

6 September, 2021

Attention:

All Members of the Parliamentary Joint Committee on Security and Intelligence

Email: pjicis@aph.gov.au

The following organisations write in response to a request made by [REDACTED]



Kurdish Lobby Australia



SYDNEY KURDISH
YOUTH SOCIETY



Kurdish Society of Queensland

AUSTRALIANS
FOR KURDISTAN

Rojava Solidarity
Sydney

We understand that the PJCIS is about to review the 2021 decision made by the Minister of Home Affairs, the Hon. Karen Andrews MP, to relist the Kurdistan Workers' Party (PKK) as a terrorist organization. As we wrote in the 2020 submission (Attachment A: *Why Delisting the Kurdistan Workers' Party (PKK) needs to be considered by the relevant authorities in Australia*) and the August 2021 submission (Attachment B: *KLA Submission to the Parliamentary Joint Committee on Intelligence and Security: Letter in support of delisting the PKK as a terrorist organization*) we consider that re-listing PKK as a terrorist organisation is unjust and has severe consequences for the geopolitics of Turkey, Syria and Iraq and on the mental health and well-being of thousands of Kurdish Australians, the millions of Kurds in other diasporas, and the 40+ million Kurds and other people living in Turkey, Syria, Iraq, Iran, Armenia and Georgia.

Last week, PJCIS [REDACTED], requested we supply information as to whether the Australian Government has made contact with any Australian Kurdish organisation in the last three years, according to Recommendation 1 of the 2018 Review, given the situation outlined on P. 20 of the 2020 submission:

In Australia, an individual accused of being a member of a terrorist organisation has a higher legal burden to prove their innocence, faces more severe penalties if found guilty, and the offences are more wide ranging compared to those of an individual accused of supporting a non-terrorist illegal organisation. Offences for a member of a terrorist organisation can include 'advocacy', 'providing support' or 'associating with a member of a terrorist organisation' and this includes an 'informal' member, such as a person who attends a meeting, distributes literature or talks to a member. Even humanitarian engagement may constitute a criminal offence in terms of 'material support' (Lynch, et al., 2009), and in the USA, the criminal offence of humanitarian engagement with a terrorist organisation is 'extraterritorial', i.e. it applies whether the defendant is a US citizen or not (Sentas, 2018). Such conditions inhibit the Kurdish diaspora combining resources to provide humanitarian aid to those affected by military offensives in Sur, Cizre and Nusbayin in Turkey; Afrin, Tel Rifaat, Tel Abyad, Ras al-Ain, Qamishli and Kobani in Syria; and Kurdish refugees from Turkey, Syria and Iran living in the Kurdistan Region of Iraq.

Of all the Australian Kurdish organisations that are signatories to this letter, PUK Australia was contacted by 'Community Engagement', and the Federation of Democratic Kurdish Society – Australia holds regular meetings with the Federal Police and has twice met with ASIO after Turkey invaded north-east Syria in October 2019, but no Australian Kurdish organisation was been contacted by the Ministry of Home Affairs or any other Australian Government department regarding Recommendation 1, from the review in 2018.

Nor has correspondence with Ms Karen Andrews or communication with any one else in the Australian Government explained:

- Why the ruling of Justice Lucy McCallum in the Supreme Court of NSW in the case of [R v Lelikan \(No 5\) \[2019\] NSWSC 494 \(7 May 2019\)](#) has not had any impact on the decision to relist the PKK in 2021, despite the charges tested in this case being one reason given for why the Australian Government relisted the PKK as a terrorist organisation in 2018;
- Why the decision to proscribe an organization was transferred from the Attorney General to the Minister of Home Affairs;
- Why the decision to relist the PKK has not addressed our submitted arguments that:
 - The decision process to proscribe the PKK appears overtly political and non-transparent in nature with a very low level of testing the ‘evidence’;
 - The proscription is not based on a clear internationally accepted definition of terrorism in terms of targets, intentions and context;
 - Three Belgium Courts ruled that PKK follows the Geneva Convention in a justified armed conflict with the state;
 - That PKK does not fulfill ALL criteria required for an organisation to be assessed as a terrorist organisation. For instance, the PKK does not target Australians or Australian interests, or Australian aspirations for women’s rights, human rights and democracy. If PKK carries out an action, its target is Turkey’s military, police or informants. It is absolutely nonsensical to argue that PKK is a terrorist organisation because it may inadvertently kill an Australian traveller in Turkey. In the last 40 years of civil war in Turkey, no Australian has been killed by PKK. It is more likely that an Australian traveller in Turkey has been killed by an act of the Turkish state, a car accident, or a random murder during this time!
 - The UN charter gives people the right to self determination; but the Australian Government’s decision disregards context, i.e., the conditions in which Kurds live and die. As an Australian, please put yourself in the shoes of a Kurd from Turkey or Syria for one month, let alone 98 years;
 - The Australian Government’s proscription of the PKK, helps Turkey justify its military aggression and political oppression of Kurds in three countries;

Nor has anyone in the government clarified whether the PJCIS actually has the power to overturn or delay a Minister’s decision on proscribing an organisation.

It is therefore no surprise that we continue to ask that PKK not be listed as a terrorist organization unless impartial, preferably internationally-supported investigations and assessments based on primary evidence are conducted into:

- The actions of the Turkish State regarding Kurds in three countries;
- The alleged actions on which PKK is proscribed as a terrorist organization;
- The implications of continuing to list PKK as a terrorist organization given this is used to justify the political oppression of Kurds in Turkey, Syria and Iraq, including the imprisonment of elected parliamentarians and mayors, the shutting down of language, cultural and humanitarian organisations, the orchestrated attacks on Peoples' Democratic Party (HDP) offices, in a recent case involving [murder](#) and the [move](#) to shut down the third largest political party in Turkey, the pro-Kurdish HDP inside Turkey, and in Syria, the blocking of the Autonomous Administration of North and East Syria being represented in any international negotiations on the future of Syria, and lastly, in Iraq, the destabilization of the Kurdistan Regional Government;
- The implications of continuing to list PKK as a terrorist organization, given this is used by Turkey to justify Turkey's transnational military aggression on PKK, its offshoots and sympathisers, this aggression extending to war crimes and crimes against humanity (including torture, kidnapping, rape, murder and mutilation), desecration of agriculture and forests, religious sites and archeological sites, resulting in the ethnic cleansing of Kurdish populations in northern Syria, northern Iraq and eastern Turkey;
- As a consequence of all the above, the *ongoing and renewed* grief, anguish, fear and anxiety Australian Kurds and others suffer on a daily basis, as a result of Turkey's transnational actions;
- The number of armed actions conducted by PKK inside Turkey (this allegedly dropping 60 percent in 2020 from 2019 levels) and the number of military air and ground assaults by the Turkish State on civilians, PKK and the Kurd-led, US-allied [Syrian Democratic Forces](#) which helped Australia and other members of the US-led Coalition defeat the ISIS caliphate and continues to fight ISIS, which has dramatically increased since 2018, despite the non-aggression agreements Turkey signed with Russia and the US in 2019, and despite the Government of Iraq pleading for Turkey to stop repeatedly infringing Iraq's sovereignty.

An imperative in each of our submissions is our position that you cannot trust information received from Turkish media, government or intelligence in regard to Kurds or PKK, whether these sources have been filtered through other intelligence agencies or not (as each has a political agenda). This and other facts were highlighted in a report by the UK All-Party Parliamentary Friendship Group for Kurdistan in Turkey and Syria in August 2021 (APPENDIX A), which advised reviewing the definition of terrorist, not trusting Turkish sources and delisting of PKK as a terrorist organisation.

If you believe Turkish sources:

- Mr Selahattin Demirtas, Mrs Figen Yuksekdag and all the other Kurdish parliamentarians, mayors, HDP members, lawyers, journalists, humanitarian workers, medical personnel, artists and academics currently in prison, many for five years or more, for criticising Erdogan or supporting peace, are PKK terrorists;

- The Yezidi survivors of the ISIS genocide in August 2014 are terrorists, the justification for Turkey's multiple attacks on the Yezidi district of Sinjar, (called Shingal by Kurds) in northern Iraq. Turkey's most recent attack on Sinjar was on September 3, 2021. In August two attacks resulted in:
 - Turkey's airstrikes destroying a medical clinic, and killing five civilian medics and four local Yezidi members of the Sinjar Resistance Units (YBS), members of whom make up a battalion in the Iraqi Security forces;
 - Turkey bombing and killing a YBS commander and his two bodyguards on their way to meet Iraqi Prime Minister Mustafa Al-Kadhimi to commemorate the 2014 Yezidi genocide by ISIS;
- Makhmour Refugee Camp near Kirkuk in northern Iraq is a hive of PKK terrorists, resulting in Turkey [bombing](#) the camp multiple times, in many cases killing civilians, including women and children. This is despite the camp being 400 kilometres east of Iraq's border with Turkey, and a semi permanent settlement for UNHCR vetted refugees from Turkey, the first generation having escaped the horrors perpetuated by the Turkish State in the 1990s, along with their children and children's children.

Two recent examples of Turkey accusing PKK of terrorist acts without presenting any evidence are:

- (1) The murder of 13 prisoners – police, army, intelligence, and civilians from Turkey – held and cared for by the PKK for many years with the intention of undertaking a prisoner swap, which the Turkish State refused to do. The prisoners were killed during Turkey's air and ground assault on PKK's base at Gare, 50 kilometres from Dohuk city, in the Kurdistan Region of Iraq in February 2021. PKK repeatedly called for an independent investigation to clear its name. Turkey refused.
- (2) The killing of five Peshmerga and injuring of two other Peshmerga travelling in a vehicle in the Amedi district of Dohuk in June 2021. The PKK denied responsibility. Photographic evidence suggests the vehicle was hit by an airstrike.

The second example could be one of many provocations by Turkey to get the Kurdistan Democratic Party (KDP) and PKK to go to war with each other, destabilise the Kurdistan Region of Iraq, and destroy any likelihood of reconciliation between the Kurdistan Regional Government and the Autonomous Administration of North and East Syria. In response to these multiple provocations, Kurdish political and military leaders have shown remarkable restraint, thus avoiding civil war.

The Australian Government should acknowledge that the Peshmerga, PKK and PKK's military and political offshoots have made the world a safer place. If PKK had not saved Yezidis, the Yezidi victims of ISIS would be exponentially more in number. If Syrian Kurds had not fought ISIS in north and east Syria, and Peshmerga had not defended oil rich

Kirkuk and northern Iraq, the IS caliphate could still be flourishing and/or the US-led coalition, including Australia, could have suffered many more casualties on the ground. If these Kurdish forces had been any less successful, Australia and other nations would have had a heightened terrorist threat on home soil.

At the very least the Australian Government could delay relisting the PKK until Turkey allows impartial investigations into its most significant allegations against the PKK, the conditions in Turkey's militarised zones of eastern Turkey, northern Iraq and Turkey-occupied Syria, and Turkey's actions in wishing to neutralise every PKK member, their affiliates and supporters.

If Turkey continues to refuse any investigations, then the Australian Government is surely justified to not re-enlist PKK, or at the very least, delay the decision to relist, until irrefutable primary evidence is found that PKK intentionally targets innocent civilians to spread fear and coerce a population to do their bidding, given this is the internationally accepted definition of terrorism. We propose that PKK has no need to do this. They have too many people who support them or their ideology of women's rights, ethnic and religious rights, environmental sustainability and democratic confederalism.

Most Kurds know that Turkey will not change its 98-year trajectory towards Kurds, whether or not Erdogan remains in power, and whether or not PKK exists. We just have to refer you to the massacres of Kurds every decade since the 1920s.

Therefore, we strongly argue that levers are needed to convince Turkey that war cannot solve the Kurdish Question. The delisting of PKK, or a delay in relisting the PKK as a terrorist organization is a clear unilateral lever that is within the power of the Australian Government. It is a lever that would underline a position that the only constructive way forward is for Turkey to negotiate with Kurdish political, civil, tribal and religious representatives, women and youth, to achieve mutually advantageous peaceful and democratic solutions in Turkey, Syria and Iraq.

Yours Sincerely,

Kurdish Lobby Australia

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Federation of Democratic Kurdish Society - Australia

Co-Chairs: Mr Ismet Tastan in Sydney and Ms Cigdem Aslan in Melbourne

Email: [REDACTED]

Sydney Kurdish Youth Society (SKYS)

President: Mr Sam Baban

Email: [REDACTED]

PUK Australia (Patriotic Union of Kurdistan, the second largest political party in the Kurdistan Region of Iraq)

Dr Mofak Sorani and Mr Sirwan Barzinji, PUK Australia

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Gorran Australia (the third largest political party in the Kurdistan Region of Iraq)

Mr Ismaeel Askary, Representative of Gorran in Australia

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APPENDIX A: Kurdish Political Representation and Equality in Turkey. The UK Parliament's All Party Parliamentary Group on Kurdistan in Syria & Turkey August 2021

The UK Parliament's All Party Parliamentary Group on Kurdistan in Syria and Turkey published a report called "Kurdish Political Representation and Equality in Turkey". The treatment of the Kurdish population and of elected representatives is one of the greatest threats to democracy in Turkey and the wider region, said the report in its introduction adding that "repression of elected representatives from the pro-Kurdish HDP party includes actions such as removal from office, bringing charges of terrorism-based offences, and imprisonment and torture has now started to expand to CHP (the centre-left party that founded modern Turkey)." The APPG also said that the British government should review the definition of "terrorist" given to the PKK in the light of the Belgian court decision, and added that Turkey's rights violations should be condemned.

International classification of Kurdish organisations

- The Turkish government views any organisation or individual who shares aims or ideology with the PKK as 'terrorist'. Further, Turkey views many Kurdish political organisations as structurally linked to the PKK, even when these organisations work with Turkey's NATO allies such as the United States.
- Turkey's repression of political organisations on this basis has been condemned by many governments and international political arms, such as the Council of Europe and the European Union.
- The legal basis for proscribing the PKK as a terrorist organisation has been proven questionable in a Belgian Supreme Court case in 2020.
- The APPG urges the UK government to make clear that the application of the label of 'terrorism' can not be applied to a broad range of Kurdish political and cultural organisations just because they are Kurdish or support Kurdish self-autonomy.
- The APPG urges the UK government to consider the reliability of the Turkish government's rhetoric in HDP prosecutions, and in regard to the PKK itself.
- The APPG recommends that the UK government unreservedly diverge from Turkey on its definition of the PYD-YPG as terrorist organizations in line with its current practice to not list them and to work with them on the ground.
- The APPG urges the government to use experiences in Northern Ireland to support a process in which the PKK and Turkish government are able to come to a peace agreement.

CONTEXT

Kurdish political representation

- The APPG finds that the human rights of municipal leaders are being violated while they are detained pending trial or sentenced to prison.
- The APPG finds that the DTK closure violates the principles of a democratic society.
- Further, the APPG considers these actions to undermine the possibility of negotiations on a peaceful settlement to the ongoing Kurdish conflict within Turkey.
- The APPG finds that there is systematic repression of Kurdish political youth groups and of those linked to the HDP.
- The APPG calls on the UK government to raise these issues with the Turkish government, to put pressure on upholding the rule of law and commitment to democracy.
- The APPG recommends that Parliamentary representatives in the PACE continue to raise these issues within the Council of Europe to ensure that ECtHR ruling and Council of Europe Resolutions are upheld.
- The APPG urges the Government to actively voice their support for the European Court of Human Rights (ECtHR) December 2020 ruling to demand the release of former HDP co-leader Mr Selahattin Demirtaş from prison.
- The APPG calls on the UK Government to press the Turkish government to uphold the rule of law and democratic principles at the local level in Turkey.
- The APPG recommends this issue should be raised within the Congress of Local and Regional Authorities of the Council of Europe.
- The APPG supports the ongoing call for greater transparency in the process in which the Turkish government's approach to replacement of elected mayors.
- The APPG urges the UK government to condemn the closure of the DTK and remind the Turkish government of its previous commitment to finding a peaceful solution to the ongoing conflict.
- The APPG recommends that the UK government and the Congress of Local and Regional Authorities reinforce the importance of all members fulfilling the ambitions in the Revised European Charter on the Participation of Young People in Local and Regional Life for young people in Turkey.

Repression and violence targeting civil society

- As the repression of democratically elected representatives has increased in severity, the violence directed at Kurdish civil society has also become more pronounced.

- Kurdish cultural and linguistic organisations have been closed down by the Turkish government.
- Curfews have been imposed in many cities in the Kurdish region. Cities have been attacked by military and police forces. These attacks specifically targeted civilians.
- The APPG heard about how post-2015, the criminalisation of Kurdish culture and language increased to new levels.
- Turkey has refused to sign and ratify the European Charter for Regional or Minority Languages and the APPG received evidence that this has greatly affected the education of Kurdish children.

Gender-based oppression

- Turkey consistently ranks low on indices of gender equality. Violence against women has been increasing at alarming rates for several years.
- Turkey recently withdrew from the Istanbul Convention, a decision seen as expressing a lack of commitment to fighting gender-based violence and oppression.
- Kurdish women experience a doubled risk of violence and repression, on the basis of gender as well as ethnicity.
- The HDP's commitment to women's political representation has led to the singling out of women politicians as targets of systemic, state-promoted misogyny.
- The APPG finds that Kurdish women in Turkey face particular challenges both in their professional political roles and in their personal lives, and notes that this is in the backdrop of a hostile environment for women's rights in Turkey more generally.
- The APPG finds that the distinctive values of Kurdish communities, and the policies of the HDP, promote gender equality in democratic processes.
- The APPG finds that the closure of women's organisations significantly prevents freedom of speech in Turkey and the progression towards gender equality.
- The APPG finds that the closure of women's organisations in Turkey is particularly concerning as it prevents the opportunity for women experiencing violence to seek refuge from NGOs and other aid organisations.
- The APPG finds that gender-based violence is on the rise in Turkey, impacting not only Kurdish women and girls, but women and girls in the general population.
- The APPG finds that women have been arrested for speaking up in support of the Istanbul Convention, a Council of Europe instrument to preventing and combating violence against women and girls.

- The APPG urges the UK government to actively encourage political systems which seek to end femicide and promote women's rights both in the Turkish population and in political life.
- The APPG recommends that the UK government recognise policies implemented by the HDP, which aim to support gender equality, as a key component to political representation and democracy.
- The APPG recommends the UK government support international organisations aiding women in vulnerable situations.

Freedom of the press

- The freedom of the press and freedom of speech are under constant attack by the Turkish government.
- One third of the world's jailed journalists were imprisoned in Turkey in 2016.
- State censorship particularly targets Kurdish media outlets or those seen as sympathetic to Kurdish rights.
- The APPG finds that democratic institutions and the democratic culture of Turkey has significantly weakened in recent years, and that freedom of expression has notably deteriorated.
- The APPG finds that the restrictions placed on journalists and media outlets greatly affect the ability of journalists to fulfil their professional roles, as well as the ability for the Turkish population to trust media sources.
- The APPG urges the Government to condemn the destruction of freedom of speech via the suppression of a free media. The APPG considers the arrests of journalists to physically prevent the freedom for individuals to express criticism of the government or the atrocities occurring in Turkey. This significantly inhibits the ability for the international community to be made aware of actions taken against the Kurdish communities and for governments globally to gain a better understanding of how best to support them.
- The APPG finds the number of journalists currently imprisoned in Turkey to be of grave concern.
- The APPG asks the UK government to support organisations aiming to support imprisoned journalists and those aiming to support the expression of Kurdish culture.
- The APPG urges the Government to condemn the measures to restrict freedom of speech implemented in Turkey, and to remind the Turkish government that criticism of government is a fundamental aspect of the public's rights.
- The APPG urges the UK government to raise the effect of imprisoning journalists on freedom of speech in Turkey.

- The APPG urges the UK government to strongly condemn the torture and intimidation of journalists.