

COMMUNICATION TO PROSECUTOR OF THE INTERNATIONAL CRIMINAL COURT (ICC)

Reporting Institution: Diyarbakır Bar Association - Lise Cad. 4. Sk. Güneş 2009 Apt.

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Subject : Request for an Ex officio Investigation into War Crimes and Crimes
Against Humanity Committed Against Alawite Civilians in Syria in Recent Periods

1. Background Information

Since the change of government in certain regions of Syria on December 10, 2024, systematic and widespread attacks have been carried out against Alawite civilians. According to published international human rights reports, thousands of Alawite civilians have lost their lives, hundreds have been injured, and tens of thousands of civilians have been forcibly displaced as a result of these attacks. It is seen in the reports of international human rights institutions, news reports of press organizations, and social media that Salafi organizations in Syria have targeted many regions where the Alawite population lives, especially in Latakia, Homs, and Hama, and have used methods such as mass executions, torture, destruction by burning, and forced displacement. Witness testimonies also reveal that these groups have committed mass killings in villages and systematically subjected civilians to violence. In addition, there are allegations that the assets of Alawite civilians have been confiscated and their religious and cultural heritage destroyed in regions under HTS's control. During this process, civilian infrastructure has also been seriously damaged in attacks using unmanned aerial vehicles and heavy weapons; schools, hospitals, and places of worship have been targeted, and some settlements have been completely destroyed.

2. Citizens of States Parties to the ICC Who Are Among the Organizations Carrying Out the Attacks

When evaluated within the scope of the jurisdiction of the International Criminal Court, the actions in question fall within the jurisdiction of the Court, even though Syria **is not a party to the Rome Statute**, due to the United Nations Security Council referring the case to the ICC (Rome Statute Article 13/b), the ICC Chief Prosecutor launching an investigation on his own initiative (Rome Statute Article 15), or the countries of citizenship of foreign nationals fighting in Syria being parties to the ICC (Rome Statute Article 12/2-b).

The organizations, groups and individuals that played a role in the massacres include **citizens of states party to the ICC**, and these elements directly trigger the ICC jurisdiction: Combatants from **Tajikistan, Jordan, Egypt, France, Belgium and Germany are among the organizations, groups** and individuals that played a role in the massacres, and therefore the ICC's jurisdiction arises. The international community, especially the states party to the Rome Statute that established the ICC, should support accountability processes, whether through their national judicial systems or through the ICC.

3. Legal Foundations

1. **Article 7 of the Rome Statute of the International Criminal Court (Crimes Against Humanity)**
 - **7(1)(a):** Murder,
 - **7(1)(h):** Persecution against any identifiable group or collectivity on ethnic, cultural, religious.
 - **7(1)(i):** Enforced disappearance of persons.
2. **Article 8 of the Rome Statute of the International Criminal Court (War Crimes)**
 - **8(2)(a)(i):** Wilful killing,
 - **8(2)(e)(i):** Intentionally directing attacks against the civilian population,
 - **8(2)(e)(vi):** Sexual violence also constituting a serious violation against women and children
3. **Article 12 and 13 of the Rome Statute of the International Criminal Court**
 - **12(2)(b):** The State party to the ICC of which the person accused of the crime is a national..
 - **13:** Exercise of jurisdiction which ex officio investigation authority.
4. **Article 15 of the Rome Statute of the International Criminal Court**
 - **15(2):** The Prosecutor's Office to receive information from non-governmental organizations or other reliable sources as it deems appropriate.
5. **Article 50 of the Protocol Additional to the Geneva Conventions of 1949, and relating to the Protection of Victims of International Armed Conflicts, 8 June 1977**
 - **50:** Definition of civilian population

Protocol I Article 50 defines the concept of civilians and civilian population:

- 1. A civilian is any person who does not belong to one of the categories of persons referred to in Article 4 A (1), (2), (3) and (6) of the Third Convention and in Article 43 of this Protocol. In case of doubt whether a person is a civilian, that person shall be considered to be a civilian.*
- 2. The civilian population comprises all persons who are civilians.*
- 3. The presence within the civilian population of individuals who do not come within the definition of civilians does not deprive the population of its civilian character.*

The aim of the principle of distinction is emphasized in Article 51 of the Protocol I as “*The civilian population as such, as well as individual civilians, shall not be the object of attack*”. This provision expressly states the civilian population and individual civilians are to enjoy general protection against dangers arising from military operations. In this article, acts or threats of violence, the primary purpose of which is to spread terror among the civilian population, are also prohibited.

As a result of this principle, indiscriminate attacks against civilians and civilian population are also prohibited. Article 51 / 4 also defines the indiscriminate attacks:

- (a) those which are not directed at a specific military objective;*
- (b) those which employ a method or means of combat which cannot be directed at a specific military objective; or*
- (c) those which employ a method or means of combat, the effects of which cannot be limited as required by this Protocol; and consequently, in each such case, are of a nature to strike military objectives and civilians or civilian objects without distinction.*

According to Article 5 of the Statute of the International Criminal Court, which reflects verbatim the definition of genocide as contained in the Convention on the Prevention and Punishment of the Crime of Genocide, genocide means any of the following acts, committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such, namely, inter alia: killing members of the group; causing serious bodily or mental harm to members of the group, causing serious bodily or mental harm to members of the group, deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part, imposing measures intended to prevent births within the group and forcibly transferring children of the group to another group.

For any of the acts charged to constitute an element of genocide, the act must have been committed against one or several individuals solely because they were members of a specific group. The specific motive for targeting these individuals is crucial; it must be because they belonged to this particular group. Thus, the victim is chosen not because of their individual identity, but rather on account of their membership of a national, ethnical, racial or religious group.

As Diyarbakır Bar Association, we request that our application be evaluated in accordance with Article 15(2) of the Rome Statute. To briefly mention the mission of the lawyers and Bar Associations;

In Turkey, the legal profession is a cornerstone of the right to a fair trial and defence, and by extension, the rule of law. It is imperative for bar associations to actively engage in civil, democratic, legal, and judicial activities this engagement is crucial not only to protect and develop human rights but also to operationalize them for the advancement of a democratic society.

The legal foundation for the responsibility of bar associations in Turkey to safeguard public human rights is grounded in Article 76 of the Turkish Advocacy Law, which outlines the formation and qualifications of bar associations. Article 76 of the Law on Lawyers, governing the establishment and qualifications of bar associations, explicitly defines bar associations as *“public professional organizations with legal personality. These associations are tasked with a broad range of activities, including the development of the legal profession, fostering honesty and trust among its members and with business entities, defending and upholding Professional order, ethics, dignity, the rule of law, human rights, and meeting the common needs of lawyers, and to carry out their activities in accordance with democratic principles”*. Furthermore, Article 95/21 of the Law on Lawyers, delineating the responsibilities of the executive boards of bar associations, underscores their duty *“to defend and protect the rule of law and human rights and to make these concepts operational.”*

The phrase *“to make these concepts operational”* in the provisions, structured as a public and social duty, imposes a positive obligation. A positive obligation entails the responsibility to proactively take actions aimed at fulfilling the specified duty. Pursuant to the provision The duty to *“defend and protect the rule of law and human rights”* finds application in the requests to participate in cases on national and international grounds, especially those related to social rights violations, and in making *“amicus curiae”* applications.

4. The Evidences

- Reports published by SOHR (Syrian Observatory for Human Rights) on 15 March 2025, by the Office of the United Nations High Commissioner for Human Rights (OHCHR) on 10 March 2025 and by Amnesty International on 12 March 2025.
- Reports and testimonies in the international press include detailed field reports, particularly those published by the BBC, Al Jazeera, Reuters and Human Rights Watch. These reports document the pressure exerted on civilians by the organisations, groups and individuals involved in the massacres, their forced displacements, executions and attacks on civilian infrastructure. Furthermore, information provided by local journalists in the region proves that the crimes committed by the organisations, groups and individuals involved in the massacres were systematic and widespread. Witness testimonies clearly demonstrate that the attacks targeted specific sectarian groups and were of an ethnic cleansing nature.
- Documents submitted by civil society and human rights organizations in the region are based on field research in the region, especially by the Syrian Network for Human Rights (SNHR), Human Rights Watch (HRW) and Amnesty International. These documents report in detail the actions of organizations, groups and individuals involved in the massacres against Alawite civilians, such as executions, enforced disappearances, torture, confiscation of property and forced migration. There is also visual and written evidence provided by independent researchers and local journalists.
- Witness statements and visual evidence.

5. Requisitions

1. An urgent investigation should be launched into the crimes against humanity and war crimes committed against Alawite civilians in Syria,
2. Identifying the participation of citizens of the ICC party states in these crimes and issuing international arrest warrants for the relevant persons,
3. The activities of the organizations, groups and individuals who played a role in the massacres should be scrutinized and those who committed these crimes should be identified and brought to justice,
4. Taking international measures to protect civilians affected by the attacks. In this context, the United Nations and the international community should step in to establish humanitarian aid corridors, establish safe zones, put international monitoring mechanisms into effect for the evacuation of civilians, and impose economic and diplomatic sanctions on the groups responsible for the attacks,
5. We also strongly urge that international observers be sent to the region to document human rights violations and that effective steps be taken to punish those responsible.18.03.2025

Kind regards,

Diyarbakır Bar Association