTAY TEKIN. J.KD.ALBAY IL J.KOMUTANI

17.11.1998 ASLININ WITH - 15 m

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Annex No: 3

Photocopies of the meeting records of persons apprehended for offenses falling under the scope of the State Security Courts, with their lawyers. (x)

(m) The names of the apprehended persons have been deleted (cf. Article 11, paragraph 3, of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment).

- Encl.: Official document of the Office of the General Prosecuter of the Diyarbakır State Security Court, dated 26 November 1998, no: 1779, on meetings of persons apprehended with their lawyers.
 - Several petitions of lawyers demanding meetings with their clients apprehended and synopsis of several meetings between persons apprehended and their lawyers.

T.C. DİYARBAKIR DEVLET GÜVENLİK MAHKEMESİ CUMHURİYET BAŞSAVCILIĞI

SAYI: 1998//779 Bak.Muh.

26.11.1998

İLGİ: Diyarbakır Baro Başkanlığının 26.11.1998 tarih ve 1998/1047 sayılı yazıları.

İlgi sayılı yazı ile gözaltında bulunan zanlılarla müvekkillerinin görüşmelerinde çıkartılan güçlükler dile getirilmiştir.

2845 Sayılı Yasanın 4229 Sayılı Yasa ile değişik 16. Maddesi uyarınca Devlet Güvenlik Mahkemesi kapsamındaki suçlardan dolayı gözaltında tutulan zanlıların ilk 4 günden sonra müdafileriyle doğrudan görüşebilecekleri, yasa ile düzenlenmiştir.

Yasanın bu açık hükmü gözönünde bulundurularak gözaltında bulunan zanlıların müdafileriyle herhangi bir vekaletnameye veya izine tabi tutulmaksızın görüşmelerinin sağlanması, bu konuda gerekli yasa hükmüne riayet edilmesi rica

> Nihat ÇAKAR Diyarbakır Devlet Güvenlik Mahkemesi Cumhuriyet Başsavcısı

<u>DAĞITIM</u> Gereği İçin

-Emn.Müd.ne/DİYARBAKIR -İl J.K.lığına/DİYARBAKIR

Bilgi İçin

Baro Başkanlığına/DİYARBAKIR

ANKARA VALİLİĞİ Emniyet Müdürlüğü

4.000

18/12/1998

SAYI : B.05.1.EGM.4.06.00.14. Idr.Br.98/8441.

KONU : Sanık Müdafii Görüşmə Tutanakları.

DGM.CUMHURİYET BAŞSAVCILIĞINA

ANKARA

ILGI : a) Adalet Bakanlığı Uluslararası Hukuk ve Dış İliş.Gnl.Md.'nün B.03.0. UIG.0.00.00.00.3.5.44.1992(5).(17.12.98-063572) Sayılı yazıları.

b) DGM.C.Başsavcilığının 17.12.1998 gün ve B-1998/1386 Sayılı yazıları.

Avrupa İşkencenin Önlenmesi Komitesinin 1997 Ekim ayında Ülkemize gerçekleştirdiği ziyaret sonrası düzenlediği raporunda, Devlet Güvenlik Mahkemelerinin görev alanına giren suçlardan dolayı gözaltına alınanların, gözaltı süresinin dört günü aşacak şekilde uzatılması talebinin hakim tarafından kabulünden itibaren, avukatla görüşme konusunda 6 Mart 1997 gün ve 4229 Sayılı Kanunla yeni haklar getirilmesine rağmen, ziyaret sırasında bu haktan yararlanmış olan tek bir sanığa dahi rastlanılmadığının belirtildiği, İlgi sayılı yazılarla bildirilmiştir.

Rapora verilecek cevaba esas teşkil etmek üzere, sanık müdafii görüşmelerine ait tutanakların fotokopisi ilişikte gönderilmiştir.

Bilgilerinize arzederim.

Osman AK Emniyet Miduru a Madiir Yrd.V.Y Emni ye t

E<u>K</u>İ.....: (7) Adet Görüsme Tutanağı. ANKARA DEVLET GÜVENLIK MAHKEMESI BAÇSAVCİLİĞİNA

SANIKLAR :

Altzeren Sok.No:17 LEVENT/İSTANHUL

"üvekkil sanıklar haklarında başlatılan soruşturma nedeniyle 5/5/1998 günü saat 11.30 da Ankara Emniyet Müdürlü@ü'ne teslim olmuşlar. 1alen gözaltında tutulün müvekkil sanıklarla görüştürülmemi talep ederim.

Saygilarimla

Sanıklar vekili Av,şeyhmus ÖNEN

k.vekaletname

Ankara Emniyet Müduirlüğü Teroirle Mücadele Sube Müdürlüğü'ne Gözetim altındaki samıklar haklandalai Soruşturmos DGM. Cumhuriyet Savan Sr. Nuh Mete Yuksel tarafından yürütülmektedir. 4382563Ev Hf. veya 05324126710 Cep Hf. ken kendini ile görüsülerek somucung göre gireği hizq Ilunur. 10.05.1998 DGM.C. Javan Ali Rızz Konuraf J.R. Kounhaf

SANK MUDAFIL GORDATURME -TUTANABI-Miduliguniza guitilmette dan be tahtilades ilgili olark fissi sont olarst dankelen 06.05.1998 gine teaching ader geleet Sestim stup Mi distaginge qous thats bulanduntes cond istantal Barosu Avudathundan 17439 Baro sicil Note Av. Sayhmus ONEN'in 10.5. 1998 trible Antais Dom. Cumhuriget assisverlig as youle more of presine Nüdüllüguniz de jad olarak handlanan Sand-Madafii goronturme adasinda yurútulos tahtitadis ilgili soro sondmakinin adigeten sont ile ayni que soat: 1350 de barbyon pret tombu intro eden quarme sast: 14 = da sons cross olup inbu Sant-Mudafii gonistime tutarage tarrinte bilitte ima 2/tina 2/indi. 10.05-1998 Sust:

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SANIE MUDAFIN GORUNTURME =TUTANAGI-Miduliguniza yiritiladhe dan bir lahladhe ilq'ili olarat fiari' sank tonumendayien 06.05.1998 gini lenditiginden geleret testin olup yoraltenda bulun derutan Pstanbul Brosu Aurtation dan 19439 soil Note Dustal Segtimes ONEN in 10.5-1898 treikli, Anten DGM- Cumhunged Karbaucilians youls nume ationerine Muduilipinische aret ofait thruitana Sant. Midafii gonstiene odannda yuntiter taklitadis igti son sondmadsizin adiques can't ile ayniques wat: 1230. da baskyon bert towards. Alles oden görðarne soafists de sona comis ales iche Sant Midafii govitorme tutano y tonzimle billithe inza altras 2/10 dr. 10-05-1998. Sast: 1345 TEM-SE.M. Ayni Yerde P. Seyhous ONEN Governilles Pol Me Coractionition 1/1/ 070

...../...../199,...

DEVLET GÜVENLİK MAHKEMESİ BAŞSAVCILIĞI'NA ANKARA

VUKAT

Ali ULUK

KONU......1.5.1998 günü gözetim altına alınan ve 7.5.1998 gününe kadar gözetim süresi verilmiş olan müvekkil ile görüşme talebi hakkında.

Müvekkil 1.5.1998 günü Ankara Emniyet Müdürlüğü'ne bağlı Terörle Mücadele şubesi ekipleri tarafından gözetim altına alınmışlardır. Gözetim süresi talep üzerine 7.5.1998 gününe kadar uzatılmıştır.

2845 sayılı yasa gereği müvekkiller ile görüşme talebinde bulunmam gerekmiştir.

SONUÇ VE İSTEM...:Yukarıda izah edildiği üzere müvekkil ile zanlı-Müdafii görüşmesi yapabilmem için gereken koşulların oluşturulması ve görüştürmenin sağlanmasını saygılarımla arz ve talep ederim.

6.5,1998 Av.Ali ULUK

Mile

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TUTANAK

Avukat Ali ULUK,Ankara Devlet Güvenlik Mahkemesi C.Başsavcılığına hitaben yazdığı,06.05.1998 tarihli dilekçesinde ,01.05.1998 günü ilimiz Sıhhıye Meydanında yapılan 1 Mayıs gösterileri sonrası Müdürlüğümüzce gözaltına alınan,Eskişehir ili Alpu ilçesi nüfusuna kayıtlı,Tahsin oğlu oğlu 1978 doğumlu ile Müdürlüğümüzde gözaltında bulunduğu sırada görüşme talebinde bulunmuş,Ankara DGM C.Savcısı Talat ŞALK'ın belirtilen dilekçedeki "GÖRÜŞTÜRLSÜN" şeklindeki derkenar talimatlarına istinaden,adı geçen Serkan KUYUMCU,06.05.1998 günü Müdürlüğümüzde görevli nezaretinde Avukat Ali ULUK ile görüştürülmüş olup,İşbu tutanak tarafımızdan tanzimle birlikte imza altına alınmıştır.06.05.1998

d.de Em.Te.Sb.M Kom

Em.Tem.Şb.Md.de P.M.

Av Ali ULUK 標: 12517 "Miles

Sonik Imzadon Intino Etti,

JUTANAK-

Müdürlügümüzce boslatılan yasadışı TKPlML-Tikko orguitiere yonelik operasyonlanda yakalanıp ofzetim altina altian Aglen, çorum ili Alaca ilceni imat nus. tay. Mehmet - sultan oğlu 1971 doğumlu Hakkinda dilzenlenen tahkikat evrola ile 08.10.1894 ginu 1/imiz Devlet Bievenlik mahkemesi cumhuriyet Souchigi na seuk edilmis olup, Ankara Barosu Auvleattarinda. .nolalya ili Doganschir ilcesi nufusuna Kayptli, Halil Cenharr oglu 1958 dogumlu, 7008 Boro steil Nolu Aydın Ekologan ilgili DGM savçısı Ali Liza Konura ile görüsmesi Sonucu biz görevlileri davet edereli. Söz Konusu Sifayi olaralı istemesi Uzerine Avukat ile birlikte Dem. Althatinda bulunon polislerin bulun duge odaya gidileret Nezarette buturon da 08.10.1397 ginn soat 15=2de-582 Lonusu yere getirilerel görüsme ortomi Saglon. di bu odrüsme ayni gün yani 08.10.1937 günü Soot 1520 de Son buldu bu görüsmede sahis holdende bilgi oldı, isbu tutanak tarasımızdar tonzim ile birlikte 1m20 altino. alinda. 08.10.1987 Tempsb. Gör (Tem)sb. Gör Audin ERDOGAN O Aurhort ilen Geriasen Kubofon

MÜDAFI GÖRÜSME TUTANA ĈI

Anton Deulet Guvenlik Michtenes; Cumhuriget Bassauciliginca bastatilan tahtital gergi Kayseri-Burss ve istanbul - Adama illerinden germinteti tarih le de ystalanarat Mudur lu quiniza gozalfinda bulendurulen Dost Sigorts A.N ortatlarindan angit. isimleri youle santlar 25.04.1998 gunu sant. 1430 le sank-Mudafi, goriere adaundo C-M.U.K ilgili Maddasi geregince Antara Barasu Avutatlarindan 5982 sivil note Avutal Nuri POYRAZ ile gonsturi, musler, Bahseton gonumenin aynı gin saat: 1512 sualar da son bulduquena dais into Midadi Gorume Tutang tanzimle billitte into altina alundi 25.04.1991.



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DEVLET GÜVENLİK MAHKEMESİ BAŞSAVCILIĞI'NA ANKARA

KONU......:1.5.1998 günü gözetim altına alınan ve 7.5.1998 gününe kadar gözetim süresi verilmiş olan müvekkiller ile görüşme talebi hakkında.

Müvekkiller

1.5.1998

günü Ankara Emniyet Müdürlüğü'ne bağlı Terörle Mücadele şubesi ekipleri tarafından gözetim altına alınmışlardır. Gözetim süresi talep üzerine 7.5.1998 gününe kadar uzatılmıştır.

2845 sayılı yasa gereği müvekkiller ile görüşme talebinde bulunmam gerekmiştir.

SONUÇ VE İSTEM...:Yukarıda izah edildiği üzere müvekkiller ile zanlı-Müdafii görüşmesi yapabilmem için gereken koşulların oluşturulması ve görüştürmerlin sağlanmasını saygılarımla arz ve talep ederim.

Necatibey cad. 21/37 Yenişehir/ANKARA

6.5.1998 Av.Zeki RÜZGAR

In. Talot Salka. 06.05.1998 2/328 Malka

6'énir Dérini 2 sér én 6-6-1999 6-597

TUTANAK

Avukat Zeki RÜZGAR,Ankara Devlet Güvenlik Mahkemesi C.Başsavcılığına hitaben yazdığı,06.05.1998 tarihli dilekçesinde ,01.05.1998 günü ilimiz Sıhhıye Meydanında yapılan 1 Mayıs gösterileri sonrası Müdürlüğümüzce gözaltına alınan,Çorum ili Mecitözü iliçesi Kozören köyü nüfusuna kayıtlı,Ahmet-tekmile oğlu,1964 doğumlu ile Müdürlüğümüzde gözaltında bulunduğu sırada görüşme talebinde bulunmuş,Ankara DGM C.Savcısı Talat ŞALK'ın belirtilen dilekçedeki "GÖRÜŞTÜRÜLSÜN" şeklindeki derkenar talimatlarına istinaden,adı geçen

06.05.1998 günü Müdürlüğümüzde görevli nezaretinde Avukat Zeki RÜZGAR görüştürülmüş olup,İşbu tutanak tarafımızdan tanzimle birlikte imza altına alınmıştır.06.05.1998

Em.Te.Şb.Md.de P.M.

Tem.Sb.Md.de P.M



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<u>Annex No:</u> 4

Form on the Rights of the Suspects and the Accused.

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T. C. İçişleri bakanlığı SÜPHELİ VE SANIK HAKLARI FORMU*

<u>Sahsın Kimlik Bilgileri</u>

<u>Soyadı</u>	:		••••	Doğum Tarihi	:	
<u>Adı</u>	:			Doğum Yeri	:	
Ana Adı	:			Cinsiyeti	:	
<u>Baba Adı</u>	:	*****		Nüf. Kay, Old. Yer (ll/lice/Köy)	:	
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Tarih/Saat			:	••••••••••••••••		
Yer (Cadde, So	okak	vs.)	:			

Yürürlükteki mevzuata göre, aşağıda belirtilen haklarınız bulunmaktadır:

I-Kimliğinizle ilgili sorulara doğru cevap vermek zorundasınız. Kimliğinizle ilgili bilgileri vermemeniz veya yanlış bilgi vermeniz suç teşkil edecektir.

II- İsnat edilen suç hakkında açıklamada bulunmama, yani susma hakkına sahipsiniz.

III- Yakalandığınızı ve/veya gözaltına alındığınızı yakınlarınıza haber verme hakkınız vardır. Soruşturma konusunun açığa çıkması bakımından kesin bir mahzur doğurmayacaksa haber vermek istediğiniz yakınınıza veya Büyükelçiliğinize/Konsolosluğunuza durum derhal bildirilecektir.

IV- Aleyhinize varolan şüpheleri ortadan kaldırmak için lehinize olan hususları öne sürebilirsiniz.

V- Müdafi tayin hakkınız vardır. Müdafi tayin edebilecek durumunuz yoksa, baro tarafından tayin edilecek bir müdafiin hukuki yardımından yararlanabilirsiniz. Müdafii ile görüşme ve konuşma hakkınız vardır. Müdafiiniz, ifade alma esnasında hazır bulunabilir. (DGM kapsamındaki bir suçtan gözaltına alınmış iseniz ancak, tutuklandığınızda veya gözaltı süreniz hakim tarafından uzatıldığında müdafiinizle görüşebilirsiniz.)

VI- Yakalamaya ve gözaltı süresinin uzatılmasına karşı hakime itiraz hakkınız vardır.

İsnat olunan suçla ilgili olarak tarafıma okunan ve form olarak bir nüshası verilen haklarımın neler olduğunu anladım.

Gözaltına Alınan Şahsın İmzası

Yukarıda adı ve açık kimliği yazılı şüpheliye/sanığa isnat olunan suçla ilgili haklarını açıkladım ve kendisi tam anlamıyla anlayarak imzaladı / imzadan imtina etti, formun bir nüshası kendisine verildi.

Görevlinin	
Sicili	
Birimi	
İmzası	

(*)YAKALAMA, GÖZALTINA ALMA VE İFADE ALMA YÖNETMELİĞİ'NİN EKİDİR.

³Bu form DGM kapsanuna giren suçtar dahit, tüm suçlardan dolayı yakalanan ve/veya gözaltına alınan şüpheli / sanıklara verilecektir. 3-Bu form, Gözakına alınan her şahıs için üç nüsha doldurulacak, bir nüshası şahsın kendisine, bir nüshası Cumhuriyet Saveiliğina verilecek, diğer nüshası ise dosyasına konulacaktur.

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Annex No: 5

Medical Reports.

Encl.: - General Forensic Medical Report - Sexual Assault Report (For Males) - Sexual Assault Report (For Females)

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Seri No:

GENEL ADLİ MUAYENE RAPORU

Rapor no:		taporun tanzim tarihi ve CUMHURİYET B	saati: ASSAVCILIČI		••••••
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Resmi yazı no:		Doğum yeri/	'tarihi:		
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GENEL ADLİ MUAYENE RAPORU

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* Olușa, iddiaya, talebe veya muayene bulgularına göre gerekli görülenler yapılacaktır.

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Seri No:

CİNSEL SALDIRI MUAYENE RAPORU(Erkekler için)

Rapor no: Raporun	tanzim tarihi ve saa	ti:	
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EMNI	YET AMİRLİĞİ'	NE / MÜDÜRI	LÜĞÜNE
JAND	ARMA KOMUTA	NLIĞINA	
Gönderen Makam:	•		
Resmi yazı tarihi:	Adı/soyadı:		
Resmi yazı no:			
Musyeneye getiren güvenlik görevlisinin	Doğum yeri/tarihi		
Yaka/sicil no:			•••••••
Adı/soyadı:	Sol kolu mühürlü:	C Evet	П Наунг
Muayene edilenin tıbbi kimliği (Geçerti kimlik belgesi olmay	yanlar için doldurulacaktır);		
Muayene edilenin rıza beyanı *			
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Adi-Soyadı:	İmza:		
Adresi:	*****		
Tanık:			
Olayın tarihi:			
Olayın öyküsü (Olayın oluş şekli ile ilgili iddialar muayene edilenin i	kendi ifadesi ile yazılaçaktır)	5	

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Muayene tarihi:			
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Saldırı sırasında kaydırıcı madde kullanımı			
Saldırı sırasında kondom kullanımı			<u> </u>
Saldırı sırasında fiziksel şiddet kullanımı			
Saldırı sırasında silah ve/veya benzeri alet kullanımı		<u>0</u>	
Daha önceden benzer saldırı öyküsü		<u>U</u>	
Olay sonrası yıkanma		<u>U</u>	
Olay sonrasi defekasyon		<u> </u>	<u> </u>
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eri No: CÌNSEL SA	LDIRI MUAYENE	RAPORU(Erkekier için	<u> </u>
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* Konsültasyon (Konsültasyona ger	ek yoksa musyene eden`tabibia ;	(örêşü):	
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<u>Annex No:</u> 6

Charts showing numbers of law suits against law enforcement agencies for alleged breaches of articles 243 and 245 of Penal Code.

Encl.: Charts annexed to the official document of the Ministry of Justice dated 30 December 1998

1

1- Data on law suits from 1994 to 30th July 1998.

2- Data on law suits from 1st January to 1st December 1998.

1994 YILI DAHİL OLMAK ÜZERE 30 TEMMUZ 1998 TARİHİNE KADAR TÜRK CEZA KANUNU'NUN 243 VE 245 İNCİ MADDELERİNE MUHALEFET SUÇLARINDAN YAPILAN ADLİ KOĞUŞTURMALARA İLİŞKİN SAYISAL DÖKÜM

CUMHURİYET BAŞSAVCILIKLARI

1993 VE DAHA ÖNCEKİ YILLARDAN DEVREDEN HAZIRLIK SORUŞTURMASI	647
1994-30.07.1998 TARİHLERİ ARASINDA AÇILAN HAZIRLIK SORUŞTURMASI	1451
TOPLAM	2098

CUMHURİYET BAŞSAVCILIKLARINA İNTİKAL EDEN TOPLAM HAZIRLIK SORUŞTURMALARININ AYRINTILI DÖKÜMÜ

TAKİPSİZLİK KARARI VERİLEN HAZIRLIK SORUŞTURMASI	949
İDDİANAMEYE BAĞLANARAK MAHKEMELERE DAVA AÇILAN HAZIRLIK SORUŞTURMASI	948
HALEN CUMHURIYET BAŞSAVCILIKLARINDA DERDEST BULUNAN HAZIRLIK SORUŞTURMASI	201
TOPLAM	2098

	MAHKEMELER	
1.	1993 VE DAHA ÖNCEKİ YILLARDAN DEVREDEN DAVA DOSYALARI	202
2.	MAHKEMEDE VERILEN BERAAT KARARLARI	153
3.	MAHKUMIYET (TECILLİ MAHKUMIYET VE PARAYA ÇEVİRME DAHIL)	95
4.	ORTADAN KALDIRMA KARARLARI	3
5.	GÖREVSİZLİK KARARLARI	221
6.	YETKİSİZLİK KARARLARI	118
7.	DERDEST DAVALAR	166
	TOPLAM	948

1 OCAK-1 ARALIK 1998 TARİHLERİ ARASINDA YAPILAN ADLİ KOĞUŞTURMALARA İLİŞKİN SAYISAL DÖKÜM

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Annex No: 7

Ministerial Circular on the procedure to be followed as regards the preliminary investigations related to unknown perpetrator incidents and killings.

Encl.: Circular dated 16 December 1998, no: 135., signed by Hasan Denizkurdu, Minister of Justice.

MINISTRY OF JUSTICE GENERAL DIRECTORATE OF PENAL MATTERS

No: B.03.0.CIG.O.OO.OO.O.3.3.31/135 Subject Matter: Unknown Perpetrator Incidents and Killings.

ANKARA 16 December 1998

1- OFFICES OF THE PROSECUTORS GENERAL

2. OFFICES OF THE PROSECUTORS GENERAL OF STATE SECURITY COURTS

Reference: a) Circular no. 15/65, dated 04.08.1995.

b) Circular no. 20/90, dated 19.12.1995.

c) Circular no. 15/83, dated 16.10.1996.

d) Circular no. 1/14, dated 26.01.1998.

The procedure to be followed as regards the preliminary investigations related to unknown perpetrator incidents and murders has been explained in detail in the above mentioned Circulars.

However, recently, the newspapers and TV channels have been increasingly giving reportings and making comments that the unknown perpetrator incidents and murders have been increasing and the perpetrators of some killings have not been apprehended and the deceased have been buried without clearly ascertaining the identity.

Therefore, I instruct utmost attention to be paid to the following:

1) Persisting in efforts to reveal unknown perpetrator acts, in full cooperation with the security and police forces,

2) Detecting and protecting the documents and data on the spot which can be presented as evidence.

3) Providing evidence which can be helpful in ascertaining the identity of the deceased (keeping diagnostic records, taking fingerprints, taking exemplary pieces of hair, blood and sternum, taking photographs in line with Circular dated 21.10.1998 no. 27/123.) and performing autopsy in accordance with 79th, 80th, 81st and following articles of Law on Penal Proceedings to establish reason of death.

4) Preserving the unidentified body for 15 days after autopsy, in accordance with the article 9/d of the Regulation on the Implementation of
Forensic Establishment Code no. 2659. Making public announcements and diffuse information on the deceased person via Media Advertisement Institution or local communication means, searching for the relatives of the deceased; and if all these efforts fail, burying the corpse in a municipal cemetery at a spot where the grave can easily de detected.

5) If enough evidence is covered regarding the unknown perpetrated act, instead of a "decision not to prosecute", proceeding with investigation until statutory time limit is exhausted.

6) Concluding the files related to murders committed by unknown perpetrators. Keeping the related documents in order, stating the date of statutory lapse of time and following up the request in the document until the lapse of time.

7) Reviewing (by the General Prosecutor) the preliminary investigation documents, frequently inspecting whether there are issues unanswered, if so, keeping a close follow-up;

8) Giving greater importance to these incidents and refraining from undertakings which may cause shortcomings in disclosing the event and the pursuit of its perpetrator(s),

9) Informing the Ministry immediately on the stages and outcome of investigations opened related to these murders.

10) Conducting the preparatory investigations of unknown perpetrator killings by a Deputy General Prosecutor, if not available by the General Prosecutor himself.

Hasan DENİZKURDU Minister

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<u>Annex No:</u> 8

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Ministerial Circular on the Physical Conditions of Prisons.

Encl.: Circular dated 3 November 1997, no: 134., signed by Mahmut Oltan Sungurlu, Minister of Justice.

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MINISTRY OF JUSTICE General Directorate of Prisons and Reformatories B.03.0.CTE.0.00.00

KS. 4-V: R-1-E-2 No : 21-134 Subject : Physical Conditions of Prisons

ANKARA 3 November 1997

OFFICE OF THE GENERAL PROSECUTOR IN

Evaluation of the information collected by the officials of the Ministry, as well as the information which has reached the Ministry from the inmates, their relatives, the offices of the general prosecutors, the administrative personnel of the prisons, and the conclusions forwarded by Turkish and foreign delegations who have visited these institutions, has yielded to the fact that the physical conditions of the prisons and reformatories need to be improved.

In line with this:

1- All the disciplinary cells at the basements of the prisons shall be demolished and in their places, new detention units of 9-10 m2, shall be constructed at the ground floor in sufficient numbers, with shower and toilets. These units shall have adequate ventilation and windows (100cm x 75cm) at the waist level.

2- The inmates and remand prisoners, held at disciplinary cells which cannot be ventilated due to physical impediments, will have at least 1,5 hours of daily outdoor exercise, separate from other inmates.

3- At every prison, the physical deficiencies in bathrooms, toilets, eating halls, kitchens, dormitories, infirmaries, corridors, social and administrative facilities and workshops shall be remedied promptly. For this purpose, a team of well-behaved inmates will be assigned for painting and repairing. This team will detect the deficiencies and take measures to paint and repair them. The team will work under the supervision and responsibility of a second director.

4- The infirmaries will be kept very clean, their paint will be continually cared for, vacant health staff posts, if any, will be filled, the medicine chests will be kept orderly and there will be an abundant supply of medicine, health staff will always wear special uniforms, for every inmate or remand prisoner, a file will be opened to show medical examination results and diagnosis, and it will be kept neatly.

5- The prisoners and persons under custody who are sick and need transfer to hospitals outside of the prison facilities, will immediately be referred to a health institution, in accordance with the decision of the administration or prison doctor.

6- If exist, the physical and administrative problems realized during the visits of the prisoner relatives and lawyers shall be solved, the waiting lounges not spacious enough to meet the current demand, shall be demolished and rebuilt, the prisoner relatives shall be well treated and those visitors who do not act in accordance with the prison rules will be sent outside the premises.

7- Measures shall be taken in cooperation with the Provincial Gendarme Command, to prevent degrading and ill-treatment of prisoners during their transfers both inside and outside the prison premises.

8- A suitable environment will be provided to the inmates and remand prisoners so that they will pass part of the day engaged in purposeful activities. Importance shall be attached on education, social and cultural activities, as well as individual skills and workshop activities.

9- The libraries of the prisons shall be orderly and neat and the books will be classified in line with the Library Regulation. The prisons which do not have enough books, will employ local means and open donation campaigns to collect books. Publications which have been banned by decrees of the government or court decisions, will not be allowed in libraries.

10- The prison premises shall be kept clean and tidy. The furniture in the inventory shall be well maintained. Alternating or permanent cleaning-teams will be set up for each ward and will work under the supervision of a second director. Disciplinary procedures will be introduced for those who breach the rules pertaining to cleaning.

11- The kitchen, the storehouse and the eating halls will be kept clean and orderly, attention shall be paid that meals will have nutritional value and should be sufficient for all the inmates. The prison administrator shall regularly control the current practice every day and disciplinary procedures will be applied for those who violate the rules.

12- Detention centers at the court houses which are under the control and supervision of the Offices of the General Prosecutors, shall be kept clean, tidy and shall have windows big enough to provide daylight inside the building. There shall also be sitting benches in sufficient numbers.

13- The physical conditions of the prison wards at the state hospitals which are unsatisfactory, shall be improved and the wards shall be enlarged. To this end, the General Prosecutors will get in touch with authorities such as governors, mayors and head surgeon of the state hospitals and all the local means shall be deployed.

14- The water supply used in the institutions shall regularly be chlorinated, in cooperation with the local municipal authorities. If there is a shortage, necessary initiatives shall be taken to secure regular supply of water.

15- In accordance with provisions of the Code and the by-laws on General Health, the remand prisoners shall regularly undergo medical examination and be vaccinated for infectious diseases. All the inmates and remand prisoners shall strictly be examined on admission to the prison.

16- The physical conditions of the prison sections, allocated to juvenile offenders shall be revised and improved to conform with child psychology and to enable practicing educative programs, aptitude intensive games and sports activities (ping-pong, volleyball, basketball) for the juvenile offenders.

17- The prison staff shall treat all the inmates and remand prisoners equally, the strong shall not be permitted to abuse the weak, the wards of the rich inmates shall not be unevenly accommodated.

I instruct that the responsibilities defined above, will be carried out with maximum use of local means at the disposal of Municipalities, Special Provincial Administrations, Governerships, charity organizations, foundations, associations, chambers of trade and commerce, bourses, firms and private persons. The contents of this Circular will be further conveyed to subordinate Prosecutors in your jurisdiction.

> Mahmut Oltan Sungurlu Minister

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<u>Annex No:</u> 9

Ministerial Circular on the Supervision of the Implementation of the Regulation on Apprehension, Custody and Interrogation.

Encl.: Circular dated 16 December 1998, no: 136., signed by Hasan Denizkurdu, Minister of Justice.

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MINISTRY OF JUSTICE GENERAL DIRECTORATE OF PENAL AFFAIRS

No: B.03.0.CIG.O.OO.OO.O.3.3.32/136 Subject Matter: The supervision of the Implementation of the Regulation on Apprehension, Custody and Interrogation. ANKARA 16 December 1998

1- OFFICES OF THE PROSECUTORS GENERAL

2. OFFICES OF THE PROSECUTORS GENERAL OF STATE SECURITY COURTS

Reference: Circular no.25/113, dated 14.10.1998.

The Regulation on Apprehension, Custody and Interrogation was published in the Official Gazette and has entered into force on 1 October 1998. The regulation which was also published in the Judicial Legislation Bulletin and needs to be implemented with utmost care.

Now, as was requested with the letter dated 8.12.1998, no.B.02.KKG/ 196-14/7067, of the Prime Minister's Office, General Directorate of Laws and Regulations;

To assure the effective implementation of the "Regulation on Apprehension, Custody and Interrogation" which was issued as a result of the allegations pertaining to torture, ill-treatment and disappearance, in accordance with the Prime Minister's Circular, dated 3 December 1997, I instruct the General Prosecutors and the Prosecutors who will be assigned by them, to control and inspect, without informing the authorities concerned in advance, the detention centers, interrogation units, the state of the persons who are held under custody, the reasons for custody and its duration as well as all the records and procedures related to custody, to put the record of the results of the inspection in the "Book of Apprehension", to promptly take necessary measures vis-à-vis the deficiencies detected and the officials in fault and to issue public statements through the Office of the General Prosecutor to inform the media and the public of all the inspections together with the results of them.

> Hasan DENIZKURDU Minister

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<u>Annex No:</u> 10

Excerpts from the Activity Report of the Human Rights Coordinating High Committee

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Excerpts from the Activity Report of the Human Rights Coordinating High Committee (*)

Paragraph 31:

To prevent torture and ill treatment;

a) The Prime Ministry has issued a circular stressing the determination of the Government on this matter; moreover,

b) Public inspectors and supervisors will inspect security forces more frequently and widely,

c) Prompt administrative and punitive process will be initiated against public officers suspected of being guilty,

d) Inspection results will be monitored at a national level and the Higher Committee will be informed through quarterly reports,

e) Necessary measures will be taken so as to keep regular custody records,

f) Allegations of torture will be expeditiously and thoroughly investigated.

Paragraph 32:

With a view to preventing torture and to gather evidence;

a) In cases of organized crime and terror crimes whenever deemed necessary by Republic Prosecutors or law enforcement officers, the interrogation of suspects will be video recorded in all cities,

b) Photography before autopsy will be rearranged according to current standards and will be spread nationwide,

c) Sufficient funds will be included in the budget of the Ministers of Justice and Interior for these measures.

Paragraph 33:

The compensations that Turkey is condemned to pay by the European Court of Human Rights due to torture, ill treatment and other reasons will be referred to those who bear the responsibility. Furthermore, the application of the existing legislation is deemed to be sufficient.

Paragraph 34:

Human rights violations in Turkey, domestic and foreign applications, as well as press reports, will be investigated and results will be made public.

^(*) The Human Rights Coordinating High Committee which was formally established on 9th April 1997 and commenced work on 17th July 1997, is chaired by the State Minister in charge of Human Rights and is composed of the Undersecretaries of the Prime Minister's Office, Ministries of Justice, Interior, Foreign Affairs, National Education and Health.