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List of violations, irregularities, and inconsistencies with the Constitution, laws, sub-legal acts, standard procedures, and international human rights instruments in the case of the expulsion of six Turkish nationals

- (1) By *automatically* implementing the Kosovo Intelligence Agency's ("KIA") request to revoke the residence permits of the Turkish nationals, without assessing whether the information provided by the KIA fulfilled the legal criteria for constituting "a threat to national security," the Department for Citizenship, Asylum, and Migration ("DCAM") of the Ministry of Internal Affairs violated Article 5 of Law No. 05/L-031 on General Administrative Procedure (*see* Expert Report, pp. 25–30).
- (2) The expulsion of Mr. Hasan Huseyin Gunakan, in the absence of any lawful order whatsoever, constitutes a violation of Article 55, para. 1 of the Constitution of the Republic of Kosovo; Article 1, para. 1 of Protocol No. 7 to the European Convention on Human Rights; and Article 13 of the International Covenant on Civil and Political Rights (*see* Expert Report, pp. 30–31).
- (3) The fact that Mr. Gunakan's return to the Republic of Kosovo has not been officially requested following his mistaken expulsion constitutes a violation of Article 25, paras. 1 and 2 of Administrative Instruction (MIA) No. 09/2014 on Returning of Foreigners with Illegal Residence in the Republic of Kosovo (*see* Expert Report, pp. 30–31).
- (4) By taking part in the operation for the expulsion of the six Turkish nationals—an operation that did not have any information-gathering purpose—the KIA's officers exceeded the KIA's legal scope of operation, as provided by Article 2, para. 1 of Law No. 03/L-063 on the Kosovo Intelligence Agency (*see* Expert Report, pp. 31–34).
- (5) The lack of a memorandum of cooperation between the Kosovo Police and the KIA that specifically regulates the coordination of joint operations constitutes a violation of Article 8, para. 2 of the Law on the KIA, and also results in legal insecurity and insufficient protection of human rights (*see* Expert Report, pp. 34–35).
- (6) The Directorate of Migration and Foreigners ("DMF") of the Kosovo Police issued orders for the forced removal of the six Turkish nationals without fulfilling any of the conditions specified in Article 97, para. 1 of Law No. 04/L-219 on Foreigners (*see* Expert Report, pp. 35–38).
- (7) The forced removal orders were issued based on Article 6 and Article 99, para. 2 of the Law on Foreigners, even though neither of those provisions, according to the law, can serve as a basis for issuing that type of order (*see* Expert Report, pp. 35–38).
- (8) The form of the forced removal orders was not in compliance with the requirements of Article 97, para. 8 of the Law on Foreigners, which provides: "To a foreigner shall be communicated in writing, in one of the official languages and in English . . . , explaining .

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. . the date and place where [the order] will be executed [and] mode of his transportation to the place of destination” (*see* Expert Report, pp. 35–38)

- (9) Some police officers did not inform the Turkish nationals of their rights to legal counsel and their right to contact a family member. This failure of notification constitutes a violation of Code No. 04/L-123 of Criminal Procedure, Article 13, para. 1; and the Constitution of the Republic of Kosovo, Article 29, paras. 2 and 3 (*see* Expert Report, pp. 38–40).
- (10) Some other police officers did not take the measures necessary to inform the Turkish nationals of their rights *in Turkish*, even though those officers had themselves observed that some of the Turkish nationals did not understand Albanian. This constitutes a violation of Article 13, para. 1 of the Code of Criminal Procedure; and Article 29, paras. 2 and 3 of the Constitution of the Republic of Kosovo (*see* Expert Report, pp. 38–40).
- (11) The six Turkish nationals were not offered legal counsel and representation, which constitutes a violation of Administrative Instruction No. 09/2014 on Returning of Foreigners with Illegal Residence in the Republic of Kosovo, Article 12, para. 6 (*see* Expert Report, pp. 38–40).
- (12) The DCAM, by not being involved in the expulsion operation, did not fulfill its obligation to secure travel papers for those Turkish nationals who did not possess travel documents. This constitutes a violation of Article 8, paras. 1 and 3 of the Law on Foreigners (*see* Expert Report, pp. 40–42).
- (13) The Division for Readmission and Return (“DRR”) of the DCAM, by not being involved in the expulsion operation, did not fulfill its obligation to verify the identity of those Turkish nationals who did not possess identifying documents. This constitutes a violation of Article 30 of Administrative Instruction No. 09/2014 on Returning of Foreigners with Illegal Residence in the Republic of Kosovo (*see* Expert Report, pp. 40–42).
- (14) The DRR, by not being involved in the expulsion operation, did not fulfill its obligation to organize the transport of the six Turkish nationals. This constitutes a violation of Article 32 of Administrative Instruction No. 09/2014 on Returning of Foreigners with Illegal Residence in the Republic of Kosovo (*see* Expert Report, pp. 40–42).
- (15) The DCAM, by not being involved in the expulsion operation, did not fulfill the obligations specified in Article 37 of Administrative Instruction No. 09/2014 on Returning of Foreigners with Illegal Residence in the Republic of Kosovo, including coordinating a security escort, giving personal assistance for the return, and securing a medical escort (*see* Expert Report, pp. 40–42).

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- (16) Due to the failure to involve the DRR, the preference of Mr. Mustafa Erdem, who was a citizen of Albania, to be returned to the country of his choice, was not considered. This constitutes a violation of Article 17, para. 6 of Administrative Instruction No. 09/2014 on Returning of Foreigners with Illegal Residence in the Republic of Kosovo (*see* Expert Report, pp. 40–42).
- (17) By not entering the six Turkish nationals' personal data into the Border Management System for entry and exit, police officers violated the Standard Operating Procedures for the Border Management System (DOK-05/001/2017, 25 June 2017) (*see* Expert Report, pp. 42–45).
- (18) By not checking the travel documents of the six Turkish nationals, police officers violated Article 15, para. 2 of Law No. 04/L-072 on State Border Control (*see* Expert Report, pp. 42–45).
- (19) Police officers decided to proceed with a “facilitated border check” in the case of the six Turkish nationals, even though the legal conditions for such facilitation, stipulated by Article 16, paras. 1 and 2 of the Law on State Border Control, were not fulfilled (*see* Expert Report, pp. 42–45).
- (20) By placing the square stamp on the forced removal orders, which did not constitute either identifying documents or travel documents, police officers violated Article 17, para. 1 of the Law on State Border Control (*see* Expert Report, pp. 42–45).
- (21) The expulsion of the six Turkish nationals to a country where there was a real danger that they would be subjected to torture or to inhuman or degrading treatment or punishment, constitutes a violation of customary international law; Article 3, para. 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and Article 3 of the European Convention on Human Rights (*see* Expert Report, pp. 45–49).
- (22) By submitting false data to the Ministry of Infrastructure regarding the number of passengers and the purpose of the flight, the air transport company Birlesik Insaat violated Regulation (MI) No. 02/2015 on the Approval of Non-ECAA Charter and Taxi Flights, Article 10, para. 1 (*see* Expert Report, pp. 51–54).
- (23) Ineffective cooperation between the Ministry of Infrastructure, the Ministry of Internal Affairs, and the Border Police has resulted in the failure to follow legal procedures for penalizing the air transport company. These procedures are specified in Article 97, para. 2 of Law No. 03/L-051 on Civil Aviation (*see* Expert Report, pp. 51–54).
- (24) By not issuing a final decision on the application of Mr. Osman Karakaya for the renewal of his residence permit, the DCAM violated Article 44, para. 1 of the Law on Foreigners (*see* Expert Report, pp. 55–59).

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- (25) The failure to issue a final decision in Mr. Karakaya's case has also deprived him of the opportunity to exercise his right to appeal, which is guaranteed by Article 6, para. 3 of the Law on Foreigners (*see* Expert Report, pp. 55–59).
- (26) By not taking the necessary steps, until the day of the expulsion, to notify the Turkish nationals of the revocation of their residence permits, the DCAM made it impossible for them to legally defend themselves against that revocation. This constitutes a violation of Article 108, para. 3 of the Law on General Administrative Procedure (*see* Expert Report, pp. 55–59).
- (27) By amalgamating elements of the forced removal order (“urdhër për largim me forcë”) and the removal order (“urdhër i dëbimit”), the DMF maximally restricted the opportunity of the six Turkish nationals to exercise their right to appeal. This amalgamation of the two different orders is not provided for anywhere in the Law on Foreigners, or in any other normative act, and was therefore illegal (*see* Expert Report, pp. 59–62).
- (28) Given that all of the six Turkish nationals lived in the Republic of Kosovo with close family members, their expulsion before exercising the right to appeal constitutes a violation of the right to respect for family life, according to Article 8 of the European Convention on Human Rights and Article 36, para. 1 of the Constitution of the Republic of Kosovo, read in conjunction with Article 13 of the Convention and Article 32 of the Constitution (*see* Expert Report, pp. 62–64).
- (29) The six Turkish nationals were expelled before exercising their right to appeal, even though there were no compelling reasons of national security for expelling them *before exercising that right*, and even though there was no other necessity for such a measure. This constitutes a violation of Article 13 of the International Covenant on Civil and Political Rights; and Article 55, para. 2 of the Constitution of the Republic of Kosovo (*see* Expert Report, pp. 65–66).
- (30) The fact that the Turkish nationals were not informed regarding the factual grounds on which their residence permits had been revoked obstructed the exercise of their right to appeal in the months after their expulsion, which constitutes a violation of Article 13 of the European Convention on Human Rights; and Article 1, para. 1 of Protocol No. 7 to the Convention (*see* Expert Report, pp. 66–70).
- (31) By not informing the State Prosecution regarding the suspicion that the six Turkish nationals were committing or had committed a criminal offense, the KIA violated Article 25, para. 2 of the Law on the KIA (*see* Expert Report, pp. 73–74).