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ISRAEL DEFENSE FORCES

Order No. 1649

Order regarding Security Provisions (Amendment No. 112)

Pursuant to my authority as commander of IDF forces the Area, I hereby order as follows:

Addition of Title 1. In the Order regarding Security Provisions (Judea and Samaria) (No. 378) 5730-1970, the following shall be added:

E2. Title E2 – Judicial Review of Custody of Infiltrators

Definitions 87.10 In this Title:

“**infiltrator**” – as defined in the Order regarding Prevention of Infiltration.

“**deportation order**” – a written deportation order issued by the military commander under Subsection 3(A) of the Order regarding Prevention of Infiltration.

“**a person held in custody**” – a person held in custody pursuant to a deportation order.

“**Order regarding Prevention of Infiltration**” - Order regarding Prevention of Infiltration (Judea and Samaria) (No. 329), 5729-1969.

Establishment of a Committee 87.11 A committee for the examination of deportation orders shall be established in the Area which shall be authorized to review appeals against decisions rendered in accordance with the Order regarding Prevention of Infiltration (hereinafter: “the Committee”).

Committee membership 87.12

A. The commander of IDF forces in the Area shall appoint judges with the rank of at least Major as members of the Committee.

B. One of the members of the Committee shall be appointed as head of the Committee.

C. The head of the Committee shall appoint from among the members of the Committee members who shall preside as a single judge Committee.

D. The head of the Committee may determine that the Committee comprise three if he sees a special need for the same. Where a bench of three had been determined, the head of the Committee shall appoint the chair.

E. The head of the Committee may replace one Committee member with another and the review of the appeal shall continue from the point at

which it was halted, unless otherwise instructed by the head of the Committee.

**Appearance
before the
Committee for
Reviewing
Deportation
Orders**

- 87.13** A. Where a deportation order had been issued and a person was being held in custody pursuant thereto, the person held in custody shall be brought before the Committee as soon as possible and no later than 8 days from the date of issuance of the deportation order. If the person held in custody is less than 18 years of age, he shall be brought before the Committee no later than the end of 4 days from the date of issuance of the deportation order.
- B. A person who is held in custody who has not been brought before the Committee within the time period specified in Subsection (A) shall be brought before the Committee which shall review his matter and instruct his provisory or unconditional release, unless the Committee is of the opinion that the circumstances of the matter, including the danger posed by the person held in custody, the concern regarding his potential for fleeing trial and the reasons for his not being brought before it, do not justify his release.

**The
Committee's
powers**

- 87.14** The Committee may:
- A. Uphold the validity of a deportation order with or without amendments.
- B. Revoke the deportation order, if convinced that the person held in custody is not an infiltrator.
- C. Order the provisory release of a person held in custody including on bail or his unconditional release if convinced that there are special grounds justifying the same, or that the aforesaid release may assist in the removal of the person held in custody from the Area; provided it does not so order if:
1. The removal of the person held in custody from the Area is prevented or delayed due to lack of full cooperation on his part, including pertaining to the clarification of his identity or the arrangement of procedures for his deportation from the Area, including an unjustified refusal to return to the country from whence he arrived to the Area or another country, if his return to the country from whence he arrived to the Area is not possible; or
 2. The release of the person held in custody may endanger the security of the Area, public safety or public health.

- D. Order the release of a person held in custody on bail upon termination of a period of time determined by it, if the person had not been removed from the Area prior to this date, if convinced of one of the following:
 1. That the removal from the Area of a person held in custody is prevented or delayed with no reasonable justification despite full cooperation on his part and that the deportation order can be executed within the determined time period;
 2. Remainder in custody may harm the health of the person by reason of his age or medical condition, or where other special humanitarian grounds justifying his release on bail exist, including when remainder in custody would leave a minor unattended; provided it does not so order if the release of the person held in custody may endanger the security of the Area, public safety or public health.
- E. Order an amendment to the conditions set for the release of a person held in custody as per Section 6B of the Order regarding Prevention of Infiltration.
- F. Order the return of all or part of the monies collected from the infiltrator for expenses of executing the deportation order as stated in Section 6A of the Order regarding Prevention of Infiltration.

Periodic review

- 87.15 A. Where the Committee decides, under Section 87.14, not to release the person held in custody, his matter shall be brought for further review by the Committee no later than 60 days from the date on which the decision under Section 87.14 was rendered or within a shorter period of time set by the Committee.
- B. A person held in custody whose matter was not brought for further review by the Committee within the timeframe specified in Subsection (A) shall be brought before the Committee which will review his matter and order his provisory or unconditional release, unless the Committee is of the opinion that the circumstances of the matter, including the danger posed by the person held in custody, the concern regarding his potential for fleeing trial and the reasons for his not being brought before it, do not justify his release.
- C. The provisions of Subsection (A) notwithstanding, if the person held in custody is less than 18 years of age, his matter shall be brought before the Committee for further review no later than 30 days.

Further deliberation	<p>87.16 A. A person held in custody may contact the Committee in writing at any time to request further deliberation of a decision rendered in his matter if new facts arise or if circumstances have changed, including the passage of time from the date of issuance of the deportation order, and this may change a prior decision by the Committee.</p> <p>B. The military commander or a person empowered by him for this purpose may contact the Committee in writing to request it order the remand to custody or a change in the conditions of release of an infiltrator who had been released in accordance with the decision of the Custody Committee if new facts arise or circumstances have changed since the date on which the previous decision in the matter of the infiltrator was rendered; the provisions of this Subsection shall not detract from the powers of the military commander under the Order regarding Prevention of Infiltration.</p>
Evidence	<p>87.17 In proceedings under this Title, the provisions of Subsections 85(F) and 85(G) shall apply.</p>
Detainee presence	<p>87.18 Subject to the provisions of Section 87.16, the provisions of Sections 78(T) and 78(U) shall apply <i>mutatis mutandis</i> to review of proceedings under this Title.</p>
Legal procedures	<p>87.19 A. In any matter relating to legal procedures which is not regulated in this Title, the Committee shall hold the review in the manner it considers most effective for reaching a decision in the matter.</p> <p>B. The Committee may contact the military commander in order to obtain his position, in writing or orally, in the matter of a person held in custody or any question it needs to address in order to reach a decision, provided the Committee does not make a decision as stated in Subsections 87.14(B) to 87.14(E), without the position of the military commander having been presented to it.</p> <p>C. A person held in custody may avail himself of counsel in pleading before the Committee and the Committee may accept written arguments by the person held in custody if the same chooses not to appear before the Committee.</p> <p>D. The provisions of Sections 79(A) to (D) shall apply <i>mutatis mutandis</i> to bail release proceedings under this Title; the Committee shall have all the powers granted to the court under this Section.</p>
Delay of execution	<p>87.20 Where the Committee delivered a decision as per Section 87.14, it may, at the request of a representative of the military commander, order delaying execution of the decision for a period not exceeding 72 hours; for these purposes Saturdays and</p>

holidays shall not be counted in the hours.

Retention of powers **87.21** Nothing in this Title shall detract from the power of the military commander to revoke a deportation order whether prior to or following proceedings under Section 87.14.”.

Commencement **2.** This Order shall take effect six months from the day of its signing.

Application **3.** The provisions of this Order shall apply to persons held in custody against whom a deportation order was issued prior to the entry into effect of this Order; the provisions of this Order notwithstanding, persons held in custody against whom a deportation order was issued prior to the entry into effect of this Order shall be brought before the Committee as per Section 87.13(A) within 8 days of the entry into effect of this Order.

Name **4.** This Order shall be called “Order regarding Security Provisions (Amendment No. 112) (Judea and Samaria) (No. 1649) 5769-2009”.

25 Tishrey 5770
13 October 2009

**Gadi Shamni, Major General
Commander of IDF Forces
in the Judea and Samaria Area**