GOVERNMENT COMMENTS ON THE REPORT ON TURKEY

APPENDIX: GOVERNMENT'S VIEWPOINT

The following appendix does not form part of ECRI's analysis and proposals concerning the situation in Turkey

ECRI, in accordance with its country-by-country procedure, engaged into confidential dialogue with the authorities of Turkey on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version (which, unless otherwise indicated, only takes into account developments up until 30 April 2010, date of the examination of the first draft).

The authorities also requested that the following viewpoint be reproduced as an appendix to the report.

3 December 2010

OBSERVATIONS OF THE TURKISH GOVERNMENT ON ECRI'S FOURTH REPORT ON TURKEY

The Government of the Republic of Turkey would like to first and foremost applaud the work that the European Commission against Racism and Intolerance (ECRI) has been undertaking and wishes to express its full support in this respect. Turkey feels that rising intolerance and the emergence of a communitarian approach has a deteriorating effect on the ties that binds our societies. ECRI and the mission it has been mandated with has become all the more relevant and even more important in this respect.

Not all findings, assessments and recommendations of ECRI are in line with how the Turkish Government evaluates the situation and they do not always concur with its longstanding principles, policies. However, rest assured that the Government will always take into consideration ECRI's work and try to implement its recommendations to the extent possible. Turkey believes that the gist of ECRI's work depends on constructive dialogue and it will do its utmost to preserve this spirit.

In this context, please find here-below a series of observations that ECRI may want to consider:

ECRI's fourth monitoring cycle report on Turkey covers the situation as of 30 April 2010 and developments subsequent to this date are not taken into consideration. However, a number of important developments have taken place in the following period and will probably continue to take place even after the submission of this observation. In this respect the Government deems it necessary to put the following developments on record:

On 13 May 2010, the Prime Ministry has issued a circular that confirmed that all Turkish citizens from different religious communities constitute an inseparable part of Turkey, urging all related government institutions and offices to act with utmost diligence for the absolute elimination of problems encountered by the non-Muslim minorities. A translation of this circular is appended herewith.

This Circular of the Prime Ministry was published on the same date in the Official Gazette and was hailed as a major development by all non-Muslim religious communities in Turkey. It reminds public officials that non-Muslim citizens of the Republic must be protected from

needless impediments in their official dealings and transactions with the Government institutions and their fundamental rights must be protected not only because it is so required by law, but also in order to make these communities feel that they are part of the Turkish nation and State.

On 27 July 2010, the Counterterrorism Law was amended with a reform package. It basically remedied the situation of minors who were dubbed as "the stone-throwing children" in the Turkish media by taking minors out of the remit of the Counterterrorism Law. It effectively deals with the concerns expressed in paragraphs 30 and 31 of ECRI's report on Turkey.

With this package, all children will henceforth stand trial in juvenile courts, or adult courts acting as juvenile courts. Child demonstrators who commit propaganda crimes or resist dispersal by the police will not be charged with committing crimes on behalf of a terrorist organization and hence membership in a terrorist organization. Minors will not face aggravated penalties, and may benefit from sentence postponements and similar measures for public order offenses.

The amendments also reduce penalties for both minors and adults for forcibly resisting police dispersal and offering "armed resistance," including with stones, during demonstrations under the Law on Demonstrations and Public Meetings. After the law entered into force, courts in Adana, Diyarbakir, and Van, among other places, immediately released minors who were serving prison sentences or being held in pretrial detention on terrorism-related charges. Further details on this issue are provided further down.

On 12 September 2010, a Constitutional Reform Package was adopted as a result of a referendum. This is an extensive reform package that covered many issues that has been raised by ECRI. A detailed note explaining the extent of the package is appended to this observation.

The adoption of the constitutional reform package in the referendum of September 12 introduced the following changes:

- New rights are granted;

- The scope of the existing constitutional rights is expanded;

- New mechanisms are introduced for the protection of constitutional rights;

- The rule of law is strengthened;

- The Constitutional Court and the HSYK are restructured to align them with their counterparts in the democratic world; and

- Military jurisdiction is restricted.

As a result of the provisions contained in the constitutional amendment package, human rights and fundamental freedoms have been expanded and the Turkish constitutional system is brought in line with its international obligations. The amendments eliminated several shortcomings referred to in the judgments of the European Court of Human Rights (ECtHR), and the fulfilment of a series of findings and recommendations put forward by the Council of Europe (CoE) Commissioner for Human Rights, the Venice Commission, the European Commission against Racism and Intolerance (ECRI), the Monitoring Committee of the Parliamentary Assembly of the CoE, the Committee on the Elimination of Discrimination against Women (CEDAW), the UN Committee on the Elimination of Racial Discrimination (CERD) and several

other international supervisory bodies as well as those indicated in progress reports and on other occasions.

Please find here-below further comments of the Turkish Government with regard to the ECRI report of Turkey produced as part of its fourth monitoring cycle:

Regarding the observations and recommendations on minority schools brought up in the draft ECRI report, the Government of Turkey would like to emphasize that:

There exists no universally recognized and legally binding definition of the term "minority". It remains the prerogative of the state to confer minority status to persons.

As concluded in the CSCE Meeting of Experts on National Minorities in Geneva in 1991, "not all ethnic, cultural, linguistic or religious differences necessarily lead to the creation of national minorities".

In addition to the OSCE commitments related to the protection and promotion of the rights of persons belonging to national minorities, certain international instruments, inter alia, the International Covenant on Civil and Political Rights (ICCPR, Article 27), refer to the rights of persons belonging to minorities.

Turkey is party to almost all the core instruments pertaining to fundamental rights and freedoms, including the ICCPR.

The Government, fully aware of its obligations, maintains its resolve towards further aligning its legislation with international standards and improving implementation.

Under the Turkish constitutional system, the word "minorities" encompasses only groups of persons defined and recognized as such on the basis of multilateral or bilateral instruments to which Turkey is a party.

Turkish constitutional system is based on the equality of citizens before the law, whose fundamental rights and freedoms are enjoyed and exercised individually in accordance with the relevant law. Turkish nation is not a juxtaposition of communities or groups. It is composed of citizens who are equal before the law regardless of their origin.

In this context, "minority rights" in Turkey are regulated in accordance with the Lausanne Peace Treaty of 1923. According to this Treaty, Turkish citizens belonging to non-Muslim minorities fall within the scope of the term "minority". Turkish legislation which is based on the Lausanne Peace Treaty contains the term "non-Muslim minority" only. The term "minority" cannot be used for Muslim Turkish citizens.

In line with the state philosophy based on the equality of citizens without discrimination, Turkish citizens belonging to non-Muslim minorities enjoy and exercise the same rights and freedoms as the rest of the population. These rights and freedoms are guaranteed in Article 10 of the Constitution. Additionally, they benefit from the exclusive assurances accorded to them deriving from their minority status under Articles 37-45 of the Lausanne Peace Treaty.

Turkish citizens belonging to non-Muslim minorities have their own places of worship, schools, foundations, hospitals, as well as printed media.

Courses on Turkish and Turkish culture are taught in Turkish at private minority schools by teachers who are appointed by the Governorship among the staff of public schools. The remaining courses taught at those schools are given in the language of that minority group.

Greek language and science courses are given by teachers appointed by the Government of Greece at Greek minority schools in Turkey. On the other hand, Turkish language and science courses are given by the teachers assigned by the Government of Turkey at Turkish minority schools in Western Thrace/Greece.

Pursuant to the agreement reached through exchange of letters between the Governments of Turkey and Greece in 1952-1955, each government appointed 35 teachers in Western Thrace and Istanbul. In 1990, due to Greek Government's unilateral decision to appoint 16 teachers in Turkey, Turkey reduced the number of Turkish teachers in Greece to 16 as well. At present 16 teachers are being assigned by each country.

In accordance with Articles 40, 41 and 45 of the Treaty of Lausanne, all transactions and procedures in Turkish minority schools in Western Thrace as well as private minority schools in Turkey are conducted on the basis of reciprocity.

Teachers to be employed at minority schools, like every Turkish citizen, have the right to access to and study at the faculties of education in Turkey.

Courses on Turkish language and culture at minority schools are taught by teachers who are assigned and paid by the state. Their employment thus does not become a burden to minority schools. There is no limitation to the appointment of qualified staff to these schools provided that their assignment is in compliance with the decisions of the Board of Education.

In Turkey, Law No. 5580 regulates the conditions of opening private international schools by foreign nationals where foreign students can have education. Article 5 (a) of the said Law is as follows;

a) International private education institutions, except higher education institutions, which only students of foreign nationality may attend, can be opened by real and legal persons of foreign nationality or through partnerships with Turkish nationals, within the scope of Law No 4875 on Direct Foreign Investments and with the permission of the Council of Ministers. Turkish nationals who are real persons, legal persons subject to or administered by private law provisions may also open international private education institutions in their own name for the same purpose.

b) Education cannot be carried out at these institutions in violation of the indivisible integrity of the state in terms of its territory and nation, against its security and interests as well as the national, ethical, humane, moral and cultural values of the Turkish Nation.

c) Curriculum programs, education and training activities and transactions related to other issues are conducted in accordance with the principles drawn up by the administration of the institution and approved by the Ministry.

d) The Ministry of National Education has the right to inspect these institutions on these matters.

Accordingly, international private education institutions where only foreign students may enrol can be opened by foreigners with the approval of Council of Ministers.

The private schools operating under the Law on Private Education Institutions (No. 5580) comprise of private Turkish schools, private foreign schools, private minority schools and private international schools.

i. Private Turkish Schools: Apart from the curriculum of public schools, upon the application of the school and approval of the Board of Education, different programmes can be carried out at such schools which are founded by real or legal persons of Turkish nationality.

ii. Private Foreign Schools: These are the schools established by foreigners and recognized through exchange of letters on the basis of the Treaty of Lausanne. Education is held in foreign language at the private foreign secondary schools.

iii Private Minority Schools: These are the schools established by Greek, Armenian and Jewish minorities and covered by the Treaty of Lausanne. Turkish nationals belonging to Greek, Armenian and Jewish minority groups attend these schools which exist at preschool, primary and high-school level. At the minority schools, the mother tongue of the Turkish citizens belonging to non-Muslim minorities are taught as a compulsory course for the same duration devoted to Turkish course. In these schools, the courses except Turkish and Turkish culture are taught in their own languages. Curriculum and weekly class schedules approved by the Ministry of Education are implemented at such schools. The curriculum includes courses not only on mother tongue but the religion that they belong to as well.

iv. International private education institutions: These institutions operate in compliance with Article 5 of the Law No. 5580. Only foreign nationals can attend to these schools.

In accordance with the Law on Private Education Institutions, there exists no other institution apart from the abovementioned ones in formal education.

The Ministry of National Education has not received any report of threat against minority schools.

4. Regarding paragraph 65, the obligation to appoint a Deputy Director of Turkish nationality is only valid for private foreign schools. According to the Law No. 5580, any teacher of Turkish nationality irrespective of his/her origin can be appointed as Deputy Director.

Since the whole staff at minority schools are of Turkish nationality (irrespective of his/her origin), the obligation of appointing a Deputy Director of Turkish nationality does not create a concern in these institutions.

With the new amendments on "Guidelines on nomination procedures; performance and disciplinary evaluation of the education personnel appointed to private education institutions", Directors of minority schools have become responsible from rating the performance of all personnel at these schools.

5. As stated above, a circular of the Prime Ministry published in 13 May 2010 underscored that Turkish citizens belonging to non-Muslim minorities in the country, like all Turkish citizens, have the right to enjoy and to maintain their own identities and cultures. The Circular of the Prime Ministry also emphasized that these citizens should be protected from needless impediments in their official dealings and transactions with any government institutions.

6. Regarding paragraphs 59, 60 and 63 on Kurdish language courses, it should be taken into consideration that Article 7 of the Regulation on "Learning of different languages and dialects traditionally used by Turkish citizens in their daily lives" (5 December 2003) describes the qualifications and requirements of the personnel of private Kurdish language courses as follows;

"A director, a deputy director, a teacher or a master trainer and other personnel are assigned to these courses. If new classes are created by additional programmes at the existing courses, a teacher or a master trainer is assigned for these new courses.

The administrator, teacher, expert instructor, master trainer or other staff who will be issued working permit for teaching different languages and dialects at the courses shall possess the general qualifications and conditions set out at the Law on Private Education Institutions (No. 5580); regulation of the Ministry of National Education on Private Education Institutions as well as the said Ministry's regulation on private courses."

The Board of Education, in its letter dated 27 August 2004 and no. 8255, states that master trainers of Kurdish language can be appointed primarily among primary school, Turkish language and literature and foreign language teachers who declare that they know Kurdish, if it is not possible to assign teachers of these branches, teachers of other branches or graduates of other faculties whose diplomas are recognized by the High Education Board can be entrusted.

Private Kurdish language courses which do not have "school" status, aim to educate persons and operate in the context of mass education.

Private courses pursuing commercial activity and launched in accordance with the Law No. 5580 do not receive financial assistance from the state. The number of private courses operating under the Ministry of National Education is 2001. In these courses 999 different programmes are being carried out.

7. Regarding compulsory religious education, the Government would like to underline the fact that courses on Religious Culture and Morals in schools are not aimed to give religious education but to provide a general insight about all religions while focusing more on the principles of the Muslim faith, since the great majority of the population in Turkey is Muslim. This practice is in accordance with the principles of Toledo Report of the OSCE which says that education on religions and beliefs conducted in schools may focus more on the religion practiced in that area. Had these were courses been solely based on religious education, then the syllabus would have covered how to practise the Muslim faith by teaching the Quran as well as visiting and praying in mosques.

Courses on Religious Culture and Morals are compulsory in Turkey due to several factors such as the historical and contemporary experience that the country went through, the demands of the society and the responsibility of the state to provide accurate information and knowledge to students on religious culture. The Toledo principles consider compulsory courses on religious principles compatible with the freedom of religion, provided that they are given in an objective way.

Regarding the second sentence of paragraph 73, the Government would like to state that Alevis are not defined as a non-Muslim minority since they bring a different interpretation to the principles of Islam faith, but identify themselves within the Islam religion. The syllabus which

covers different religions and sects is still undergoing revision in the light of the ECtHR's judgment in the case of *Hasan and Eylem Zengin v. Turkey.* A commission has been set up upon the demands of Alevi citizens and with the participation of their representatives and experts in order to adjust the syllabus to the requirements of the Court's judgment. Nonetheless, the judgment on Zengin case did not assess the compulsory nature of these courses but its content.

The wording in paragraph 101 about the "Sunni-Muslim religious high schools" does not reflect the reality. In the Turkish education system, there exist no such schools. Education based on or promoting specific beliefs or sects is not allowed in schools. Pupils from all segments of the society belonging to different beliefs and sects come together in public schools and are taught the same syllabus.

8. Regarding the complaints made to the Human Rights Presidency about restrictions on the use of one's mother tongue in prisons (para.54), the Government would like to bring to the attention of ECRI that the Article 41 of the "Regulation on Visits to Convicts and Detainees" which entered into force on 17 June 2005 and published at the official gazette no. 25848, while requires the use of Turkish during prison visits, it also allows the use of another language if prisoner or visitor does not speak Turkish.

9. Regarding paragraph 77, the Government would like to highlight that the provision of health care services are guaranteed by Article 56 of the Constitution. The right to live a healthy life is considered as a fundamental human right and all Turkish citizens have the right to benefit from health services irrespective of their language, religion, race and sex. Therefore statistics on health issues in Turkey are not based on ethnic data.

10. Following the preparation of this report by ECRI, 14th High Penal Court of Bakırköy has issued a judgment on 1 June 2010 concerning the case of Engin Çeber who died on 10 October 2008 due to cerebral haemorrhage in post-custody period. The court convicted four personnel including three prison guards and the director on duty of Metris T-type Closed Prison to aggravated life imprisonment for causing death by torture in accordance with the Article 95 (4) of Turkish Penal Code. Art 95 (4) states that if death occurs as a result of torture a sentence of aggravated life imprisonment be imposed. The aggravated life imprisonments in that case were mitigated to life sentences in accordance with the discretionary discount stipulated in Article 62 of the Penal Code.

Three police officers and two guardians also received prison sentences of seven years and six months each in accordance with the Article 94 (1) of Turkish Penal Code which provides that "Any civil servant who carries out actions against a person that lead to bodily or mental pain incompatible with human dignity, that influences their ability to perceive or their will or is degrading, will be punished by imprisonment of between three and twelve years." The prison doctor is also convicted for having issued forged medical reports to three years, one and a half months imprisonment.

A total of 60 public servants who are believed to have been involved in the acts that led to Çeber's death, were tried in this case. Among the suspects there were police officers and prison officers of different ranks. At the end of the trial, responsible officers received prison sentences from 5 months to life sentence with the charges of negligence, misconduct, failure to report the crime, causing malicious injury due to disproportionate use of force, torture and aggravated torture.

This case sets an example that impunity does not exist and all forms of ill-treatment and torture are subject to severe criminal sanctions.

11. As was duly stated above, a package that amends 14 articles of the Constitution was approved by the Turkish Grand National Assembly on 7 May 2010 and was submitted to referendum on 12 September 2010.

12. Despite the legal framework and the inherited tradition of religious tolerance, Turkey, like other multi-faith societies, is not totally immune to isolated incidents. Such incidents receive prompt and diligent response from relevant authorities and all possible measures are taken to bring those responsible to justice. Perpetrators of these crimes were swiftly captured, judicial investigations were launched and the legal process is either concluded or ongoing.

13. Government continues its efforts to ensure compliance with legal safeguards in the prevention of torture and ill-treatment. Trainings on effective investigation and documentation of cases of torture and ill-treatment have been given to health care personnel as well as to prosecutors and judges since 2008 for better implementation of the İstanbul Protocol. Efforts on equipping the statement taking rooms with audio and video recording systems at the police and gendarmerie stations are still ongoing.

14. Regarding paragraph 127, Turkey is party to the 1951 Geneva Convention relating to the Status of Refugees and 1967 Additional Protocol with "geographic limitation". Due to this limitation, Turkey grants those who enter from "non-European countries" and lodge asylum application in its territories, "asylum seeker" status, allowing them to reside in Turkey until they are settled in a third country by the UNHCR. The provisions of the Convention apply only to asylum seekers entering Turkey from "European countries".

Turkey, however strictly complies with the principle of "non-refoulement" as laid out in the Geneva Convention.

Asylum-seekers who are not granted the refugee status but are assessed to be under risk of persecution in their countries of origin, are not deported, and are allowed to temporarily stay in Turkey within the concept of ''Subsidiary Protection and Protection with Humanitarian Considerations''.

Turkey is a country extensively affected by mass population movements. Lifting the geographic limitation is an issue which should be overcome without damaging the economic, social and cultural fabric of Turkey.

Lifting the geographic limitation is envisaged to take place in line with the completion of the EU accession negotiations according to the National Action Plan on Asylum and Migration of Turkey, along with the two criteria to be met:

(i) Necessary amendments to the legislation and improvements to infrastructure should be realized.

(ii) EU should engage in burden-sharing.

Following the finalization of the above-mentioned projects, a proposal for lifting the geographic limitation might be submitted to the Turkish Grand National Assembly in line with the progress of Turkey's negotiations for accession to the EU.

15. Regarding paragraph 129, relevant authorities are instructed with the letter of the Ministry of the Interior dated 9 March 2010 to take necessary steps to ensure that the deficiencies which are also addressed by the European Court of Human Rights in the judgment of *Abdolkhani and Karimnia v. Turkey* are remedied.

Consequently, two circulars have been issued by the Ministry of the Interior to fix the problems emanating from the implementation of the current legislation and regulations (see Annex). In the meantime, the Ministry of the Interior has prepared two new draft laws on foreigners, refugees and asylum-seekers that will address all existing problems in this area.

16. Regarding paragraph 136, Turkey continues its efforts to harmonise its practice and legislation with the EU *acquis* in the area of asylum. Especially, within the last seven years significant improvements have been achieved in Turkish Asylum system. Asylum and Migration Action Plan, prepared in the framework of an EU Twinning Project realized in 2003-2005 was approved by the Prime Ministry and came into effect in 2005. In the framework of the Action Plan, a specialized civil unit, "Development and Implementation Office for Asylum and Migration Legislation and Administrative Capacity" was established within the Ministry of the Interior. As it is envisaged in the Action Plan, special attention has been given to the projects to strengthen the physical infrastructure.

In the framework of the 2006 Instrument for pre-Accession Assistance (IPA), 12 million 51 thousand Euro budget twinning project on the "Support to set up an Asylum and Country of Origin Information (COI) System" was initiated in cooperation with Germany on 28 February 2008 and concluded at the end of May 2010.

As part of the investment projects implemented in cooperation with the European Union, another twinning project on "The Establishment of a Reception, Screening and Accommodation System (Centres) for Asylum-Seekers and Refugees" started on 29 February 2010. 62 million 400 thousand Euro budget project which is conducted in partnership with the Netherlands and the United Kingdom, aims to strengthen the institutional capacity to deal with refugees and asylum seekers in a well structured, modern asylum system, including a network of reception centres managed by specialised staff. In this regard, construction of new reception centres in Ankara, İzmir, Kayseri, Gaziantep, Erzurum and Van, each with a capacity of 750 persons, are scheduled to be completed in the last quarter of 2012.

17. Regarding paragraphs 31 and 44, statement taking procedures for minors subject to criminal investigation are stipulated under Article 15 and 16 of the Law No. 5395 on Juvenile Protection; Article 236 of the Code of Criminal Procedure and Section 19 of the Regulation on Apprehension, Detention and the Taking of Statements. Accordingly;

a) Law No. 5395 on Juvenile Protection

Article 15

1. Investigations related to juveniles pushed to crime shall be carried out personally by the public prosecutor assigned at the juvenile bureau.

2. During interrogation and other procedures related to the juvenile, the juvenile may be accompanied by a social worker.

Article 16

1. Detained juveniles shall be kept at their juvenile unit of the law enforcement.

2. In cases where the law enforcement does not have a juvenile unit, the juveniles shall be kept separate from detained adults.

b) Code of Criminal Procedure

Article 236

2. The child or the victim whose psychology has been disturbed as a result of the crime committed can only be listened once as a witness during the investigation or the proceeding being carried out with regard to that crime. Cases whereby this is necessary in order to reveal the concrete truth constitute an exception.

Article 236

3. While witnesses of juvenile victims or other victims whose psychologies have been disturbed as a result of the criminal act are being heard, a person who is an expert in psychology, psychiatry, medicine or pedagogy shall be kept present. These psychiatric/medical experts are subject to the same provisions as experts.

c) For children, authority to detain and taking of statements are limited. (Section 19 of the Regulation on Apprehension, Detention and the Taking of Statements) Children from 12 to 18 years old may be apprehended because of a crime. These children are referred immediately to the public prosecutor while the child's parents/relatives as well as child's lawyer are promptly notified; the investigation regarding these children are conducted personally by the chief public prosecutor or by a public prosecutor he/she entrusted. In this process,

- A lawyer is summoned in all cases regardless of the request of the child. The child's parents or guardian can employ the lawyer.

- The statement of the child suspect is taken only in the presence of a lawyer.

- Unless it is determined that it is against the law or in the best interest of the child, the child's parents or guardian can be present during the taking of the child's statement.

- If the crimes stated in the Law on the Establishment, Duties and Trial Procedures of Juvenile Courts are committed with the adults, the documents of the child are separated during the investigation stage and investigations are carried out separately.

Article 150 of the Criminal Procedure Code provides that if the accused is not in a position to appoint a lawyer, he/she may receive legal counsel free of charge from a lawyer appointed by the bar association. Instruction of a lawyer is mandatory if the suspect is a minor, deaf, mute, person with a disability to an extent that prevents that person from defending himself/herself, or the suspect is accused of an offence carrying a sentence that requires a minimum of five years' imprisonment.

18. The amendments made by Law No. 5532 to the Law on the Prevention of Terrorism (Law No. 3713) are in compliance with the following sections of the "Guidelines on human rights and the fight against terrorism" adopted on 11 July 2002 at the 804th meeting of the Ministers' Deputies.

- Section I on “States’ obligation to protect everyone against terrorism”:

States are under the obligation to take necessary measures to protect the fundamental rights of every person within their jurisdiction against terrorist acts, especially the right to life.

- Section IX, paragraph 3 on “Legal proceedings”:

The imperatives of the fight against terrorism may nevertheless justify certain restrictions to the right of defence, in particular with regard to:

i) the arrangements for access to and contacts with counsel;

ii) the arrangements for access to the case-file;

iii) the use of anonymous testimony.

- Section XI, paragraph 2 on “Detention”:

The imperatives of the fight against terrorism may nevertheless require that a person deprived of his/her liberty for terrorist activities be submitted to more severe restrictions than those applied to other prisoners, in particular with regard to:

i) the regulations concerning communications and surveillance of correspondence, including that between counsel and his/her client;

ii) placing persons deprived of their liberty for terrorist activities in specially secured quarters;

According to Article 10 (b) of the Law on the Prevention of Terrorism (Law No. 3713), a detainee’s access to legal counsel can be delayed by 24 hours upon the request of the prosecutor and the decision of the judge; the suspect in detention may not be interrogated during those 24 hours. Moreover, there are no negative implications of the amendments introduced to Law No. 3713 for the Government’s “zero tolerance policy” against ill-treatment and torture which is still being implemented with determination.

19. Recently, an important reform package was enacted which includes major changes basically putting minors outside the remit of the Anti-terror Law.

I. Legal arrangements are made that are in favor of children which repeal exceptions regarding sentences in the Anti-Terror Law, No. 3713 imposed on children and also regarding the courts competent to prosecute these children.

Law No. 5395 on the Protection of Children, which entered into force on July 15 2005, defines in detail the principles and procedures regarding precautions to be taken for children in need of protection and the safety measures to be implemented for children who have been pushed into crime as well as the establishment, duties and competences of Children’s Courts. Accordingly, children who have committed crimes must, without exception, be prosecuted in Children’s Courts.

However, with the amendment to Law No. 3713 on Anti-Terror, enacted with Law No. 5532 in 2006, some exceptions have been made regarding sentences imposed on children and the competent courts.

With the Law No. 6008 adopted on 22 July 2010, the exceptions in Law on Anti-Terror are abolished. In this regard;

1) Sentences will not be increased by half in accordance with the provisions of Article 5 of Law No. 3713 for crimes related to terrorism committed by children,

2) Children suspected of having committed crimes related to terrorism will be prosecuted at Children's Courts.

3) It will be possible to deliver a ruling for the postponement of the announcement of judgments, to convert the sentence to alternative sanctions and for the suspension of the sentence by the court.

II. The time period for conditional release from prison of children who have committed a crime related to terrorism is reduced from 3/4 to 2/3.

Since the severity of the circumstances of execution of the sentence affects the re-socialization of children negatively, aggravating the circumstances of execution of sentences for children on the grounds that a relationship with the child and the criminal organization exists should be prevented.

In that regard, the time period for conditional release from prison of children who have committed a crime related to terrorism is reduced from 3/4 to 2/3.

III. The penalties in Article 32 and 33 of the Law No. 2911 on Meetings and Demonstration Marches are reduced.

Article 32 and Article 33 of Law No. 2911 are being amended to ensure consistency among criminal laws and has introduced appropriate arrangements in line with the new system of sanctions provided in the Penal Code, No. 5237.

With the amendments to Articles 32 and 33 of the Law No. 2911 on Meetings and Demonstration Marches, the penalties are reduced in general for certain offences regulated in the aforementioned articles and the elements of the offences and their sanctions are brought in line with the basic criminal legislation in Turkey.

IV. Children will not be sentenced for being members of an organization in addition to the crime of resistance to prevent police officers from carrying out their duties or for propaganda crimes committed during meetings and demonstrations

In order to prevent severe penalties on children, a new Article 34 (A) to the Law on Meetings and Demonstration Marches has been introduced. This is done to ensure that the children are not sentenced for membership to an illegal organization, in addition to their sentencing for resistance to prevent public officers from performing their duties or propaganda crimes that they commit during a meeting or demonstration. Thus, the five year sentence for membership of a terrorist organization will not be imposed on children.

V. It is ensured that the enforcement judge delivers a judgment on an application for complaint against disciplinary actions following taking the statement of defense of the accused or the convicted

Taking into consideration the scope and nature of the right to a fair trial provided for in Article 6 of European Convention on Human Rights (ECHR) and by inserting the relevant provision into the second paragraph of Article 6 of the Law No 4675 on Enforcement Judges, it is envisaged that the enforcement judge delivers his judgment on an application for complaint against disciplinary actions after the statement of defense of the accused or the convicted. Furthermore, the accused or the convicted may plead in company of his lawyer or by means of his lawyer provided that he appears at the court or submits his proxy.

The enforcement judge, when he deems it necessary, may also take the statement of defense of the accused or the convicted in the penal institution. Thus, in case where accused or convicted persons whose existence in the courthouse would be inconvenient, or where there are several applications of complaint, the enforcement judge will be able to take the statement of the accused or convicted in the penal institution.

Moreover, in line with the provisions inserted into Article 6 of Law No. 4675, the introduction of a provisional article is envisaged with a view to grant equal rights in terms of disciplinary actions which have been previously imposed and examined by enforcement judges. This right shall be applicable for the pending applications before the ECtHR. Thus, the 567 applications currently pending before the ECtHR on this ground shall be dismissed.

On the other hand, owing to the fact that enforcement judges, as a matter of their duty, are in close contact with penal institutions, and with a view to enable those judges to carry out their duty in courthouses and penal institutions, the provision regarding the performance of their duty in the courthouse where they are established shall be abolished.

20. Regarding paragraphs 163 and 164, if the apprehended person is to be taken into custody or if he/she has been apprehended by use of force, his/her health at the time of the apprehension is examined through a medical examination. His/her state of health is also examined by medical authorities in cases of location change, period of custody extension, hand over to judicial authorities or release. It is an obligation to inform the public prosecutor if any evidence of torture or ill-treatment detected during the medical examination. Public prosecutor has the authority to initiate investigation *ex officio* on the crimes related with torture and ill-treatment.

The positive effect of the zero tolerance policy against torture and ill-treatment has been confirmed in the CPT report of 2006 as well as in the EU Progress Reports of 2007 and 2008. These reports reflected the continued downward trend in allegations of torture and ill-treatment especially in the anti-terror departments of police stations.

There exists no one belonging to a minority group (covered by Lausanne Peace Treaty) who have died in police custody. Further information can be provided on the cause of death and ongoing judicial and administrative proceedings if any factual information about the death of the member of minority group is transmitted.

21. **"Law on the Compensation of Losses Resulting from Terrorist Acts and the Measures Taken against Terrorism** (No: 5233)" entered into force on 27 July 2004. It aims to compensate losses of people suffered from terrorist acts as well as the measures taken against terrorism in a prompt, efficient and just manner and displays the Government's political will to provide an effective remedy to this problem.

As of end of May 2010, a total sum of 731 million Euros was awarded as compensation to applicants.

Furthermore, a mechanism has been put in place by the Ministry of the Interior to organise seminars and round tables with persons who take part in the Damage Assessment Commissions to constantly review the working methods and decisions of the Commissions and further train their members to keep these Commissions as an effective domestic remedy as was declared by the European Court of Human Rights in its inadmissibility decision on İçyer application.

22. As all forms of discrimination are prohibited and heavily penalized by law in accordance with the Constitution, acts of discrimination against Turkish citizens of Roma origin are also dealt with under general provisions of non-discrimination in relevant laws.

The constitutional system of Turkey is based on the equality of all individuals without discrimination before the law, irrespective of their descents in terms of language, race, colour, ethnicity, religion or any other such particularity.

In this context, within the ongoing reform process in Turkey, progress has also been achieved as regards the situation of Turkish citizens of Roma origin.

As to the measures against discrimination, for example, negative connotations in Turkish dictionaries with regard to the term "gypsies" were eliminated. Moreover, reference to the Roma people was removed from the new Law on Settlement which was adopted in September 2006.

Difficulties experienced in access to services are mostly related with poverty and unemployment as is the case for other vulnerable groups. These difficulties can be addressed within the general policy of the Government directed at alleviating poverty and social exclusion in the country.

Some observations are stated occasionally that urban transformation projects, initiated after 2005 resulted in the destruction and dislocation of "Roma communities" throughout the country. In this regard Sulukule neighbourhood is specifically mentioned.

Turkey disagrees with any comment on the ongoing urban renewal projects implying that they specifically target certain ethnic group. Sulukule is only a small part of Neslişah District where the urban renewal project has been launched in 2006. Sulukule corresponds to only 20 percent of the whole of the renewal project area. All the right holders in the project area are treated in a fair, transparent and equal manner.

The purpose of the urban renewal project in Neslişah District of Fatih Municipality, is to clear the slum areas formed due to the prevalence of ruined, broken-down and squatter settlements with low urban standards with a view to establishing an urban area with modern standards, while preserving its historical formation. The project envisages a consensual settlement of possible conflicts which may arise with the right holders in the renewal area.

Consultations with local people continued during the development phase of the project, thereby, allowing necessary adjustments and revisions. All the owners and tenants are entitled to housing within the framework of the project.

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Unofficial Translation

Official Gazette, No: 27580

Subject: Non-Muslim Minorities

13 May 2010

CIRCULAR OF THE OFFICE OF THE PRIME MINISTER

2010/13

In line with the principle of equality enshrined in the Constitution, the Turkish citizens belonging to non-Muslim minorities in the country, like all Turkish citizens, have the right to enjoy and to maintain their own identities and cultures in parallel to the national identity and culture of Turkey of which they constitute an indivisible part.

Protecting these citizens from needless impediments in their official dealings and transactions with any government institutions and preventing any infringement of their rights are not only a legal requirement but also of great importance in order to make them feel that they are part of the Turkish nation and the State.

In spite of the measures taken in recent years in addressing matters related to the non-Muslim minorities in the country within the framework of democratization efforts, it seems that some issues could not have been completely resolved due to problems in implementation.

It is therefore essential to act on the basis of the above-mentioned principles in all official transactions involving the non-Muslim minorities such as paying utmost care in the protection and maintenance of the non-Muslim cemeteries which have been put under municipalities' control, to ensure the strict implementation of court rulings in favor of non-Muslim community foundations by land registry offices (and) to prevent of any injustices in the collection of concession fees, to accord to non-Muslim community leaders who are citizens of the Republic of Turkey their rightful place in order of protocol and to initiate in a timely manner legal action against publications inciting hatred and enmity against non-Muslim communities.

Within this framework, I urge all related government institutions and offices to act with utmost diligence on this matter for the absolute elimination of problems in implementation.

Recep Tayyip Erdoğan

Prime Minister of Turkey

13 September 2010

The Constitutional Reform Package

The Constitutional reform package has been adopted with a majority of 58 percent of votes cast at a referendum where 77 percent of all eligible voters participated.

The constitutional reform package had been presented to a referendum pursuant to the provisions of the Constitution, due to the failure to achieve the required majority (336 votes instead of 376) at the Turkish Grand National Assembly (TGNA) on 6 May 2010.

While the Constitutional Court rejected an application which requested the annulment of the package as a whole claiming unconstitutionality of the structural changes that would be brought to the Constitutional Court and the Supreme Council of Judges and Public Prosecutors (HSYK), it partially annulled certain articles regarding the system of member-selection to the HSYK and the Constitutional Court.

The adoption of the constitutional reform package in the referendum of September 12 introduced the following changes:

- New rights are granted;

- The scope of the existing constitutional rights is expanded;

- New mechanisms are introduced for the protection of constitutional rights;

- The rule of law is strengthened;

- The Constitutional Court and the HSYK are restructured to align them with their counterparts in the democratic world; and

- Military jurisdiction is restricted.

As a result of the provisions contained in the constitutional amendment package, human rights and fundamental freedoms have been expanded and the Turkish constitutional system is brought in line with its international obligations. The amendments eliminated several shortcomings referred to in the judgments of the European Court of Human Rights (ECtHR), and the fulfillment of a series of findings and recommendations put forward by the Council of Europe (CoE) Commissioner for Human Rights, the Venice Commission, the European Commission against Racism and Intolerance, the Monitoring Committee of the Parliamentary Assembly of the CoE, the Committee on the Elimination of Discrimination against Women, the UN Committee on the Elimination of Racial Discrimination and several other international supervisory bodies as well as those indicated in progress reports and on other occasions.

Significant improvements made in this context are summarised as follows:

Positive Discrimination

With the amendment to Article 10 of the Constitution entitled “Equality Before the Law”, positive discrimination gains a constitutional basis for persons who require social protection, such as women, children, the elderly and the disabled. The inclusion of positive discrimination

in the Constitution is a significant improvement to strengthen the protection of constitutional rights.

With this amendment, it is guaranteed under the constitutional framework that special measures to be taken by the administration in respect of those who require protection shall not be construed to be "contrary to the principle of equality". As such, the State will be free to take special measures for those in need of protection to ensure equality among all sectors of the society.

This amendment will enable Turkey to better fulfill of its obligations stemming from basic conventions on human rights, primarily the UN Convention on the Elimination of all Forms of Discrimination against Women, the UN Convention on the Rights of Persons with Disabilities, Convention on the Rights of the Child, the European Revised Social Charter and the Recommendation CM/Rec(2007)17 of the Committee of Ministers on Gender Equality Standards and Mechanisms.

This amendment will better ensure the implementation of the general measures aimed at preventing possible future violations found in the framework of the Nahide Opuz judgment of the ECtHR (In the case of Opuz *vs* Turkey lodged by Nahide Opuz, the daughter of a murdered woman, who had complained to the Turkish authorities that both she and her mother were facing domestic violence, the ECtHR ruled that Turkish authorities failed to exercise due diligence in protecting them from violence and held that there had been violations of Articles 2, 3 and 14).

Protection of Personal Data

With this amendment to Article 20 of the Constitution entitled "Privacy of Individual Life", protection of personal data now enjoys constitutional guarantees. Everyone shall have the right to the protection of their personal data. This right entitles the individual to be informed of personal data, to access such data, to request their correction or deletion and to learn whether these are being used with the intended purpose.

This amendment comes at a time when improvements in the field of information technology magnified the difficulties and concerns that have emerged in the field of personal data protection. The amendment, which has been prepared in the light of Article 8 of the European Convention on Human Rights and the case-law of the ECtHR (*Marper v. United Kingdom*, decision of 4 December 2008), will align national legislation with international standards concerning the protection of personal data.

There also exists caselaw of the ECtHR (Ahmet Dağtekin judgment) which found that limiting a person's right to access to personal data collected by the Government also limits the right to defend oneself. This amendment will provide an important development in preventing such violations in the future.

Rights of the Child

With the amendment to Article 41 of the Constitution entitled "Protection of the Family" (which now reads "Protection of the Family and Children's Rights"), protection of the rights of the child is provided a constitutional basis, in accordance with universal principles and international conventions to which Turkey is a party. The amendment adds "rights of the child" to the heading of the Article and guarantees children the right to access "adequate protection and care" and to "establish and maintain a personal and direct relationship with his/her parents".

The principle of the best interest of the child, which is considered an umbrella right of the Convention on the Rights of the Child, has been granted a constitutional safeguard for the first time. This concept requires the protection of the rights of the child and that the child will be heard when deemed necessary, in all decision-making processes involving children, including administrative and legal proceedings as well as legislative and policy-making processes.

It is now a constitutional duty of the State to take the necessary measures for the protection of children against all sorts of child abuse. Hence, certain rights contained in the UN Convention on the Rights of the Child, the Council of Europe Convention on the Exercise of Children's Rights and similar international instruments have become an integral part of the Constitution.

Freedom of Organization

While the amendment made to Article 51 of the Constitution entitled "Right to Organize Labour Unions", Article 53 of the Constitution entitled "Collective Bargaining and Right of Collective Bargaining", Article 54 of the Constitution entitled "Right to Strike and Lockout" and Article 128 of the Constitution entitled "Provisions Relating to Public Servants" restrict the freedom to establish trade unions by business lines, the scope and extent of freedom of organization and especially union rights are broadened by the amendments made such as the abolition of the provision which prohibited becoming a member of more than one union in the same business line; granting of collective bargaining right to civil servants and other public officials in the manner retired civil servants could also enjoy; abolition of unnecessary restrictions imposed on the right to strike and lockout and the ruling that collective bargaining provisions regarding the economic and social rights granted to public servants are reserved.

The provision in Article 51 of the Constitution entitled "Right to Organize Labour Unions", which prohibited holding concurrent memberships in more than one labour union in the same business line, was abolished, and steps are taken so that the principle of "union plurality" could be put into practice. By these amendments, especially the third paragraph of Article 53 relating to collective bargaining is abolished; collective bargaining right of which procedure and substance would be guaranteed by legal arrangements was granted to civil servants and other public officials by the provisions added to this provision.

With a view to guaranteeing civil servants'' and other public officials' enjoyment of the outcomes of the right to collective bargaining that has been granted to them, it is guaranteed by the amendment made to the second paragraph of Article 128 of the Constitution that collective bargaining provisions relating to economic and social rights be reserved in addition to the rule that personal rights of civil servants and other public officials shall be prescribed by law.

The third paragraph of Article 54 of the Constitution entitled "Right to Strike and Lockout" which provided that "the labour union is liable for any material damage caused in a work-place where the strike is being held" is also abolished. By the revocation of the seventh paragraph of Article 54, the prohibitions relating to politically-motivated strike and lockout; sympathetic strike and lockout; general strike and lockout; business place invasion; slowdown; reduction of the output and other resistance are also abolished. Therefore, a considerable restriction regarding the enjoyment of right to strike is abolished. Accordingly, the opportunities for the right to legal remedies in business life on the basis of universal principles required in contemporary democratic societies are increased and a significant step is taken for the development of civil society.

The amendments made in this context have been prepared within the framework of the conventions of ILO (International Labour Organization) regarding the Freedom of Unionization and Protection of the Right to Association and Right to Association and Collective Bargaining and European Social Charter (revised).

Furthermore, the decisions issued by the ECtHR regarding Turkey in 2008 and 2009 (*Demir and Baykara, Enerji Yapı Yol Sen judgments*) required the extensive usage of the right to organize labour unions and collective bargaining right to be guaranteed. Significant progress is achieved regarding the implementation of said decisions by this amendment.

Freedom of Movement

By the amendment made to Article 23 of the Constitution entitled Freedom of Residence and Movement, the reason of restriction for the provision "A citizen's freedom to leave the country may be restricted on account of civic obligations, or criminal investigation or prosecution." was narrowed down and it was amended as "A citizen's freedom to leave the country may only be restricted on account of criminal investigation or prosecution depending on judicial decision". Therefore, the ban placed on leaving the country on account of civic duties was removed and freedom of movement was extended. The obligation to obtain a judicial decision in order to restrict the freedom of movement is another positive improvement. It aims to prohibit arbitrary restrictions.

Right of Petition

Due to the amendment made to Article 74 of the Constitution, the right of petition is, for the first time, expressly defined as a constitutional right. Therefore, a right granted and protected by the standards of European Convention on Human Rights, case-law of the ECtHR and United Nations Covenant on Civil and Political Rights (Article 19) gains a constitutional ground.

The Ombudsman Institution

The amendment made to Article 74 of the Constitution entitled "Right of Petition" (which now reads "the right of petition, the right of knowledge acquisition and appeal to public auditor") forms constitutional basis for Public Auditing system. The unconstitutionality problem that had caused the attempts to form an association of ombudsmen to fail is now overcome with this regulation.

The institution of public auditors which is foreseen to be established contingent to the TGNA will provide a more effective judicial and administrative framework for the preservation of the human rights by investigating the complaints regarding the management of the administration. It is thus enabled to make the administrations acts and actions subject to independent scrutiny.

When considered in conjunction with the entitlement of individual right to appeal to Constitutional Court, this regulation provides an additional means of resolving the matters between an individual and the authorities without having to apply to the European Court of Human Rights.

This amendment conforms to the Committee of Ministers of the Council of Europe decree regarding the "public auditors institution" (R(85)13), dated 23 September 1985.

Establishing an institution of ombudsman was one of the recommendations put forward when Turkey was in the process of being dispensed from the monitoring of the Parliamentary

Assembly of the Council of Europe in 2004. Thus, a major step is taken in the way of fulfilling the aforementioned obligation.

Political Parties

By the amendment made to Article 84 of the Constitution, the right to vote and to stand for election is reinforced. The article in question provided that "the membership of a deputy whose statements and acts are cited in a final judgment by the Constitutional Court as having caused the permanent dissolution of his party shall terminate". The amendment to this provision, which was incompatible with the case-law of the ECtHR, eliminates one of the legal consequences of dissolution of political parties. Thereby, the right to vote and to stand for election has been guaranteed in a stronger way.

Judicial Review of Supreme Military Council Decisions

By the amendment made to Article 125 of the Constitution entitled "Recourse to Judicial Review", all decisions by the Supreme Military Council concerning exemption from the Turkish Armed Forces became subject to judicial review.

This amendment goes beyond the Court's case-law and provides the right to an effective remedy. Further, it expands the limits on the scope of the judicial review. This amendment also emphasizes that reviewing the lawfulness of the acts and actions of the administration cannot be exercised by reviewing their expediency. This amendment clearly states that judicial authorities may not exercise the review of expediency and this further puts the emphasis on the separation of powers, which is one of the fundamental elements of the rule of law.

Judicial Review of Disciplinary Decisions

With the amendment introduced to Article 129 of the Constitution, disciplinary decisions against civil servants and other public officials have been subject to judicial review and the exceptions have been lifted. Thus, the legitimacy check for all disciplinary measures has been provided. This constitutional change is important as a requirement of the rule of law principle and in terms of ensuring the right to effective remedy.

Right to Individual Application to the Constitutional Court

The amendment to Article 148 of the Constitution, introduces the right to individual application to the Constitutional Court with regard to the fundamental rights and freedoms enshrined in the Constitution that fall within the scope of the European Convention on Human Rights. The introduction of the individual's right to apply to the Constitutional Court following the exhaustion of usual domestic remedies is one of the most important changes enacted within the Constitutional reform package.

It is not possible to talk about a uniform practice within the European states in this field. However, this right has been introduced taking into consideration the practices of various developed countries particularly many European Union member states. The aforementioned right not only gives the State another chance to remedy the injustice that arise prior to the application to the European Court of Human Rights - which is considered as the last resort against human rights violations - , but also creates another mechanism for the citizens to claim their rights.

This new mechanism, which was devised within the scope of the opinions (CDL-AD(2004)024 & 034) issued by the Venice Commission upon the Constitutional Court's request, is in compliance with the international standards.

Establishment and Membership of the Constitutional Court

The amendments to Articles 146, 147, 148 and 149 of the Constitution regarding the organization of the Constitutional Court, termination of membership, its functions and powers and functioning and trial procedure are of great importance for the objectives of judicial reform strategy and especially for strengthening the effective and impartial functioning of the judiciary.

With these amendments, the organization of the Constitutional Court, election of its members and its functioning are improved in the light of the applications in various countries and in accordance with the needs of our country.

The structure of the Constitutional Court and the method of election are changed and the number of its members is increased. Besides, the TGNA is granted the opportunity to elect members for the Constitutional Court. The sections which members belong to are diversified, their experiences and qualifications are enhanced and it is ensured that the legislative organ also has a role in the election of members and the membership is limited to a certain period of time. The representation of especially different elements of the justice mechanism and different segments of the society in the Constitutional Court is strengthened.

This amendment is in conformity with the observations of the Venice Commission dated December 1997 headed "The Composition of Constitutional Courts" (CDL-STD(1997)020).

Supreme Council of Judges and Public Prosecutors (HSYK)

By the amendment made to Article 159 of the Constitution entitled "Supreme Council of Judges and Public Prosecutors", the organization of the Supreme Council of Judges and Public Prosecutors and the authorization to arrange its working procedures and principles, and supervise judges and public prosecutors within the body of the Ministry of Justice is handed over to the Supreme Council of Judges and Public Prosecutors.

The structure of the Supreme Council of Judges and Public Prosecutors is rearranged in a manner which enables a wider participation for an effective functioning of the judiciary and strengthens its independence and tenure of judges. The sources from which the members of the Supreme Council of Judges and Public Prosecutors come from are diversified and a wider and more effective operation and control mechanism is organized. The permanent members of the Supreme Council of Judges and Public Prosecutors shall not be assigned in other positions than the ones provided by law during their term of office. In this way, it is aimed that the members are fully independent while taking decisions. With the Constitutional amendment, the Secretariat General of the Supreme Council of Judges and Public Prosecutors is established. In this way, the criticisms that the Council's using the Ministry of Justice as its secretariat is an application which undermines the independence and impartiality of the judges are set aside.

Supervision of Judges and Public Prosecutors

Article 144 of the Constitution entitled "Supervision of Judges and Public Prosecutors" (it is amended as "Supervision of Judicial Services") provides that the supervision of judges and public prosecutors and inquiry and investigations concerning them shall be made by inspectors

of the Council. It is provided that the supervision of authorities lying beyond the scope of judicial activities such as execution, notary and prisons and the supervision of administrative acts and procedures of the public prosecutors shall be carried out by the judicial inspectors with the permission of the Ministry of Justice and internal auditors employed as judges or public prosecutors.

In this way, the supervision of judges and public prosecutors which is still under the authority of the Ministry of Justice is handed over to the Supreme Council of Judges and Public Prosecutors and a progress is made with the regard to independence and assurance and the principle of separation of powers is strengthened. Moreover, The Council decisions regarding dismissals from profession shall be subjected to judicial control and an effective appeal mechanism before domestic courts is provided.

Military Jurisdiction

By the amendments made to Articles 145 and 156 of the Constitution regarding military justice, the scope of authority of the military justice is rearranged. Within this framework, the scope of authority of the military justice is limited to the trial of military offences. It is provided that the offences against the state security, constitutional order and its functioning shall be dealt with by the courts of justice. It is also guaranteed by the Constitution that non-military persons, in other words civilians, shall not be tried by military courts except for time of war.

Provisional Article 15

The Provisional Article 15 of the Constitution which prevented prosecution of the members of the Council of National Security during the "12 September period", the governments formed during this period and members of the Consultative Assembly is repealed.

Republic of Turkey

MINISTRY OF THE INTERIOR

Number : B.050.ÖKM.0000.11-12/ 19/03/2010

Subject : Combating Illegal Migration

CIRCULAR (2010/18)

Ref:

a. Approval of the Ministry of the Interior dated 07.10.2005 concerning "The Establishment of Guesthouses for Foreigners to be Deported".

b. The letter no. B.05.1.EGM.0.13.07.01.İllegal/7-4619-37508 from the General Directorate of Security dated 19.02.2008, concerning "The meeting of a board under the coordination of Governorships concerning illegal migration and the establishment of refoulement centers in each province to accommodate a minimum of 50 people".

c. Approval of the Ministry of the Interior dated 24.02.2010, relating to the "Coordination Board on Combating Illegal Migration".

In the process of accession negotiations with the European Union, the subject of "Asylum and Migration" holds an important place within the scope of Chapter 24 entitled "Justice, Freedom and Security". In this framework, the enactment of new legislation concerning asylum and migration has been guaranteed in the 2008 National Programme of Turkey for the Adoption of the EU Acquis, in Turkey's Programme for Alignment with the Acquis adopted in 2007, in the 2003 Strategy Papers on Asylum and Migration and in the 2005 Asylum and Migration National Action Plan.

Although the work for new legal arrangements is underway, the measures which are deemed to raise the effectiveness of the successful struggle against illegal migration and to prevent Turkey from becoming a transit route for illegal migration are listed below.

1 – Measures to Be Taken in Combating Illegal Migration:

Illegal migration is considered to be one of the most important trans-border problems today. The geographical location of Turkey, the persistence of war and instability in neighboring countries and factors such as the physical vulnerability of its borders has pushed Turkey into a position of a transit and/or destination country in terms of illegal migration and human trafficking.

Taking into consideration this vulnerable nature of our borders with regard to illegal migration, the entry and exit points and routes frequently used by illegal migrants as well as the techniques used by them and traffickers are to be diligently analyzed by the security forces, and coordination with the relevant bodies shall be achieved.

The personnel working in this field are to receive vocational training. Indications of instances of illegal migration (such as a large amount of purchase of bread from bakeries, leftovers and dense

smell emanating from vehicles, an increase in the number of unknown persons in villages, etc.) shall be evaluated. Moreover, bus and other transport companies as well as accommodation facilities shall be continuously warned about illegal migration and human trafficking.

Measures shall focus on intelligence as regards human trafficking and intelligence and data shall be shared between relevant bodies.

Measures such as electronic surveillance, continuous patrol and controls shall be taken at the highest level at borders, border gates, transit routes within the country, and exit points. Thus the entry, movement and exit of illegal migrants in and from our country shall be avoided as best as possible, preventing the country from becoming a transit route for illegal migration.

2 – The Procedure to Be Applied Following the Apprehension of Illegal Immigrants:

Concerning the procedure to be applied following the apprehension of illegal immigrants who have managed to enter Turkey, certain additional measures have been regarded necessary until the adoption of new legislation relating to migration and asylum.

Accordingly:

a – The Procedure to Be Applied Following the Apprehension of Illegal Immigrants:

It is essential that following the legal proceedings concerning them, illegal immigrants are accommodated in refoulement centers pending the completion of the deportation procedure.

Illegal immigrants arrested by units of provincial Security Directorates, the Gendarmerie and the Coast Guard and whose legal procedures are competed shall continue to be handed over to the Foreigners/Passport-Foreigners Departments at Provincial Security Directorates.

It is essential that the legal procedure in respect of arrested illegal immigrants is carried out by the unit that made the arrest. However, taking into consideration the inadequacy of the Coast Guard Command's territorial organization as well as the fact that combating illegal migration requires a concerted struggle by all enforcement units, illegal immigrants apprehended by Coast Guard units, together with the arrest report, a list containing information of the identities of the illegal immigrants that could be identified, as well as photographs and records of private belongings retained, shall be officially handed over to an enforcement unit designated by the public prosecutor in the district where legal procedures will be carried out. Local governors will ensure the highest degree of coordination and cooperation to facilitate the work of the police and gendarmerie related to legal procedures and the transfer of illegal immigrants to judicial authorities, including providing personnel reinforcement, health services, transportation, place and translator.

Illegal immigrants, in respect of whom legal procedures have been completed,

- Shall be immediately taken into refoulement centers provided that there is available space.

- In case there is no space in refoulement centers, illegal immigrants shall, within shortest time possible, be transferred to alternative locations designated beforehand by provincial governors.

- Illegal immigrants shall not be placed in detention facilities.

- Concerning illegal immigrants who suffer from contagious diseases but whose treatment does not require hospitalization, necessary measures shall be taken to accommodate them separately from other immigrants in refoulement centers.

B – Procedure Relating to Illegal Immigrants and Refoulement Centers:

b1- Premises which have been established as "Guesthouses for Foreigners to be Deported" with the relevant approval (ref. a) with a view to accommodating illegal immigrants pending deportation shall hereinafter called "Refoulement Centers".

b2- By the letter from the General Directorate of Security (ref. b), the establishment of centers with at least 50-people capacity in each province has been ordered. However, despite the large number of illegal immigrants arrested in certain provinces, sufficient capacity to accommodate all illegal immigrants pending deportation has not yet been created.

In this respect;

Urgent measures shall be taken to increase the capacity of refoulement centers in the provinces of Ağrı, Balıkesir, Çanakkale, Mersin, Hatay, Muğla, Batman and Gaziantep, which receive an influx of illegal immigrants and fall short of providing space for them. Relevant actions shall be followed in person by provincial governors.

Studies to evaluate the flow of illegal immigrants over time shall be carried out concerning the provinces of Şırnak, Şanlıurfa, Konya, Tekirdağ, Iğdır and Düzce, which do not currently include such facilities. Following these studies, refoulement centers shall be established within six months to shelter at least 100 persons. In other provinces which also lack facilities, at least 50 person capacity refoulement centers shall be established.

Unused public buildings shall be primarily used in the establishment of these centers, employing resources including central budget, local resources and other resources obtained in return for projects. Governorships shall submit periodical reports once every six months concerning the building of refoulement centers and the creation of additional capacity to the Bureau on Development and Implementation of the Legislation on Asylum and Migration and Administrative Capacity. The work carried out in the provinces shall be monitored by the bureau, and evaluated on site if necessary. The results shall be submitted to the Ministry of Interior in the form of annual reports.

b3- In case a province does not contain a refoulement center or the center is fully occupied, illegal immigrants shall be transferred by the Foreigners' Border and Asylum Department of the Directorate General of Security to the closest provinces that have the capacity to shelter them. Thus, the present capacity of refoulement centers throughout Turkey will be used more efficiently.

b4- The Directorate General of Security shall prepare a regulation in accordance with the provisions set out in the "Fundamental Principles Concerning the Physical Conditions of Refoulement Centers and Practices in These Centers" annexed to this Circular, within two months following the publishing of this Circular, and send it to Governorships.

This regulation will include issues such as the establishment of refoulement centers, their management, the regulation of the financial aid or aid in kind made to these centers by public institutions and civil society organizations, relationship with these institutions, records to be kept

for illegal immigrants that are to be accommodated in these centers (obligatory records, how immigrants' valuable belongings and belongings that cannot be used in these centers will be kept), other rules and the operation of the system that will be established to transfer illegal immigrants from one province to another for reasons of available capacity.

The regulation shall also include rules governing the collection of statistical data such as the number of illegal immigrants apprehended by the police, the Gendarmerie, and the Coast Guard (by each enforcement unit), the number of illegal immigrants accommodated in refoulement centers, the number of illegal immigrants deported, and their period of stay in these centers.

The refoulement centers shall be inspected, at least once every six months by the Governor (or by a Deputy Governor appointed by the Governor); District Governor and the Provincial Security Director, and at least twice every year by the General Directorate of Security, with or without prior notice. The results of these inspections shall be filed in reports, and be taken into consideration in the inspection of the units.

b5- Fundamental principles concerning the physical conditions of and practices in refoulement centers are annexed to this Circular. The procedures in the centers shall be in accordance with this document until the entry into force of the regulation prepared by the General Directorate of Security.

b6- Allegations of any treatment in the refoulement centers which is contrary to human dignity and honor shall be promptly investigated and upon finding of such violations, the necessary judicial and administrative actions shall be taken.

c – The Deportation Procedure Concerning Illegal Immigrants

One of the most important stages of combating illegal migration efficiently is to ensure the speedy deportation of illegal immigrants. Such efficiency will have a deterrent effect towards possible future waves of illegal migration and will lessen the burden of illegal immigrants on Turkey.

Therefore, the deportation of illegal immigrants by the police following their apprehension shall be carried out with diligence and necessary measures shall be taken. At this stage Governors and other related units shall supervise and ensure the prompt and accurate performance of actions, the facilitating of the related officials' tasks and the provision of resources.

3- Coordination Board to Combat Illegal Migration:

A "Coordination Board to Combat Illegal Migration" has been established with the Approval of the Ministry of Interior (ref c). The Board, under the coordination of the relevant Undersecretary convenes with the participation of representatives of the Turkish General Staff, Land Forces Command, Ministry of Foreign Affairs, General Directorate of Security (Head of the Department Against Smuggling and Organized Crime and the Head of the Department of Foreigners, Borders and Asylum), the General Command of the Gendarmerie (Head of the Department Against Smuggling and Organized Crime), the Coast Guard Command (Head of Intelligence) and representatives of central and/or provincial units of public institutions and related Ministries when necessary.

Decisions taken in meetings by the "Coordination Board to Combat Illegal Migration" established in order to monitor the measures taken, to develop new measures and to monitor the

implementation of decisions taken in the fight against illegal migration, shall be announced. The said decisions shall be strictly implemented by relevant units.

4- Among the illegal immigrants accommodated in refoulement centers, those who may wish to contact the United Nations High Commissioner for Refugees (UNHCR) office shall be given the opportunity to do so.

Moreover, at their request, illegal immigrants shall be allowed to receive assistance from a lawyer, provided that they meet any relevant fees themselves.

5- The letter by the Directorate General of Security dated 15.10.2004 (no. B.05.1.EGM.0.13.05.05.İllegal-2-1995-28400-186254) entitled "Illegal Migration", the approval by the Ministry of the Interior dated 07.10.2005 concerning "The Establishment of Guesthouses for Foreigners to be Deported", the letter by the General Directorate of Security dated 19.02.2008 (no. B.05.1.EGM.0.13.07.01.İllegal/7-4619-37508) entitled "With regard to illegal migration, the meeting of a board under the coordination of our Governorships and the establishment of refoulement centers with a minimum capacity to hold 50 people in each province", and the letter by the Coast Guard Command dated 26.11.2009 and (no. 9050-559-09) entitled "The Handing Over of Illegal Immigrants" are hereby abrogated.

6- The issues mentioned above shall be strictly followed by governorships and other relevant units. Governorships shall fill out the Form-1 (Annex 2) once every three months starting from 01.06.2010 and submit it to the Bureau on Development and Implementation of the Legislation on Asylum and Migration and Administrative Capacity.

The activities carried out shall be inspected by inspectors of the Ministry of the Interior and inspection units of related institutions.

I kindly request that the necessary sensitivity is shown towards this issue by Provincial Governors and heads of the related enforcement units and that any obstacles toward implementing this Circular are avoided.

(s i g n e d)

Beşir ATALAY

MINISTER OF THE INTERIOR

Annexes:

1-Fundamental Principles Concerning Refoulement Centers

2-Table of the Number of Illegal Immigrants (Form-1)

ANNEX (1)

FUNDAMENTAL PRINCIPLES CONCERNING THE PHYSICAL CONDITIONS OF REFOULEMENT CENTERS AND THE PRACTICES IN THESE CENTERS

The fundamental principles concerning the physical conditions of refoulement centers in which illegal immigrants are held until their deportation and the practices in these centers are stated below.

In this framework, with regard to the Refoulement Centers:

1. A detailed official record will be kept of illegal immigrants in accordance with the principles set out in the regulation to be published by the Directorate General of Security. The records shall be kept for five years.

2. The opening of the centers is subject to the approval of provincial governorships.

3. Prior to approval, the issue of whether the newly established center meets the conditions set out by the Ministry of the Interior shall be investigated by a commission to be established within the governorship.

4. In case more than one center is in service in a province, each center shall obtain a separate approval, and the approvals shall be communicated to the Ministry of the Interior as soon as possible.

5. A plan containing emergency measures in case illegal immigrants exceeding a center's capacity are received shall be communicated to the Ministry of Interior.

6. Illegal immigrants to be sheltered in the centers shall be notified in writing, in a language they can understand, of their legal status and the legal remedies they are entitled to. A copy of this notification signed by the immigrant shall be kept in his/her file.

7. With regard to women and families;

a. Separate sections shall be formed for men, women and families.

b. Necessary physical measures shall be taken to prevent crossings between the men, women, and family sections.

c. A healthy environment shall be made available where minors can stay with their mothers.

8. Necessary facilitating precautions shall be taken for disabled illegal immigrants.

9. Access to hot water shall be made available 24 hours a day.

10. Each section of the removal center shall include sufficient number of toilets, separately for men and women.

11. A sufficient number of washing machines shall be made available for the use of immigrants. Bed linens, sheets, blankets, etc. used by illegal immigrants shall be washed at regular intervals to provide cleanliness and hygiene.

12. In case tap water is not appropriate for drinking, illegal immigrants shall be provided with drinking water.

13. Regarding food served to illegal immigrants:

a. Three meals a day shall be given according to a calculation of calories necessary for a healthy diet. Lunch and dinner shall include hot food. In case general budget resources are unable to cover the costs of three meals a day, the resources of the Social Assistance and Solidarity Funds can be used.

b. Menus shall be determined monthly. Food that is preferred and not preferred shall be identified, and measures shall be taken concerning food that is not preferred.

c. Meals shall be eaten in the dining section of the centers where possible, or in designated areas in the rooms used by illegal immigrants.

14. A sufficient number of public phones shall be made available for the use of illegal immigrants.

15. Regarding health services,

a. The centers shall be well-kept and in hygienic conditions.

b. A medical check-up shall be provided for illegal immigrants when they enter and exit the centers.

c. Medical check-up reports shall be kept for five years.

d. Immediate measures shall be taken in the event of an epidemic outbreak and the Ministry of the Interior shall be notified of the situation.

e. Illegal immigrants with urgent health problems shall be transferred to the closest medical institutions without delay.

f. The medication costs of illegal immigrants staying in the centers shall be primarily met from general budget. It has been observed that provinces have different practices on this matter. Therefore, a uniformity of practice shall be achieved in all provinces. With a view to use general budget resources for medication costs, the General Directorate of Security shall allocate sufficient funds to provinces. In case these funds remain insufficient, medication costs shall be covered through local Social Assistance and Solidarity Funds.

g. Requests by illegal immigrants to be examined by a doctor shall by all means be taken into account. The medical treatment of those in respect of whom deportation orders have been issued shall be provided on the basis of a medical decision taken for each specific event. Such a decision requires that the related person is seen and examined by a doctor. Except for exceptional circumstances that are clearly and precisely defined, medical treatment shall only be provided following the informed consent of the person. Moreover, every stage of the medical treatment made within the deportation procedure shall be duly recorded by relevant bodies.

16. Regarding the personnel:

a. A sufficient number of male and female personnel shall be employed. The personnel working in the centers shall not (to the extent possible) be assigned tasks in sports matches, public meetings and similar events.

b. The personnel employed in the centers shall, at regular intervals, go through health checks and necessary health measures shall be taken in consideration of the risks faced by them.

17. A camera surveillance system shall be set up to allow the monitoring of common areas or rooms of the centers, the records of which can be kept for six months.

18. Measures shall be taken to keep safe the personal belongings of the illegal immigrants staying in the centers.

19. Regarding the centers:

a. An "intervention plan" shall be prepared against undesirable events that may arise in the centers.

b. Notes informing illegal immigrants of their rights shall be prepared in various languages and placed in the centers where they can easily read.

c. The rules applicable in the centers shall be translated into several languages and placed in areas where illegal immigrants can read.

d. The measures that are to be taken against those who violate the rules shall be stated to illegal immigrants when they enter the centers.

e. Measures shall be taken for providing sufficient exposure to sunlight.

f. Illegal immigrants who are held for periods exceeding 24 hours shall be given the opportunity to make outdoor exercises.

g. Measures shall be taken to provide illegal immigrants with more and various activities in the centers.

h. TV sets shall be made available for the use of illegal immigrants.

20. The services provided to illegal immigrants (food, cleaning, etc.) shall be primarily provided through service contracts.

ANNEX (2)

STATISTICS ON ILLEGAL IMMIGRANTS (ACCORDING TO UNITS)

PROVINCE :……

PERIOD :……

	Land Army Units	**Coast Guard Units**	**Gendarmerie Units**	**Police Units**	**Province Total**	**Explanation**
Apprehended						
Handed Over to Gendarmerie Units			X	X		
Received by Gendarmerie Units	X	X		X		
Those who have gone to an unidentified province without being handed over to Police or Gendarmerie units				X		
Handed over to Police units				X		
Received by Police units	X	X	X			
Resettled in another location under Article 23 of Law no. 5683	X	X	X			

Those who have gone to an unidentified province	X	X	X			
Those sent to another refoulement center	X	X	X			
Those deported	X	X	X			
Those staying in refoulement centers	X	X	X			
Those staying outside refoulement centers (hospitals, etc.)						
Those remaining						
Total						

Not: At the end of the year separate forms will be filled out for the whole year as well as the last quarter and this situation will be indicated as "…year 4th quarter" or "....year" in front of the "Period" Section. This form will be filled in the first week of every January, April, July and October.

(The name, surname, and title of the official who has filled out the form, date and signature)

UNOFFICIAL TRANSLATION

19.03.2010

REPUBLIC OF TURKEY
MINISTRY OF INTERIOR
Private Secretariat

…/03/2010
Number: B.050.OKM.0000.12
Subject: Refugees and Asylum-seekers

CIRCULAR (2010/19)

Reference:

a) 1951 Geneva Convention Relating to the Status of Refugees and the Law on Ratification of the Convention Relating to the Status of Refugees numbered 359 and dated 29 August 1961.

b) 1967 New York Protocol Relating to the Status of Refugees

c) 1994 Regulation on the Procedures and the Principles Related to Population Movements and Aliens Arriving in Turkey either as Individuals or in Groups Wishing to Seek Asylum either from Turkey or Requesting Residence Permission in order to seek Asylum from Another Country (as amended on 16.01.2006)

d) Implementation Directive No. 57 issued by the General Directorate for Security in 2006.

The issue of "Asylum and Migration" addressed under Chapter 24 - Justice, Freedom and Security, play an important part in the negotiation process between Turkey and EU.

Basically, refugee and asylum procedures in Turkey are implemented in accordance with the legal provisions of the instruments enumerated in the reference list given above. While the preparatory works are continuing for the new legal regulations required by the EU harmonization process under the framework of the "Turkish National Programme for the adoption of the EU Acquis" approved by the Council of Ministers on 25 March 2005; some problems encountered in practice shall be eliminated in an urgent manner. It is deemed as necessary to regulate some issues, during the time that will pass until the legislative works are completed.

Accordingly

1- Residence permits issued for the refuge/asylum applicants and refugees or asylum seekers in Turkey are subject to a fee in accordance with the Law No 492 on Fees. However, some persons who leave their countries under difficult conditions and who do not have a regular income, face serious problems in paying the residence fees. Furthermore, it has been observed that there is no uniformity of practice amongst the provinces of the country.

In accordance with the implementation Directive listed in ref(d) above, after a preliminary interview conducted in the provinces where the foreigners are transferred to, the foreigners who apply for asylum or refuge are granted "ID document" bearing the statement "Applicant for Asylum and Refuge" and they are ex-officio granted a six (6)-month-residence permit. However, there are also asylum/refuge applicants and refugees or asylum-seekers who cannot obtain a residence permit, because they cannot afford the residence fee.

Since some asylum-seekers who are granted status by our Ministry and who are allowed to exit from Turkey for a third country cannot pay the fee as well as the fine for the delay, problems are encountered during their departure from Turkey.

According to Article 88 of the Law on Fees, "*No residence permit fee shall be charged from the below foreigners: a) Students receiving education in Turkish schools or faculties and … d) The* poor who are *considered to be in a bad financial situation by the authorities in charge of issuing residence permits, …"*

Under the framework of that provision from among the applicants for asylum/refuge and refugees or asylum-seekers, those who are in a bad financial situation and students shall not be charged residence fee.

As known, according to Article 3 of the Law No 5683 on the Travel and Residence of Foreigners Residing in Turkey, and the Articles 17 and 27 of the Regulation Governing the Establishment, Obligations and Duties of the Passport, Foreigners, Passport-Foreigners Sections of the Provincial Security Directorates it is stipulated that, "it is under the mandate and responsibility of the Foreigners/Passport-Foreigners Sections of the Provincial Security Directorates to receive the residence permit applications - for purposes of residence, work, visa, education, marriage, property… or other purposes- lodged by the foreign subjects residing in their province; to grant permit ex-officio under the scope of the legislation, if the application is deemed as eligible, and to issue and hand over the permit to the foreigner."

In line with the statement by the asylum/refuge applicants and refugees or asylum-seekers that their financial situation does not allow them to afford the fee, Foreigners/Passport-Foreigners Sections of the Provincial Security Directorates of the provinces where they are allowed to reside shall make the necessary assessments within 15 work days at the latest; finalize the procedure: issue residence permit free of charge (fee) to those whose financial situation is not good enough to afford the fee, as well as to those about whom no information is available, and enter the relevant data in the PolNet Information System on the same day.

Residence permit fees and fines which had accrued prior to the entry into force of this circular, but which could not be collected, shall be re-assessed and if it is understood that the relevant person is under the scope of Article 88 of the Law No 492, no residence fee or fine shall be collected.

Furthermore, in case it is ascertained that an asylum and refuge applicant and a refugee or an asylum-seeker who was granted residence permit free of charge, had given misleading information, then fees and fines shall be imposed (accrued) retroactively.

2- Under the Implementation Directive No 57 and dated 2006, following persons can apply for asylum-refuge:

a- Those who are caught by the security forces for their illegal presence in Turkey,

b- Those who somehow enter Turkey again, after being deported for their involvement in illegal migration or for committing a crime or after being prohibited to enter Turkey,

c- Those who are caught while trying to leave Turkey illegally,

d- From among the persons who were residing in Turkey legally, those who shall leave the country since their purpose of stay had expired (such as expiry of work permit, completion of education, expiry of residence permit, or expiry of visa exemption.. and etc.),

e- Those against whom a deportation order is made for having committed a crime as a legally residing foreigner.

In this context, in case illegal migrants wish to lodge an asylum-refuge application, during the time between apprehension and deportation, their application must certainly be accepted and necessary proceedings shall be conducted in a manner as is provided in the provisions the Implementation Directive mentioned in Ref (d) above

3- It has been determined that difficulties were experienced in the implementation of giving asylum/refuge applicants a 'foreigner (registration) number in compliance with the 2006 Regulation on keeping Records of Foreigners Residing in Turkey, and most of them were not able to receive that number. However, during the time of their stay in Turkey it is essential for the foreigners to use that number in their official or personal transactions and proceedings. Not assigning numbers to the concerned people on time, cause the asylum/refuge applicants and refugees or asylum-seekers to face trouble in having access to the services such as education, health and social assistance… and etc.

Therefore, necessary actions shall be taken by the General Directorate for Security (The Department of Data Processing and The Department of Foreigners. Border and Asylum) and the General Directorate for Population and Citizenship Affairs and as of 01.05.2010 when issuing residence permits to foreigners for six or more months: the numbers assigned to the foreigners (including the number assigned to the main applicant and to his dependants) shall also be written on the residence booklet.

Furthermore, pursuant to the departure of a foreigner who was allowed to leave for third countries as an asylum-seeker or with humanitarian considerations, the foreigner's number which had been assigned by our Ministry shall be deactivated by informing General Directorate for Population and Citizenship Affairs within (1) week at the latest.

4- Protection of data-relating to the asylum/refuge applicants and refugees or asylum seekers shall be ensured by taking into consideration of the principles as well as national and international standards on protection of personal data.

Within this framework, written or electronic data relating to the asylum/refuge applicants and refugees or asylum seekers shall be protected from access by unauthorized persons. Written data on the mentioned persons shall be kept in locked cupboards or in locked rooms, and correspondence relating to those persons shall be classified as 'restricted'

Owing to the confidentiality of that data, interviewers and translators/interpreters who are to serve during asylum/refuge applications shall be appointed by approval of the Governorship. Those whose asylum/refuge applications are rejected, and those whose applications are under review shall not act as translators/interpreters.

In all provinces where refugees and asylum-seekers reside, in Provincial Security Directorate, Foreigners/Passport and Foreigners Sections, an interview room equipped with a computer, where the interviews are to be conducted with the asylum/refuge applicants, must **certainly be available**. Strict attention shall be paid in conducting the interviews of refugees and asylum-seekers within a framework of confidentiality.

Staff conducting the interview must certainly be dressed in civilian clothes.

5- The above-mentioned issues shall be observed with diligence by the Governorships and the relevant personnel, and its implementation shall be inspected by civil administration inspectors, and inspection and supervision boards of the General Directorate for Security.

I kindly ask and urge from the Governors and Security Units to show the necessary sense of diligence to the issue and prevent any possible mishaps that may occur.

Besir ATALAY
Minister
Ministry of Interior

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For Action:

Inspection board
General Directorate for Security
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