

Written evidence from Peoples Democratic Party HDP (TUR0036)

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The HDP is the third largest party in the Turkish Grand National Assembly. HDP bases its politics on and defends democracy, the rule of law, pluralism, basic rights and liberties, a peaceful and political solution to the Kurdish issue, legal recognition of Kurdish people's identity and culture, gender equality, ecological values, and a social economy based on fair distribution of wealth and socio-economic justice.

CONTENTS

Democratic Solution to the Kurdish Issue-----	1
Curfews and Mass Destruction/Deadly Attacks -----	1
The Oppressive Regime Following the Coup-Attempt -----	2
Lifting of Parliamentary Immunities-----	2
Arrests of Elected and Other Politicians -----	4
Confiscation of Municipalities-----	5
State of Emergency and Law-Amending Ordinances/Statutory Decrees -----	5
Conclusion: Relations with Turkey-----	6
Appendix 1. Photos-----	7
Appendix 2. Immunities Report-----	9
Appendix 3. Mayors-----	75
Appendix 4. Trustees-----	78

A.DEMOCRATIC SOLUTION TO THE KURDISH ISSUE

1. The ceasefire that was effective for two and a half years (2013-2015) between the government of the Turkish Republic and the Kurdistan Workers' Party (PKK) ended following President Recep Tayyip Erdoğan's declaration that he did not recognize the Dolmabahçe consensus, an agreement specifying ten principles to guide the peace process (this written consensus was collectively prepared by ministers from the AKP government and our party delegation formed to govern the negotiation process toward peace building.)

2. The fact that HDP again passed the 10% national threshold and gained 59 seats in November 1 has prevented AKP from reaching the majority to amend the constitution single-handedly. Since then AKP government has escalated its politics of suppressing the opposition, social and political polarization, and violence.

B. CURFEWS AND MASS DESTRUCTION/DEADLY ATTACKS

3. Paralleling the end of peace process and escalating politics of violence, AKP government has increased since August 2015 its pressure on Kurdish cities and towns. These pressures have peaked with illegal round-the-clock curfews and military operations aimed at besieging the civilian

population in these regions. UN Human Rights High Commissioner Zeid Ra'ad Al Hussein has emphasized the human rights violations by the military and security forces in the Southeast of Turkey in his May 2016 statement. Al Hussein also underlined that Turkey did not allow any independent researchers access to the region including UN officials. (<http://www.un.org/apps/news/story.asp?NewsID=53895#.WAd4ZpMrKV>). The Venice Commission has similarly indicated that the human rights violations resulting from incessant curfews were in violation of Turkey's own constitution as well as its international obligations. Also, in a memorandum on 2 December, 2016, Nils Muižnieks, Council of Europe Commissioner for Human Rights, emphasized: "Numerous human rights of a very large civilian population in South-Eastern Turkey have been violated as a result of curfews imposed and anti-terrorism operations conducted there since August 2015". Calling on Turkey to stop using curfews in such a manner, Commissioner asked Turkey to "investigate all allegations of human rights violations by state agents in an effective manner and put in place comprehensive schemes for redress and compensation."

4. According to the official records, there have been at least 65 full and continuous days of curfews in at least 22 districts between August 16, 2016 and April 20, 2016 including Diyarbakır (35 times), Şırnak (10 times), Mardin (11 times), Hakkâri (5 times), Muş (once), Elazığ (once) and Batman (twice). Due to these curfews, the most basic rights to living and health of a least 1 million 642 thousand people living in these districts are jeopardized (according to a 2014 census). While no definite information is available, according to the statement by the Minister of Health on February 27, 2016, at least 355 thousand people were forced to move. At least 338 civilians lost their lives during these curfews, including 78 children, 69 women and 30 citizens over the age of 60.

5. Among the regions targeted with curfews and military attacks of mass destruction, the city center of Şırnak province stands out with an eight-month curfew. The round-the-clock curfew that had started on March 14, 2016 was partially removed on November 14, 2016. (The curfew still continues between the hours of 10 p.m. and 5 a.m.) During this period of 8 months of curfews and siege, 65 thousand people were forced to evacuate the city that had a population of 69 thousand in total, and 7 neighborhoods in the center were completely destroyed. As evident in the photos, Şırnak center has experienced a clearly planned politics of destruction (Appendix 1: Photos). The people of Şırnak forced to leave their homes are in need of urgent aid.

C. THE OPPRESSIVE REGIME FOLLOWING THE COUP-ATTEMPT

6. Following the July 15 2016 military coup attempt, Turkey has been governed by a state of emergency rule where basic rights and liberties have been officially suspended. Most basic rights and liberties have been suspended with the emergency rule that was initially declared for a three-month period on July 20th, 2016, then extended in October for another three months. Emergency rule has provided the President and AKP government with extraordinary powers to govern with statutory decrees (SD) that violate the Constitution in various areas, ranging from the economy to public administration.

D. THE LIFTING OF PARLIAMENTARY IMMUNITIES

7. Parliamentary immunities were lifted by a provisional clause added to the Constitution on May 20, 2016. The governing AKP, Nationalist Movement Party (MHP) and some deputies of the Republican Peoples Party (CHP), main opposition party, voted for the lifting of immunities. Despite the fact that the CHP leader declared that it was “unconstitutional,” CHP voted in favor of the abolition. The HDP voted against.

8. The Venice Commission’s report on parliamentary immunities in Turkey (October 14, 2016) states that the lifting of immunities violates both the Turkish Constitution and the international and European conventions of which Turkey is a signatory party. The constitutional amendment was made by a provisional clause added to the Article 83 of the Constitution. The provisional clause suspended the first sentence of the second paragraph of the Article 83. The sentence reads as follows: “An MP who allegedly committed a crime either before or after the elections cannot be detained, interrogated or prosecuted without a parliamentary decision.”

9. With the amendment, the “parliamentary decision” expression was annulled: “When this article enters into force; (...), the first sentence of the second paragraph of Article 83 is not implemented... in fifteen days, the files regarding the lift of immunities kept by the Presidency of the joint commission constituted of the members of the Constitutional and Justice Commissions, the Presidency of the Turkish Grand National Assembly, Prime Ministry and Ministry of Justice are transferred to competent authorities for further action.

10. In this way, a “collective immunity lift” was made possible although each MP’s immunity should have been considered separately according to the Article 83 Par. 2 of the Constitution. Thus, this provisional clause completely violated the procedure prescribed by the Constitution and the Grand National Assembly bylaws. MPs’ constitutional right as per Article 85¹ of the Constitution to appeal to the Constitutional Court with the claim of unconstitutionality and violation of the Bylaw was also prohibited.

11. Because the immunities were abolished in a collective manner, Article 85 should also have been amended to enable appeals to the Constitutional Court. The fact that this article was left unchanged reveals that the right to appeal was deliberately obstructed. In addition, the concerned MPs’ right to defend themselves as per the Grand National Assembly Bylaw No. 134 was also obstructed; and they were prevented from defending themselves before the joint commission and the general assembly.

¹Article 85 of the Constitution: In the case that the abolition of the immunities and the impeachment of the MP is decided according to the first, third, and fourth paragraphs of the Article 84, the MP of concern or another MP can appeal to the Constitutional Court on the grounds of unconstitutionality, illegality or violation of the Bylaw within seven days starting from the day the General Assembly makes the decision.

²Article 5 of Decision adopted unanimously by the IPU Governing Council at its 199th. Session (Geneva, 27 October 2016)

12. In the report of the International Parliamentary Union on October 27 concerning the abolition of the parliamentary immunities in Turkey, it was underlined that the decision should be made on a case-by-case basis, there should be a due process for the MPs to defend themselves, and the files should be supported by concrete substantial evidence.²

13. As a result of this process the immunities of 55 of our 59 MPs were lifted. When the distribution of the records of the accusations among the political parties and President Erdogan's declarations are taken into consideration, it becomes clear that the target of the immunity bill was the HDP and its MPs. There are 510 immunity files against 55 HDP MPs, the sum of the files against members of other three political parties is less than this number.

14. There was a rapid increase in the number of files against our MPs, after Erdogan's declaration that our MPs immunities should be lifted and our MPs should be "punished." The parliamentary process regarding the abolition of the immunities was accelerated after President Erdogan's "recommendation" on January 2, 2016 to the parliament that "The MPs of the HDP should be sent to prison." In the following 4 months 468 new files, 368 of which were against HDP MPs, were prepared. While previously the number of files concerning HDP deputies was 182, for the period between July 2007 and December 2015, by May 2016 the number jumped to 510. The number of files prepared only between 21 April 2016 and 20 May 2016 is 154.

15. Almost all of the crimes the HDP MPs are charged with consist of declarations made within the framework of our political party program and our general political activities. When all the files are considered as a whole, the most mentioned crime category is "terror propaganda." The number of files prepared on the grounds of terror propaganda is 210, 130 on the grounds of violating the Law on Meetings and Demonstrations, 63 on the grounds of Instigating the People to Hatred and Hostility, 58 on the grounds of violating the Anti-Terror Law, and 30 on the grounds of insulting the President.

16. Independent legal experts would clearly see that these records were prepared in the absence of concrete evidence based on the Anti-Terror Law, which is among the laws of Turkey severely criticized by the European institutions and legal organizations such as ECHR. The content of the speeches of our MPs, particularly our co-presidents', in public meetings and demonstrations is considered as evidence of crime; the files were prepared with purely political motivations.

17. Based on the decision of our party's central executive board, our MPs did not follow the summons of prosecution offices, which act in line with the AKP-Erdogan government and have become a part of the political establishment. There is absolutely no rule of law and no impartial and independent judicial system in the country.

18. See the detailed report by the HDP about the parliamentary immunity in Appendix 2.

E. ARRESTS OF ELECTED OFFICIALS AND POLITICIANS

19. Turkish President Erdogan ending the peace negotiations started a new process of violence and signaled a new wave of attacks against our party. After the HDP won 80 parliamentary seats with 13 % of total vote in the national elections on June 7, 2015, these attacks were significantly intensified. The Erdogan regime has launched exceedingly wide detentions and arrests to silence the HDP and its supporters. Between February and October 2016 alone, 625 of our party officials across Turkey were detained. Today, many of our party officials and administrators are still imprisoned.

20. These political operations against the HDP peaked on November 4, when 12 of our MPs, including our co-presidents Selahattin Demirtas and Figen Yuksekdag, were detained. Three of the 13 MPs were released with “judicial control,” while 9 of them, including our co-presidents, were arrested and jailed. Later our MP from the city of Hakkari was arrested on November 7. The number of our arrested MPs now stands at 10.

21. Our MPs, who are charged with totally different and separate crimes, were detained in a single coordinated police operation at the same hour in five different cities. This shows that the operation was conducted based on an organized and planned political order given to prosecutors beforehand. As it was the case with the removal of our MPs’ parliamentary immunity and the cases launched against them, these arrests are also a part of a wider political scheme.

22. Our imprisoned MPs are held in solitary confinement and exposed to grave pressure. Even those in the same prison are prohibited from contact with one another. Meetings between our co-president, Selahattin Demirtas, and his lawyers are monitored by the authorities at the Edirne F-type prison (a euphemism for what is officially termed a “high security closed institution for the execution of sentences”) and the letters as well as statements he wants to give to his lawyers are often seized by prison authorities. His meetings with his lawyers and the messages he wants to convey have been criminalized.

F. SEIZING OF THE MUNICIPALITIES BY THE CENTRAL GOVERNMENT

23. In the last seventeen years, the governors of central administration have often revoked the decisions taken by local governments and dismissed the local governments’ administrators. However, there has been a rampant increase of pressure over local governments since the peaking of state violence in the summer of 2015. As of November 29th, 47 co-mayors, also including the co-mayors of Diyarbakır Metropolitan Municipality Gültan Kışanak and Fırat Anlı and the co-mayor of Van Metropolitan Municipality Bekir Kaya, have been arrested and 53 co-mayors have been dismissed from duty. Along with co-mayors, 42 municipal council members were arrested and 37 of them have been dismissed. (See Appendix 3: Mayors)

24. With the Emergency Rule declared after the coup attempt, the arrests and dismissals of local administrators have gained momentum and trustees appointed from the center have taken over their posts. Thus, a new process of directly seizing the local governments has replaced the former practice of pressuring and controlling them indirectly. Governors appointed from the center have taken over the offices formerly run by local administrators elected with the votes of a vast majority of the people of the region. As of November 29th, 2016, the aforementioned trustees appointed from

the center have replaced the democratically elected mayors in 37 municipalities, also including Diyarbakır, Van and Mardin Metropolitan Municipalities. Thus, the will of the people has been usurped by bypassing the local administrators elected to office with the votes of 56.8% of the local population, representing 7.244 million people in total. (See Appendix 4: Trustees)

G. EMERGENCY RULE AND DECREES REPLACING THE LAW

25. Bypassing the existing laws through government decrees, the government has closed down various institutions and organizations and dismissed tens of thousands of civil servants without any court decision. 16 TV channels that are critical of Erdogan – including pro-democracy and pro-labor channels such as IMC TV, HayatinSesi and those broadcasting in Kurdish such as Jiyan TV, Zarok TV – were shut down with a government decree. Among these, Zarok TV is the first children’s channel that broadcasts in Kurdish. Moreover, 24 radio stations, 19 magazines, 5 news agencies and 29 publishing houses were shut down. JINHA, the first and only news agency in the world that is run by women, and a prominent news agency and a leading newspaper of the Kurdish opposition, DIHA and Ozgur Gundem, are also among the banned media outlets. With the government decrees on November 22, the number of banned media outlets increased to 176.

26. Forty-one of the academics (known as Academics of Peace), who signed and released a petition in January 2016, calling on the government to end the war and resume the peace process with the Kurds, were expelled with a government decree on September 1. With another decree on November 22, 2016 another fifteen of these academics were expelled.

27. With government decrees, more than 85 thousand civil servants have been purged. The number of civil servants expelled from public schools run by National Education Ministry is more than 30 thousand. More than 3000 academic, including professors, associate professors and instructors, have been expelled. More than 780 of the discharged teachers are members of the Education and Science Workers’ Union (Egitim-Sen), which promotes democracy, pluralism and secular values in the country.

28. With another decree on November 10, 370 NGOs’ activities were suspended. Among these, 199 are influential organizations of the Kurdish civil society, also including Free Women’s Congress (KJA) that defends gender equality; Progressive Lawyers’ Association (CHD) that embraces a pro-democracy and pro-human rights approach to justice; and Gundem Cocuk that defends children’s rights. On November 22, 375 civil society organizations were permanently closed by government decrees.

H. CONCLUSION: RELATIONS WITH TURKEY

29. The Erdogan-AKP regime has isolated Turkey from the world to a significant extent due to its authoritarian “one-man rule” policies at home and aggressive regional and international policies abroad. The Erdogan-AKP regime has been openly blackmailing Europe in the context of the so-called “refugee crisis.” It has also been blackmailing the West with (the threat of) developing relations with Russia and joining the Shanghai Cooperation Organization. The Turkish government’s

intervention into Syria is not a step to fight against the ISIS or other fundamentalist terrorist groups, but against the Kurds. Because of its stubbornly anti-Kurdish attitude, the Turkish government has been providing various shady radical groups with direct or indirect assistance, further complicating the destabilizing the political situation in Syria and obstructing the possibility of finding a solution for the conflict. Turkey's military adventures in Iraq, too, do have the potential of creating massive religious, sectarian, and ethnic conflicts both in Iraq and regionally.

30. The Kurdish issue is very central to the reshaping of regional politics. It is crucial to approach the emerging Kurdish factor in the new Middle East through an integrated regional perspective. The intimate relationships between the Kurdish struggle against ISIS in Syria and Iraq and the Kurdish peace process in Turkey has become clearer with the developments over the past two to three years. Some regional forces, especially the Erdogan-AKP government, view the emerging Kurdish factor in the region as a national security threat, and not as an ally that can help to stabilize regional politics, unfortunately. In this respect, the approach of the United Kingdom and the Western world to Turkey should be to encourage the Turkish government to abandon its hostile attitude toward the Kurds and establish a strategic alliance with them. Such an alliance will not only help to strengthen the fight against the ISIS and stabilize both Iraq and Syria but also will be to the benefit of Europe, which is facing severe political, demographic and security risks due to the turmoil in the Middle East. Europe's remaining silent in the face of the oppressive, anti-democratic and blackmailing policies of the Erdoğan regime on the basis of short-term interests will lead to more political instability, demographic and security problems for Europe in the middle and long run. As HDP, we would like the United Kingdom to re-assess the current political climate in Turkey and the region in this framework and revise its policies accordingly.

[Appendices](#) (opens in new document)