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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

TURKEY

DECISION BY THE SUPREME ELECTION COUNCIL OF 11 APRIL 2019

AND

**STATEMENT BY THE MINISTRY OF THE INTERIOR ON ITS DECISIONS OF
19 AUGUST 2019**

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I. DECISION BY THE SUPREME ELECTION COUNCIL OF 11 APRIL 2019

REPUBLIC OF TURKEY
SUPREME ELECTION COUNCIL
Decision No: 2371

-DECISION-

Letter number E.242026 dated 6 April 2019 sent by the Office of the President of Çaldıran District Electoral Council to the Office of the President of this Council stated that in the provisional results of the local government elections held on 31 March 2019, Leyla Atsak, Peoples' Democratic Party candidate for the office of mayor of Çaldıran municipality topped the poll, but, subsequent to an objection by the Justice and Development Party, the mayoral certificate of election was not given to the candidate. An inquiry was conducted into the matter, and it was identified that Leyla ATSAK had been expelled from public service under Legislative Decree No. 701. An opinion was requested as to whether decision number 2019/1863 dated 4 April 2019 of the Supreme Electoral Council was applicable to a mayoral candidate, and whether, if it is applicable, the certificate of election must be given to Leyla Atsak or to Şefik Ensari, the Justice and Development Party candidate, who received the next highest number of votes.

THE CASE WAS DULY DISCUSSED AND CONSIDERED:

It is accepted by this Council that since the provisions concerning eligibility for election set out in Law No. 2972 are based on a mandatory provision of Article 76 of the Constitution, notifications and objections on matters such as whether the elected person was Turkish, or younger than the minimum age provided for in law, or illiterate, or whether he or she had a conviction which would result in the forfeiture of his or her eligibility to be elected, and similar entirely unlawful circumstances can be examined by the Supreme Electoral Council at any time—even after election results have been confirmed—on the basis of the duty and authority accorded to it under Article 79 of the Constitution.

The request relates to the question of whether a certificate of election can be given to Leyla Atsak who was elected, in accordance with the provisional results, in the elections for the office of Mayor of Çaldıran district in Van province held as part of the local authority elections of 31 March 2019, but who had [previously] been expelled from public service under Legislative Decree number 701.

The legal basis for the request is therefore quite clearly Article 11 of Law No. 2839 to which Articles 9 and 36 of Law No. 2972 make reference.

Judgment number 2011/1022 of 21 June 2011 of this Council stated that:

“...the giving of a statement [of election] to the [next] candidate in line on the basis of the principles in Articles 34 and 35 of Law No. 2839 in the event that a statement is cancelled on the basis of grounds of unmitigated illegality, is only possible subsequent to decisions issued on the basis of objections made within the ordinary and extraordinary objection periods provided for in Article 130 of Law No. 298 and inquiries initiated *sua sponte* within the same period of time. If a statement is cancelled because of objections or inquiries made after these periods, a statement may not be given to the [next] candidate in line.” In accordance with this ruling, which has the character of a ruling on principle, the statement must be given to the candidate in line if it is identified within the ordinary or extraordinary objection periods or upon inquiries initiated *sua sponte* into the question of whether or not the candidate is eligible to be elected.

In judgment 2017/7088 dated 12.10.2017 of the Eighth Chamber of the Council of State it was ruled that:

Article 29 of the Municipality Act, Law No. 5393 entitled “Termination of [Municipal] Council Membership” provides that subsequent to notification by the provincial governor of an individual’s loss of eligibility for election to membership of the municipal council, a decision shall be issued by the Council of State. In the case at hand the individual concerned who was a member of the Municipal Council and also a retired non-commissioned officer, and had been identified, pursuant to Article 3 of Legislative Decree No. 692, to be a retired member of the Turkish Armed Forces deemed to have membership of, adherence to, or connection with terrorist organisations or with structures, movements or groups deemed by the National Security Council to be acting against national security, and his/her rank had been taken from him/her by

the addition of his/her name to the annexed list, his/her document indicating status as a retired [member of the armed forces] had been cancelled, and judgment was given that s/he must not be directly or indirectly appointed to public duties. After this had been discovered, and the situation had been identified, it was requested that his/her membership of the municipal council be removed pursuant to Article 29 of Law No. 5393, and judgment was rendered [by the Council of State] that since a decision for prohibition from public service under Legislative Decree No. 692 had been issued, and since it was clear that people subject to such circumstances had lost their eligibility for election to membership of local administrative organs, the membership of the municipal council of the person who was the subject of the case file must be removed.

The decision of the Council of State accepted that persons whose duties had been terminated by Legislative Decree and who were not permitted to be employed in public service thereafter had lost their eligibility to be elected. It was clear that the said judgment had precedential status, and that therefore other persons in the same situation will have lost their eligibility to be elected.

Article 1 of Legislative Decree No. 701 entitled Certain Measures to be Taken under the State of Emergency provided that:

“(1) Persons who are considered to have membership of, adherence to, or connection with terrorist organisations or with structures, movements or groups which are deemed by the National Security Council to be acting against national security and who appear on the annexed list (1) have been removed from public duties without requirement for any further procedures. No further notification whatsoever shall be served upon these persons. Also, action is being taken to introduce special statutory provisions in respect of such persons.

(2) Persons removed from public duties in accordance with the first paragraph shall be stripped of their military rank and/or civil servant status without requirement for a court judgment convicting them, and these persons shall not be re-admitted to the organisation in which they were performing duties. They may not be employed again in public service, may not be appointed to any such duties directly or indirectly, and they shall also be relieved of all membership or other duties in all manner of committee, council, commission, management board, audit board, liquidation board or similar. Such persons' firearms permits, seaman's papers and pilot's licences shall be cancelled, and they shall vacate their public residences or foundation accommodation within fifteen days. Such persons may not be founders, shareholders or employees of private security companies. Ministries and state institutions shall immediately inform the relevant passport unit concerning these persons. Upon such notification, [their] passports shall be cancelled by the relevant passport units ...”

The text was later put in legislative form and published as Law No. 7150 in Official Gazette No. 30584 of 3 November 2018, supplementary edition.

It was noted that the name of the person concerned appears as number 39 in the list of Interior Ministry Local Administration Personnel appended to Statutory Decree No. 701 and to its later legislative form as Law No. 7150.

Following the assessment carried out by this Council, since it was provided by Legislative Decree No. 701 published in Official Gazette No. 30472 of 8 July 2018, that persons removed from public service cannot be employed in public service in the future (without requirement of a court judgment convicting them), and since such persons are ineligible for election, as explained above, a decision must be issued that a certificate of election cannot be given to Leyla Atsak who won the 31 March 2019 election for the office of Mayor of Çaldıran District.

However, although it is stipulated in paragraph 2 of Article 25 of Law No. 2972 that in circumstances where a decision is issued to cancel the election procedures of an election in an electoral district, an election shall be re-run in that electoral district, there is no provision in our laws indicating how to proceed in circumstances where those who are understood to have been elected as municipal mayors are no longer eligible for election. Paragraph 4 of Article 25 of Law No. 2972 provides for arrangements concerning the members of the municipal council, but the legislature made no provision concerning mayors. Article 16 of Law No. 2972 includes the provision that: “After candidacies have been confirmed, district election councils shall announce all candidates 20 days before polling day. Once the candidates have been announced, any resignation from candidacy shall be disregarded until the end of the election. However, if such persons [who have resigned] are elected, their resignations shall still take effect and the candidate next in line [in

the order of number of votes received] shall be deemed to be elected in their place. The same procedure shall be followed in the event of a death." Therefore, this article provides that those next in line [in the order of number of votes received] to elected persons who have died or resigned shall be deemed to be elected in their place.

Again, the second paragraph of Article 2 of Law No. 2972, entitled "Election system and procedure", contains the following provision:

"A proportional representation system with a 10% threshold barrier shall be implemented in elections to membership of the provincial general assembly and municipal councils, but a majority system shall be applied in elections for the office of municipal mayor."

Consistent with that, Supreme Electoral Council decision No. 2014/1167 of 8 April 2014 stated:

"Documents and information in the file clearly indicate that Republican People's Party candidate Hüseyin Gülkanat, who had been understood to have been elected to the office of Mayor of Ulaş District Municipality in the province of Sivas, did not meet the conditions set out in Article 11 of Law No. 2839 to which Articles 9 and 36 of Law No. 2972 make reference.

Given these circumstances, [decision is hereby rendered that] the objection is upheld, and that Ulaş District Supreme Electoral Council ruling No. 2014/22 of 3 April 2014 and Sivas Provincial Electoral Council ruling No. 2014/54 of 5 April 2014 shall be overturned on grounds of unmitigated illegality, that Hüseyin Gülkanat, being ineligible for election, shall be deemed not to have been elected, and that since no objection was made within the stipulated period and the statement has not yet been confirmed, pursuant to Article 25 of Law No. 2972, the election statement must be given to the party candidate who received the next highest number votes after this person."

Ruling No. 1963/226 of 9 November 1963 stated:

"There is no provision in Law 307 as to what procedure must be implemented in an election for the office of the Municipal Mayor if a decision is made to cancel a statement [of election] after a person has been elected to the office of mayor of a municipality. In individual-based elections such as municipal mayor elections, votes are cast for the person, which means to say that the majority relates to that individual. One single person is elected to the office of mayor of a municipality. Consequently, if that person's statement is cancelled, it will have become apparent that the votes cast for that person were in fact invalid, and therefore the person who received the next highest number of votes must be deemed to have been elected..."

... Generally speaking, in the event of cancellation of a statement on grounds of ineligibility for election, the grounds for cancellation of the statement will pre-date the elections, and such grounds will not arise afterwards, as would be the case in the event of a death occurring after the casting of votes. Since in that case the decision will have been given for cancellation of the statement on the basis of grounds which existed prior to the date of election, the process cannot be described as one in which the post of Municipal Mayor has been vacated."

Article 1 of the conclusion section states: "In an election for the office of Municipal Mayor, if the election statement of a person elected to the office of mayor is cancelled on pre-existing grounds in response to an objection, the person who received the next largest number of votes must be deemed to have been elected to the office of Municipal Mayor."

When one takes into consideration all of these explanations and the precedents of the Supreme Electoral Council specified above, a decision must be issued that the result of the election for the office of the municipal mayor did emerge in the course of the election procedure and processes but since it was identified in an inquiry conducted on the basis of an objection made within the ordinary or extraordinary objection period or an inquiry carried out *sua sponte* that [the individual concerned] was not eligible to be elected, then, through the analogous application of Article 16 of Law No. 2972 and the application of Article 2 of Law No. 2972 shown above, the person next in line to that person [in terms of the number of votes] shall be deemed to have been elected on the basis of a personal majority.

Under these circumstances, judgment must be rendered that since it was established within the periods stated in Article 130 of Law No. 298 that Leyla Atsak was not eligible for election, the election certificate

must be given to the candidate in second place who gained the next highest number of votes and who is eligible to be elected.

CONCLUSION: For the reasons set forth,

A majority judgment was rendered on 10 April 2019 as follows:

- 1- That a certificate of election cannot be given to Leyla Atsak who won the 31 March 2019 election for the office of Mayor of Çaldıran District,
- 2- That since it was established within the periods stated in Article 130 of Law No. 298 that Leyla Atsak was not eligible for election, the election certificate must be given to the candidate in second place who gained the next highest number of votes and who is eligible to be elected,

3-That a copy of the decision shall be sent to the Office of the President of the Çaldıran District Electoral Council.

President
Sadi Güven

Deputy President
Erhan Çiftçi
(Dissenting Vote)

Member
Zeki Yiğit

Member
Nakiddin Buğday

Member
Muharrem Akkaya

Member
Cengiz Topaktaş
(Dissenting Vote)

Member
Kürşat Hamurcu
(Dissenting Vote)

Member
İlhan Hanağası

Member
Yunus Aykın

Member
Faruk Kaymak
(Dissenting Vote)

Member
Refik Eğri

**REPUBLIC OF TURKEY
SUPREME ELECTION COUNCIL
Decision No: 2371**

-DISSENTING VOTE-

One of the fundamental principles of a state governed by the rule of law as specified in Article 2 of the Constitution is the principle of "certainty." This principle requires that all manner of legal and administrative provisions must be explicit, clear, comprehensible and accessible. It is particularly important that this principle is strictly applied in electoral law where "formal" considerations are overriding, where rules are clearly determined in advance, and protest procedures for circumstances of breach of those rules have been put in place. This principle of certainty is also related to the principle of legal certainty, ensuring that people can predict what the legal consequences will be of their actions and interactions.

We agree with the finding that, on the basis of the rule that persons expelled from public service under Legislative Decrees (issued under a State of Emergency and later put into legislative form), and thereafter prohibited from employment in public service have lost their eligibility to be elected. However, [the decision] is inconsistent with the principle of legal certainty for the following reasons: this assessment and finding by the Supreme Electoral Council was not issued prior to the candidacy process; this condition was not made a rule supplementary to the conditions in the election laws relating to counts; this criterion was not taken into consideration in the examination by the authorised electoral councils of the candidates' eligibility for election.

Voters, political parties and candidates cannot be expected to take account of a circumstance which had not even been foreseen by those very councils whose duty it was to manage elections in an ordered fashion. We therefore do not agree with the opinion that the election of the candidate who received the most votes for the post of municipal mayor must be cancelled because she did not meet this additional condition of eligibility for election, nor do we concur with that part of the Council Decision which ruled that the certificate of election must be given to the candidate who received the next highest number of votes.

Deputy President
Erhan Çiftçi

Member
Kürşat Hamurcu

Member
Yunus Aykın

**REPUBLIC OF TURKEY
SUPREME ELECTION COUNCIL
Decision No: 2371**

-DISSENTING VOTE-

This Council was asked by the Office of the President of Çaldıran District Electoral Council whether a certificate of election should be given to Leyla Atsak, Peoples' Democratic Party candidate for the office of Mayor of the Municipality of Çaldıran who was elected, after receiving the highest number of votes, in view of the fact that she had been expelled from public service under Legislative Decree No. 701, and a majority of this Council ruled, in decision No. 2371 of 10 April 2019 as follows:

"1-That a certificate of election cannot be given to Leyla Atsak who won the 31 March 2019 election for the office of Mayor of Çaldıran District,

2-That since it was established within the periods stated in article 130 of Law 298 that Leyla Atsak was not eligible for election, the election certificate must be given to the candidate in second place who gained the next highest number of votes and who is eligible to be elected."

I do not agree with the opinion of the majority of this Council that the certificate of election cannot be given to those expelled [from state employment] under the Legislative Decree, and that the election certificate must be given to the candidate in second place who gained the next highest number of votes.

Paragraph 2 of Article 76 of our Constitution [states that] "Persons who have not completed primary education, who have been deprived of legal capacity, who are neither exempt nor deferred from military service, who are banned from public service, who have been sentenced to a prison term totalling one year or more excluding offences of omission, or to heavy imprisonment; those who have been convicted for dishonourable offences such as embezzlement, corruption, bribery, theft, fraud, forgery, breach of trust, fraudulent bankruptcy, and those convicted of smuggling, or conspiracy in official bidding or purchasing, of offences related to the disclosure of state secrets, of involvement in acts of terrorism, or of inciting and abetting such activities, shall not be elected as a deputy, even if they are granted amnesty."

Article 11 of the Law on the Election of Parliamentary Deputies, Law No. 2839 (entitled 'Persons who may not be elected') [states]:

The following persons may not be elected as members of parliament:

- " a) Persons who have not completed primary education,
b) Persons without legal capacity,
c) Persons with an outstanding obligation to perform military service,
d) Persons who are barred from public service,
e) Persons who have been sentenced to a prison term of one year or more excluding offences of omission.
f) Persons who, even if they are granted amnesty,
1. Have been convicted for dishonourable offences such as embezzlement, corruption, bribery, theft, fraud, forgery, breach of trust, fraudulent bankruptcy; and persons convicted of smuggling, other than for use or consumption, conspiracy in official bidding or purchasing, or offences related to the disclosure of state secrets,
2. Have been convicted of the offences set out in the first chapter of the Second Volume of the Turkish Criminal Code, or of open incitement to the commission of such offences,
3. Have been convicted of acts of terrorism,
4. Have been convicted of committing those acts listed in the first, second and third paragraphs of Article 536 of the Turkish Criminal Code, or those acts listed in the first, second, third, fourth and fifth paragraphs of Article 537 of the Turkish Criminal Code for political or ideological purposes."

Article 9 of Law No. 2972, (entitled 'eligibility for election') [states]:

“Every Turkish citizen who has attained the age of 18 years may be elected to the office of municipal mayor, or to the provincial general assembly or municipal council provided that they are not subject to the objections listed in Article 11 of the Law on the Election of Parliamentary Deputies, Law No. 2839.”

Article 36 of Law No. 2972 (entitled ‘procedure in circumstances for which there is no specific provision’) [states]

“In circumstances for which there is no specific provision in this Law, in the Law on Basic Provisions for Elections and Register of Voters, Law No. 298, dated 26 April 1961, or in the Political Parties Law, Law No. 2820, dated 22 April 1983, such provisions of the Law on the Election of Parliamentary Deputies, Law 10/6/1983, and appendices and amendments thereto which do not conflict with this Law shall be applicable.”

When we examine the provisions of Article 76/2 of the Constitution, Article 11 of Law No. 2839, and Article 9 of Law No. 2972, we can see no provision which would present an impediment to the election of persons whose duties had been terminated by Legislative Decree. Nor do we see any provision in paragraphs 1 and 2 of Article 1 of Legislative Decree No. 701 (which was taken as the basis for [this Council’s] decision) to indicate that persons who have been removed from civil service duties cannot be elected. An individual’s fundamental rights and freedoms can only be limited by laws. The scope of rights granted by laws cannot be restricted by [an example set in] practice. The only circumstances under which one could possibly accept that persons expelled [from State service] by a Legislative Decree are unqualified for election would be if there were a legal provision to this effect. Judgment number 2017/7088 of the Eighth Chamber of the Council of State dated 12/10/2017 corroborating the loss of qualification for election of those expelled under legislative decree number 692, which was used to support the opinion of the majority of this Council, cannot stand in place of a provision of law. The decision of the Council of State can only be a precedent in an event which is brought before that Court on a further occasion, and it is even possible that the Council of State might abandon this decision and come to a different decision.

Article 2 of Legislative Decree No. 701 includes the provision that “Persons removed from public duties in accordance with the first paragraph shall be stripped of their military rank and/or civil servant status without requirement for a court judgment convicting them, and these persons shall not be re-admitted to the organisation in which they were performing duties. They may not be employed again in public service” It appears that Leyla Atsak, who was elected to the office of Municipal Mayor of Çaldıran, was removed from public service under Legislative Decree No. 701. However, the phrase ‘they may not be employed’ cannot possibly be applied to people who are elected to the office of municipal mayor, or to candidates for the office of municipal mayor. Being a candidate for municipal mayor, or being elected to that post cannot possibly be understood as employment. ‘Employment’ means being taken on to work somewhere. For a person to be employed, there must necessarily be an employer. This Council issued decision No. 613 of 28 May 2018 on a similar matter in respect of İbrahim Özden Kaboğlu who was elected as parliamentary deputy for the Republican People’s Party. That decision stated “The rule in Legislative Decree No. 686 that ‘they may not be employed in public service’ means that persons removed from their post under the Legislative Decree may not be employed for the purposes of those public services for the management of which the administration is responsible, but parliamentary deputies clearly cannot be categorised alongside civil servants or other officers who carry out the public services which the administration is responsible for managing.” It must be accepted that since municipal mayors who assume office with the votes of the people and by election cannot be considered within the category of employment, and that Leyla Atsak, who was elected to the office of Municipal Mayor of Çaldıran, is therefore outside the category of “unemployables” under Legislative Decree No. 701

The question of when the mechanism in the legislative decree should be applied, and also the question of whether it has any relevance to electoral law (in other words, and whether this Supreme Council can give a decision on this matter) are matters of controversy. This Supreme Council is only authorised to give a decision in circumstances where there is an impediment to election specified by law. Since there is no situation here which would present a statutory impediment to election, this situation is not a matter for electoral jurisdiction. In such a case, the certificate of election must be given to the person who received the most votes. If, after a person who has been expelled under the Legislative Decree has commenced his or her duties, it is accepted that there was an impediment to that person’s election, it is the Administrative Court of Appeal which must make that judgment. This Council has no authority to make a decision on a matter which is within the jurisdiction of the Administrative Court of Appeal. Dismissal from duties by the

Administrative Court of Appeal and cancellation of elected status give rise to different legal outcomes. If elected status is cancelled by this Council, the certificate of election is given to the person who received the second highest number of votes and this will be damaging to the principle of fair representation. If the dismissal from duties is effected by the Administrative Court of Appeal, then provisions relating to the vacating of office are applicable: one of the municipal council members will be brought to the office of mayor of the municipality, and in this way the wishes of the voters will be, at least to some extent, respected.

Another situation which creates injustice is that the right to election will be restored in the event of a court judgment for restitution of prohibited rights to people barred from election in connection with the offences listed in paragraph "f" of Article 11 of Law 2839, but no judgment for restoration of removed rights can be issued in respect of those whose duties were terminated by the Legislative Decree, since there was no court judgment. This creates an inequality between persons expelled by legislative decree and persons disbarred from qualification for election because of the crimes they have committed.

The question of whether expulsion by legislative decree did or did not make a person ineligible for election had not been decided by this Council in advance of the local elections of 31 March 2019 and this had the effect of misleading people who had been expelled under legislative decree but were candidates, and also the political parties who presented them as candidates. The responsibility of this Council is to ensure that elections are carried out in an orderly fashion in compliance with Article 79 of the Constitution. No rule had been put in place prior to the elections and therefore expulsion [from state service] by legislative decree must not be treated as an impediment to receiving the certificate of election and commencing official duties. No rule had been put in place prior to the elections and therefore, if the political party is not to be permitted an opportunity to replace its candidate, and if the elected status of the candidate is cancelled and the certificate of election is not issued, then at least a decision must be given to re-run the election. It is essential that the wishes of the electorate are protected, even if only to this limited extent.

I believe, on the grounds that I have specified in the paragraphs above, that a ruling must be given upholding the elected status of those expelled under the legislative decree, and that the certificate of election must be given to them, but that if the certificate of election is not issued, there must be a ruling to rerun the elections, and therefore I do not concur with the opinions of the esteemed majority of this Council, as expressed in decision No. 2371 dated 10 April 2019.

Member
Cengiz Topaktaş

II. STATEMENT BY THE MINISTRY OF THE INTERIOR ON ITS DECISIONS OF 19 AUGUST 2019

Press Statement concerning the Removal from Office of the Mayors of the Metropolitan Municipalities of Diyarbakır, Mardin, and Van

The terrorist organisation PKK/KCK [*Partiya Karkeren Kurdistan* (Kurdistan Workers' Party)/Kurdistan People's Congress] and associated structures have suffered considerable reverses subsequent to determined efforts to combat terror in recent years, and [in response] some municipal mayors have used the facilities of municipalities for illegal purposes.

The duties and responsibilities of municipalities are defined in the Constitution and in laws, and it is the fundamental duty of municipalities, which are part of the integrated organisation of the State, to meet the local and community needs of citizens, but some [mayors] have attempted to turn municipalities into resources for recruiting militants, sources of finance, and logistic centres for the supply of material and equipment in support of terrorist activity. Indeed, they have attempted to turn such municipalities into a model of government which is separate and distinct from the other regions of this country, thereby using the municipalities to threaten the indivisible unity of our nation and our people, as defined in Article 3 of the Constitution.

After this situation was identified following judicial and administrative investigations, those municipal mayors who were identified on the basis of evidence as having membership of or connections with terrorist organisations, or of supporting terrorist organisations, were removed from their posts pursuant to Article 127 of the Constitution and Article 47 of the Municipalities Act, and acting mayors were appointed in their place pursuant to Article 45 of the Municipalities Act.

In parallel with this process, and as a consequence of intense efforts by all units of the State, recruitment to terrorist organisations declined to its lowest level in the past 30 years, and the number of terrorists in the country receded from levels of 1800-2000 to around 600. In a number of provinces/districts in the east and southeast of the country resources are now being directed to local services instead financing terrorist organisations,

Our cities, in which the terrorist organisation and its supporters had been attempting to create chaos by excavating trenches and building barricades, are now learning what proper municipal services can provide. Consequently, public resources have been made secure, and, with resources being used for municipal services, the quality of life and peace of mind of our citizens has been enhanced.

With the appointment of the acting mayors, the terrorist organisation and its associated political organisations were denied the resources of the municipalities, However, they saw the 31 March 2019 Local Government Elections as an opportunity [to take back control of the municipalities] to recruit militants, procure financial resources, and to resolve the difficulties they were having with the management of their own membership base. The terrorist organisation took great care to nominate candidates whom they could easily manage and who would operate under their guidance and direction. People under investigation or prosecution for founding or directing an armed terrorist organisation, membership of an armed terrorist organisation, spreading propaganda for a terrorist organisation, and praising crimes and criminals were among the candidates, including, for example Ahmet Türk, previously remanded in custody pending trial, but released on health grounds.

In Diyarbakır:

Adnan Selçuk Mızraklı was elected as Mayor of the Metropolitan Municipality of Diyarbakır.

He was subject to the following proceedings:

1. Prosecution No. 2017/129 at Diyarbakır Criminal Court No. 9 for **“Founding or Directing an Armed Terrorist Organisation,”**
2. Investigation No. 2018/7592 of the Office of the Ankara Chief Prosecutor for **“Spreading Propaganda for a Terrorist Organisation, Praising Crimes and Criminals,”**
3. Investigation No. 2019/30425 of the Office of the Diyarbakır Chief Prosecutor for **“Membership of an Armed Terrorist Organisation,”**
4. Investigation No. 2019/111869 of the Office of the Ankara Chief Prosecutor for **“Spreading Propaganda for a Terrorist Organisation, Praising Crimes and Criminals,”**
5. Investigation No. 2019/106124 of the Office of the Ankara Chief Prosecutor for **“Spreading Propaganda for a Terrorist Organisation, Praising Crimes and Criminals,”**
6. Investigation No. 2019/111864 of the Office of the Ankara Chief Prosecutor for **“Spreading Propaganda for a Terrorist Organisation, Praising Crimes and Criminals,”**
7. Investigation No. 2019/111876 of the Office of the Ankara Chief Prosecutor for **“Spreading Propaganda for a Terrorist Organisation, Praising Crimes and Criminals,”**
8. Investigation No. 2019/111845 of the Office of the Ankara Chief Prosecutor for **“Spreading Propaganda for a Terrorist Organisation, Praising Crimes and Criminals,”**
9. Investigation No. 2019/28838 of the Office of the Diyarbakır Chief Prosecutor for **“Spreading Propaganda for a Terrorist Organisation, Membership of a Terrorist Organisation,”**

In Mardin, Ahmet Türk was elected as Mayor of the Metropolitan Municipality of Mardin. He was subject to the following proceedings:

1. Prosecution No. 2017/279 at Mardin Criminal Court No. 3 for **“Membership of an Armed Terrorist Organisation, Abuse of Public Office, Founding and Directing a Terrorist Organisation,”**
2. Prosecution No. 2018/229 at Mardin Criminal Court No. 3 for **“Spreading Propaganda for a Terrorist Organisation,”**
3. Investigation No. 2018/2770 of the Office of the Mardin Chief Prosecutor for **“Membership of an Armed Terrorist Organisation,”**
4. Investigation No. 2018/11686 of the Office of the Mardin Chief Prosecutor for **“Spreading Propaganda for a Terrorist Organisation,”**
5. Investigation No. 2019/300 of the Office of the Mardin Chief Prosecutor for **“Membership of an Armed Terrorist Organisation, and Wilfully Aiding an Armed Terrorist Organisation,”**
6. Investigation No. 2019/1642 of the Office of the Mardin Chief Prosecutor for **“Membership of an Armed Terrorist Organisation, and Knowingly and Wilfully Aiding an Armed Terrorist Organisation,”**

In Van, Bedia Özgökçe Ertan was elected as Mayor of the Metropolitan Municipality of Van. She was subject to the following proceedings:

1. Prosecution No. 2016/557 at Van Criminal Court No. 2 for **“Spreading Propaganda for a Terrorist Organisation,”**
2. Investigation No. 2016/9837 of the Office of the Van Chief Prosecutor for **“Spreading Propaganda for a Terrorist Organisation, Membership of an Armed Terrorist Organisation,”**
3. Investigation No. 2016/15596 of the Office of the Van Chief Prosecutor for **“Spreading Propaganda for a Terrorist Organisation,”**
4. Investigation No. 2019/6711 of the Office of the Van Chief Prosecutor for **“Spreading Propaganda for a Terrorist Organisation,”**
5. Investigation No. 2019/11570 of the Office of the Van Chief Prosecutor for **“Praising Crimes and Criminals, Spreading Propaganda for a Terrorist Organisation,”**
6. Investigation number 2019/11571 of the Office of the Van Chief Prosecutor for **“Spreading Propaganda for a Terrorist Organisation,”**
7. Investigation No. 2019/109905 of the Office of the Van Chief Prosecutor for **“Membership of an Armed Terrorist Organisation, Spreading Propaganda for a Terrorist Organisation.”**

Selçuk Mızraklı, Mayor of Diyarbakır Metropolitan Municipality, has (1) prosecution and (8) investigations pending against him; **Ahmet Türk, Mayor of Mardin Metropolitan Municipality,** has (2) prosecutions and (4) investigations pending against him; and **Bedia Özgökçe Ertan, who became Mayor of the Metropolitan Municipality of Van,** has (1) prosecution and (6) investigations pending against her. The prosecutions and investigations brought against these three persons are for offences of founding or directing an armed terrorist organisation, membership of an armed terrorist organisation, spreading propaganda for a terrorist organisation, and praising crimes and criminals. Instead of responding to the local community needs of the people, these three initiated practices and engaged in behaviours which were supportive of the objectives of the separatist terrorist organisation, and of its ideological statements and actions. This Ministry has received many reports, complaints, and a large volume of information to indicate that they channelled the resources of their municipalities to support the terrorist organisation.

As soon as the mayors assumed duties in the Metropolitan Municipalities of Diyarbakır, Mardin and Van:

- They set aside the fact that they had been elected to mayoral office by the votes of the people, and began to implement, on the instructions of the separatist terrorist organisation, an arrangement they referred to as “shared mayorship” (which has no basis in municipal legislation) and started to exercise all the powers of the municipal mayor’s office in collusion with persons who were accorded status as “co-mayors,” and they had the co-mayors, who had been authorised and elected in a non-transparent manner, unlawfully perform mayoral duties. They attempted to turn the municipalities into administrative structures distinct from those of the country as a whole. They started to employ former municipal employees who had been expelled from public service because of their support for, links with, and membership of the terrorist organisation, in various capacities which had no official status whatsoever, and attempted to re-establish these municipalities as centres for persons with support for, links with, and membership of the terrorist organisation.
- They turned a blind eye to the fact that these people, who were not employees of the municipality were involved in all of the municipality’s business, making decisions about

matters ranging from municipal investments to personnel appointments and the agenda of the municipal assembly and council committees. They also permitted members from HDP lists who had been elected to the municipal council but had not been given certificates of election because they had been expelled from public service to carry out those duties in practice and to give orders to municipal employees as if they actually held those posts,

- In order to boost enrolment to the terrorist organisation after the dramatic fall-off in recruitment, they attempted to provide material support and employment to relatives of PKK terrorists who had been neutralised in operations during the struggle against terrorism, and to this end they also subjected the relatives of martyrs [members of the security forces killed in action] to bullying, putting them under pressure, moving them to different posts and/or terminating their employment,
- Instead of providing services to meet the needs of citizens, they openly supported the terrorist organisation and terrorists, attending funeral ceremonies and visiting the graves of terrorists who had sought to undermine the indivisible unity of this state, and who mercilessly martyred our soldiers, police officers, gendarmerie officers, village guards, teachers and other public servants and citizens,
- After the 2019 local elections they changed the names of streets, roads and parks with which we commemorated the spiritual history of our nation, replacing them with the names of individuals who had received prison sentences for membership of the terrorist organisation,
- It has been established that the mayors stood at attention to show respect for terrorists who had died while the tune which is often used by members of the terrorist organisation as their anthem was being played.

The necessary investigations into the above matters were immediately initiated by this Ministry.

All institutions which are component parts of this State, including municipalities, must, in keeping with the principle of the integrity of administration, act within the framework of duties, responsibilities and powers set out in the Constitution and in laws. If institutions and/or persons begin to neglect the interests of this nation and start to act in an arbitrary fashion under the control and guidance of other persons or groups, or of terrorist organisations, or act in parallel with the programme of terrorist organisations without regard for the powers and responsibilities granted to them by laws, and these matters become the subject of judicial and administrative investigations, this Ministry will carry out its duty within the authority granted to it under the Constitution and laws.

Therefore,

Diyarbakır Metropolitan Municipal Mayor Adnan Selçuk Mızraklı, subject to **(9) separate investigations and/or prosecutions or offences** of “Founding or Directing an Armed Terrorist Organisation,” “Membership of an Armed Terrorist Organisation,” “Spreading Propaganda for a Terrorist Organisation, Praising Crimes and Criminals” and **3 investigations** undertaken by this Ministry,

Ahmet Türk, mayor of Mardin Metropolitan Municipality, remanded in custody on charges of “Membership of an Armed Terrorist Organisation” under [prosecution] file number E 2017/279 but released on health grounds to be tried without being held in remand custody, is also subject to **(6) investigations and/or prosecutions or offences** of “Spreading Propaganda for a Terrorist Organisation” “Membership of an Armed Terrorist Organisation, and Wilfully Aiding an Armed Terrorist Organisation,” “Membership of an Armed Terrorist

Organisation, Abuse of Public Office, Founding and Directing a Terrorist Organisation” and **3 separate investigations** undertaken by this Ministry, and

Bedia Özgökçe Ertan, Mayor of the Metropolitan Municipality of Van, subject to **(7) separate investigations and/or prosecutions or offences** of “Spreading Propaganda for a Terrorist Organisation” “Praising Crimes and Criminals, Spreading Propaganda for a Terrorist Organisation,” “Membership of an Armed Terrorist Organisation, Spreading Propaganda for a Terrorist Organisation,” and **3 separate investigations** undertaken by this Ministry

have been removed from their posts as a temporary precaution in order to ensure the propriety of the judicial/administrative investigations/prosecutions being conducted, pursuant to Article 127 of the Constitution and to Article 47 of the Municipalities Act. Pursuant to Articles 45 and 46 of the same Act, Diyarbakır Provincial Governor Hasan Basri Guzeloğlu has been appointed as acting mayor of Diyarbakır Metropolitan Municipality, Mardin Provincial Governor Mustafa Yaman has been appointed as acting mayor of Mardin Metropolitan Municipality, and Van Provincial Governor Emin Bilmez has been appointed as acting mayor of Van Metropolitan Municipality.

The foregoing information is respectfully submitted to the attention of the public.