

REFUGEE COUNCIL OF AUSTRALIA

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Press release concerning PKK listing as a terrorist organisation

"The 15 December 2005 Australian government decision to proscribe (i.e. 'list') the PKK (the Kurdish Workers party) under our anti-terror criminal code raises some disturbing questions for the determination of asylum claims of imputed or actual PKK association which could effectively broaden possible grounds for exclusion of Kurds through adverse security assessment or exclusion under Article 1F or cancellation under s501(6) of the Migration Act," said John Gibson, President of the Refugee Council of Australia.

The Refugee Council views with concern the implications of the listing of the PKK under the Code for bona fide asylum applicants or visa holders of Kurdish origins who may be caught by the inclusion of this organisation on the list of proscribed organisations - which in historical terms given the history of Kurdish struggle and Turkish government suppression might with the passing of time evolve into one like the ANC, PLO and Fretilin all of whom are now legitimate representatives or governments of nation states.

"Proscription of the PKK would disproportionately affect asylum seekers in a way that they would not be under current 'serious crimes' provisions in the Refugee Convention. Current laws require an investigation of the circumstances behind an individual's past activities and assessment of whether there are 'serious reasons to consider' a person comes within the Exclusion provisions of the Refugee Convention. Simple proscription of an organisation fails to take account of such complex circumstances and could place asylum seekers at risk of being unfairly denied refugee status and returned to a situation of danger contrary to the non-refoulement provisions of Article 33 of the Refugee Convention," continued John Gibson.

It can also be argued this step will impact adversely on offshore humanitarian applicants who have only distant links with the PKK such as elderly parents but who may have discreetly assisted their children's political actions.

There is in the Council's view a serious risk that thorough individual assessments in future cases will be replaced by a blanket refusal of claims invoking the proscription provisions together with the character provisions of the Migration Act for any Kurdish asylum seeker with actual or imputed links to the PKK.

"In these circumstances the Council urges the Government to re-think its decision and the Parliamentary Joint Standing Committee on Intelligence and Security which is meeting soon to recommend that it be overturned," John Gibson concluded.

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