

**TO THE PRESIDENCY OF THE
UNITED NATIONS SECURITY COUNCIL**

CRIMES: - War crime
- Crimes against humanity

ACCUSED PARTIES: Top-level officials of the executive branch of the Republic of Turkey.

SUBJECT MATTER OF THE APPLICATION: We hereby submit documents and information related to our request for referral by the Security Council to the Prosecutor's Office of the International Criminal Court, our request that the Prosecutor investigate the civilian losses that resulted from incidents and massacres starting on 20 July 2015 and are chronologically listed below, and that action be taken against the parties responsible pursuant to Articles (5/1-b-c), (7), (12) and (17) of the Rome Statute dated 1 July 2002, which constitutes the ICC.

DATE OF CRIME (INCIDENTS CONSTITUTING THE SUBJECT MATTER OF THE APPLICATION): 20 July 2015 and thereafter

INTRODUCTION AND CONTENTS OF THE APPLICATION FILE:

1- Officially established on 15 October 2012, we are a political party engaged in politics in Turkey and is represented by 80 deputies in the Turkish Grand National Assembly. Peoples' Democratic Party defines itself as follows in its constitution: "The party is a political party that brings together all the oppressed and exploited, all peoples and religious communities, women, workers, proletarians, villagers, the youth, the unemployed, the retired, the disabled, LGBT individuals, immigrants, people whose living spaces are being destroyed, intellectuals, authors, artists, scientists, as well as groups that join these excluded and ignored segments of society in their struggle, for the purpose of eliminating all types of oppression, exploitation and discrimination and building a society based on human dignity, and achieving democratic government by the people."

2- The war that has been going on for thirty years within the borders of the Republic of Turkey between the PKK and the armed forces of the Republic of Turkey (the army, the police and other security forces) takes the form of a domestic conflict and low-intensity conflict that stems from demands for political, social, economic and cultural rights and problematic practices in these areas. During the last three years, the conflict has reached a stage where clashes largely came to an end, and negotiations that evolved into a peace process were initiated. Assuming a mediating role in this important process which has been the focus of national and international attention, our party has been making intense political and diplomatic efforts to ensure that the process results in a state of non-conflict, disarmament and permanent peace. This peacemaking process, where significant progress has been made, has faced major crises during the last one-year period, due especially to the increased influence and level of activity of the terror organization ISIS in Turkey's neighbors Syria and Iraq, as well as due to the major attacks and massacres committed by said organization in cities populated by Kurdish people. On 20 July 2015, the ceasefire between the parties came to an end. Clashes resumed from that day on, and human losses have not been limited to the

parties involved in the conflict and their armed members. Through acts of killing, extrajudicial killings, slaughters, intentional forest and village fires, and especially acts that targeted civilians, this domestic conflict has spread to groups not related to the parties involved in the conflict, which is a clear indication that the Geneva Agreements are being, and will continue to be, gravely violated.

In addition to demonstrating the severe consequences of a state of war, these incidents also point to the possibility of even graver incidents in the near future. While this application was being prepared, many civilian settlements, mainly provinces and districts of Tunceli, Şırnak and Ağrı, have been declared military forbidden zones. This is the same practice as in the 1990s, when a state-of-emergency was declared in two entire regions of Turkey, where a different legal regime was applied. It is widely known that thousands of illegal and arbitrary killings and civilian losses were reported in this period.

Both our party and the public opposition have for a long time been making efforts to bring the relations between the government of the Republic of Turkey and this terror organization to the attention of the domestic public and national political forums, since these relations pose a huge threat to our country and our region. Although we do not at the moment possess clear and indisputable documentary evidence indicating an agreement between the two parties, the government is known to be in contact with this organization, providing it with advantages in several fields such as crossing the border, organizing within Turkey, getting logistic support and personnel, enjoying ease of enlisting armed members and unhindered propaganda, and its acts within Turkey being condoned. Each and every day, the Turkish society has been facing the grave consequences of these policies and acts which are, to say the least, "tolerant". However, considering that these policies and acts have reached the point of transporting weapons in trucks, they can be defined as explicit support (the recent event in question occurred as follows: Spot-checks of various vehicles by security forces in the province of Adana revealed that weapons and ammunition were being transported in trucks that did not have official license plates and looked like private vehicles. Thereupon, the Office of the Public Prosecutor of Adana took action. When the office attempted to seize said vehicles and weapons, it was declared that these vehicles and their contents belonged to the National Intelligence Organization, Turkey's national intelligence agency, and were part of a weapon transport to Syria under the supervision of the agency. Responding to this truck delivery, which was not based on any legal, administrative or international decision, the office of the public prosecutor, acting as the competent judicial authority, launched a criminal investigation. The prosecutors in question are still being kept in custody. Moreover, the prosecution's files were declared confidential, and neither our party nor relevant legal bodies have been able to access the file's contents so far. These files are among the most concrete bases of our allegations since they are legal documents, even though we cannot access them).

3- We hereby request that the office of the prosecutor of the court initiate a two-part investigation into the incidents listed below. The first part concerns the discovery of the political and legal roles and responsibilities of said organization and the relevant persons to whom we attribute the above-specified crimes and who have furnished the organization with freedom of movement and action. The second part concerns the identification of the war

crimes affecting civilians, which have been committed by restarting the conflict and the war, and this is definitely critical and dangerous in terms of Turkey's domestic peace. Regarding the events that occurred in our country and our region, *where killings and abductions have been committed and civilians have been targeted within the context of a domestic conflict and war*, our party has assumed the mission of creating public awareness, ensuring the continuation of judicial processes, and devising policies both in the field of human rights and the protection of civilians in times of conflict. We have made considerable efforts to realize this mission. In accordance with our mission and program, pursuant to the Rome Statute's provisions on the notification obligation related to informing and urging the Office of the Prosecutor of the International Criminal Court to take action, we hereby submit information and documents to be presented to the Office of the Prosecutor of the International Criminal Court.

4- One of our political and social goals is to build mechanisms and policies aimed at the prosecution of the alleged perpetrators of genocide, crimes against humanity and war crimes, considering that the fight against these crimes is a product of the common sense, conscience and sensitivity of humankind, which has required long-lasting battles and huge efforts. Another goal is to prevent "impunity" for crimes that are regarded as the most persistent violations in human history. Slaughters and massacres caused by states, especially in our country and region, have left citizens face to face with the fact that only international mechanisms can provide legal assurance. It is clear that we will not remain passive and will take a stand to improve the comprehensiveness and effectiveness of these mechanisms, improving their level of recognition by states and their implementation, and to eliminate existing judicial limitations.

Past practices that resulted in impunity, which reveal the real nature of our national judicial system, and our previous experience unfortunately confirm our opinion that the state and the government do not intend to identify and judge the perpetrators. Victims' relatives are increasingly suspicious that an effective investigation will not be carried out. Under these circumstances, it is our conscientious and political obligation to apply to the Council so that action can be taken by the Office of the Prosecutor of the International Criminal Court in relation to the incidents that constitute the subject matter of this application.

ALLEGED CRIMES:

5- Bomb attack of 20 July 2015 in the district of Suruç, province of Şanlıurfa:

Thirty-two members of a group of mostly university students, who gathered in Suruç to head for Kobanê in response to the call of the Federation of Socialist Youth Associations (SGDF), lost their lives and at least 100 were injured in a suicide bomb attack while making a press statement at the Amara Cultural Center in the district. It was determined that the bomber was Ş.A.A., a 20-year-old university student registered with the birth registry of Adıyaman. All victims of this massacre were members of a youth group that set off to carry aid, toys, etc. from Suruç to children in Kobanê. The investigation is being carried out under confidentiality. Intelligence activities prior to the explosion, and the fact that the identity of the bomber(s) and their clear contact with ISIS were known to the police and security units shows that the incident was the result of inadequate security and the government's failure to

perform its obligation to protect the right to life. It is clear that this security problem cannot be regarded as an arbitrary vulnerability, considering that the government has provided this organization with freedom of movement, has condoned its attacks targeting civilians, and in the case of Suruç, the targeted civilian youth group represented the left-wing opposition. It is crucial to reveal the political and legal roles and responsibilities of those who provided this criminal organization with freedom of movement and action by not fulfilling their obligations regarding intelligence and security controls.

The names of the mostly young persons who lost their lives in the attack are as follows: Koray Çapoğlu, Cebrail Günebakan, Hatice Ezgi Sadet, Uğur Özkan, Nartan Kılıç, Veysel Özdemir, Nazegül Boyraz, Kasım Deprem, Alper Sapan, Cemil Yıldız, Okan Pirinç, Ferdana Kılıç, Yunus Emre Şen, Çağdaş Aydın, Alican Vural, Osman Çiçek, Mücahit Erol, Medali Barutçu, Aydan Ezgi Salcı, Nazlı Akyürek, Serhat Devrim, Ece Dinç, Emrullah Akhamur, Murat Yurtgöl, Erdal Bozkurt, İsmet Şeker, Süleyman Aksu, Büşra Mete, Dilek Bozkurt, Duygu Tuna, Nuray Koşan and Polen Ünlü.

The Şanlıurfa 2nd Criminal Court of Peace decided that the investigation be performed under confidentiality, on the grounds that “access to the contents of the investigation might jeopardize its purpose”. Thus, the investigation is currently being carried out under confidentiality. In terms of accountability to society and victims’ relatives, it unfortunately seems impossible for the domestic legal system to identify those responsible for the incident and investigate the domestic and foreign policies regarding Syria and ISIS and the support provided to this organization. We think it is clear that the temporary government is involved in this incident. This attack against a civilian group legally constitutes a war crime perpetrated by the organization involved in the Syrian civil war, and also by the officers who acted negligently towards that organization.

6- Extrajudicial killing of 23 July 2015 in Kilis:

At the border between Kilis-Gaziantep and Syria, a woman from Rojava, who wanted to cross the Turkish border from the canton of Afrin to meet her vital needs and whose name was later announced to be Firas Feyad, lost her life when soldiers of the Turkish armed forces opened fire. The incident is known to be a clear extrajudicial killing. We failed to access any information regarding an investigation into the case or the victim’s identity.

7- Extrajudicial killing of 25 July 2015 in Cizre, Şırnak:

In another incident that took place in Cizre, Şırnak on 25 July 2015, 23-year-old Abdullah Özdal was severely injured and subsequently lost his life. He was injured when the police opened fire on demonstrators in the neighborhood of Yafes, Cizre, and died in the ambulance while being taken to the Diyarbakır State Hospital.

8- Suspicious death of a child in Diyarbakır on 26 July 2015:

While running away from a police attack on Öğretmenler Avenue in the district of Bağlar, Diyarbakır, 11-year-old Beytullah Aydın lost his life after falling from the 7th floor of an apartment block where he took shelter. According to information we obtained from a news agency and the relatives of the child, police attacked the young people protesting the air raids and detentions launched by Turkey. Chased by the police after the attack, Beytullah Aydın and three other kids took shelter in Değirmen Apartmanı on Öğretmenler Avenue. Running away from the police, Aydın ran up to the 7th floor of the building with his friends, and while trying to jump to the rooftop of the next building, fell into the well and died. M.B. (14), a child residing at Değirmen Apartmanı, stated that he ran out of their flat upon hearing a loud voice, and said: "I was very afraid of the loud voice. Then, I heard other voices from the building. The friends of the dead kid were saying 'Beytullah, wake up'. I found the keys to the cellar, opened its door, informed the neighbors and said 'Come on, let's take the kid out'. The kid was entirely covered with blood. His body was completely warped. I tried to carry him but I could not, he was very heavy. I called our neighbor from the upper floor. As I held the kid in my arms, he breathed once, and then no more. His pulse stopped. Later, crime scene investigation teams arrived. But they left immediately because they could not examine the scene due to the intense gas." The investigation, which states that the police was not involved in the case, is ongoing.

9- Unsolved murder in Mersin on 26 July 2015:

35-year-old Bülent Ecevit Güngör, who lived in Mersin, was severely injured by an object that hit his head while sitting on the balcony during demonstrations in Mersin protesting the Suruç massacre, air raids and detentions, and lost his life at the hospital he was taken to. The incident took place in the evening hours during the demonstrations in the neighborhood of Şevket Sümer, district of Akdeniz, province of Mersin. Eye-witnesses stated that a gas canister fired by the police hit Güngör on the head. S.D., an eye-witness, stated after the incident that the police intervened in the demonstration and at the same moment, two armored vehicles, one black and the other white, entered the street where Güngör's flat is located. Pointing out that the police randomly fired gas bombs after the youngsters dispersed, S.D. said: "Someone yelled right after the moment a capsule was fired. I heard Güngör's little kid crying out 'Father!'."

Another eye-witness states that the demonstrators were dispersed by the police, and said: "There were only three demonstrators left. The police were firing gas on the streets. Everything happened at that moment." Other eye-witnesses state that one person was detained for being an eye-witness. The investigation is ongoing, but the police does not accept the attributed reason of death.

10- Extrajudicial killing of 26 July 2015 in Mardin:

On the night of 26 July, university student Seyithan Dede was shot dead by the police while attacking a group of demonstrators in Nusaybin, Mardin. According to eye-witnesses, Seyithan Dede was killed extrajudicially while no clashes were ongoing. It has not been possible to access the contents of the investigation into the case.

11- Extrajudicial killing of 29 July 2015 in Ağrı:

On 29 July 2015, police from the Anti-Terror Branch and Special Operations Teams raided a flat in the Fevzi Çakmak neighborhood of Ağrı. Three persons found in the flat were killed. It was determined that the victims were Mirzettin Göktürk and two brothers, Sezai Yaşar and Ahmet Yaşar. Contrary to the claims of the police, it is clear that they were killed in their own flat where they lived with their families. Neither an indicator of a clash nor any evidence, materials or signs were found that the victims were armed.

12- Extrajudicial killing of 29 July 2015 in Şırnak:

Around 23:00 – 23:30 on 29 July 2015, in Cizre, Şırnak, a civilian vehicle, in which Hasan Nerse was also present, lost control when police opened fire as the vehicle entered Nusaybin Avenue, and stopped after hitting the pavement. While the persons inside the vehicle got out, security forces continued firing, and Hasan Nerse, 17, was injured in various parts of his body. Severely injured and unable to move, and in a condition he should not be moved due to medical reasons, Hasan Nerse was handcuffed and his feet were bonded by the security forces. At that moment, Hasan Nerse was shot again and had to wait more than half an hour for the ambulance to arrive, while injured and bleeding, his hands and feet bonded. Moreover, the security forces took photos of Hasan Nerse while waiting, and shared them on social media together with words of malice and hatred. As the ambulance arrived, no health officer cared for the injured young person, they did not even get out of the vehicle, and the security forces threw him like a sack into the ambulance. Injured Hasan Nerse lost his life.

13- Air raid targeting civilians on 1 August 2015

Since 24 July, as part of the cross-border operation launched by the Turkish Armed Forces, Kandil was being air-raided without differentiating between civilian and military targets. On 1 August, Turkish war planes started an air raid within the scope of the same operation in Kurdistan (Northern Iraq) and eight civilians were killed, including two women, one of them pregnant. In this incident, eight civilians were killed by eight rockets fired at the village Zergele. The victims included a pregnant woman, a shopowner, and old people. Those whose identity could be determined are Necip Rojhilat, Salih Mihemed Emin, Karox Mihemed Emin, Heybet Mihemed Emin, Êyşê Xıdır, Abdulkadir and Mihemed Emin. The armed forces deny the allegations, and government representatives describe these allegations as “flagrant lies.” In December 2011, a very similar attack in Roboski targeted civilians and 34 people lost their lives. The government, using the same statements with the armed forces, denied its responsibility in the incident. In bombardments that target civilians in a war, it is crucial to identify as soon as possible acts that constitute a war crime and impose sanctions on the parties responsible.

14- The corpses of eleven YPG members (all Turkish citizens except for one German citizen) who died in July 2015 clashes with ISIS in Kobanê, were not allowed by public officers to be brought from Kobanê to Turkey through the Mürşitpınar Border Gate. The corpses

belong to Mesut Pusat, Cahit Çapan, Veysi Cin, Mehmet Koç, Fidan Yalçın, Cumhuriyet Turan, Mümin Kasap, Ferit Öner, Ragıp Yıldız, Mehmet Bulun, Ferit Coşkun, Nuri Aydın and German citizen Kevin Jochim, who all died in clashes in the region. Letting the corpses lie under a temperature of 50 degrees at the border, for ten days until 4 August 2015, is a violation of humanitarian law. Families and relatives of the dead cannot reach public officers, and according to information we have obtained, this was an arbitrary practice at the discretion of the Council of Ministers and the government. A public officer making a statement to the BBC said the following regarding the prevention of the corpses from being taken into Turkey: “This is something beyond our authority. We used to let the corpses through the border gate. But for the last two weeks, that is, since the start of the clashes in Turkey, we have not let them through, based on the instructions we were given.” The stress suffered by the families who lost their relatives has led to great agony and social tension.

15- Kobane Citizens Deported by Turkey, on July 25 2015

On July 25, 6 wounded citizens from Rojava/Kobane canton Ahmed Şêrko, Omer Qadir, Rêber Seyho, Ehmed Helûm, Cemal Ehmed and Beşîr Mihemed were released after being interrogated by the prosecutor’s office. But after they were sent to Foreigners’ Department by Anti-terror Department, 6 wounded Rojava/Kobane citizens were handed over to Al-Nusra (Syrian Al-Qaeda) forces by Turkey not from the Mürşitpınar Border Gate which they entered legally but from the Cilvegözü Border Gate. They should have been released in terms of “Temporary Protection Regulations” by giving a temporary ID document.

As is known Al-Nusra wages war against cantons of Rojava in Syria. Turkish Republic is going to be responsible from all the violations including right to life and insecurity that these people would encounter.

LEGAL BASIS OF THE APPLICATION

16- This application is being made under the Rome Statute, the constitution of the International Criminal Court, and consists of a notification to the prosecutor’s office for the implementation of the mechanism specified in Article 15 of the Statute. The following explanations regarding the “principle of complementarity”, “jurisdiction” and the “crime category” of the incidents summarize the purpose of our application.

Explanation as to Article 1:

17- Concerning the jurisdiction of the court, the following provision of Article 1 of the Statute contains the principle of complementarity: “... *shall be complementary to national criminal jurisdiction*”. Nevertheless, it is very likely that the government will not, in a real sense, undertake a judicial process regarding the incidents that constitute the subject matter of this application.

Statements made by the representatives of the government and security officials following the incidents have created serious suspicions that a fair and real judicial process will not be undertaken regarding these incidents. In such incidents, where civilians are targeted and killed, judicial authorities are predominantly under the control of the government. This is because, besides being unwilling to allow the investigation and prosecution of incidents for which it was responsible itself, the government also prevents

efforts to shed light on the incidents by impeding the judicial process and by not sharing information and documents with judicial authorities. Access to the investigation files of the above-mentioned incidents is being completely prevented. Investigation files are being hidden from the relatives of the victims and the plaintiffs harmed by these incidents, and in this way, those guilty of the incident are being protected.

Statements of government representatives, which we mentioned in the incident summaries above, clearly show that the government denies the role of the police, the army and other public officers and institutions, and no action will be taken against the actual perpetrators. Governments of the Republic of Turkey have not undertaken any judicial process or investigation so far in relation to similar incidents that occurred in the past. We think that the principle of complementariness should be ignored considering the government's response to similar incidents, the statements made after the incidents, efforts to protect possible perpetrators and the prevention of victims' relatives and attorneys from accessing the file and participating in the investigation, also considering that a decision has been made for the confidentiality of the investigation file.

REASONS RELATED TO VIOLATED LEGAL PROVISIONS:

18- Provisions related to "crimes against humanity" defined in Article 7 and those related to "war crimes" defined in Article 8 of the Statute have been violated in the incidents mentioned above.

Even though the above-mentioned air-raid occurred outside the borders of Turkey, it was during an operation launched within the scope of clashes that took place in Turkey as part of a domestic armed conflict. Through this act, the crime of "intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities" was committed, which is one of the "serious violations of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law" specified in paragraph 2 (e) of Article 8 of the Statute.

According to national and international legislation, it is clear that operations that take the form of an air bombardment can target only military vehicles, military vehicle stores, ammunition and logistic material stores. Air bombardments targeting people are also a violation of military principles and requirements. In the incident constituting the subject matter of this application, the air bombardment targeted villagers/civilians in violation of all these requirements, and eight people died as a result. Therefore, the incident constitutes a mass murder of civilians as a result of a deliberate attack targeting a civilian population. The crime specified in Article 8(2)(e) of the Statute has been committed.

19- Crimes listed as "war crimes" in the Statute have been committed. As is known, the International Criminal Court has jurisdiction over genocide, crimes against humanity, war crimes, and crimes of aggression. "Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities" is listed as a war crime within the scope of the "serious violations of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law" specified in Paragraph 2(e) of Article 8 of the Rome Statute, which governs war crimes.

20- There is no doubt that the ongoing armed conflict between the Republic of Turkey and the PKK is a non-international armed conflict as defined in Article 8(2)(e) of the Statute. It has always been one of the greatest concerns of the international community that civilians who are not a part of an armed conflict may be harmed by such conflicts and must be protected from their negative effects. As a matter of fact, international humanitarian law, being a branch of law whose purpose is to relieve and take under control the severe and destructive consequences of wars and armed conflicts and limit the violation of common humanitarian values, aims to protect those who are not a part of the conflicts, the injured, patients and detainees, nature and the environment, and also civilians, against the negative effects of the conflict.

As is known, the 1949 Geneva Conventions and the 1977 additional protocols do not provide a clear definition of “armed conflict”. Instead, the difference between international and non-international conflicts is mentioned based on a discussion as to what rule is to be applied to what conflict. The definition of “armed conflict” made by the International Criminal Tribunal for the Former Yugoslavia in its Tadic decision is generally accepted today. According to this decision, there is an armed conflict “whenever there is a resort to armed force between states or protracted armed violence between governmental authorities and organized armed groups or between such groups within a state.”

21- The Additional Protocol 2 of the Conventions, which is one of the two convention texts defining non-international armed conflicts, contains a narrow definition of conflict. However, Common Article 3, which is also known as an “convention within a convention”, provides a broader definition of conflicts that fall within the scope of humanitarian law. When a clash between an armed group and the government or between two armed groups reaches a point where it can be differentiated from the less severe forms of aggression that in the context of Common Article 3 humanitarian law norms are not applied, it is accepted that there is an armed conflict.

Article 8(f) of the Rome Statute clarifies what forms of violence are below the threshold of an internal conflict. According to this article, Article 8(2)e “applies to armed conflicts not of an international character and thus does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature.”

Through a body of decisions that keeps growing with each new case, the International Criminal Tribunal for the Former Yugoslavia has to a large extent eliminated the uncertainty and ambiguity around the definition of a non-international conflict referred to as a domestic conflict or as civil war. Starting with the Tadic case, it conceptualized non-international armed conflicts with a fresh outlook, and introduced crucial elements regarding conflicts that are covered by Common Article 3 and had not been clearly defined in relevant documents. The Court’s Case Law has not only identified the two constitutive elements of that concept but has also put forward a wide range of indicative criteria making it possible to verify on case by case basis, whether each of these components has been achieved. The Appeals Chamber of the Tribunal determined in its Tadic decision that the minimum threshold of armed conflict was reached in each case where the conflict was defined as a “protracted armed conflict.” The decision of the Trial Chamber of the tribunal clarifies the concept of “protracted armed violence” between government forces and organized armed groups as defined by the Appeals Chamber. The relevant explanation reads as follows:

“The test applied by the Appeals Chamber to the existence of an armed conflict for the purposes of the rules contained in Common Article 3 focuses on two aspects of a conflict; the intensity of the conflict and the organization of the parties to the conflict. In an armed conflict of an internal or mixed character, these closely related criteria are used solely for the purpose, as a minimum, of distinguishing an armed conflict from banditry, unorganized and short-lived insurrections, or terrorist activities, which are not subject to international humanitarian law.”

As explained, a minimum level of intensity must first be reached in terms of resort to armed forces or protracted violence between parties. The second requirement is that the parties to the armed conflict must be organized to a certain extent. If one of these criteria is not met, it is better to define the incidents of violence as “domestic disturbance” or “domestic tension”. Based on these two criteria regarding “protracted armed violence”, the tribunal examined whether conditions of armed conflict existed in the cases at hand, and also concretized and broadened said criteria from one case to another. For example, in the Limaj decision, it was pointed out that the armed-conflict test identified in the Tadic case was consistently applied by the tribunal, and the determination that these criteria were used “solely for the purpose, as a minimum, of distinguishing an armed conflict from banditry, unorganized and short-lived insurrections, or terrorist activities, which are not subject to international humanitarian law” was repeated. In this respect, the Haradinaj and Boskoski decisions are important.

The Boskoski decision of the Criminal Tribunal for the Former Yugoslavia contains a well-organized and almost accurate list of the objective indicative factors regarding the criteria of “intensity of the clash” and “organized structure of the armed group” developed by the tribunal since the Tadic case. Examining both factors considered by the tribunal to assess the intensity of the conflict (the severity of attacks, the conflicts taking place over a certain period of time and in a certain region, civilians who have to escape the war region, the type of weapons used, especially heavy weapons, tanks and other military equipment, the number of casualties (dead and injured) caused by the conflict, the number of soldiers and troops deployed, etc.), and the five groups of factors used to determine the organization level of the armed group (factors indicating the presence of a commanding structure, factors indicating that the group can perform operations in an organized way, factors indicating the level of logistics, level of discipline and the ability to perform the obligations under Common Article 3, and factors indicating whether the armed group is in agreement), it is beyond doubt that the ongoing conflict in Turkey is a non-international conflict according to Common Article 3 of the Geneva Agreements. The above-listed crimes of the state doubtlessly fall into the category of war crimes under Article 8(2)e of the Rome Statute.

LEGAL DOCUMENTS:

1. 1998 Rome Treaty for an International Criminal Court
2. Charter of the UN
3. UN Convention on Human Rights
4. UN Decisions
5. Geneva Conventions of 1949
6. De Hague Convention of 1907
- 7- Rome Statute

8. Other documents.

REQUESTS:

In light of the above findings, an investigation needs to be initiated under the relevant Statute of the International Criminal Court into the incidents notified to your Presidency. It is our main purpose and expectation that, in relation to the incidents, the responsible parties and perpetrators are identified through national mechanisms, however, the judiciary's and the government's attitude towards civilian losses and extrajudicial killings in our country show that the policy of "impunity" is still dominant.

Another basic concern is the high probability of further extrajudicial killings and civilian mass murders as part of this conflict. In this respect, we attach importance to the sanctioning and preventive power of international institutions and the mechanisms to be resorted to.

For the foregoing reasons, in our capacity as the applicant and notifying party, we think that national judicial authorities and the government are not making efforts to identify the parties responsible for these incidents, which fall into the category of war crimes and crimes against humanity. The perpetrators of these crimes can only be identified through international judicial mechanisms. Based on these arguments, we hereby apply to your Presidency for the Office of the Prosecutor to launch an investigation into the incidents.