

STATEMENT OF CASE TO RENEW THE DESIGNATION OF PARTIYA KARKEREN KURDISTAN AS A TERRORIST ENTITY

PURPOSE

1. This paper sets out the case demonstrating Partiya Karkeren Kurdistan (PKK), also known as Kurdistan Workers Party, Kongra Gel, Kongra Gele Kurdistan, Kurdistan Labour Party and Kurdistan People's Congress meets the statutory criteria for the renewal of its designation as a terrorist entity within New Zealand pursuant to the Terrorism Suppression Act 2002 (TSA).

STRUCTURE OF THIS PAPER

2. This paper sets out updated information about PKK's continued involvement in terrorist activity and covers any relevant changes or developments to the organisation since its original designation in February 2010¹ and renewals in February 2013,² February 2016,³ and 30 January 2019,⁴ including to PKK's objectives, structure, weapons and tactics and includes recent attacks which meet the definition of a terrorist act under the TSA.
3. This updated information, together with information contained in the original designation paper and previous renewal papers, provides the basis for the conclusion that PKK meets the legal criteria for renewal of its designation as a terrorist entity under the TSA.

STATUTORY CRITERIA FOR DESIGNATION RENEWAL UNDER THE TSA

4. Section 35(1) of the TSA provides that a designation of a terrorist entity expires three years after the date of designation unless it is earlier renewed by the Prime Minister. The original designation is made pursuant to s 22 of the TSA, which provides that the Prime Minister may designate an entity as a terrorist entity if the Prime Minister believes on reasonable grounds that the entity has knowingly carried out, or has knowingly participated in the carrying out of, one or more terrorist acts. Carrying out a terrorist act includes the planning, preparation or credible threat to carry out the act, whether it is actually carried out or not (s 5A(1)(a) and (b)) and also includes attempts to carry out the act (s 5A(1)(c)).
5. The Prime Minister may renew that designation for a further three years under s 35(2) if satisfied that there are still reasonable grounds as set out in s 22 for the entity to be designated under that section.
6. Before the expiry of an order made under s 35(2), the Prime Minister may make another order under s 35(3) renewing the designation concerned for a further three years. The Prime Minister may make any number of orders under s 35(3) in respect of the same designation (s 35(5)).

CREDIBILITY OF SOURCES

7. This paper has been prepared using open or unclassified sources which have a reputation for careful and unbiased reporting. These include The Guardian, The Washington Post, Al Jazeera, DW News, Europol, The Defense Post, US Department of State, Routledge, Australian National Security, and Reuters.

8. A range of think tanks were referred to including International Crisis Group, The Jamestown Foundation, Center for Middle Eastern Studies, Human Rights Association, and Human Rights Watch.
9. A range of regional news sources were also referred to including TRT World, Kurdistan 24, Rudaw, Daily Sabah, ANF News, Ekurd Daily, and Anadolu Agency.
10. Other sources utilised include Xinhua News Agency, and websites PKK online, and Marxist Leninist Communist Party.

EVIDENCE TO SUPPORT DESIGNATION RENEWAL UNDER THE TSA

Continued involvement in terrorist activity

11. Since January 2019, PKK has had continued involvement in armed clashes with Turkish and Peshmerga forces. The Human Rights Association reported that between January and October 2020, fourteen security officers, fifteen civilians and seventy-eight PKK militants were killed during clashes.⁵ Conflict has centred on armed clashes between the Turkish military and PKK in Turkey's eastern and south eastern region and the Kurdistan region of Iraq.
12. Turkish security forces initiated operations against PKK in 2019. The PKK reacted to these incursions by narrowing their radius of operations and beginning to deploy into residential areas. Reports suggest that PKK also plans on slowing down operations as a tactical move to increase their influence.⁶ Between June and September 2020, increased Turkish military operations against the PKK deployed in these residential areas resulted in an increase of civilian harm. The PKK deployment resulted in approximately thirty-three civilians reportedly being killed and twenty-three injured, more than double the number of civilians killed in 2019.⁷
13. On 31 March 2020, a PKK fighter detonated a suicide improvised explosive device (IED) on a pipeline in Agri province near the Turkey-Iran border. PKK issued a statement claiming responsibility for the attack, and saying that at least thirty Turkish soldiers were killed, dozens more were injured, and five armoured vehicles were destroyed. The Turkish forces were guarding a pipeline which was damaged in the attack, disrupting Iranian gas exports to Turkey.⁸
14. On 12 September 2020, seven civilians were killed and ten were injured when a roadside IED detonated in Kulp District, South-East Turkey. PKK claimed responsibility for the attack stating that they were "targeting spies".⁹
15. On 28 October 2020, PKK attacked and destroyed the Botaş oil pipeline in Turkey's Mardin province, which exports oil from the Kurdistan Region of Iraq. There were no casualties reported. PKK claimed responsibility for the attack the following day, stating that they had carried out a successful sabotage attack.¹⁰
16. On 14 February 2021, thirteen civilians who had recently been abducted by PKK were found dead in one of the group's hideouts when it was captured during an operation by Turkish troops. Twelve of the civilians had been shot in the head and one was shot in the shoulder. Two of the PKK members captured by Turkish troops told them that the civilians had been "martyred" when the operation began. A subsequent statement on a PKK website said that some of the prisoners it was holding (who included Turkish intelligence, police, and military personnel) died during clashes in the area but denied it had ever hurt prisoners.¹¹

17. On 5 June 2021, five Peshmerga fighters (a military force in Kurdish region of Iraq) were killed, and four others wounded when PKK launched an attack in Duhok Province, Iraq.¹² PKK used rocket fire to ambush Peshmerga forces who were establishing a new military point to maintain security in local villages. PKK-linked media claimed the attack.¹³
18. On 5 August 2021, Peshmerga forces defused sixty-five kilograms of explosives on an intercity road in Duhok Province. A security source was quoted as saying PKK were responsible for planting the explosive material which was planned to be detonated near a Peshmerga outpost which was used by Turkish and Asayish forces in the area.¹⁴

Ideology and objectives

19. PKK's predominant objective is to uphold the rights of Kurds, and to protect Kurdish ethno-national identity. Objectives also include PKK's aims to monopolise their political power, including attacking the interests of rival political parties.¹⁵ Although PKK have previously indicated a willingness to negotiate with Turkey, tensions have resurfaced following an increase in Kurdistan Democratic Party (KDP) led operations against the PKK.¹⁶
20. PKK continues to be a dominant organisation shaping the discourse of Kurdish ethno-nationalism in the region. The group has developed a monopolistic ideological bond with sympathisers that has allowed them to action violent strategies while maintaining public support. PKK have also developed close relations with political parties, non-governmental organisations (NGOs) and trade unions both in Turkey and internationally that claim to represent Kurdish minority rights.¹⁷
21. On 27 July 2021, an article posted on PKK's website addressing the attacks against the PKK stated "Time for freedom against fascism, occupation and isolation. Those who disrespect our values in Amed, Afrin, Garzan and many other places and the Kurds who are partners to those who carry out these attacks should receive an answer from the young women and men who believe in the freedom struggle." The article also stated "it should be known that the Turkish fascist state wants to impose a dishonourable life through these attacks. It wants to render us worthless. That's why today is the day to reclaim our honour. All democratic forces, especially our patriotic people, should take to the streets to oppose these immoral attacks of the Turkish state and those who act as their servants. The whole of Kurdistan must turn into a field of rebellion against these immoral attacks." The article also advocates for the occupation regime to be overthrown to protect Kurdistan identity.¹⁸

Organisation and structure

22. There has been no significant change to PKK's leadership. Abdullah Ocalan, who is serving life imprisonment in Turkey remains PKK's leader, with operations and day-to-day affairs being run by Murat Karayilan. The PKK's operational command consists of a three-person executive committee comprising Karayilan, Cemil Bayik and Fehman Huseyin. The committee manages the PKK from its base in the Qandil Mountains in northern Iraq.¹⁹ Turkish forces regularly conduct cross-border operations in northern Iraq which target these PKK bases.²⁰

Weapons, tactics, and capability

23. While sporadic armed clashes between the military and PKK occur in Turkey's eastern and south eastern region, the focus of the conflict predominantly lies in the Kurdistan region of Iraq.
24. PKK use a range of weapons to carry out attacks against Turkish forces, including small arms, hand grenades and IEDs.²¹ The PKK is also in possession of at least some heavy weapons. In August 2021, PKK was found to have used anti-tank rockets produced by the US and Sweden, along with French-German joint productions. For example, the PKK used more than 40 AT-4 and MILAN anti-tank ammunition during attacks on Turkish forces between 2017-2021.²²
25. The Turkish military has targeted more high-ranking PKK members in this period predominantly through drone strikes. More than one-third of PKK militants killed in June and July were high ranking members.²³
26. PKK has also experienced a significant loss of members, decreasing by 83% over the past four years. As of 2020, only fifty-three people joined PKK, down from 132 in 2019 and only a reported two joined in 2021.²⁴ In an attempt to increase member numbers, PKK has resorted to conscripting minors. The group has been accused of abducting, threatening, and deceiving hundreds of vulnerable minors for recruitment. An estimated 440 minors have escaped from PKK and returned to their families over the past five years.²⁵
27. PKK has also been assessed as using European territory for propaganda, recruitment, fundraising and logistical support activities. Europol's 2020 *Terrorism Situation and Trend report* stated that PKK is actively engaged in propaganda activities as well as raising money in European countries, operating under the guise of legally recognised entities such as Kurdish associations.²⁶
 - 27.1. In 2020, several individuals travelled from Europe to Syria or Iran to join Kurdish forces. Belgium reported a total of nine Belgians joined the conflict in Iraq via PKK recruitment networks. Similarly, a man in the UK was sentenced to one year in prison for attending PKK terrorist training camps in Iraq.²⁷
 - 27.2. On 05 October 2019, it was reported that five German citizens were receiving consular support after they were detained in Turkey following accusations of being linked to PKK and spreading propaganda.²⁸
 - 27.3. A Europol report revealed that PKK-linked associations, foundations, and media groups in France were easily able to disseminate the group's propaganda.²⁹
28. PKK continues to engage in drug trafficking to finance the organisation. Reports estimate that up to 80% of illicit drug markets in Europe are supplied by PKK controlled trafficking networks. Europol reported that narcotics operations generated an annual income between \$1.5 billion to \$3 billion for PKK. The taxation of drug transfers, as well as payments from traffickers and smugglers at borders, serves as a crucial income source for the group.³⁰
29. PKK continues to utilise online platforms such as the group's websites, PKK online and Hezen Parastina to disseminate propaganda and report on recent attacks. PKK also posts on their video channel Gerilla TV, YouTube, Twitter, and other social media platforms to broadcast operations and gain support.³¹

LAW OF ARMED CONFLICT (LOAC)

30. Section 5(4) of the TSA states that an act is not a terrorist act if it “if it occurs in a situation of armed conflict and is, at the time and in the place that it occurs, in accordance with rules of international law applicable to the conflict.”
31. For the 5(4) exception to apply, there must be a state of armed conflict involving the PKK, and that its attacks within that armed conflict comply with the law of armed conflict (LOAC), also known as international humanitarian law.
32. An international armed conflict involves a conflict between the armed forces of two states. A non-international armed conflict exists where the conflict is fought between government forces and opposing non-state forces, or amongst armed non-state forces who do not qualify as a legitimate government. The level of armed violence must reach a certain degree of intensity and continuity that goes beyond internal disturbances and tensions (such as riots and isolated and sporadic acts of violence).
33. The clashes between the PKK and Turkish armed and security forces have increased in frequency and intensity in recent years, such that it may now reach the threshold of a non-international armed conflict.³²
34. However, regardless of the status of the conflict, the acts of the PKK do not conform with LOAC and so still qualify as terrorist acts. This is for two reasons:
 - 34.1. In accordance with LOAC, only combatants have the right to conduct attacks. The PKK would have to distinguish themselves from the civilian population while engaged in an attack or operations preparatory to an attack, which they do not;
 - 34.2. Some of the acts outlined involve the PKK targeting civilians and civilian objects. This breaches the principle of distinction, which means that attacks on enemy combatants and military objectives are lawful, but attacks on the civilian population and civilian objects are prohibited.
35. Therefore, the exception in s 5(4) of the TSA does not apply to the PKK attacks outlined above, so they can properly be characterised as terrorist acts.

CONCLUSION

36. On the evidence set out above, this paper concludes that there are still reasonable grounds as set out in s 22 of the TSA for PKK to be designated under that section.
37. Since its designation in February 2010, and renewals in February 2013, February 2016 and January 2019, PKK has continued to carry out activities which meet the definition of terrorist acts in ss 5 and 25 of the TSA (paragraphs 13–18). Accordingly, given there are still reasonable grounds to believe PKK has knowingly carried out terrorist acts as set out in s 22 of the TSA, PKK meets the legal criteria for renewal of its designation as a terrorist entity under s 35.
38. The designation must be renewed by 30 January 2022 to be effective.

- ¹ The statement of case, dated 10 February 2010 can be accessed at <https://www.police.govt.nz/sites/default/files/publications/statement-of-case-pkk-terrorist-entty-10-feb-2010.pdf>
- ² <https://www.police.govt.nz/sites/default/files/publications/renew-pkk-as-terrorist-entty-11-feb-2013.pdf>
- ³ <https://www.police.govt.nz/sites/default/files/publications/renew-pkk-as-terrorist-entty-9-feb-2016.pdf>
- ⁴ <https://www.police.govt.nz/sites/default/files/publications/renew-pkk-terrorist-entty-30-january-2019.pdf>
- ⁵ 08/03/2021 “Turkey 2020 Department of State Human Rights Report”, Department of State, accessed via <https://www.state.gov/wp-content/uploads/2021/03/TURKEY-2020-HUMAN-RIGHTS-REPORT.pdf> on 21/09/2021
- ⁶ 05/01/2021 “The PKK’s New Strategy in Iraq”, Center for Middle Eastern Studies, accessed via <https://orsam.org.tr/en/the-pkks-new-strategy-in-iraq/> on 22/09/2021
- ⁷ 04/04/2021 “Kurds in ‘mountain prison’ cower as Turkey fights PKK with drones in Iraq”, The Guardian, accessed via <https://www.theguardian.com/world/2021/apr/04/iraq-turkey-pkk-drones-kurds-kurdistan> on 21/09/2021
- ⁸ 01/04/2021 “PKK claims suicide attack on Turkey-Iran pipeline killing 30 Turkish soldiers”, Rudaw, accessed via <https://www.rudaw.net/english/middleeast/turkey/01042020> 21/09/2021
- ⁹ 04/08/2021 “Kurdistan Worker’ Party (PKK)”, Australian National Security, accessed via <https://www.nationalsecurity.gov.au/Listedterroristorganisations/Pages/default.aspx> 21/09/2021
- ¹⁰ 31/10/2020 “Iraqi Kurdistan says oil exports to Turkey halted after pipeline attack: statement”, Ekurd Daily, accessed via <https://ekurd.net/iraqi-kurdistan-oil-exports-2020-10-31> on 20/09/2021
- ¹¹ 14/01/2021 “Turkish army says 13 civilians killed as anti-PKK operation ends”, Al Jazeera, accessed via <https://www.aljazeera.com/news/2021/2/14/turkey-completes-northern-iraq-operation-against-pkk-minister> on 21/09/2021
- ¹² The Peshmerga are the Kurdish branch of the Iraqi Armed Forces and are the military force of the autonomous Kurdistan region of Iraq.
- ¹³ 03/09/2019 “Peshmerga”, DW, accessed via <https://www.dw.com/en/peshmerga/t-41075281> on 1/10/2021
- ¹⁴ 05/06/2021 “PKK rocket attack in Duhok kills 5 Peshmerga, injures 4”, Kurdistan24, accessed via <https://www.kurdistan24.net/en/story/24666-PKK-rocket-attack-in-Duhok-kills-5-Peshmerga-injures-4> on 28/09/2021
- ¹⁵ 05/08/2020 “Peshmerga forces diffuse explosives planted by PKK on road in Kurdistan Region’s Duhok: Source”, Kurdistan24, accessed via <https://www.kurdistan24.net/en/story/25183-Peshmerga-forces-diffuse-explosives-planted-by-PKK-on-road-in-Kurdistan-Region%27s-Duhok-Source> on 21/09/2021
- ¹⁶ 04/08/2021 “Kurdistan Worker’ Party (PKK)”, Australian National Security, accessed via <https://www.nationalsecurity.gov.au/Listedterroristorganisations/Pages/default.aspx> 23/09/2021
- ¹⁷ 25/11/2020 “Will KDP-PKK tensions ever end in reconciliation?”, Rudaw, accessed via <https://www.rudaw.net/english/analysis/25112020> on 23/09/2021
- ¹⁸ 26/07/2021 “The Kurdistan Worker’s Party (PKK) in London: Countering Overseas Terrorist Financing and Support with “Nudge” and Situational Approaches”, Routledge, accessed via <https://discovery.ucl.ac.uk/id/eprint/10132301/1/The%20Kurdistan%20Worker%20s%20Party%20PKK%20in%20London%20Countering%20Overseas%20Terrorist%20Financing%20and%20Support%20with%20Nudge%20and%20Situational%20Approaches.pdf> on 23/09/2021
- ¹⁹ 27/07/2021 “To the patriotic people of Kurdistan and the democratic public”, Partiya Karkeren Kurdistan, accessed via <https://www.pkk-online.com/en/index.php/boeluemler/ac-klamalar/148-to-the-patriotic-people-of-kurdistan-and-the-democratic-public> on 23/09/2021
- ²⁰ 04/08/2021 “Kurdistan Worker’ Party (PKK)”, Australian National Security, accessed via <https://www.nationalsecurity.gov.au/Listedterroristorganisations/Pages/default.aspx> on 24/09/2021
- ²¹ 10/09/2021 “Turkey eliminates 6 YPG/PKK terrorists in northern Iraq”, Daily Sabah, accessed <https://www.dailysabah.com/politics/war-on-terror/turkey-eliminates-6-ypgpkk-terrorists-in-northern-iraq> on 24/09/2021
- ²² 25/11/2020 “ Turkish forces seize PKK weapons in Northern Iraq”, Anadolu Agency, accessed via <https://www.aa.com.tr/en/middle-east/turkish-forces-seize-pkk-weapons-in-northern-iraq/2055299#> on 1/10/2021
- ²³ 13/08/2021 “PKK terror group attacks Turkish forces with weapons produced by some NATO members”, Anadolu Agency, accessed via <https://www.aa.com.tr/en/turkey/pkk-terror-group-attacks-turkish-forces-with-weapons-produced-by-some-nato-members/2333841#> on 27/09/2021
- ²⁴ 10/08/2021 “Turkey’s PKK Conflict: A Visual Explainer”, International Crisis Group, accessed via <https://www.dailysabah.com/politics/war-on-terror/144-pkk-terrorists-surrender-to-turkish-security-forces-in-2021> on 27/09/2021
- ²⁵ 13/09/2021 “144 PKK terrorists surrender to Turkish security forces in 2021”, Daily Sabah, accessed via <https://www.dailysabah.com/politics/war-on-terror/144-pkk-terrorists-surrender-to-turkish-security-forces-in-2021> on 27/09/2021
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- ²⁹ 05/10/2019 “Turkey detains 5 Germans on terror charges”, DW, accessed via <https://www.dw.com/en/turkey-detains-5-germans-on-terror-charges/a-50712712> on 27/09/2021
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- ³³ Some international bodies have recognised the conflict as a non-international armed conflict and an international armed conflict, i.e. the Geneva Academy of International Humanitarian Law and Human Rights (see <https://www.rulac.org/browse/conflicts/non-international-armed-conflict-in-turkey>).