



# ELDH European Association of Lawyers for Democracy & World Human Rights

EJDM Europäische Vereinigung von Juristinnen & Juristen für Demokratie und Menschenrechte in der Welt  
EJDH Asociación Europea de los Juristas por la Democracia y los Derechos Humanos en el Mundo  
EJDH Association Européenne des Juristes pour la Démocratie & les Droits de l'Homme  
EGDU Associazione Europea delle Giuriste e dei Giuristi per la Democrazia e i diritti dell'Uomo nel Mondo



Equality Privacy Social Rights  
No Racism Peace No Torture No War  
Self-Determination of Peoples Civil Rights Democracy  
Human Rights Rights of Migrants

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European Lawyers declare:

## **Remove PKK from the EU Terror List - lift the activity ban - support the peace process – legal reassessment necessary**

### **PKK ban for more than 20 years**

Since 2002 on request of the –Turkish Government the Kurdistan Workers Party (PKK) has been listed as a terrorist Organisation by the Council of the European Union. This list is updated regularly. The main reasons have been the acts of violence in Turkey and abroad. Within the European Union Germany has played a vanguard role in criminalizing the PKK. For over 20 years the PKK and associated organisations have been banned from political activities. The PKK as an organisation is prosecuted in Germany as foreign terrorist organisation (§129b StGB, German Criminal Law). Every support for the PKK, in its widest sense, is also prosecuted.

As a result of such a policy thousands of Kurds in Turkey and the member states of the EU have been prosecuted. Associated organisations or political parties and Kurdish Newspapers have been banned, TV stations are closed. The rights of countless Kurds and political supporters to freedom of expression, freedom of assembly and freedom of the press have been violated by these measures. Provisions of the law concerning aliens, up to provisions on deportation of aliens, have been used. The banning of the PKK not only puts into question the right of residence of ten thousands of Kurds. but it also leads to their criminalisation.

### **Legal concerns**

Democratic and progressive lawyers all over the world have repeatedly protested against the criminalization of so many Kurds and have demanded the removal of the PKK from the list of terrorist organisations of the European Union and the lifting of the ban on political activities.

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The PKK itself has made several attempts – of which only some were successful – to appeal against prosecutions, which they considered to be unlawful, in Germany and other European countries. One of the most recent, dated 2<sup>nd</sup> May 2014, was the legal action at the Court of the European Union, on behalf of the Executive Committee of PKK, taken against the Council of the European Union. Its objective was to remove the PKK from the EU list of terrorist organisations.

Furthermore the list of terrorist organisation has met with general legal concerns, amongst others from the former President of the German Constitutional Court, Hans-Jürgen Papier, and from the former Special Rapporteur of the Council of Europe, Dick Marty. Those who are listed are hit by travel and financial restrictions. For the concerned person or organisation the listing results in the freezing of all bank accounts. At the same time no financial or other economic resources may be granted to the listed person or organisation.

The listing takes place in a non-transparent procedure which does not allow the persons or organizations concerned appropriate legal means of defence, such as inspection of files or the right to be heard. Terrorist listing has not succeeded in achieving any significant reduction of terrorism and may therefore be considered to be unreasonable and inefficient.

The legal validity of banning decisions by the administration in Germany or other countries, even as far as these have been confirmed by court decisions, cannot justify an unlimited stigmatisation of a political organisation. When the concrete circumstances, on which they were based, are no longer valid, these decisions have to be annulled. The severe violations of fundamental rights caused by banning decisions have to be re-examined regularly, to make sure they are still justified.

### **Legal reassessment necessary**

High ranking politicians of the governing coalition in Germany as well of the opposition parties have to acknowledge that certain promising results in the battle against the advance of the so called “Islamic State” (IS) in Iraq and in the self-governed Region in Western Kurdistan/Northern Syria (Rojava), are the result of the unprecedented and courageous battle of the PKK and its allied forces. Fewer politicians than ever are maintaining their old stereotypes when assessing PKK.

The necessary conclusions should be drawn from the transition from civil war to peaceful living together by way of examples such as Northern Ireland or South Africa.

The following circumstances demand a legal reassessment of PKK by the German government, by the governments of other European countries, as well as by the European Union:

- In June 2014 the Turkish Parliament officially approved the peace negotiations of Turkish Government and the PKK.
- The PKK has already for some time renounced armed combat in favour of pursuing political objectives and declared a unilateral ceasefire to the Turkish Government.
- The PKK no longer demands the separation of the Kurdish territory from Turkey but now seeks a regional democratic self-governing administration such as has been established in Western Kurdistan/Northern Syria (Rojava).
- The PKK organizes together with other Kurdish forces armed resistance to the forces of the so called “Islamic State” (IS)

### **Demands to the European Governments**

The supporters of this appeal demand from the German Government as well as from the governments of the member states of the European Union and other European governments active support for the peace process in Turkey and in this context in particular:

- Entering into a dialogue with the PKK with the objective of its legalization
- The lifting of the banning of political activities of PKK and its associated organisations
- The end to all sanctions made pursuant to the law concerning aliens against members and supporters of the PKK and its associated organisations
- The PKK must have the possibility to participate without discrimination in political discussion and the formation of opinion
- The PKK must have the chance to have equal access to the media and to run its own media in the same way as other political organisations
- An amnesty for all who have been sentenced only for the membership in PKK and its associated organisations or for their support.

### **Demands to the European Union**

The supporters of this appeal demand as well from the European Union the active support of the peace process in Turkey and in this context in particular:

- The general abolition of the EU List of terrorist organisations
- At least the removal of the PKK from the EU Terror List

### **Demands to the Turkish Government**

The supporters of this appeal demand from the Turkish Government

- The constructive continuation of the peace negotiations between the Turkish Government and the PKK with the objective of an enduring peace and the legalisation of the PKK
- The legalization of the PKK and its associated organisations
- The dismissal of all criminal procedures concerning membership of the PKK or in associated organisations or the support of these organisations
- An amnesty for those who have been sentenced for membership in the PKK or its associated organisations or for their support, including the PKK President Abdullah Ocalan
- The dismissal of all comparable political procedures concerning the freedom of expression, the freedom of press, the freedom of assembly and of association and the exercise of the legal duties of the defence lawyers.