



TURKEY TRIBUNAL

Because Silence is the Greatest Enemy of
Fundamental Human Rights

Abductions in Turkey Today

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JOHAN HEYMANS

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in collaboration with



**INTERNATIONAL
OBSERVATORY
HUMAN RIGHTS**

Executive Summary

Abductions in Turkey Today

BY JOHAN HEYMANS

This report aims to provide an answer to the key questions addressed to the Turkey Tribunal about abductions. These questions are: can we, taken into account the reports and the testimonies produced before the tribunal, conclude that abductions again are a part of the action of the state towards opposing persons and that no serious inquiry is organized about these facts?

Internal v. international abductions by Turkey

The report distinguishes between, on the one hand, the abductions within Turkey itself and, on the other hand, the abductions of Turkish citizens abroad in order to bring them back to their homeland. With regards to the former Turkey consistently denies any involvement, with regards to the latter it openly acknowledges having executed these abductions.

In both cases the course of events is identical: opponents of the current regime are abducted and, consequently, disappear from the radar. For some, this situation continues unabated to this day. Most, however, tend to reappear after a few months in certain Turkish police stations. They often turn out to be tortured and were forced to make incriminating statements. For these people, a second phase begins: that of continued deprivation of liberty – this time in a Turkish prison – during which their human rights tend to be strongly restricted. More precisely, the abductees are not allowed to openly discuss their situation with their relatives and generally cannot choose their own lawyer. Similarly, it takes an unlawfully long period of time before these individuals are first presented to a judge having to decide on the need to extend their detention. The abductees are also put under pressure to not fully defend themselves and forced to withdraw complaints on torture and ill-treatment. They are also prohibited from consulting independent physicians to attest their injuries.

The questions:

Is Turkey responsible for the internal abductions of its opponents?

In spite of the fact that the Turkey consistently denies any state implication with regards to internal abductions, it is beyond reasonable doubt that an increasing number of enforced disappearances is taking place in Turkey. Eyewitnesses, statements of abductees who eventually resurfaced and camera footage clearly show that this is due to Turkish police and intelligence services which are actively intercepting opponents of the current Turkish regime to illegally transport them to hidden locations where they are often tortured. These practices are a textbook example of enforced disappearances and are unanimously outlawed by international law.

When the victims reappear their situation of lawlessness continues, and they remain deprived of their most fundamental human rights – the right not to be arbitrarily deprived of one's freedom, the right to a fair trial, the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment and even the right to life.

Is Turkey responsible for the extra-territorial abductions of its opponents?

In sharp contrast, Turkey is much more open about its responsibility in terms of extra-territorial abductions. In spite of the fact that our investigation of the publicly known cases only allowed us to identify 63 cases of such abductions, Turkish officials have repeatedly claimed that Turkey was involved in more than 100 international abductions.

Many extra-territorial abductions start with the arrest of Turkish citizens at foreign border crossings due to the fact that the passports of these citizens are, unbeknown to them, cancelled by Turkey. Such behaviour has been declared unlawful by the UN Human Rights Committee and the European Court of Human Rights. Similarly, the active involvement of Turkish intelligence officers abducting the opponents of the current regime with or sometimes even without the consent of the host state is without any doubt contrary to international law and has already been condemned by the European Commission and the European Court of Human Rights.

Does Turkey effectively investigate complaints and allegations of enforced disappearances and unlawful abductions?

In Turkey there currently exists no effective protection of the right to life of political opponents of the regime and no effective investigations are carried out into cases of enforced disappearances. A thorough investigation into such complaints is being prevented in every possible way: the authorities refuse to execute essential investigate acts. When crucial evidence is collected and joined to the file by the relatives of the abductees themselves, the authorities choose to ignore it. This is diametrically opposed to Turkey's positive obligations under international law to investigate such allegations and complaints.

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I. INTRODUCTION

1. This report seeks to investigate whether the Turkish State is once again using abduction as a method to silence those in opposition. It has been created to answer the following question:

“Can we, taking into account the reports and the testimonies produced before the tribunal, conclude that abductions again are a part of the action of the state towards opposing persons and that no serious inquiry is organized about these facts?”

This report has been compiled to present first hand reports and testimonials to the Turkey Tribunal. This analysis will distinguish:

- Whether the Turkish authorities are involved in kidnappings and if so, how?
- From where Turkish citizens¹ have been abducted
 - Inside Turkey (See section V)
 - Outside Turkey in order to return them to Turkey (See section VI)
- Why no international serious inquiry has been undertaken to remedy these activities.

The report will examine the factual data behind these abductions and how this relates to Turkey's legal obligations.

Finally the report will consider:

- The effectiveness of the investigations carried out by the Turkish State into both domestic and international kidnappings will be reviewed. (See section VII)

II. THE METHODOLOGY OF THE REPORT

2. This report has been written by Mr. Johan Heymans but is partly based on a report published by the ‘Ankara Bar Association Human Rights Center’ with regards to their work on internal abductions which details comprehensive investigations and factual findings of the Ankara Bar Association, as published in their joint monitoring report of 27 June 2019 (annex 1).

3. In order to answer the relevant questions, this report uses the ‘beyond reasonable doubt’ standard of proof as applied by supranational courts in cases of abductions and enforced disappearances.²

¹ Several of the abducted individuals held a double nationality. Mr. Karaca, for instance, held both Mexican and Turkish citizenship.

² ECtHR (Grand chamber), *El-Masri v. the Former Yugoslav Republic of Macedonia*, 13 December 2012, Application No. 39630/09, at 151.

This standard may be met by all sorts of evidence as long as it results in *“the coexistence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact.”*³ The report relies on the work of the Ankara Bar Association, other international organisations and the case-studies on all known internal and international abductions (see annexes 2 and 3). Each case-study is compiled on the basis of at least three sources which, independently of one another, confirmed the same factual findings.

With regards to the burden of proof the imbalance that exists in the collection of evidence between the Turkish State and others will be taken into account. In this regard, the European Court of Human Rights (**“ECTHR”**) has specifically held in the context of enforced disappearances that this burden is met when

*“although it has not been proved that a person has been taken into custody by the authorities, it is possible to establish that he or she was officially summoned by the authorities, entered a place under their control and has not been seen since.”*⁴

Statements given by government ministers or other high officials can hold a particularly important probative value but only *“when they acknowledge facts or conduct that place the authorities in an unfavourable light. They may then be construed as a form of admission.”*⁵

4. Finally, the report seeks to answer a number of very specific questions and therefore has to deliberately limit its scope.

First, the analysis will only focus on abductions that took place since 2016. This limitation is prompted, as shown under section IV, by the fact that the tendency to abduct Turkish citizens has been dramatically increasing particularly since the events of 15 July 2016 after years of decline.

Second, only the abductions of 'opponents' of the Turkish State are taken into account.

In the relevant period the United Nations (UN) Working Group on Enforced or Involuntary Disappearances has expressed its concerns on the disappearances of migrants at the Syrian border in which local authorities might be involved.⁶ However, these migrants are not considered to be (political) opponents of the current regime and therefore fall beyond the scope of this report.

³ ECTHR (Grand chamber), *El-Masri v. the Former Yugoslav Republic of Macedonia*, 13 December 2012, Application No. 39630/09, at 151. See for a similar standard: Human Rights Committee, Consideration by the Human Rights Committee at its 111th, 112th and 113th sessions of communications received under the Optional Protocol to the International Covenant on Civil and Political Rights (CCPR/C/113/4), 8 September 2015, at 17.

⁴ ECTHR (Grand chamber), *El-Masri v. the Former Yugoslav Republic of Macedonia*, 13 December 2012, Application No. 39630/09, at 151. See also ECTHR, *Taniş and Others v. Turkey*, 2 August 2005, Application No. 65899/01, at 160; ECTHR, *Yusupova and Zaurbekov v. Russia*, 9 October 2008, Application No. 22057/02, at 52 and ECHtR, *Matayeva and Dadayeva v. Russia*, 19 April 2011, Application no. 49076/06, at 85.

⁵ ECTHR (Grand chamber), *El-Masri v. the Former Yugoslav Republic of Macedonia*, 13 December 2012, Application No. 39630/09, at 163. See also ICJ, *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America): Merits Judgment*, 27 June 1986, at 64.

⁶ Report of the Working Group on Enforced or Involuntary Disappearances on enforced disappearances in the context of migration (A/HRC/36/39/Add.2) of 28 July 2017, at 33; Report of the Working Group on Enforced or Involuntary Disappearances on its mission to Turkey (A/HRC/33/51/Add.1) of 27 July 2016, at 11.

Third, the report will only take into account the legal framework applicable to Turkey. For instance, Turkey has not yet, in spite of the encouragements thereto of different UN Bodies, become a party to the International Convention for Protection of All Persons from Enforced Disappearance.⁷ The specific obligations resulting from this convention will therefore not be included in the analysis.

III. TURKEY AND ITS HISTORY WITH ABDUCTIONS

5. Turkey has a long history of state-sponsored abductions and enforced disappearances going back over a long period of time.⁸

During the 1980s and 1990s Turkey was confronted with many state-sponsored abductions and disappearances. Human rights organizations estimate that up to 3,500 people forcibly disappeared, with around 450 cases being confirmed.⁹ The UN Working Group on Enforced or Involuntary Disappearances registered 214 cases during those years.¹⁰

6. Still, in the 2000s the number of enforced disappearances in Turkey diminished. This seems to be mainly due to Turkey's accession negotiations with the European Union which required a better human rights track record. Consequently, between 2002 and 2015, only 1 case of enforced disappearance was transmitted to the UN Working Group on Enforced or Involuntary Disappearances.¹¹

Different UN visits to and reports on Turkey confirmed this positive tendency. For instance, UN Rapporteur Christof Heyns stressed in 2013: *“The level of extrajudicial executions in Turkey has dramatically decreased compared to the situation in the early 1990s. Current instances of violations of the right to life and related practices such as torture and enforced disappearances must be measured on a very different scale.”*¹² Similarly, in its report based on a visit to Turkey from 14-18 March 2016, the UN Working Group on Enforced or Involuntary Disappearances stated: *“The Working Group did not receive allegations of recent enforced disappearances (...).”*¹³

⁷ See United Nations Treaty Collection.

(https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-16&chapter=4).

⁸ See, for instance, the Saturday Mothers (‘Cumartesi Anneleri’). Every Saturday many hundreds of mothers and their supporters peacefully protest and demand information on the whereabouts of their lost and abducted children. On 30 August 2020, they observed their 805th weekly gathering since 1995 that is 25 years.

⁹ Human Rights Watch, Time for Justice Ending Impunity for Killings and Disappearances in 1990s Turkey, 3 September 2012 (see footnote 10 re findings of the Human Rights Association’s Diyarbakır branch).

¹⁰ UN Working Group on Enforced or Involuntary Disappearances, Report of the Working Group on Enforced or Involuntary Disappearances (A/HRC/42/40) of 30 July 2019, p. 46: re: the registered cases from 1990 till 1999.

¹¹ UN Working Group on Enforced or Involuntary Disappearances, Report of the Working Group on Enforced or Involuntary Disappearances (A/HRC/42/40) of 30 July 2019, p. 46: it concerned 1 case in 2007.

¹² Christof Heyns, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions: Addendum Mission to Turkey (A/HRC/23/47/Add.2) of 18 March 2013, p at 6.

¹³ UN Working Group on Enforced or Involuntary Disappearances, Report of the Working Group on Enforced or Involuntary Disappearances on its mission to Turkey (A/HRC/33/51/Add.1) of 27 July 2016, at 11.

7. This positive tendency seems, however, to have been completely reversed since, on 15 July 2016, an attempted coup d'état to overthrow the government is stated to have taken place.

This is confirmed by the statistics of the UN Working Group on Enforced or Involuntary Disappearances and by the sharp contrast between the positive international reports dating from before July 2016 and the completely different and worrying recommendations by those same institutions formulated afterwards.¹⁴

IV. THE ABDUCTIONS IN TURKEY IN NUMBERS

8. It is impossible to provide exact numbers on the individuals who have been abducted by the Turkish State or their officials both internally and internationally.¹⁵ With regards to internal abductions, the issue is that Turkey consistently denies any state implication. An extensive examination of the suspicious disappearances in Turkey has allowed us to distinguish 25 cases in which it is beyond any reasonable doubt that an abduction organised by the Turkish State has taken place.

However, it is certain that many cases of disappearances will not (yet) have come to the attention of international organisations, NGOs and newspapers and continue to go unnoticed. In that regard it is particularly remarkable that only two abductions of a Kurdish person could be identified while already in July 2016 the UN Working Group on Enforced or Involuntary Disappearances expressed its concerns that *“situations such as the current one in the south-east are conducive to human rights violations, including enforced disappearances.”*¹⁶ This situation has – particularly since the 2019 Turkish offensive into north-eastern Syria – not improved.

9. In sharp contrast, Turkey is much more open about its responsibility in terms of extra-territorial abductions. In spite of the fact that this investigation of the publicly known cases only allowed identification of 63 cases of such abductions, Turkish officials have repeatedly claimed that Turkey was involved in more than 100 international abductions.

For instance, Turkish Foreign Minister Mevlüt Çavuşoğlu confirmed that 104 Gülenists from 21 countries were abducted and brought back to Turkey as part of the Turkish government's

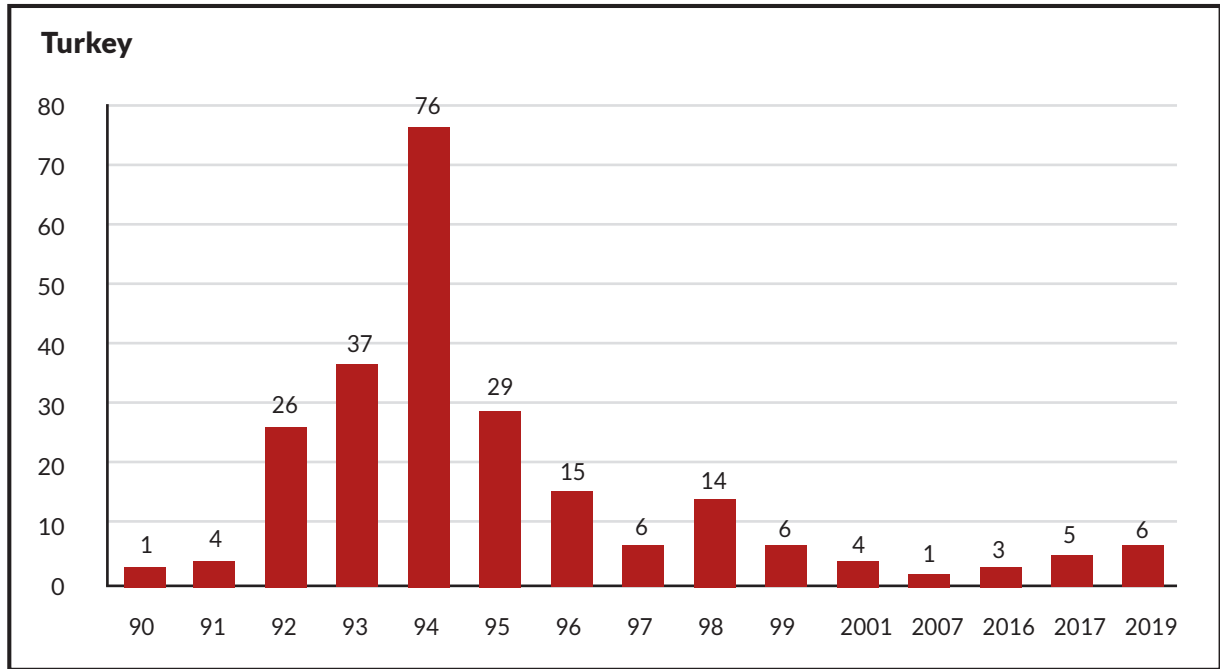
¹⁴ See UN Working Group on Enforced or Involuntary Disappearances, Report of the Working Group on Enforced or Involuntary Disappearances (A/HRC/42/40) of 30 July 2019, p. 46. See Letter sent by the UN Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the human rights of migrants, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to Turkey on 5 May 2020 (Reference: AL TUR 5/2020); UN Working Group on Enforced or Involuntary Disappearances, Report of the Working Group on Enforced or Involuntary Disappearances (A/HRC/42/40), 30 July 2019, at 56.

¹⁵ This was also confirmed by Human Rights Foundation for Turkey, Alternative Report To the UN Committee against Torture For its consideration of the 4th Periodic Report of Turkey, March 2016.

¹⁶ Report of the Working Group on Enforced or Involuntary Disappearances on enforced disappearances in the context of migration (A/HRC/36/39/Add.2) of 28 July 2017, at 33; Report of the Working Group on Enforced or Involuntary Disappearances on its mission to Turkey (A/HRC/33/51/Add.1) of 27 July 2016, at 11.

global manhunt.¹⁷ Similarly, Deputy Foreign Minister Yavuz Selim Kiran stated that this happened to more than 100 Gülenists.¹⁸

10. In any event, it is clear, at the level of the UN Working Group on Enforced or Involuntary Disappearances that the number of cases of enforced disappearances (and thus abductions) has been steeply increasing since 2016. While from 2002 until 2015, only 1 case was transmitted, since 2016 this already happened 14 times:¹⁹



The number of cases reflected in these statistics is, however, an important underrepresentation of the effective numbers of individuals who have been abducted by Turkey since only very few cases are effectively transmitted to the United Nations. Moreover, a number of families of disappeared individuals were also put under pressure and threatened to withdraw their applications to the UN after the victims reappeared again in police custody a few months later. Some of them refused to do so but others complied. This happened, for instance, with the complaints of Salim Zeybek and Özgür Kaya.²⁰

¹⁷ U.S. Department of State, 2018 Country Reports on Human Rights Practices: Turkey', 28 June 2019 (<https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/turkey/>); Sabah, '52 FETÖ' cü 83 ülkede 15 November 2018 (<https://www.sabah.com.tr/gundem/2018/11/15/452-fetocu-83-ulkede>).

¹⁸ Hurriyet, Bakan Yardımcısı açıkladı: 100'ün üzerinde FETÖ teröristi getirildi, 24 February 2019 (<https://www.hurriyet.com.tr/gundem/bakan-yardimcisi-100un-uzerinde-feto-teroristi-ulkemize-getirildi-41128404>).

¹⁹ UN Working Group on Enforced or Involuntary Disappearances, Report of the Working Group on Enforced or Involuntary Disappearances (A/HRC/42/40) of 30 July 2019, p. 46.

²⁰ Tarafsiz, İHD, kaçırıldıktan 6 ay sonra ortaya çıkan 4 kişi hakkında açıklama yaptı, 1 July 2019 (<https://www.tarafsizhaberajansi.com/2019/07/31/ihd-kacirildiktan-6-ay-sonra-ortaya-cikan-4-kisi-hakkinda-aciklama-yapti/>).

V. QUESTION 1: IS TURKEY RESPONSIBLE FOR THE INTERNAL ABDUCTIONS OF ITS OPPONENTS?

5.1. Factual findings

11. In order to answer the question of whether Turkey, as a state, is involved in the abduction of opponents on its territory, the current report first maps out the factual findings.

It particularly relies on the findings of the investigative acts carried out by the Ankara Bar Association as laid down in its joint report of June 2019.²¹ With regard to the other cases where national abductions appear to have taken place, this report builds on other (often journalistic) sources or reports by human rights NGOs active in Turkey. Every case-study is based on at least three different sources.

12. From these factual findings it resorts that domestic abductions generally require to distinguish two stages. During the first stage, opponents of the current Turkish regime are abducted and consequently disappear from the radar: they are not registered in the official detention system and their whereabouts are completely unknown for their relatives (section 5.1.1).

For some, this situation continues unabated to this day. Most, however, tend to reappear after a few months in certain Turkish police stations. For these people, a second phase begins: that of continued deprivation of liberty – this time in a Turkish prison – during which their human rights tend to be strongly restricted (section 5.1.2).

5.1.1. Stage 1: the initial arbitrary deprivation of liberty and consequent disappearance

1) The abductions took place in the same specific circumstances

13. In all of the 25 cases listed under annex 2, abductions - and thus forcible deprivations of liberty - have taken place. This is supported by camera footage, witness statements, investigations of NGOs and other matching sources.

It is striking that these abductions always took place in very similar circumstances.

First, they were carried out in such a way that it is clear that the perpetrators are not worried about an intervention by the law enforcement authorities. Many abductions were the result of large-scale kidnapping operations. Özgür Kaya, for instance, was abducted by a heavily armed group of almost 40 people with many witnesses being present.²² Similarly, in the cases

²¹ See annex 1.

²² See annex 2: case number 3.

of Mustafa Özgür Gültekin²³ and Cemil Koçak²⁴ the kidnapping involved 4 cars who followed and abducted them²⁵; in the case of Mr. Şenyücel 2 cars were involved.²⁶

The abductions often took place in the middle of the day, as in the case of Mustafa Yılmaz,²⁷ and Önder Asan²⁸, or in very busy streets, where the kidnappings of Mesut Geçer²⁹ and Turgut Çapan³⁰ happened in busy districts in Yenimahalle.³¹ Sunay Elmas and Ümit Horzum were abducted in front of crowded shopping malls (respectively the CEPA Shopping Centre and the Acity shopping mall in Ankara)³² while Mustafa Özgür Gültekin was abducted when he went to a local convenience store.³³

Consequently, many people witnessed those abductions. Salim Zeybek was, for instance, abducted in the middle of a highway, when a car was driven into his car and shots were openly fired at him.³⁴ Many witnesses testified on the abduction of Özgür Kaya by 40 heavily armed men.³⁵ Different eyewitnesses also saw Cengiz Usta³⁶, Mustafa Özben³⁷ and Cemil Koçak³⁸ being forced in a car. In the case of Murat Okumus, gunmen forced him into a car: a bystander called the police to report the incident.³⁹

The abductors did not seem concerned either by the fact that plenty of security cameras managed to film the abductions and notably recorded the number plates of the vehicles with which they committed the abductions. The kidnappings of Mustafa Yılmaz,⁴⁰ Sunay Elmas,⁴¹ Mustafa Özgür Gültekin⁴², Mr. Şenyücel⁴³, Cemil Koçak⁴⁴ and Lider Polat⁴⁵ could, for instance, be very clearly filmed.

14. Second, these abductions were consistently carried out in a very similar manner. The cars of the abductees were blocked by the same type of vehicles. Often with a car accident being provoked. The abductors then put a bag over the heads of the abductees and pushed them into a black VW Transporter van. This happened, for instance, in the cases of Hasan

²³ See annex 2: case number 16.

²⁴ See annex 2: case number 23.

²⁵ See annex 2: case number 16.

²⁶ See annex 2: case number 18.

²⁷ See annex 2: case number 1.

²⁸ See annex 2: case number 8.

²⁹ See annex 2: case number 13.

³⁰ See annex 2: case number 19.

³¹ See annex 2: case number 13.

³² See annex 2: case number 12.

³³ See annex 2: case number 16.

³⁴ See annex 2: case number 2.

³⁵ See annex 2: case number 3.

³⁶ See annex 2: case number 20.

³⁷ See annex 2: case number 21.

³⁸ See annex 2: case number 23.

³⁹ See annex 2: case number 24.

⁴⁰ See annex 2: case number 1.

⁴¹ See annex 2: case number 14.

⁴² See annex 2: case number 16.

⁴³ See annex 2: case number 18.

⁴⁴ See annex 2: case number 23.

⁴⁵ See annex 2: case number 26.

Kala,⁴⁶ Ümit Horzum⁴⁷, Sunay Elmas⁴⁸, Mustafa Özgür Gültekin⁴⁹, Mr. Şenyücel⁵⁰, Mustafa Özben⁵¹ and Cemil Koçak.⁵² When Turgut Çapan was abducted, CCTV footage showed a black Transporter van approaching the place where he was last seen, although the footage did not capture the moment of abduction.⁵³

2) All abducted people were qualified by the Turkish State as political opponents

15. All abductees were considered by the Turkish State as political opponents – either as members of the Gülen movement, or of the PKK.

16. Even before their abduction, many of the victims were the object of a criminal investigation for the alleged membership of these organisations. Mustafa Yılmaz was, for instance, convicted by the 32nd High Criminal Court of Ankara on charges of being a member of the so-called “FETÖ/PDY” and was waiting for his appeal when he was abducted.⁵⁴ Emine Özben discovered, when filing a “missing persons” notice with the police department that an outstanding detention warrant existed against her husband Mustafa Özben.⁵⁵ Yusuf Bilge Tunç was investigated for, on the one hand, being a “FETÖ/PDY” member and, on the other hand, having leaked Public Personnel Selection Examination (KPSS) questions.⁵⁶

17. Moreover, an important number of abductees knew in advance that they were the object of an arrest warrant and went into hiding out of fear of being tortured by the authorities. This was the case for Salim Zeybek,⁵⁷ Özgür Kaya⁵⁸, Gökhan Türkmen⁵⁹, Erkan Irmak⁶⁰, Ümit Horzum⁶¹ and Turgut Çapan⁶² who were all accused of being “FETÖ/PDY” members.

18. Others worked at institutions considered to be linked to the Gülen movement and were dismissed from their jobs following the 15 July 2016 events. This was the case of Hasan Kala (academician at the Çankırı Karatekin University),⁶³ Ayhan Oran (a former MİT

⁴⁶ See annex 2: case number 10.

⁴⁷ See annex 2: case number 12.

⁴⁸ See annex 2: case number 14.

⁴⁹ See annex 2: case number 16.

⁵⁰ See annex 2: case number 18.

⁵¹ See annex 2: case number 21.

⁵² See annex 2: case number 23.

⁵³ See annex 2: case number 19.

⁵⁴ See annex 2: case number 1.

⁵⁵ See annex 2: case number 21.

⁵⁶ See annex 2: case number 7.

⁵⁷ See annex 2: case number 2.

⁵⁸ See annex 2: case number 3.

⁵⁹ See annex 2: case number 4.

⁶⁰ See annex 2: case number 5.

⁶¹ See annex 2: case number 12.

⁶² See annex 2: case number 19.

⁶³ See annex 2: case number 10.

employee),⁶⁴ Orçun Şenyücel (an expert at Turkey’s Competition Authority)⁶⁵ and Fatih Kılıç (a teacher)⁶⁶ : all lost their jobs immediately after the attempted coup d’état.

19. Finally, the case of Hıdır Çelik stands out as he seems to have been caught in the midst of violent clashes between the armed forces and the PKK in Diyarbakır’s Hazro district.⁶⁷ The Turkish authorities seemed to have considered that he was a PKK member and involved with these clashes.⁶⁸ In any event, it is clear that Mr. Çelik was considered to be an “opponent” of the Turkish State.

Lider Polat was, as a youth leader of HDP, also considered to be a political opponent of the current regime in Turkey.⁶⁹

3) *The abductors can be linked to Turkish police forces and secret services*

20. The fact that the Turkish State is involved with these abductions is supported by a wide variety of evidence.

In the first place, reference can be made to various statements made by people who were initially abducted but then resurfaced and were finally able to make statements. Mesut Geçer, testified before the Ankara 34th High Criminal Court that he was abducted by some of his former colleagues⁷⁰ from Turkey’s National Intelligence Organization (“MIT”) where he used to work. Moreover, Mr. Gültekin, who also worked for the Turkish government, sent a letter to certain lawyers, judges and prosecutors confirming that he was abducted by members of MIT.⁷¹ During a hearing in March 2019, Mr. Kötüce, who also worked for the Turkish State, confirmed that he has been abducted by MIT.⁷² After he was released, Mr. Koçak told Human Rights Watch that he had been kept for 3 months in a secret detention facility by men who told him they worked for the state.⁷³

21. Moreover, as evidenced by CCTV footage and eyewitnesses, the abductors frequently wore clothes or badges indicating that they worked for the Turkish police forces or the Turkish secret services. For instance, Özgür Kaya was abducted by people who wore safety vests with the inscription “TEM” which are Turkish anti-terrorism units.⁷⁴ Gökhan Türkmen told the judges he was abducted by people wearing police vests.⁷⁵

22. Furthermore, the abductors did not hesitate to either present themselves as being police officers or behaved as such. For instance, Özgür Kaya was abducted by people who

⁶⁴ See annex 2: case number 15.

⁶⁵ See annex 2: case number 18.

⁶⁶ See annex 2: case number 22.

⁶⁷ See annex 2: case number 25.

⁶⁸ See annex 2: case number 25.

⁶⁹ See annex 2: case number 26.

⁷⁰ See annex 2: case number 11.

⁷¹ See annex 2: case number 16.

⁷² See annex 2: case number 17.

⁷³ See annex 2: case number 23.

⁷⁴ See annex 2: case number 3.

⁷⁵ See annex 2: case number 4.

introduced themselves as police officers and who provided an investigation number of the Chief Public Prosecutor's Office in Ankara.⁷⁶ Similarly, Yasin Ugan was abducted by armed individuals presenting themselves as police officers in plain clothes. The abductors claimed that their actions were part of a pending investigation before the Prosecutor's Office.⁷⁷ Önder Asan testified – and this was confirmed by a witness – that it was police officers who abducted him.⁷⁸ People presenting themselves as police officers stated to Fahri Mert that they would take him to the security directorate for interrogation.⁷⁹

23. Additionally, other objective elements support that these abductions are part of broader government action. Ahmet Ertürk was, for instance, abducted at the same time a raid of the police forces was conducted at his parents' house in Ankara.⁸⁰

24. In May 2020 the involvement of the Turkish state in these internal abductions was confirmed by a video interview given by Mustafa Yeneroğlu, member of Turkish parliament and former chair of the parliament's Committee on Human Rights Inquiry. He stated:

"The abduction cases began at the time when I was chair of the Committee on Human Rights Inquiry. I talked to relevant people then, telling them that unless those people turned up within three weeks, I would do my part and raise the issue on different platforms. At the time we resolved it and those people all reappeared here and there, at police stations. I know exactly how that happened, how it developed, and by whom it was done. If I did not know, I would not be speaking this assertively"⁸¹ (emphasis added).

4) All abductees consequently disappeared for a long period of time

25. Consequently all abductees disappeared for a period of time ranging from one month to two years without any information on their whereabouts being given.

More specifically, the duration of the disappearances are as follows:

- Hüseyin Kötüce disappeared for almost 2 years.⁸²
- Mesut Geçer disappeared for 483 days / 16 months.⁸³
- Gökhan Türkman disappeared for 271 days / 9 months.⁸⁴
- Mustafa Yılmaz disappeared for 245 days / 8 months.⁸⁵
- Erkan Irmak disappeared for 162 days / 5 months.⁸⁶

⁷⁶ See annex 2: case number 3.

⁷⁷ See annex 2: case number 6.

⁷⁸ See annex 2: case number 8.

⁷⁹ See annex 2: case number 9.

⁸⁰ See annex 2: case number 13.

⁸¹ Karar TV, "Devlet kutsalsa, o zaman 28 Şubat'ta da sussaydık | Mustafa Yeneroğlu" (<https://www.youtube.com/watch?v=kdMhfnnOD70>).

⁸² See annex 2: case number 17.

⁸³ See annex 2: case number 13.

⁸⁴ See annex 2: case number 4.

⁸⁵ See annex 2: case number 1.

⁸⁶ See annex 2: case number 5.

- Yasin Ugan disappeared for 165 days / 5 months.⁸⁷
- Salim Zeybek disappeared for 157 days / 5 months.⁸⁸
- Özgür Kaya disappeared for 165 days / 5 months.⁸⁹
- Ümit Horzum disappeared for 131 days / 4 months.⁹⁰
- Mustafa Özgür Gültekin disappeared for 121 days / 4 months.⁹¹
- Orçun Şenyücel disappeared for almost 3 months.⁹²
- Cengiz Usta disappeared for more than 87 days / 3 months.⁹³
- Cemil Koçak disappeared for more than 2 months.⁹⁴
- Ahmet Ertürk disappeared for 49 days / 2 months.⁹⁵
- Önder Asan disappeared for 41 days / 1 month+.⁹⁶

26. While most of the people eventually resurfaced after a number of months, or in some cases years, a considerable number of others continue to be missing. The individuals who disappeared below have not been heard from again even though many disappeared a long time ago.

- Sunay Elmas (abducted on 27 January 2016)⁹⁷
- Ayhan Oran (abducted on 1 November 2016)⁹⁸
- Turgut Çapan (abducted on 31 March 2017)⁹⁹
- Mustafa Özben (abducted on 9 May 2017)¹⁰⁰
- Fatih Kılıç (abducted on 14 May 2017)¹⁰¹
- Murat Okumuş (abducted on 16 June 2017)¹⁰²
- Hıdır Çelik (abducted on 16 November 2017)¹⁰³
- Fahri Mert (abducted on 12 August 2018)¹⁰⁴
- Hasan Kala (abducted on 21 July 2018)¹⁰⁵
- Yusuf Bilge Tunç (abducted on 6 August 2019)¹⁰⁶

⁸⁷ See annex 2: case number 6.

⁸⁸ See annex 2: case number 2.

⁸⁹ See annex 2: case number 3.

⁹⁰ See annex 2: case number 12.

⁹¹ See annex 2: case number 16.

⁹² See annex 2: case number 18.

⁹³ See annex 2: case number 20.

⁹⁴ See annex 2: case number 23.

⁹⁵ See annex 2: case number 11.

⁹⁶ See annex 2: case number 8.

⁹⁷ See annex 2: case number 14.

⁹⁸ See annex 2: case number 15.

⁹⁹ See annex 2: case number 19.

¹⁰⁰ See annex 2: case number 21.

¹⁰¹ See annex 2: case number 22.

¹⁰² See annex 2: case number 24.

¹⁰³ See annex 2: case number 25.

¹⁰⁴ See annex 2: case number 9.

¹⁰⁵ See annex 2: case number 10.

¹⁰⁶ See annex 2: case number 7.

5) When abductees reappear, it is always in the same circumstances

27. The abductees who reappear always resurface in local police stations or at the Anti-Terrorism Department in Ankara. The authorities either provide an unconvincing explanation as to how they ended up there or no explanation at all.

Salim Zeybek reappeared, for instance, at the Anti-Terrorism Department in Ankara. It was claimed that he had been caught during a criminal record check while he was walking to the police station to surrender.¹⁰⁷ An identical explanation was given to the sudden appearance of Özgür Kaya¹⁰⁸, Erkan Irmak¹⁰⁹ and Yasin Ugan¹¹⁰, all of whom reappeared at the Anti-Terrorism Department in Ankara. Erkan Irmak and Yasin Ugan even reappeared on the same day, on 28 July 2019. Ümit Horzum reappeared in police detention on 16 April 2018 after being “delivered by unknown people to the police”.¹¹¹

Önder Asan later testified in court that his abductors forced him to call the Ankara police department to “request” they come and take him in, after which his abductors forced him to sign a paper stating that he wanted to take advantage of repentance law.¹¹²

Other abductees reappeared in local police stations in Ankara (Mustafa Özgür Gültekin),¹¹³ Antalya (Gökhan Türkmen)¹¹⁴ and Karapürçek (Mustafa Yılmaz)¹¹⁵.

6) The abductees were tortured and ill-treated in order to obtain incriminating evidence

28. The abductees were tortured and ill-treated in order to obtain statements in which they either incriminated themselves or others, often in high-profile cases against the Gülen movement in Turkey.

Ümit Horzum stated in court that he was tortured during his disappearance and coerced to sign previously prepared incriminating statements on people he did not even recognize.¹¹⁶ Similarly, Mr. Gültekin testified that was subjected to brutal extrajudicial interrogations in order to force him to read incriminating statements in front of a camera.¹¹⁷ Consequently, during his 13-day police custody, he was made to sign a number of the statements which he had previously been forced to read to the camera.¹¹⁸

The same modus operandi was described by Mr. Kötüce during a hearing in March 2019: he told the court he had been forced to memorize, under torture, self-incriminating statements

¹⁰⁷ See annex 2: case number 2.

¹⁰⁸ See annex 2: case number 3.

¹⁰⁹ See annex 2: case number 5.

¹¹⁰ See annex 2: case number 6.

¹¹¹ See annex 2: case number 12.

¹¹² See annex 2: case number 8.

¹¹³ See annex 2: case number 16.

¹¹⁴ See annex 2: case number 4.

¹¹⁵ See annex 2: case number 1.

¹¹⁶ See annex 2: case number 12.

¹¹⁷ See annex 2: case number 16.

¹¹⁸ See annex 2: case number 16.

in which he accepted responsibility for the assassination of Andrei Karlov, the Russian ambassador to Turkey.¹¹⁹ He denied the veracity of these statements. Similarly, statements made by Orçun Şenyücel, who was abducted and tortured, were used in court against Mesut Geçer.¹²⁰

29. Many abductees, when they reappeared, wore signs of torture and ill-treatment. Gökhan Türkmen¹²¹ and Yasin Ugan¹²² confirmed that they were subjected to severe, often months-long, torture and ill-treatment. Ümit Horzum had, when he reappeared, rib fractures and burst eardrums.¹²³ When Önder Asan was brought to the police station, he had great difficulty in standing and walking. He could only walk to the room to meet his lawyer by holding onto the walls.¹²⁴ Salim Zeybek was unable to maintain his balance while sitting.¹²⁵

In the same vein, Mesut Geçer still experiences serious medical problems with his left foot and knee due to having been tortured.¹²⁶ Many abductees were in bad health when they reappeared and had lost an unhealthy amount of weight (see Salim Zeybek¹²⁷, Özgür Kaya¹²⁸, Erkan Irmak¹²⁹ and Yasin Ugan¹³⁰).

Nils Melzer, UN Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment, expressed his concerns in February 2018 about the rise in torture allegations which involved Gülen-linked detainees being subjected to brutal interrogation techniques aimed at extracting forced confessions that incriminate themselves as well as others.¹³¹

7) No effective investigation into the allegations of abduction by the Turkish authorities

30. It is important to note that the relatives of the abducted people have urged the Turkish authorities to immediately investigate the abduction and disappearance of their loved ones.

However, as will be explained under section VII, the Turkish prosecutors and police consistently refused to conduct an effective investigation. It is the relatives themselves who attached all significant evidence to the investigative files.

¹¹⁹ See annex 2: case number 17.

¹²⁰ See annex 2: case number 18.

¹²¹ See annex 2: case number 4.

¹²² See annex 2: case number 6.

¹²³ See annex 2: case number 12.

¹²⁴ See annex 2: case number 8.

¹²⁵ See annex 2: case number 2.

¹²⁶ See annex 2: case number 13.

¹²⁷ See annex 2: case number 2.

¹²⁸ See annex 2: case number 3.

¹²⁹ See annex 2: case number 5.

¹³⁰ See annex 2: case number 6.

¹³¹ United Nations Office of the High Commissioner, “Turkey: UN expert says deeply concerned by rise in torture allegations”, 27 February 2018 (<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22718&LangID=E>).

5.1.2. Stage 2: the subsequent continued arbitrary deprivation of liberty

1) *The abductees are not allowed to openly discuss their situation with their relatives*

31. The abductees, after having reappeared in the official detention system, are prohibited to discuss their situation – in particular what happened during their disappearance – with their relatives.¹³² For instance, during visits to her husband in prison, the guards prevented Ms. Zeybek from asking her husband what happened during his disappearance.¹³³

The wives of Mustafa Yılmaz,¹³⁴ Özgür Kaya,¹³⁵ Erkan Irmak¹³⁶ and Yasin Ugan¹³⁷ also confirmed that the conversations with their previously abducted husbands were consistently recorded and that guards listened in. Their husbands, consequently, did not dare to speak about their abduction.¹³⁸ Other abductees were simply refused permission to see their relatives (see Önder Asan¹³⁹ and Ümit Horzum¹⁴⁰).

2) *The abductees are limited in their right to choose their own lawyer*

32. After abductees reappear in the ordinary prison system, they are not allowed to freely choose their own lawyer or to rely on the lawyer proposed to them by their family. In the event they are assigned a lawyer, these lawyers seem to act in the favour of the interests of the Turkish State rather than the detainees.

Ümit Horzum¹⁴¹ and Yasin Ugan¹⁴² were brought before a judge without the opportunity to choose their lawyer, even if their wives had paid for a lawyer to assist them.¹⁴³ Özgür Kaya even refused to meet the lawyer his wife paid for him.¹⁴⁴ Gökhan Türkmen said that, while he was in police custody, he was prevented from retaining his own legal counsel. He announced during a later hearing that he had dismissed Ayşegül Güney, the lawyer assigned by the bar association since she tried to convince him to sign incriminating statements. Similarly, the state-appointed lawyer who was assigned to Yasin Ugan tried to make him sign a 58-page testimony taken under torture without ever having read it. This counsel refused to meet with Ms. Ugan.¹⁴⁵

The same happened to Ms. Zeybek.¹⁴⁶

¹³² See Human Rights Watch, “Turkey: Concerns for Disappeared Men Now In Police Custody,” 6 August 2019, (<https://www.hrw.org/news/2019/08/06/turkey-concerns-disappeared-men-now-police-custody>).

¹³³ See annex 2: case number 2.

¹³⁴ See annex 2: case number 1.

¹³⁵ See annex 2: case number 3.

¹³⁶ See annex 2: case number 5.

¹³⁷ See annex 2: case number 6.

¹³⁸ See annex 2: case number 1.

¹³⁹ See annex 2: case number 8.

¹⁴⁰ See annex 2: case number 12.

¹⁴¹ See annex 2: case number 12.

¹⁴² See annex 2: case number 6.

¹⁴³ See annex 2: case number 12.

¹⁴⁴ See annex 2: case number 3.

¹⁴⁵ See annex 2: case number 6.

¹⁴⁶ See annex 2: case number 2.

It is also remarkable to note how these lawyers are appointed to these prisoners. The abductees hire these lawyers because they coincidentally have met them at the police stations where they resurfaced (see Yasin Ugan¹⁴⁷ and Özgür Kaya¹⁴⁸).

33. In cases where the abductees were allowed to use their own lawyers, their assistance was strongly supervised by the police and limited in time. Önder Asan was, for instance, only allowed to see his lawyer for 20 minutes after his reappearance in the detention system.¹⁴⁹ The police remained present during their, normally confidential, first meeting.

3) *The abductees are not brought promptly for a judge*

34. After having reappeared in the ordinary judiciary system, the abductees generally had to wait for at least 12 days before they were brought before a judge examining the need to extend their detention. See:

- Salim Zeybek (12 days)¹⁵⁰
- Özgür Kaya (12 days)¹⁵¹
- Erkan Irmak (12 days)¹⁵²
- Yasin Ugan (12 days)¹⁵³
- Ahmet Ertürk (4 days)¹⁵⁴
- Ümit Horzum (11 days)¹⁵⁵
- Ayhan Oran (13 days)¹⁵⁶

These long periods seem to have been used to subject the abductees to long interrogations in order to obtain extra incriminating statements. See:

- Ahmet Ertürk¹⁵⁷
- Önder Asan¹⁵⁸
- Ayhan Oran¹⁵⁹

4) *The abductees are put under pressure to not fully pursue their defence*

35. During their consequent detention, the abductees were put under pressure to not fully pursue their defence. The lawyer of Önder Asan, Burak Çolak, was, for instance, pressured to

¹⁴⁷ See annex 2: case number 6.

¹⁴⁸ See annex 2: case number 3.

¹⁴⁹ See annex 2: case number 8.

¹⁵⁰ See annex 2: case number 2.

¹⁵¹ See annex 2: case number 3.

¹⁵² See annex 2: case number 5.

¹⁵³ See annex 2: case number 6.

¹⁵⁴ See annex 2: case number 11.

¹⁵⁵ See annex 2: case number 12.

¹⁵⁶ See annex 2: case number 15.

¹⁵⁷ See annex 2: case number 11.

¹⁵⁸ See annex 2: case number 8.

¹⁵⁹ See annex 2: case number 15.

sign a false testimony prepared by the police on behalf of his client. Since he refused, the lawyer was detained himself.¹⁶⁰

36. Similarly, pressure seems to have been applied on the abductees to deter them from pursuing further investigation of their abduction.

In that regard, Gökhan Türkmen and his lawyer filed complaints against the fact that men who introduced themselves as members of the MIT visited him in prison six times since 15 November 2019 and threatened him and his family.¹⁶¹ During a March 2020 visit, the men pressured him to retract his complaints about abduction and torture at the February court hearing.¹⁶² Similarly, Mr. Kaya asked Ms. Kaya to withdraw her applications, shut down her social media accounts and not to meet deputies in order lobby for his liberation.¹⁶³ Likewise, Mustafa Yilmaz did not want his wife to pursue her complaints on his abduction.¹⁶⁴

5) The abductees are prevented from being examined by an independent physician

37. The abductees are consistently prevented from assigning an independent physician who would have been able to establish the injuries from the torture and ill-treatment to which they were subjected. This happened in the cases of Salim Zeybek,¹⁶⁵ Özgür Kaya,¹⁶⁶ Erkan Irmak¹⁶⁷ and Yasin Ugan¹⁶⁸.

This is important since the doctors and medical professionals working in the Turkish prisons generally do not seem to dare to attest to such injuries. For instance, the lawyer of Önder Asan, Burak Çolak, informed Human Rights Watch of the fact that that, although a medical report from the Forensic Medicine Institute diagnosed Mr. Asan as suffering from “acute stress,” the report did not include his statement to psychiatrists that his stress was the result of being abducted and tortured and it made no reference to how that may be relevant to his medical condition.¹⁶⁹

5.2. Legal analysis and consequences

5.2.1. Stage 1: The abductions are contrary to international law and attributable to the Turkish State

38. The abductions which are committed by Turkish officials constitute enforced disappearances under international law.

¹⁶⁰ See annex 2: case number 8.

¹⁶¹ See annex 2: case number 4.

¹⁶² See annex 2: case number 4.

¹⁶³ See annex 2: case number 3.

¹⁶⁴ See annex 2: case number 1.

¹⁶⁵ See annex 2: case number 2.

¹⁶⁶ See annex 2: case number 3.

¹⁶⁷ See annex 2: case number 5.

¹⁶⁸ See annex 2: case number 6.

¹⁶⁹ See annex 2: case number 8.

According to the UN Declaration on the Protection of all Persons against Enforced Disappearance (the “**UN Declaration**”)¹⁷⁰ enforced disappearances occur when “*persons are arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of Government, or by organised groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law.*”¹⁷¹

Thus, the following three “*cumulative minimum elements*”¹⁷² need to be present in order for a deprivation of liberty to constitute an enforced disappearance under the UN Declaration:

- 1) “*Deprivation of liberty against the will of the person concerned*”¹⁷³ (in other words, an abduction);
- 2) “*Involvement of governmental officials, at least indirectly by acquiescence*”¹⁷⁴;
- 3) “*Refusal to disclose the fate and whereabouts of the person concerned*”¹⁷⁵.

39. Regarding the second criterion, *i.e.* the criterion of government involvement, reference should be made to the general rules regarding the attribution of acts to state, which are contained in the Draft articles on Responsibility of States for Internationally Wrongful Acts adopted by the International Law Commission in 2001 (the “**Draft Articles**”)¹⁷⁶. Pursuant to Article 4 of the Draft Articles, “*[the] conduct of any State organ shall be considered an act of that State under international law, whether the organ exercises legislative, executive, judicial or any other functions, whatever position it holds in the organization of the State, and whatever its character as an organ of the central government or of a territorial unit of the State.*” In this respect, in its commentary to the Draft Articles, the International Law Commission specifies that “*the conduct of certain institutions performing public functions and exercising public powers (e.g. the police) is attributed to the State even if those institutions are regarded in internal law as autonomous and independent of the executive government*”¹⁷⁷ (emphasis added).

As illustrated above under section 5.1.1, 3, the abductors can be linked to the Turkish police forces and secret services. Many eye-witnesses, testimonies of the abductees after they resurfaced and even camera footage have confirmed that the Turkish government is responsible for these abductions. Even Mustafa Yeneroğlu stressed the involvement of the Turkish State in these abductions. Such testimony holds a particularly probative value since he was, at the relevant times, a member of Turkish parliament and former chair of the parliament’s Committee on Human Rights Inquiry. Similarly, the fact that the government refuses to effectively investigate allegations of abductions constitutes an important indication

¹⁷⁰ Contained in General Assembly Resolution, UN Doc. A/Res./47/133.

¹⁷¹ UN Declaration, third preambular paragraph.

¹⁷² Commission on Human Rights, Report of the Working Group of Enforced or Involuntary Disappearances of 15 January 1996, E/CN.4/1996/38, General comment on Article 4 of the Declaration, p. 15.

¹⁷³ Ibidem.

¹⁷⁴ Ibidem.

¹⁷⁵ Ibidem.

¹⁷⁶ International Law Commission, Draft Articles on Responsibility of States for Internationally Wrongful Acts, November 2001, Supplement No. 10 (A/56/10), chp.IV.E.1, (<https://www.refworld.org/docid/3ddb8f804.html>).

¹⁷⁷ Available at: https://legal.un.org/ilc/texts/instruments/english/commentaries/9_6_2001.pdf.

of the State's involvement.¹⁷⁸ Accordingly, the abductions are to be considered – beyond any reasonable doubt - as effectuated by Turkish State organs in the sense of Article 4 of the Draft Articles.

40. Regarding the third criterion, *i.e.* the lack of transparency, it is established under section 5.1.1, 4 that no information on the whereabouts of the abductees was given, either to the abductees themselves or to their relatives. Many NGOs such as Human Rights Watch, IHD and the City of Ankara's lawyers' association have filed applications to the Turkish Interior Ministry in order to find out the whereabouts of the abducted people and to urge the Ministries of Justice and Interior to investigate these disappearances – consistently without success.¹⁷⁹

In many cases the information concerning the whereabouts of the detainees is only shared with the detainees' relatives after a number of months. However, the sharing of such information in a particular case does not invalidate the qualification of this case as “enforced disappearance”. Indeed, Article 17(1) of the UN Declaration states that “[acts] constituting enforced disappearance shall be considered a continuing offence as long as the perpetrators continue to conceal the fate and the whereabouts of persons who have disappeared and these facts remain unclarified.” Accordingly, a detainee can be said to be the victim of enforced disappearance for as long as the required transparency is not given.

41. It is clear from the above that the domestic abductions of suspected members of the Gülen movement qualify as enforced disappearances. The gravity of this qualification clearly shows from Article 1(1) of the UN Declaration:

“Any act of enforced disappearance is an offence to human dignity. It is condemned as a denial of the purposes of the Charter of the United Nations and as a grave and flagrant violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and reaffirmed and developed in international instruments in this field.”

Indeed, while neither the International Covenant on Civil and Political Rights (“**ICCPR**”)¹⁸⁰ nor the European Convention for the Protection of Human Rights and Fundamental Freedoms (the “**ECHR**”)¹⁸¹ explicitly use the term “enforced disappearance” in any of their articles, enforced disappearance is said to constitute “*a unique and integrated series of acts that represent continuing violation of various rights*”¹⁸² recognised in the ICCPR and ECHR.

¹⁷⁸ See section VII.

¹⁷⁹ DW, Turkey: Families seek their abducted relatives, 4 August 2019 (<https://www.dw.com/en/turkey-families-seek-their-abducted-relatives/a-49889925>); Solidarity with Others, Enforced Disappearances: Turkey's Open Secret, May 2020, pp. 23-5 (https://b2923f8b-dcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf).

¹⁸⁰ UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, (<https://www.refworld.org/docid/3ae6b3aa0.html>).

¹⁸¹ Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950, ETS 5, available at: (<https://www.refworld.org/docid/3ae6b3b04.html>).

¹⁸² UN Human Rights Committee, Sabita Basnet v Nepal (CCPR/C/117/D/2164/2012), 22 November 2016 (https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2F117%2FD%2F2164%2F2012&Lang=en), at 10.4.

The rights which are at issue are:

- the right to recognition as a person before the law (Article 16 ICCPR)
- the right to liberty and security of the person (Article 9 ICCPR and Article 5 ECHR)
- the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment (Article 7 ICCPR and Article 3 ECHR)
- the right to life (Article 6 ICCPR and Article 2 ECHR)

42. Moreover, it should be emphasised that the prohibition on enforced disappearance is an absolute prohibition in international law. Pursuant to Article 7 of the UN Declaration, no circumstances whatsoever, whether a threat of war, terrorism or any other public emergency may be invoked to justify enforced disappearances.

43. Consequently, the conduct of the Turkish State violates its international and human rights obligations. Since 2016, Turkey is responsible for a new wave of unlawful abductions and enforced disappearances of its political opponents.

5.2.2. Stage 2: the subsequent detention of abductees is contrary to international law and attributable to the Turkish State

44. After having disappeared for a certain period of time, a number of abductees resurface and are, subsequently, detained in the Turkish prisons.

For these abductees the situation of enforced disappearance comes to an end. However, this does not put an end to the violations of international and European law. From a situation of “enforced disappearance”, these former abductees end up in the situation of being “arbitrarily deprived of their liberty”.¹⁸³ The prohibition on arbitrary deprivation of liberty is laid down in Article 9 of the ICCPR and in Article 5 of the ECHR. The situation of the abductees, after they have reappeared in the official detention system, violates several aspects of this prohibition, as will be evidenced below.

In addition, several other human rights violations occurring during stage 2 of the detention will be addressed. The below list of violations is non-exhaustive and is limited to the elements which systematically surfaced from the case-studies included in Annex 2.

1) *The abductees are not brought promptly before a judge*

45. Article 9(3) ICCPR provides that “[a]nyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release”. Similarly, Article 5 ECHR requires that persons arrested or detained “shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial”.

¹⁸³ L. OTT, *Enforced disappearance in international law*, 2011, Intersentia, p. 32.

The UN Human Rights Committee (the “**UNHRC**”) has consistently found violations of this provision in cases of delays of a “*few days*” before the person is brought before a judge.¹⁸⁴ At the same time, the ECtHR has consistently held that Article 5 of the ECHR is violated when a person is deprived of his or her freedom without access to a judge for more than 4 days.¹⁸⁵ Any longer delay is contrary to the requirement of a prompt access to a judge:

“The judicial control on the first appearance of an arrested individual must above all be prompt, to allow detection of any ill-treatment and to keep to a minimum any unjustified interference with individual liberty. The strict time constraint imposed by this requirement leaves little flexibility in interpretation, otherwise there would be a serious weakening of a procedural guarantee to the detriment of the individual and the risk of impairing the very essence of the right protected by this provision (see Brogan and Others v. the United Kingdom, 29 November 1988, § 62, Series A no. 145-B, where periods of more than four days in detention without appearance before a judge were held to be in violation of article 5 §3, even in the special context of terrorist investigations”¹⁸⁶ (emphasis added).

46. In the cases investigated in the present report, the detainees generally had to wait for at least 12 days before they were brought before a judge who examined the need to extend their detention (see section 5.1.2, 3). This delay clearly and largely exceeds the standard upheld by both the UNHRC and the ECtHR as to the meaning of “promptness”.

Further analysis can be found in Annex 1, under section II, D.

2) The abductees are limited in their right to choose their own lawyer

47. The Working Group on Arbitrary Detention recommends that “[a]ll persons subjected to a measure of detention should benefit at all stages of access to a lawyer of her or his choice as well as to effective legal assistance and representation.”¹⁸⁷

The right to choose a lawyer is also recognised as part of the right to a fair trial in Article 14(3) (b) ICCPR and Article 6(3)(c) ECHR. The UNHRC has held that this requirement means that an accused cannot be forced to accept a government’s choice of lawyer.¹⁸⁸ The ECtHR has held in relation to state-appointed lawyers that, in any event, “[t]he Convention is intended to guarantee not rights that are theoretical or illusory but rights that are practical and effective” and that “mere nomination does not ensure effective assistance since the lawyer appointed for legal aid purposes may die, fall seriously ill, be prevented for a protracted period from acting or shirk his duties”¹⁸⁹.

¹⁸⁴ UN Human Rights Committee, *Bousroual v. Algeria*, Communication No. 992/2001, Views adopted on 30 March 2006, at 9.6; UN Human Rights Committee, *Bandajevsky v. Belarus*, Communication No. 1100/2002, Views adopted on 28 March 2006, at 10.3; UN Human Rights Committee, *Borisenko v. Hungary*, Communication No. 852/1999, Views adopted on 14 October 2002, at 7.4.

¹⁸⁵ See ECtHR, *Demir a.o. v. Turkey*, 12 November 2008, Application No. 34503/97, at 39-40; ECtHR *O’Hara v. UK*, 16 October 2001, Application No. 37555/97, at 46.

¹⁸⁶ ECtHR, *McKay v. UK*, 13 October 2006, Application No. 543/03, at 22.

¹⁸⁷ UN Human Rights Council, Report of the Working Group on Arbitrary Detention (A/HRC/22/44), 24 December 2012, at 84.

¹⁸⁸ See, e.g., UN Human Rights Committee, *Saldías López v. Uruguay* (CCPR/C/13/D/52/1979), 29 July 1981; African Commission on Human and Peoples’ Rights, *Civil Liberties Organisation and Others v. Nigeria*, 7 May 2001, Application No. 218/98.

¹⁸⁹ ECtHR, *Kamasinski t. Oostenrijk*, 19 December 1989, Application No. 9783/82, at 65.

48. The fact that, as explained under section 5.1.2, 2), the abductees are not allowed to freely choose their own lawyer, or to rely on the lawyer proposed to them by their family, but instead are forced to rely on an ineffective, state-appointed counsel therefore violates international human rights law.

Further analysis can be found in Annex 1, under section II, C.

3) *The abductees are put under pressure to not fully pursue their defence*

49. Article 14(3)(b) of the ICCPR and grant Article 6(3)(b) ECHR “[e]veryone charged with a criminal offence [the right] to have adequate time and facilities for the preparation of his defence”. This right is violated when, as detailed under section 5.1.2, 4), detainees are discouraged from requesting a full investigation of their case.

Moreover, a number of families of disappeared individuals were also put under pressure and threatened to withdraw their applications to the UN after the victims reappeared again in police custody a few months later. Some of them refused to do so but others complied. This happened, for instance, with the complaints of Salim Zeybek and Özgür Kaya.¹⁹⁰

4) *The abductees are prevented from being examined by an independent physician*

50. In the absence of an examination by an independent physician (see section 5.1.2, 5), the abductees are exposed to a risk of a violation of their right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment (Article 7 ICCPR and Article 3 ECHR) and even their right to life (Article 6 ICCPR and Article 2 ECHR).

Further detail on the human rights impact of the lack of independent medical care can be found in Annex 1, under section II, E.

51. It follows from the above that Turkey fails to adequately protect the fundamental rights of the abductees who eventually reappear: these individuals are arbitrarily detained in circumstances which do not comply with Turkey’s international and European human rights obligations.

VI. QUESTION 2: IS TURKEY RESPONSIBLE FOR THE EXTRA-TERRITORIAL ABDUCTIONS OF ITS OPPONENTS?

6.1. Factual findings

6.1.1. Stage 1: The initial arbitrary deprivation of liberty

52. This report has examined the facts of those individuals who have been abducted abroad with assistance of Turkey. Almost all are accused of being members of the Gülen

¹⁹⁰ Tarafsız, İHD, kaçırıldıktan 6 ay sonra ortaya çıkan 4 kişi hakkında açıklama yaptı, 1 July 2019 (<https://www.tarafsizhaberajansi.com/2019/07/31/ihd-kacirildiktan-6-ay-sonra-ortaya-cikan-4-kisi-hakkinda-aciklama-yapti/>).

movement. One abductee, Ayten Öztürk, was suspected by the Turkish authorities of having links to the Revolutionary People's Liberation Party/Front (DHKP-C).¹⁹¹

The extra-territorial abductions take place all over the world – particularly in countries maintaining strong relationships with the current regime in Turkey.

53. It is important to note that, in the context of international abductions, Turkey has never denied its involvement.

For instance, Turkish Foreign Minister Mevlüt Çavuşoğlu confirmed that 104 Gülenists from 21 countries were abducted and brought back to Turkey as part of the Turkish government's global manhunt.¹⁹² Similarly, Deputy Foreign Minister Yavuz Selim Kiran stated that this happened to more than 100 Gülenists.¹⁹³ Ismail Hakki Pekin, former head of the Turkish Armed Forces Intelligence Department, also confirmed that, unless the followers of the Gülen movement are "returned to Turkey by force, they must be exterminated wherever they are, just like ASALA or the MOSSAD did with the former Nazis".¹⁹⁴ The presidential spokesperson İbrahim Kalın furthermore publicly stated that operations abroad against the Gülen movement were being carried out "under clear instructions" from President Erdoğan.¹⁹⁵ He also stated on 21 December 2018, during a press conference, that the Government would continue its operations against the Gülen Movement, similar to the one in Kosovo.¹⁹⁶ Vice President Fuat Oktay declared that supporters of the Gülen movement "would never be left alone" anywhere in the world.¹⁹⁷

The United Nations has noted the approach being taken by the Turkish State to abduct its citizens from abroad. In July 2019, the UN Working Group on Enforced or Involuntary Disappearances rang the alarm bell while writing:

"One such development is the increasing use of extraterritorial abductions, as the Working Group observed before the General Assembly in 2018. (...) China and Turkey continue to seek the cooperation of other States to arrest, often in undercover operations, Uighurs and alleged supporters of the Hizmet/Gülen movement,

¹⁹¹ Solidarity with Others, Enforced Disappearances: Turkey's Open Secret, May 2020, p. 26 (https://b2923f8b-dcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf).

¹⁹² U.S. Department of State, '2018 Country Reports on Human Rights Practices: Turkey', 28 June 2019 (<https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/turkey/>); Sabah, '52 FETÖ'cü 83 ülkede', 15 November 2018 (<https://www.sabah.com.tr/gundem/2018/11/15/452-fetocu-83-ulkede>).

¹⁹³ Hurriyet, Bakan Yardımcısı açıkladı: 100'ün üzerinde FETÖ teröristi getirildi, 24 February 2019 (<https://www.hurriyet.com.tr/gundem/bakan-yardimcisi-100un-uzerinde-feto-teroristi-ulkemize-getirildi-41128404>).

¹⁹⁴ See Twitter account: <https://twitter.com/cemkucuk55/status/810908276208599040?lang=en>.

¹⁹⁵ Press communication of İbrahim Kalın, the presidential spokesperson, on 21 September 2018 (<http://www.haber7.com/siyaset/haber/2717161-ibrahim-kalin-her-an-her-sey-olabilir>).

¹⁹⁶ Letter sent by the UN Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the human rights of migrants, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to Turkey on 5 May 2020 (Reference: AL TUR 5/2020).

¹⁹⁷ Statement of the Vice President at the CNN Türk TV Channel on 20 January 2019 (<https://www.yeniakit.com.tr/haber/cumhurbaskani-yardimcisi-fuat-oktay-fetoculer-asla-rahata-edemeyecek-591984.html>).

*respectively, living outside the country. The allegations received by the Working Group indicate that individuals often disappear during these operations or once they arrive in the country of destination.*¹⁹⁸

In 2018 too, the UN Working Group expressed its concerns in that respect: *“The Working Group is concerned at the allegations concerning the practice of extraterritorial abduction of individuals allegedly belonging to and/or sympathizers of the Hizmet/Gülen movement, as pointed out in a number of communications (see A/WGEID/114/1, paras. 7 and 145).”*¹⁹⁹

Similarly, in a recent letter written to Turkey by the UN Working Group on Enforced or Involuntary Disappearances and 3 UN Special Rapporteurs it was stated: *“Turkish authorities have not only acknowledged direct responsibility in perpetrating or abetting abductions and illegal transfers, but have also vowed to run more covert operations in the future”*²⁰⁰

Generally speaking 4 categories of extra-territorial abductions can be distinguished:

- unlawful transfers of Turkish citizens incited by Turkey (section 6.1.1.1)
- abductions executed by Turkey without the consent of the host state (section 6.1.1.2)
- abductions with the consent of the host state (section 6.1.1.3)
- unlawful transfers of Turkish citizens back to Turkey where there is no proof of Turkish interference (section 6.1.1.4).

1) Category 1: the incitement by Turkey of unlawful transfers of Turkish citizens back to their home country

54. Many extra-territorial abductions start with the arrest of Turkish citizens at foreign border crossings due to the fact that the passports of these citizens are, unbeknown to them, cancelled by Turkey.

These passport cancellations allow Turkey to swiftly identify where and when political opponents are travelling and to launch an international operation - frequently organized by the MIT - to abduct, or at least apply pressure, to unlawfully bring these citizens back to Turkey.

This happened, for instance, to Enver Kiliç and Zabit Kişi: the cancellation of their passports triggered their abduction. They were refused access to their plane in Kyrgyzstan and, consequently, delivered in the Kazakhstan territory to MIT forces.²⁰¹ The same happened to Taci Şentürk who was arrested because of his cancelled passport in Azerbaijan and,

¹⁹⁸ UN Working Group on Enforced or Involuntary Disappearances, Report of the Working Group on Enforced or Involuntary Disappearances (A/HRC/42/40) of 30 July 2019, at 56.

¹⁹⁹ UN Working Group on Enforced or Involuntary Disappearances, Report of the Working Group on Enforced or Involuntary Disappearances (A/HRC/39/46) of 30 July 2018, at 136.

²⁰⁰ Letter sent by the UN Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the human rights of migrants, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to Turkey on 5 May 2020 (Reference: AL TUR 5/2020).

²⁰¹ See annex 3: case number 13.

consequently, deported back to Turkey without any form of due process.²⁰² Many other Turkish citizens – for instance Enes Kanter²⁰³ - encountered similar issues but just managed to avoid being expelled back to Turkey.

Passports and the need for Turkish citizens abroad to rely on Turkish diplomatic/consular assistance are also used as a technique to detect political opponents abroad and instigate their abduction. For example, Metin Tekeci came on the radar of the domestic police in Bahrain after he had contacted Turkey's embassy in January 2017 for consular assistance.²⁰⁴

2) Category 2: extra-territorial abductions by Turkey without the consent of the host state

55. In various cases Turkey has abducted its opponents on the territory of a host state but without the consent of that host state.

In some cases, this means that the host state did not in any way consent to the illegal abductions carried out on its territory. This was, for instance, the case with the abduction of Isa Ozdemir in Azerbaijan: MIT intervened after the Baku Serious Crimes Court had rejected Turkey's request for deportation. Mr. Ozdemir was kidnapped the moment he left the Court house.²⁰⁵ Similarly, Salih Zeki Yigit and Yusuf Inan were abducted and brought back to Turkey in July 2018.²⁰⁶ The Ukrainian Ministry of Justice and State Border Services stated that their country did not receive any request for extradition, nor did it have any information concerning the extradition.²⁰⁷

Turkey has also failed at a number of attempted abductions when their plans have been leaked and the host state has refused to cooperate and neutralised the kidnapping attempt. In March 2018, for instance, two Turkish diplomats tried to abduct a Turkish-Swiss businessman, who was allegedly active in the Gülen movement.²⁰⁸ The Swiss secret service discovered their plan in a timely manner and intervened before the diplomats could fully execute the abduction. Similarly, on 27 July 2018, Veysel Akcay was abducted by Turkey's MIT in Mongolia.²⁰⁹ However resistance from citizens and politicians prevented his illegal transfer to Turkey.²¹⁰

56. In other cases, it seems that certain officials within the host state knew that Turkey would carry out a clandestine operation on its territory. However, the high officials

²⁰² See annex 3: case number 4.

²⁰³ BBC News, NBA star Enes Kanter's passport cancelled by native Turkey, 20 May 2017 (<https://www.bbc.com/news/world-europe-39987275>): USA TODAY Sports, Thunder F Enes Kanter back in U.S. after passport fiasco, 21 May 2017 (<https://eu.usatoday.com/story/sports/nba/2017/05/20/video-enes-kanter-detained-romanian-airport-over-passport-issue/101917564/>).

²⁰⁴ See annex 3: case number 11.

²⁰⁵ See annex 3: case number 2.

²⁰⁶ See annex 3: case number 15.

²⁰⁷ Hromadske International, Turkish Journalist Extradited from Ukraine in Covert Operation, 21 July 2018 (<https://en.hromadske.ua/posts/turkish-journalist-extradited-from-ukraine-in-covert-operation>).

²⁰⁸ See annex 3: case number 20.

²⁰⁹ See annex 3: case number 21.

²¹⁰ Advocates of Silenced Turkey (AST), Report: Erdogans long arms abroad and recommendations to governments, July 2018 (https://silencedturkey.org/wp-content/uploads/2018/07/AST_7-28-18_REPORT10_Erdogans-long-arms-abroad.pdf), p. 14.

representing the legislative, executive and judicial powers were not aware of the Turkish interference with their sovereignty.

In Kosovo, for instance, 6 individuals were kidnapped by the Turkish authorities and brought back to Turkey in a private jet.²¹¹ A few individuals within the secret services of Kosovo seem to have been aware of Turkey's plans but the Kosovan government was not. Consequently these abductions led to a governmental crisis, resulting in the dismissal of the Minister of Internal Affairs and the Intelligence Chief.²¹² In Azerbaijan, 4 persons were abducted in 2018 by the Turkish MIT. Azerbaijani officials did not participate in the act of abduction but there were allegations that some of them looked "the other way".²¹³

3) Category 3: extra-territorial abductions by Turkey with the consent of the host state

57. Since 2016, Turkey has carried out a number of intelligence operations in cooperation with different host states where political opponents of the current regime were legally residing. These operations are generally executed by both the Turkish MIT and the domestic secret services (see abductions in Moldova,²¹⁴ Sudan²¹⁵, Saudi Arabia²¹⁶, Kazakhstan²¹⁷, Lebanon²¹⁸, and Malaysia²¹⁹).

Sometimes the police of the host state are involved (see abductions in Gabon)²²⁰.

In June 2017 Turkey's MIT established an "Office for Human Abduction and Executions" in order to facilitate such abductions. This Department is responsible for organizing 'operations' abroad to abduct or murder opponents of the current regime, mainly Gülenists living and working in foreign countries.²²¹ The Turkish media reported that this Office will initially operate in Sudan, Morocco, Pakistan, Azerbaijan and Iraq and has already been allocated a budget of 5 million US dollars.²²²

²¹¹ See annex 3: case number 6.

²¹² Advocates of Silenced Turkey (AST), Systematic Torture & Ill-Treatment in Turkey, January 2020 (<https://silencedturkey.org/wp-content/uploads/2020/01/SYSTEMATIC-TORTURE-AND-ILL-TREATMENT-IN-TURKEY-January-5th.pdf>), p. 79.

²¹³ See annex 3: case number 3.

²¹⁴ See annex 3: case number 1.

²¹⁵ See annex 3: case number 6.

²¹⁶ See annex 3: case number 9.

²¹⁷ See annex 3: case number 13.

²¹⁸ See annex 3: case number 16.

²¹⁹ See annex 3: case number 17.

²²⁰ See annex 3: case number 5.

²²¹ Letter sent by the UN Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the human rights of migrants, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to Turkey on 5 May 2020 (Reference: AL TUR 5/2020), p. 3; Journalists and Writers Foundation, 'Escaping the witch hunt from Turkey & around the world', April 2018, p. 59 (<https://jwf.org/jwf/wp-content/uploads/2018/05/Escaping-the-Witch-Hunt-JWF-Report-April-2018.pdf>); Turquoise Harmony Institute, Statement on Illegal Abductions & Extrajudicial Executions, 13 July 2017 (<https://turquoise.org.za/develop/2017/07/13/re-concerns-relating-to-illegal-abductions-and-extrajudicial-executions-by-turkish-authorities/>);

²²² Letter sent by the UN Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the human rights of migrants, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to Turkey on 5 May 2020 (Reference: AL TUR 5/2020), p. 3; Journalists and Writers Foundation, 'Escaping the witch hunt from Turkey & around the world', April 2018, p. 59 (<https://jwf.org/jwf/wp-content/uploads/2018/05/Escaping-the-Witch-Hunt-JWF-Report-April-2018.pdf>); Turquoise Harmony Institute, Statement on Illegal Abductions & Extrajudicial Executions, 13

The abductions consistently target victims who had lived for a long time in the host state and who resided there legally (see abductions in Moldova²²³, Gabon²²⁴ and Saudi Arabia²²⁵). Some even held UN Refugee status (see in Malaysia: Mr. Özçelik²²⁶ and Mr. Komis²²⁷). Most of them were unaware of the fact that were sought by Turkey abroad and had no idea of the accusations held against them (see abductees in Moldova²²⁸ and Gabon²²⁹).

Those who knew Turkey was requesting their extradition, were often already working through the domestic procedures to challenge these requests, some successfully (Isa Ozdemir in Azerbaijan²³⁰, Mr. Özçelik and Karaman in Malaysia²³¹), but were abducted before the completion of these procedures.

58. When the victims were deprived of their liberty, this abduction consistently happened through very swift well-prepared operations. The abductees were kept outside of the ordinary detention system and the normal extradition and deportation due process rules were not applied to them (see abductions in Moldova²³², Gabon²³³, Malaysia²³⁴). In the case of Myanmar, the Turkish Ambassador even personally pressured the police to confiscate the family's passports and deviate from the ordinary and prescribed domestic procedures.²³⁵

Before being transferred back to Turkey, MIT officers were frequently allowed to personally interrogate the victims immediately after their deprivation of liberty, on the territory of the host state (see abduction in Sudan²³⁶). In the event this was not possible, these interrogations were done by Turkish embassy personnel (see abductions in Lebanon²³⁷ and Myanmar²³⁸).

59. Victims of abduction are rapidly put on private, or military, Turkish planes (see abductions in Moldova²³⁹, Saudi Arabia²⁴⁰, Kazakhstan²⁴¹ and Lebanon²⁴²) and flown back to Turkey where they tend to disappear for a short (or longer) period of time (see section 6.1.2).

July 2017 (<https://turquoise.org.za/develop/2017/07/13/re-concerns-relating-to-illegal-abductions-and-extrajudicial-executions-by-turkish-authorities/>);

²²³ See annex 3: case number 1.

²²⁴ See annex 3: case number 5.

²²⁵ See annex 3: case number 9.

²²⁶ See annex 3: case number 17.

²²⁷ See annex 3: case number 18.

²²⁸ See annex 3: case number 1.

²²⁹ See annex 3: case number 5.

²³⁰ See annex 3: case number 2.

²³¹ See annex 3: case number 17.

²³² See annex 3: case number 1.

²³³ See annex 3: case number 5.

²³⁴ See annex 3: case number 17.

²³⁵ See annex 3: case number 8.

²³⁶ See annex 3: case number 6.

²³⁷ See annex 3: case number 16.

²³⁸ See annex 3: case number 8.

²³⁹ See annex 3: case number 1.

²⁴⁰ See annex 3: case number 9.

²⁴¹ See annex 3: case number 13.

²⁴² See annex 3: case number 16.

As concluded by the ECtHR in the Moldovan abduction cases, the preparation and speed with which these operations are carried out, indicates that the operation has been planned and prepared well in advance in order to completely surprise the Turkish citizens concerned. This method ensures that the victim is not able to use the generally granted due process protections to slow down, or even completely prevent, their transfer to Turkey.²⁴³

4) Category 4: unlawful transfers of Turkish citizens to Turkey without direct proof of Turkish interference

60. Finally, a number of abductions of Turkish citizens have taken place in host states where it is not immediately clear how and to what extent Turkey was involved.

The intensity with which the host states acted, and the surrounding circumstances of these transfers make it apparent that there are secret arrangements or even cooperation agreements between the host state and Turkey.

For instance, in the case of Abdullah Büyük,²⁴⁴ the Bulgarian courts initially rejected the Turkish extradition request and confirmed that it was based on purely political views without any guarantees that Mr. Büyük would enjoy a fair trial. A few months later, he was suddenly taken to the border by the Bulgarian police and handed over to Turkey. No formal extradition or deportation procedure was followed. Similarly, the abductions of Turkish citizens in Malaysia and Indonesia followed shortly after high level meetings between the governments of Turkey and the host state. In this regard, on 14 October 2016, Turkish Foreign Minister Mevlüt Cavusoglu stated: *“Last night we received three terrorists from Malaysia.”*²⁴⁵ and: *“Last week we met with the Malaysian Prime Minister in Thailand, Bangkok, they said they would deliver three people at the Asia Dialogue Meeting. After I returned, I gave information to the President, the Prime Minister and the relevant institutions. As a result of mutual contacts, three people were handed over last night.”*²⁴⁶ This seems to indicate that Turkey is concluding bilateral security cooperation agreements with different countries in order to abduct its political opponents abroad while circumventing all due process rules and guarantees.

61. On 5 May 2020 this concern was shared by the UN Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the human rights of migrants, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment in a 15-page letter which was sent to the Turkish government.²⁴⁷ The UN condemned such agreements and considered them contrary to international law.

²⁴³ ECtHR, *Ozdil and Others v. the Republic of Moldova*, 11 June 2019, Application No. 42305/18, at 55.

²⁴⁴ See annex 3: case number 10.

²⁴⁵ Stockholm Center for Freedom, *Erdogan’s long arms: the case of Malaysia*, May 2017 pp 10-11 <https://www.facinghistory.org/our-work> <https://www.facinghistory.org/our-work> (<https://stockholmcf.org/wp-content/uploads/2017/05/Erdogans-Long-Arms-The-Case-Of-Malaysia.pdf>)

²⁴⁶ Stockholm Center for Freedom, *Erdogan’s long arms: the case of Malaysia*, May 2017 (<https://stockholmcf.org/wp-content/uploads/2017/05/Erdogans-Long-Arms-The-Case-Of-Malaysia.pdf>),

²⁴⁷ Letter sent by the UN Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the human rights of migrants, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to Turkey on 5 May 2020 (Reference: AL TUR 5/2020).

6.1.2. Stage 2: The subsequent disappearance of the abductees

62. Many individuals who are the victim of an extra-territorial abduction, disappear when they arrive into Turkish territory: nothing is known about their fate or whereabouts.

Sometimes this period of disappearance only lasts a few weeks (see the 6 people abducted in Moldova²⁴⁸, Taci Şentürk abducted in Azerbaijan²⁴⁹, Ayten Ozturk abducted in Lebanon²⁵⁰, Turgay Karaman and Ismet Özçelik abducted in Malaysia²⁵¹) but in other cases, this disappearance can last for months (see the disappearance of Zabit KİŞİ which lasted 108 days / almost 4 months²⁵²) or even permanently (see the disappearance of Enver KILIÇ²⁵³).

This period of being under the radar is frequently accompanied by periods of intense torture and ill-treatment. Zabit KİŞİ testified, for instance, that for months he was continuously beaten and electrocuted. When he nearly died, they injected him with unknown medications and continued to torture him.²⁵⁴ Similarly, Ayten Ozturk spoke extensively about the torture she was subjected to during the 25 days she disappeared.²⁵⁵ Alettin Duman²⁵⁶ and Ismet Özçelik²⁵⁷ were also tortured during their disappearance.²⁵⁸

This observation was also included in the recent letter of the UN Working Group on Enforced or Involuntary Disappearances and 3 UN Special Rapporteurs to Turkey:

“They remain forcibly disappeared for up to several weeks in secret or incommunicado detention before deportation. During that period they are often subjected to coercion, torture and degrading treatment aimed at obtaining their consent on voluntary return and at extracting confessions that would inform criminal prosecution upon arrival in Turkey. At this stage, individuals are denied access to medical care and legal representation and are unable to challenge the lawfulness of detention before a competent court, effectively placing them outside the protection of the law. Their family members are unaware of their fate and whereabouts. According to testimonies obtained, the victims of these operations have recounted unabated abuse perpetrated by intelligence agents, primarily aimed at obtaining forced confession. Most prevalent forms of torture include food and sleep deprivation, beatings, waterboarding, and electric shocks.”²⁵⁹

²⁴⁸ See annex 3: case number 1.

²⁴⁹ See annex 3: case number 7.

²⁵⁰ See annex 3: case number 16.

²⁵¹ See annex 3: case number 17.

²⁵² See annex 3: case number 13.

²⁵³ See annex 3: case number 13.

²⁵⁴ See annex 3: case number 13.

²⁵⁵ See annex 3: case number 16.

²⁵⁶ See annex 3: case number 19.

²⁵⁷ See annex 3: case number 17.

²⁵⁸ Stockholm Center for Freedom, Cellmate: teacher abducted by Turkey’s MIT from Malaysia subjected to torture in Ankara, 1 April 2018 (<https://stockholmcf.org/cellmate-teacher-abducted-by-turkeys-mit-from-malaysia-subjected-to-torture-in-ankara/>).

²⁵⁹ See Letter sent by the UN Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the human rights of migrants, the Special Rapporteur on the promotion and protection of human rights and

63. There is no doubt that these disappearances happened under the control and direction of Turkey since the Turkish authorities repeatedly proclaimed their involvement in these extra-territorial abductions. Moreover, in their statements, all abductees consistently confirmed that they were transported back to Turkey by Turkish officials often on private or military planes.

6.1.3. Stage 3: The subsequent and continued arbitrary deprivation of liberty

64. After a while – or sometimes even immediately - most internationally abducted individuals reappear in the ordinary detention system in Turkey.

There they are subjected to similar violations as the ones extensively discussed under section 5.2.2. Memduh Çıkmaz argued, for instance, that he was not physically capable to defend himself due to the abuse.²⁶⁰ Similarly, Turgay Karaman and Ismet Özçelik were detained without access to their family, to a lawyer or even to their case file.²⁶¹ It also took the Turkish authorities 21 and 19 days respectively to bring them before a judge for the first time - this happened on 23 May 2017. Additionally, Mr. Özçelik did not receive proper medical care for his heart condition. In the case of Alettin Duman, his cellmate later testified about the beatings, torture, death threats and staged executions to which Mr. Duman was subjected during his pre-trial detention in Ankara.²⁶²

6.2. Legal analysis and consequences

6.2.1. Stage 1: The extra-territorial abductions violate international law and are attributable to the Turkish State

65. In these cases of the international transfer of suspected members of the Gülen movement (the “*Transferee*”) to Turkey, (as detailed under section 6.1.1) the involvement of the Turkish State essentially falls within one of four categories:

1. Turkey illegally triggers the return of the Transferees to its territory by the cancelling the passports of those they wish to abduct.
2. Agents of the Turkish State arrest the Transferee on the territory of the host state without consent by the host state.
3. The host state and the Turkish State jointly arrest the Transferee on the territory of the host state.
4. Circumstances point towards the Turkish State being responsible but their involvement is insufficiently documented.

➤ Section 1 below will detail this first category where it will be explained that the cancellation of passports constitutes a violation of the international obligations of Turkey.

fundamental freedoms while countering terrorism and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to Turkey on 5 May 2020 (Reference: AL TUR 5/2020), p. 3.

²⁶⁰ See annex 3: case number 6.

²⁶¹ See annex 3: case number 17.

²⁶² See annex 3: case number 19.

- Section 2 examines the second and third category where the international transfer of detainees will be analysed from the perspective of international human rights law.
- Section 3 addresses the fourth category and the issue of bilateral security cooperation agreements.

1) Turkey illegally triggers the return of the Transferees to its territory by the cancellation of passports

66. Turkey monitors the international movements of its opponents by cancelling their passports, often without the knowledge of the holder. This act can trigger the unlawful extra-territorial abduction and consequent transfer of the passport holder to Turkey (see section 6.1.1).

Such way of working violates Turkey's international obligations. More precisely, Article 12 ICCPR provides that "[e]veryone shall be free to leave any country, including his own". Restrictions on this right are permissible pursuant to Article 12.3 ICCPR, but only when they are "provided by law, are necessary to protect national security, public order (*ordre public*), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant". Turkey has not made any reservations regarding the applicability of this provision.

The UNHRC has stated, both in its General Comment No. 27²⁶³ and in its jurisprudence²⁶⁴, that a passport provides a National with the means to exercise the right to freedom of movement under Article 12.2 ICCPR in practice. The withdrawal of the passports of the Transferees by the Turkish authorities thus constitutes an unmistakable interference with the Transferees' right to free movement. It should therefore be analysed whether this interference meets the requirements for permissible derogations as laid down in Article 12(3) ICCPR.

There is little directly relevant jurisprudence of the UNHRC. Therefore this analysis of permissible restrictions to the right of free movement will also refer to the case law of the ECtHR in relation to Article 2 of Protocol No. 4 to the ECHR ("**Protocol No. 4**")²⁶⁵. This provision records the same right to free movement, and the same permissible restrictions, as Article 12 ICCPR. Although Turkey has signed Protocol. No. 4, it is not directly bound by it because Turkey has not ratified it. Therefore we will rely on the case law of the ECtHR for interpretative purposes. This approach is justified, in our opinion, since the ECtHR explicitly and favourably refers to the case law of the UNHRC, thus highlighting the intention that the interpretation of Article 12 ICCPR and Article 2 of Protocol No. 4 should be convergent.²⁶⁶

²⁶³ UN Human Rights Committee, CCPR General Comment No. 27: Article 12 (Freedom of Movement), 2 November 1999.

²⁶⁴ UN Human Rights Committee, Communication No. 1143/2002 (CCPR/C/90/D/1143/2002), 20 July 2007; UN Human Rights Committee, Communication No. 492/1992 (CCPR/C/51/D/492/1992), 21 July 1994 at 8.2 and UN Human Rights Committee, Communication No. 57/1979 (CCPR/C/15/D/57/1979) 2 April 1980, at 9.

²⁶⁵ Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms, securing certain rights and freedoms other than those already included in the Convention and in the first Protocol thereto of 16 September 1963.

²⁶⁶ See, e.g., ECtHR, *Riener v. Bulgaria*, 23 May 2006, Application No. 46343/99, at 84 and 121.

67. Article 12(3) ICCPR requires a legal basis for any restrictions on the right to free movement. In this respect, reference should be made to Article 5 of Turkish Decree Law No. 667²⁶⁷, which was enacted on 29 July 2016 following the events of 15 July 2016. This has extended the list of situations in which passports can be cancelled through administrative decisions.

Article 5 of Decree Law No. 66 reads:

*“Those who have been subjected to a criminal investigation or prosecution for their membership or affiliation with structures, entities or groups or organizations with terrorist affiliations that are found to pose a threat to national security are immediately reported to the relevant passport unit. Passports are cancelled by the relevant passport units upon this notification.”*²⁶⁸

This provision restricts the freedom of movement for persons “*subjected to a criminal investigation or prosecution for their membership or affiliation with structures, entities or groups or organizations with terrorist affiliations that are found to pose a threat to national security*”. Accordingly, the restriction is explicitly linked to grounds of national security, which is one of the permissible purposes listed in Article 12(3) ICCPR. However, the UNHRC has specified that “*it is not sufficient that the restrictions serve the permissible purposes; they must also be necessary to protect them. Restrictive measures must conform to the principle of proportionality*”.²⁶⁹

The proportionality test, in relation to measures restricting free movement, was interpreted by the ECtHR in relation to those suspected of being members of a criminal syndicate. The Court accepted that such measures may be necessary for the maintenance of public order and for the prevention of crime.²⁷⁰ However, the ECtHR also held in relation to a travel ban, during judicial criminal proceedings, that “[i]t could not be considered proportionate because it had been automatic and not based on any specific reasons, and could not have been properly reviewed by the courts”.²⁷¹

This is exactly what happened in Turkey: the passports of thousands of individuals have been arbitrarily cancelled – often without any criminal investigation.²⁷² When an investigation is alleged to exist, the case-files only tend to contain a number of generalised statements and elements which have already been rejected by the UNHRC as credible proof.²⁷³

²⁶⁷ Full text available in Turkish at <https://www.resmigazete.gov.tr/eskiler/2016/10/20161029-1.htm>.

²⁶⁸ Free translation from Turkish: “Yürütülen soruşturmalarda alınacak tedbirler MADDE 5 – (1) Milli güvenliğe tehdit oluşturduğu tespit edilen yapı, oluşum veya gruplara ya da terör örgütlerine üyeliği veya iltisakı ya da bunlarla irtibatı nedeniyle haklarında idari işlem tesis edilenler ile aynı gerekçeyle haklarında suç soruşturması veya kovuşturması yürütülenler, işlemi yapan kurum ve kuruluşlarca ilgili pasaport birimine derhal bildirilir. Bu bildirim üzerine ilgili pasaport birimlerinde pasaportlar iptal edilir.”

²⁶⁹ UN Human Rights Committee, CCPR General Comment No. 27: Article 12 (Freedom of Movement), 2 November 1999.

²⁷⁰ ECtHR, *Raimundo v. Italy*, 22 February 1994, Application No. 12954/87 at 39.

²⁷¹ ECtHR, *Nalbantski v. Bulgaria*, 10 February 2011, Application No. 30943/04, at 59.

²⁷² PPJ, Cancellations of Turkish passports and prevention of the freedom of movement, 2018 (www.platformppj.org/wp-content/uploads/Cancellation-of-Turkish-Passports.pdf).

²⁷³ Human Rights Committee, *Views adopted by the Committee under article 5(4) of the Optional Protocol, concerning communication No. 2980/2017*, 28 May 2019, at 9.4.

Moreover, as far as the passport withdrawals pursuant to Article 5 of Turkish Decree Law No. 667 are concerned, it should be highlighted that this provision does not foresee any individual appreciation. It simply states that passports of persons with Gülen movement affiliations are cancelled. Furthermore, the administrative passport withdrawals under Article 5 of Turkish Decree Law No. 667 are not open to judicial review, as was confirmed by the Turkish Constitutional Court on 24 December 2019.²⁷⁴

68. As a result, the administrative withdrawal of passports of Transferees by the Turkish State does not comply with the requirements for permissible restrictions to the right to free movement, as laid down in Article 12(2) ICCPR, and thus violates international law.

2) *The international transfer of detainees under international human rights law*

69. Under international human rights law, the international transfer of detainees from one state (the “*host state*”) to another state (the “*destination state*”) should take place in accordance with a procedure prescribed by law. This rule follows from Articles 9 and 13 ICCPR and Article 5 ECHR.

A large share of the available jurisprudence interpreting this legality requirement addresses the requirement from the perspective of the host state. Both the UNHRC²⁷⁵ and the ECHR²⁷⁶ have found a violation by the host state of its human rights obligations when the host state transfers an alien to the territory of the destination state in violation of its national extradition or immigration procedures.

70. While many of the cases which are the subject of this report likely engage the international responsibility of the host states concerned, the focus of the report is on the involvement of the Turkish State in the return of the Transferees to Turkish territory. In order to assess the legality of the actions of the Turkish State in this respect, a distinction will be made between those cases in which the transfer occurs without the consent of the host state and those cases in which the host state is somehow involved in the transfer.

a. Agents of the Turkish State arrest the Transferee on the territory of the host state without consent by the host state

71. When the destination state (in this case Turkey) abducts a person on the territory of the host state and subsequently transfers the detainee to the territory of the destination state, without any interference or consent of the host state, such transfer violates the human rights of the Transferee. In such circumstances, the UNHRC has consistently found a violation of Article 9 ICCPR.²⁷⁷

²⁷⁴ See: <http://www.resmigazete.gov.tr/eskiler/2020/03/20200310-9.pdf>.

²⁷⁵ UN Human Rights Committee, *Giry v. Dominican Republic* (CCPR/C/39/D/193/1985), 20 July 1990.

²⁷⁶ ECtHR, *Ozdiil and Others v. the Republic of Moldova*, 11 June 2019, Application No. 42305/18, at 57.

²⁷⁷ UN Human Rights Committee, *Delia Saldías de Lopez v. Uruguay*, (CCPR/C/13/D/52/1979), 29 July 1981, at 12.3 and UN Human Rights Committee, *Lilian Celiberti de Casariego v. Uruguay*, (CCPR/C/13/D/56/1979), 29 July 1981, at 11.

Similarly, in *Stocké v. Germany*, the ECHR has qualified such transfer as a violation of the Transferee's individual right to security under Article 5(1) ECHR:

“Article 5 para. 1 of the Convention requires that any measure depriving a person of his liberty must be in accordance with the domestic law of the High Contracting Party where the deprivation of liberty takes place. Accordingly, a person who is on the territory of a High Contracting Party may only be arrested according to the law of that State. An arrest made by the authorities of one State on the territory of another State, without the prior consent of the State concerned, does not, therefore, only involve State responsibility vis-à-vis the other State, but also affects that person's individual right to security under Article 5 para. 1.”²⁷⁸ (emphasis added).

The ECtHR reiterated this principle in *Öcalan*.²⁷⁹ The ECtHR thus links the protection of a person's right to security under Article 5(1) ECHR, to the respect by the destination state for the sovereignty of the host state: a lack of respect for the sovereignty of the host state bypasses the protections foreseen in the law of the host state, which generally include procedures aimed at protecting transferees from grave human rights abuse such as the risk of torture or persecution.

72. Aside from the issue under international human rights law, which is created by a violation of the sovereignty of the host state, such intervention with matters that are essentially within the domestic jurisdiction of the host state also constitutes an internationally wrongful act. Under the Draft articles,²⁸⁰ at the request of the host state, the destination state would have to make full reparation for the injury caused by the internationally wrongful act at the request of the injured State.²⁸¹ In the case of an extraterritorial abduction, full reparation would include the return of the Transferee.²⁸²

73. Therefore, the abductions examined under section 6.1.1, 2 are attributable to Turkey and violate its international human rights obligations.

b. The host state and the Turkish State jointly arrest the Transferee on the territory of the host state

74. Under the jurisprudence of the UNHRC, any abductions by the destination state on the territory of the host state constitute a violation of the Transferee's human rights. Whether or not the destination state has consented to this way of proceeding is irrelevant as far as the illegality of such actions is concerned.²⁸³

²⁷⁸ ECtHR, *Stocké v. Germany*, 19 March 1991, Application No. 11755/85, at 167.

²⁷⁹ ECtHR (Grand Chamber), *Öcalan v. Turkey*, 12 May 2005, Application No. 46221/99, at 85.

²⁸⁰ International Law Commission, Draft Articles on Responsibility of States for Internationally Wrongful Acts, November 2001, Supplement No. 10 (A/56/10), chp.IV.E.1.

²⁸¹ Article 31(1) of Draft Articles: “*The responsible State is under an obligation to make full reparation for the injury caused by the internationally wrongful act.*”

²⁸² See Venice Commission, Opinion No. 363/2005 on the International legal obligations of Council of Europe member States in respect of secret detention facilities and inter-state transport of prisoners, 17-18 March 2006.

²⁸³ Delia Saldias de Lopez v. Uruguay, CCPR/C/13/D/52/1979, UN Human Rights Committee (HRC), 29 July 1981, available at: <https://www.refworld.org/cases,HRC,4028d4954.html>, at 12.3, emphasis added.

Accordingly, even in situations where the host state cooperates in the abduction, as described under section 6.1.2, 2, the destination state still violates Article 9 ICCPR.

75. In addition, the joint operations of the Turkish State and the various host states in relation to the Transferees also constitute violations of Article 5(1) ECHR.

The ECtHR held in its recent *Ozdil* case that:

“Article 5 § 1 requires [...] that any deprivation of liberty should be in keeping with the purpose of protecting the individual from arbitrariness [...] One general principle established in the case-law is that detention will be “arbitrary” where, despite complying with the letter of national law, there has been an element of bad faith or deception on the part of the authorities [...] Although the investigation of terrorist offences undoubtedly presents the authorities with special problems, that does not mean that the authorities have carte blanche under Article 5 to arrest suspects and detain them in police custody, free from effective control by the domestic courts and, in the final instance, by the Convention’s supervisory institutions, whenever they consider that there has been a terrorist offence”²⁸⁴.

In *Ozdil*, the “*element of bad faith*” which led the Court to conclude to a breach of the Convention was the fact that the transfer of detainees to the destination state “*circumvented all guarantees offered to them by domestic and international law*”²⁸⁵.

76. This is precisely what is at stake in the transfers under consideration in the present report. The cooperation between Turkey and the various host states involved is organised in such a way that the Transferees have no valid opportunity to challenge their detention in due time and before an independent court. As a result, the transfers described under section 6.1.1, 3), violate Article 5(1) ECHR as interpreted by the ECtHR.

3) Turkey concludes secret security co-operation agreements with other States

77. The rendition or abduction of suspected members of the Gülen movement reportedly occurs in accordance with bilateral security cooperation agreements.²⁸⁶

²⁸⁴ ECtHR, *Ozdil and Others v. the Republic of Moldova*, 11 June 2019, Application No. 42305/18, at 47, 49 and 51. It is important to note that this jurisprudence is not contradictory with the ECtHR decision in the *Öcalan*-case. In that last case the ECtHR was only allowed to make a very limited assessment of the legality of the situation since the host state in that case (Kenya) was not a State party to the ECHR and therefore not bound to comply with the ECHR. For that reason, the Court held that, in such a situation, it could not analyse the domestic law of the host state under Article 5(1) ECHR and thus the full legality of the deprivation of liberty of Mr. Öcalan (ECtHR, Grand Chamber, *Öcalan v. Turkey*, 12 May 2005, Application No. 46221/99, at 90). These jurisdictional limitations do, however, not apply to the Turkey Tribunal.

²⁸⁵ ECtHR, *Ozdil and Others v. the Republic of Moldova*, 11 June 2019, Application No. 42305/18, at 57.

²⁸⁶ Mandates of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the human rights of migrants; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (AL TUR 5/2020) of 5 May 2020, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25209>.

On 5 May 2020 Turkey was warned by the following UN bodies that this way of working with such agreements violates international (human rights) law.

- The UN Working Group on Enforced or Involuntary Disappearances
- The Special Rapporteur on the human rights of migrants
- The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism
- The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

More precisely they stated: *“Invoking the principle of legality, we stress that any inter-State agreements or arrangements the execution of which may result in substantial interference with human rights, must be publicly accessible so as to allow individuals to take cognizance of the terms of such agreements and regulate their conduct accordingly. Secret agreements fall short of this requirement and appear to be prima facie in contravention of a State’s obligation of legal certainty under international human rights law”*²⁸⁷ (emphasis added). They also referred to the fact that under the ECHR the requirement of legal precision and notice applies both to the criminal and civil detriments that may be experienced by an individual. In the context of rendition, there is additionally a consistent view that agreements made on the basis of impugned acts that are imprecise, vague, and lack precision impinge upon the fundamental rights of individuals.²⁸⁸

78. Moreover, as emphasized by this UN Working Group and Special Rapporteurs: *“any such arrangements and their implementation must be in full compliance with the human rights obligations of all State parties, including in relation to habeas corpus, the respect of due process, and the principle of non-refoulement. The illegal and secret detention and treatment of these individuals outside the protection of the law, constitute impediments to domestic courts exercising effective or fair jurisdiction over the case in question.”*²⁸⁹ It is for that reason that the international criminal tribunals consistently emphasize that *“in a situation where an accused is very seriously mistreated, maybe even subjected to inhuman, cruel or degrading treatment, or torture, before being handed over to the Tribunal, this may constitute a legal impediment to the exercise of jurisdiction over such an accused.”*²⁹⁰

²⁸⁷ Letter sent by the UN Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the human rights of migrants, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to Turkey on 5 May 2020 (Reference: AL TUR 5/2020), p. 8.

²⁸⁸ See also Commission on Human Rights, Promotion and Protection of Human Rights: Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (E/CN.4/2006/98) 28 December 2005.

²⁸⁹ Letter sent by the UN Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the human rights of migrants, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to Turkey on 5 May 2020 (Reference: AL TUR 5/2020), p. 8.

²⁹⁰ ICTR, *Prosecution v. Barayagwiza*, Decision on the Extremely Urgent Motion by the Defence for Orders to Review and/or Nullify the Arrest and Provisional Detention of the Suspect, Application No. ICTR-97-12-AR72, 3 November 1999, at 74 and 114.

They therefore concluded that the conclusion of bilateral agreements is unlawful since it is used by Turkey to bypass the conditions and safeguards provided under regular extradition and deportation processes.²⁹¹ As explained under section 6.2.1, 2, such “bad faith” behaviour recently served as the basis for the ECtHR to conclude to a violation of Article 5(1) ECHR in a case concerning an extra-territorial abduction from Moldova to Turkey.²⁹²

6.2.2. Stages 2 and 3: the subsequent enforced disappearance and arbitrary detention of abductees violate international law and are attributable to the Turkish State

79. After being unlawfully transferred to Turkey, the abductees tend to either disappear (see section 6.1.2) or be unlawfully deprived of their liberty (see section 6.1.3).

In the first case, these individuals are victims of an enforced disappearance. An identical legal analysis to the one developed under section 5.2.1. should be applied. In the second case, these abductees are detained in conditions which violate international human rights law. The legal analysis under section 5.2.2. applies.

These violations are clearly attributable to Turkey. As explained under section 6.2.1, the Turkish State played a major role in the initial unlawful deprivation of liberty of the abductees and consistently supervised, by using its airplanes and intelligence personnel, the effective transfer of the abductees back to their home country. The abductees in question are therefore clearly under their control, which makes Turkey responsible for their lawful treatment. As explained under sections 6.1.2 and 6.1.3 such treatment is not granted to them. Turkey therefore violates its obligations under international law.

VII. QUESTION 3: DOES TURKEY EFFECTIVELY INVESTIGATE COMPLAINTS AND ALLEGATIONS OF ENFORCED DISAPPEARANCES AND UNLAWFUL ABDUCTIONS?

7.1. Factual findings

80. Information on the effectiveness of investigations into abductions and disappearances is mainly available for cases of internal abductions. For the extra-territorial cases preference seems to be given to immediately apply to international courts (for instance the ECtHR and the UNHRC). Some international abductees, such as Ayten Ozturk, have however filed complaints in Turkey for, amongst others, enforced disappearance.²⁹³

81. The report analysis did not identify any investigation into abductions having taken place since 2016 which yielded any results. In spite of the fact that the relatives of the abductees generally file numerous complaints, the authorities refuse to carry out - let alone

²⁹¹ Letter sent by the UN Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the human rights of migrants, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to Turkey on 5 May 2020 (Reference: AL TUR 5/2020), pp. 8-9.

²⁹² ECtHR, *Ozdil and Others v. the Republic of Moldova*, 11 June 2019, Application No. 42305/18, at 47, 49 and 51.

²⁹³ See annex 3: case number 16.

promptly - even the most obvious investigative acts indispensable to discover what happened with the abductees and who is responsible for the abductions and subsequent disappearances. Requests of family members to examine the camera footage of the abduction, to trace the last phone signals of the abductees or the inquire about the number plates of the cars involved in the abductions are generally rejected (see cases of Mustafa Yilmaz²⁹⁴, Salim Zeybek²⁹⁵, Mustafa Özgür Gültekin²⁹⁶, Orçun Şenyücel²⁹⁷, Ümit Horzum²⁹⁸ and Fatih Kılıç²⁹⁹) or simply ignored (Yusuf Bilge Tunç³⁰⁰ and Önder Asan³⁰¹). In the event they are granted by the prosecutor, they are then never executed by the police (see cases of Özgür Kaya³⁰², Yasin Ugan³⁰³ and Hüseyin Kötüce³⁰⁴).

Consequently when relatives have tried to gather the relevant evidence themselves and request it to be added to the file, this request has been refused or ignored by the authorities. The family of Yusuf Bilge and Önder Asan managed themselves to track the cars of their disappeared loved ones hoping the fingerprints of the perpetrators could be found.³⁰⁵ In both cases these cars were not investigated. The same happened with the CCTV footage of the abductions of Mesut Geçer³⁰⁶ and Murat Okumuş³⁰⁷ and with the declarations of the eyewitnesses of the abduction of Mustafa Özben.³⁰⁸

82. On the contrary, complaints claiming that there has been an abduction are generally swiftly dismissed by the prosecutors and police officers. They conclude that, in spite of the camera footage and witness statements, there is no proof of a crime (see cases of Mustafa Yilmaz³⁰⁹, Salim Zeybek³¹⁰, Gökhan Türkmen³¹¹ and Mr. Ertürk³¹²). The authorities often try to justify this conclusion by claiming that the disappeared individuals have in reality just fled abroad or to some other place within Turkey (see Özgür Kaya³¹³ and Turgut Çapan³¹⁴). These claims often turn out to be false. For instance, in the case of Gökhan Türkmen, the police claimed to see his car on city surveillance camera recordings after his disappearance. In reality, his car had not left the family's garage for more than 2 years and had, also after his disappearance, consistently been parked there.³¹⁵

²⁹⁴ See annex 2: case number 1.

²⁹⁵ See annex 2: case number 2.

²⁹⁶ See annex 2: case number 16.

²⁹⁷ See annex 2: case number 18.

²⁹⁸ See annex 2: case number 12.

²⁹⁹ See annex 2: case number 22.

³⁰⁰ See annex 2: case number 7.

³⁰¹ See annex 2: case number 8.

³⁰² See annex 2: case number 3.

³⁰³ See annex 2: case number 6.

³⁰⁴ See annex 2: case number 17.

³⁰⁵ See annex 2: case numbers 7 and 8.

³⁰⁶ See annex 2: case number 13.

³⁰⁷ See annex 2: case number 24.

³⁰⁸ See annex 2: case number 21.

³⁰⁹ See annex 2: case number 1.

³¹⁰ See annex 2: case number 2.

³¹¹ See annex 2: case number 4.

³¹² See annex 2: case number 11.

³¹³ See annex 2: case number 3.

³¹⁴ See annex 2: case number 19.

³¹⁵ See annex 2: case number 4.

83. Moreover, when relatives of the abductees insist too strongly or publicly on the need to investigate, they are threatened and put under pressure to desist with their complaints. A Gendarmerie Commander, for instance, warned the wife of Ümit Horzum³¹⁶ to give up looking for her husband.³¹⁷ The same happened to the wife of Mustafa Özben.³¹⁸ Ms. Çapan was even arrested herself after she went public with the abduction of her husband on social media due to the absence of any real investigation.³¹⁹

84. Filing an effective complaint to start an investigation is often rendered almost impossible. For instance, when the relatives of Gökhan Türkmen attempted to file a complaint on his disappearance, they were informed that their complaint needed to be submitted by the disappeared person himself.³²⁰ Similarly, it has been reported that investigations that were allegedly opened, were, in reality, found to be bogus and no investigation number existed³²¹ and no prosecutor had been appointed³²².

85. Additionally, following up on the investigations is rendered very complicated for the relatives of the abductees. Their complaints are often added to other classified files or classified themselves, making it impossible for them to access the file and to examine what has been done with their complaints (see cases of Özgür Kaya,³²³ Erkan Irmak³²⁴, Yasin Ugan³²⁵, Yusuf Bilge Tunç³²⁶ and Murat Okumuş³²⁷).

In the same vain, those who apply to higher courts (particularly the Constitutional Court) in the hope of obtaining injunctions to investigate have been unsuccessful (see cases of Mustafa Yılmaz³²⁸, Salim Zeybek³²⁹, Özgür Kaya³³⁰, Erkan Irmak³³¹ and Yasin Ugan³³²).

7.2. Legal analysis and consequences

86. The State has two important positive obligations in cases of abductions and disappearance of individuals.

First, a State has the positive obligation, as enshrined in Article 2 ECHR and Article 6 ICCPR, to take adequate measures to protect the right of life of the disappeared individual.³³³ A State

³¹⁶ See annex 2: case number 12.

³¹⁷ See annex 2: case number 12.

³¹⁸ See annex 2: case number 21.

³¹⁹ See annex 2: case number 19.

³²⁰ See annex 2: case number 4.

³²¹ See annex 2: case number 12.

³²² See annex 2: case number 7.

³²³ See annex 2: case number 3.

³²⁴ See annex 2: case number 5.

³²⁵ See annex 2: case number 6.

³²⁶ See annex 2: case number 7.

³²⁷ See annex 2: case number 24.

³²⁸ See annex 2: case number 1.

³²⁹ See annex 2: case number 2.

³³⁰ See annex 2: case number 3.

³³¹ See annex 2: case number 5.

³³² See annex 2: case number 6.

³³³ See ECtHR, *Koku v. Turkey*, Application No. 27305/95, 31 May 2005, at 132; ECtHR, *Osmanoğlu v. Turkey*, Application no. 48804/99, 24 January 2008, at 75; UN Human Rights Committee, CCPR General Comment No. 6: Article 6 (Right to Life), 30 April 1982, para. 4.

fails in this obligation if the authorities knew or ought to have known - at the time - of the existence of a real and immediate risk to the life of an identified individual and when they failed to take all reasonable measures within the scope of their powers to avoid that risk.³³⁴ Such a risk to life is deemed to exist when a pattern of disappearances takes place. The ECtHR withheld such a pattern in light of the important number of disappearances in south-east Turkey between 1992 and 1996. This was considered to be qualified as a life-threatening event.³³⁵

Nowadays such a pattern seems to be emerging once more in Turkey with the number of disappearances strongly increasing since 2016 (see section IV). As explained under the previous sections, it is clear that the Turkish State itself has planned and organised these abductions in order to eliminate its political opponents. In any event, Turkey knew, or should have known, that many of the individuals who were abducted and disappeared feared for their lives, even before their disappearance. Many human rights NGOs and even members of parliament from the Turkish opposition parties, questioned the Turkish government about these disappearances but consistently without any success.

87. Second, a State has the obligation to conduct an effective investigation.³³⁶ This means that a State must promptly investigate cases of enforced disappearance to establish the fate and whereabouts of the disappeared persons and to identify and prosecute those responsible. Enforced disappearance is a continuous crime and lasts until the fate and whereabouts of the victim are established with certainty. Reparation, in the form of compensation, restitution, rehabilitation, satisfaction and guarantees of non-repetition must also be ensured. This obligation requires the authorities to take all reasonable measures available to secure evidence concerning the incident at issue.³³⁷

Turkey does not comply with these requirements. As explained under section 7.1, no investigation whatsoever is carried out in cases of enforced disappearances. If probative evidence is added to the file, this is mostly due to the efforts of the relatives of the disappeared individuals themselves. Even more, if such relatives insist too strongly on Turkey's duty to effectively investigate, they are threatened and pressured to withdraw their complaints or even arrested.

This conclusion is unanimously confirmed by different institutional reports. The European Commission stressed, for instance, in its 2019 Turkey Report:

*"Furthermore, alleged cases of abductions and enforced disappearances by security or intelligence services in several provinces have not been adequately investigated."*³³⁸

³³⁴ ECtHR, *Koku v. Turkey*, Application No. 2730/95, 31 May 2005 at 128; ECtHR, *Osmanoglu v. Turkey*, Application No. 48804/99, 24 January 2008.

³³⁵ ECtHR, *Meryem Çelik and Others v. Turkey*, 16 April 2013, Application No. 3598/03, at 58; ECtHR, *Enzile Özdemir v. Turkey*, 8 January 2008, 54169/00, at 45.

³³⁶ Council of Europe, *Missing persons and victims of enforced disappearance in Europe*, March 2016, p. 5. See also ECtHR, *Varnava and Others v. Turkey*, 18 September 2009, Application No. 6064/90, 16065/90, 16066/90, 16068/90, 16069/90, 16070/90, 16071/90, 16072/90, 16073/90.

³³⁷ ECtHR, *Mustafa Tunç and Fecire Tunç v. Turkey*, 14 April 2015, Application no. 24014/05, at 173.

³³⁸ European Commission, *Commission Staff Working Document: Turkey 2019 Report*, 29 May 2019 (<https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-turkey-report.pdf>).

Similarly, the U.S. Department of State confirmed in its 2019 Report on the human rights practices in Turkey:

“Domestic and international human rights groups reported disappearances during the year, some of which these groups alleged were politically motivated. (...) The government declined to provide information on efforts to prevent, investigate, and punish such acts.”³³⁹

And:

“The government took limited steps to investigate, prosecute, and punish members of the security forces and other officials accused of human rights abuses; impunity remained a problem.”³⁴⁰

88. In light of the aforementioned elements, it is clear that Turkey does not comply with its positive obligations under international and European human rights law. In Turkey there currently exists no effective protection of the right to life of political opponents of the regime and no effective investigations are carried out into cases of enforced disappearances.

VIII. CONCLUSION

89. This report intended to answer the question: *“Can we, taken in account the reports and the testimonies produced before the tribunal, conclude that abductions again are a part of the action of the state towards opposing persons and that no serious inquiry is organized about these facts?”*

A comprehensive analysis of the facts and the legal framework applicable to Turkey shows that, since 2016, the country has re-established its negative tradition of enforced disappearances. Abductions are now used to eliminate and target opponents – particularly the Gülen movement and the Kurds.

This practice of abducting opponents has manifested itself both on the domestic and international level. While with regards to the internal abductions, the Turkish State denies any involvement, there is extensive objective evidence and testimonies confirming that these abductions and subsequent disappearances are organised by MIT officials, at least by individuals working with, or for, the Turkish State. With regards to the extra-territorial abductions, Turkey has claimed responsibility through several of its highest officials. These acts are attributable to the Turkish State and violate Turkey’s international human rights obligations.

³³⁹ U.S. Department of State, ‘2019 Country Reports on Human Rights Practices: Turkey’, 12 March 2020 (<https://tr.usembassy.gov/2019-country-reports-on-human-rights-practices-turkey/>).

³⁴⁰ U.S. Department of State, ‘2019 Country Reports on Human Rights Practices: Turkey’, 12 March 2020 (<https://tr.usembassy.gov/2019-country-reports-on-human-rights-practices-turkey/>).

Finally, the fact that the Turkish authorities are not conducting effective investigations into complaints of abductions supports the strong involvement of the Turkish State with these crimes. A thorough investigation into such complaints is being prevented in every possible way. Therefore, it should come as no surprise that, to date, no successful investigation into the enforced disappearances which have taken place after 2016 has been completed.

IX. ANNEXES

- Annex 1: Joint monitoring report of the 'Ankara Bar Association Human Rights Center' of 27.06.2019
- Annex 2: Case-studies internal abductions
- Annex 3: Case-studies extra-territorial abductions

Annex 1



ANKARA BAR ASSOCIATION HUMAN RIGHTS CENTER

Joint Monitoring Report

Applicants : Sümeyye YILMAZ, Fatma Betül ZEYBEK, Aycan KAYA, Zehra Genç TÜRKMEN, Nilüfer IRMAK, Mikail UGAN, Nuray TUNÇ
Application No : 1-7/2019
Subject : Enforced Disappearance

I. FACTS

A. Introduction and Procedures

1. Sümeyye Yılmaz, Fatma Betül Zeybek, Aycan Kaya, Zehra Genç Türkmen, Nilüfer Irmak, Mikail Ugan, and Nuray Tunç filed applications with the Human Rights Center of the Ankara Bar Association on 25.04.2019, 03.05.2019, 13.05.2019, 17.05.2019, 24.05.2019, 14.05.2019, and 29.08.2019 respectively, and lawyers that are member to the Human Rights Center of the Ankara Bar Association recorded these applications.

2. Pursuant to Article 5/1/a of the Directive of the Human Rights Center of the Ankara Bar Association, when the Center receives an application on violation of human rights, it conducts a preliminary review of these applications, and upon receiving approval of the Board of Directors of the Ankara Bar Association related to applications that are in its purview, takes relevant decisions and actions.

3. The preliminary review has revealed that the allegation of enforced disappearance under the knowledge and authorization of public officers indicates a structural problem, and these applications in fact play a critical role in the fight given to protect human rights since it is possible that the right to live and prohibition on ill-treatment might have been violated. Therefore, Human Rights Center of the Ankara Bar Association determined that these applications are in its purview.

4. The Board of Directors of the Ankara Bar Association decided on 22.05.2019 that necessary inquiries should be made on Sümeyye Yılmaz's application and a report should be issued. The Human Rights Center of the Ankara Bar Association issued the report on 14.06.2019 and submitted and published the report on 27.06.2019.

5. Following the developments that occurred upon finding six of the relatives of the applicants, the Human Rights Center decided to consolidate similar applications of Fatma Betül Zeybek, Aycan Kaya, Zehra Genç Türkmen, Nilüfer Irmak, Mikail Ugan, Nuray Tunç and to issue a joint monitoring report.

B. Summary of Applications

6. Applicant Sümeyye Yılmaz applied to our Center stating that her husband Mustafa Yılmaz was abducted by unknown people when he was going to work on 19.02.2019, and according to a camera footage she got hold of, her husband was forced to get on a black Transporter, and taken away by these unknown people. Mustafa Yılmaz worked as a physiotherapist in a private healthcare organization, and a 6 year 3 month prison sentence given by the 32nd High Criminal Court in Ankara against Yılmaz on charges of being a member of FETÖ/PDY was pending an appeal review. The applicant stated that she was called by the police at 23.30 on 22.10.2019, and informed that her husband was at the Karapürçek Police Station.



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7. Applicant Fatma Betül Zeybek applied to our Center stating that when she, her husband Salim Zeybek and their children were driving on Edirne highway towards Havsa toll stations on Thursday 21.02.2019, a Dacia Duster cut them off trying to stop them, and the driver of their car did not stop, and started quickly to drive on the opposite direction, and they crashed into the traffic island and the cars coming from the opposite direction, and when their car was heavily damaged, their driver told them to “Run away”, and they started running without any idea on what was going on, and heard a few shots behind them, and individuals, who were armed, and introduced themselves as police officers in plain clothes, made her husband Salim Zeybek lay on the ground first, and then put him in a car, whereas she and her children were put in another car, and these individuals, who hid their faces, left her and the children in front of their home in Ankara, and her husband Salim Zeybek was abducted by these unknown individuals by a car, and she had not heard from her since that date. It was determined that Salim Zeybek was a suspect in the investigation file no. 2017/69394 of the Chief Public Prosecutor’s Office in Ankara, and an arrest warrant has been issued against him on allegations of being a FETÖ/PDY member. On 28.07.2019, the police reported that Salim Zeybek was in detention at the Anti-Terrorism Department in Ankara, and he was caught during a criminal record check when he was walking to the police station to surrender. The applicant stated that after her husband was found, she was not allowed to meet his counsels that he selected at the Anti-Terrorism Department in Ankara, and her requests to have her husband examined by an independent physician were denied, and no written document was given stating that these requests were denied, and she visited her husband at the Anti-Terrorism Department in the company of police officers, and when she asked about what has happened in the past six months, the police officers intervened, and her husband, who always wore his eyeglasses normally, was not wearing them this time, and lost a significant amount of weight, and was unable to maintain his balance while sitting, and her husband remained in detention for 12 days, and he was not brought before a judge for extending his the detention, and her husband told her not to wait for him in front of the courthouse, and refused to meet the counsel she selected, and another counsel was following the procedures, but she did not contact this counsel, who did not even call her for his fees, and the prosecutor’s office denied her request for a medical examination by an independent physician, but she was not given a document including such decision to deny her request.

8. Applicant Ayca Kaya applied to our Center through her lawyer stating that unknown individuals abducted her husband Özgür Kaya on 13.02.2019. There were almost forty people, who were heavily armed and introduced themselves as police officers, and they were dressed in plain clothes and wearing vests on which letters TEM (Anti-Terrorism) was written. Many neighbors witnessed his abduction. The applicant stated that her husband was working as a teacher in a private institution connected to Gülen movement, and he voluntarily left home, when a search was made in September 2016 in the house he was residing with his family. The applicant stated that at the time of taking him into custody in Ankara, which could not be confirmed officially later, the individuals, who introduced themselves as police officers gave an investigation number of the Chief Public Prosecutor’s Office in Ankara to those who were present there, and she was also taken into custody as part of the same investigation a short period before the abduction, and when she was in detention, she was asked whereabouts of her husband. On 28.07.2019, the police informed the applicant that Özgür Kaya was detained at the Anti-Terrorism Department in Ankara, and he was caught during a criminal record check when he was walking to the police station to surrender. The applicant stated that after her husband was found, she visited him for almost half an hour at the Anti-Terrorism Department in Ankara in the company of police officers, and her husband



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lost too much weight, and asked her to withdraw her applications, shut down her social media accounts, and not to meet deputies. She also stated that her husband remained in detention for 12 days, and at the end of the fourth day, she waited at the court house until 20.00 thinking that he would be brought before a judge for extension of his detention, but no one came, and her husband did not want to meet the counsel she found, and told her that he found a counsel at the police station as a coincidence, and her request for medical examination of her husband by an independent physician when he was brought to the courthouse from detention, was denied, and after her husband was arrested, she could visit her husband in the prison in the company of guardians, and she did not talk to her husband's counsel after the arrest.

9. Applicant Zehra Genç Türkmen applied to our Center stating that her husband Gökhan Türkmen left his family's home in Antalya on 07.02.2019, and no one heard from him since then. In the application it is stated that Gökhan Türkmen was working for the Agricultural and Rural Development Support Authority, and his employment contract was terminated on 21.07.2016 on allegations that he was a FETÖ/PYD member. In the application it is also stated that police officers from the Special Forces Department searched Gökhan Türkmen's house in August 2017, and the applicant was notified that there was an arrest warrant against Gökhan Türkmen, and he was not taken into custody since he was not at home, and he did not surrender later. On 5 November 2019, the police informed the applicant that he was at the Antalya Police Department.

10. Applicant Nilüfer Irmak stated that three individuals in plain clothes abducted her husband Erkan Irmak on 16.02.2019. Her husband was cornered at a turning point very close to İstiklal Secondary School, which was close to their home, and two of the abductors came from his behind, and the third one came in front of him, to corner him. The investigation of the Chief Public Prosecutor's Office in Ankara into Erkan Irmak on allegations of being a FETÖ/PYD member continued when he was missing. There was an arrest warrant against Erkan Irmak when he was missing. On 28.07.2019, the police informed the applicant that Erkan Irmak was in detention at the Anti-Terrorism Department in Ankara, and he was caught during a criminal record check when he was walking to the police station to surrender. The applicant stated that after her husband was found, she visited him for almost half an hour at the Anti-Terrorism Department in Ankara in the company of a police officer, her husband lost almost 15 kilos, and remained in detention for 12 days, and was not examined by an independent physician, and she visited him twice in the company of officers in the prison after he was arrested, and there were cameras in the room where they met.

11. Applicant Mikail Ugan applied to our Center on 14.05.2019 stating that his brother Yasin Ugan was taken into custody at around 15.00-16.00 on 13.02.2019 from a house in Çamlık neighborhood in Altındağ District, by armed individuals, who introduced themselves as police officers in plain clothes, and a black plastic bag was placed on his head, and these individuals claimed that there was a pending investigation before the prosecutor's office, and although they went to all units of the police department and the prosecutor's office, they could not learn where his brother was detained, therefore he was concerned that his brother was abducted and tortured, and worried about his life. The applicant stated that his abducted brother was an accountant working in the private sector. On 28.07.2019, the police informed the applicant that Yasin Ugan was detained at the Anti-Terrorism Department in Ankara, and he was caught during a criminal record check when he was walking to the police station to surrender. Applicant Selda Ugan stated that after her husband was found, she visited him for almost half an hour at the Anti-Terrorism Department in Ankara in the company of police



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officers in plain clothes, and her husband lost too much weight, and he seemed too pale, and her husband remained in detention for 12 days, and she waited with their counsel at the courthouse at the end of the fourth day of detention, but her husband was not taken to a judge, and another counsel was present when her husband was giving his testimony, and she learned from a news site that her husband hired that counsel while he was at the police department as a coincidence, and this counsel refused to meet her, and her husband told her that this counsel should follow the procedures, and her husband was not examined by an independent physician, and after her husband was arrested, she visited him at the prison, in the company of officers, and there were cameras in the room.

12. Applicant Nuray Tunç applied to our Center on 29.08.2019 stating that she did not hear from her husband since 06.08.2019, and she was concerned that her husband could have been abducted, because of the reports on similar disappearances. Yusuf Bilge Tunç was working as a Financial Services Expert at the Undersecretariat of Defense Industry, and he was removed from public office with the Decree Law No. 675 issued in the Official Journal of 29 October 2016. There are two investigations conducted against him by the Chief Public Prosecutor's Office in Ankara, one of them is on suspicions of being a FETÖ/PDY member and the other is related to leakage of (Public Personnel Selection Examination (KPSS) questions. It is stated that after being removed from office with the Decree Law, Yusuf Bilge Tunç tried to make his livelihood by selling packaging products to wet markets and restaurants. No one has heard from Yusuf Bilge Tunç yet.

C. Application Documents

13. Upon review of the application documents, it has been determined that the applicants had applied to Police Centers, Chief Public Prosecutor Offices, the Constitutional Court, the Ombudsman's Office, the Office on Missing and Wanted Persons at the Police Department, Governor's Office, the Turkish Parliament's Committee on petitions, the Ministry of Interior, General Directorate of International Law and Foreign Relations, the Office on Human Rights at the Police Headquarters, the Office on Reviewing Human Rights Violations at the Civil Inspection Board, the Turkish Human Rights and Equality Authority, the Ministry of Health and General Directorate of Public Hospitals, Assistant General Manager's Office responsible for European Council and Human Rights, the Office on Human Rights and Gendarmerie Headquarters, and the Presidential Communication Center (CİMER).

14. The applicants had also applied to the Human Rights Association, the UN Working Group on Enforced or Involuntary Disappearances, the Human Rights Office of the Turkish Medical Association, the Human Rights Center of the Turkish Bar Association, the Human Rights Commission of Ankara Chamber of Medicine, and the International Amnesty Organization.

15. The European Court of Human Rights notified applications of applicants Sümeyye Yılmaz, Fatma Betül Zeybek, Aycan Kaya, Nilüfer Irmak and Mikail Ugan to the government.¹

D. Applications of Applicants Filed with Other Authorities

Yılmaz :

¹ Yılmaz v. Turkey, Application no. 30957/19, 06/09/2019, Zeybek and Others v. Turkey, Application no. 21330/19, 30/04/2019, Kaya and Others v. Turkey, Application no. 14443/19, 09.04.2019, Irmak and Others v. Turkey, Application no. 18036/19, 09/04/2019, Ugan v. Turkey, Application no. 26429/19, 28/08/2019



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16. The Office on Missing and Wanted Persons at the Police Department reported that they had camera footage of a metro station, but this footage was not included in the investigation file. The Chief Public Prosecutor's Office in Ankara made a decision on 09/03/2019 with no. 2019/27773 in the investigation no. 2019/32930 and decided that there was no need to prosecute because there was no evidence which demonstrated that Mustafa Yılmaz was abducted or constrained, and the applicant filed an objection with the 5th Criminal Court of Peace in Ankara. The 5th Criminal Court of Peace in Ankara accepted the objection of the applicant with its decision of 30.04.2019, and returned the decision to the Chief Public Prosecutor's Office in Ankara. In another investigation with no. 2019/90003, the Chief Public Prosecutor's Office in Ankara decided that there was no need to prosecute because the missing person was not a minor, and left home on his own will.

17. Legal applications of the applicant were inconclusive, and although the applicant requested, no enquiries were made in the investigation into metro camera recordings, city surveillance camera recordings, HTS, Base, Signal and GPRS recordings. The applicant determined that the camera footage displayed to the applicant by the Office on Missing and Wanted Persons at the Police Department belonged to another day, not the day her husband disappeared, because the reading hours of the transportation card and the camera footage did not match.

18. The applicant's application filed with the Constitutional Court on 30.04.2019 with no. 2019/13374 requesting an injunction was also dismissed.

Zeybek :

19. Edirne Provincial Directorate of Security stated that no event described in the application has occurred in its purview, and no proceedings were launched against the husband of the applicant, whereas, Edirne Governor's Office Provincial Gendarmerie Command stated that this event has not occurred, and the General Directorate of Security stated that they did not find any missing person application when they made enquiries into the Smuggling and Intelligence Unit (KİHBİ), National Judiciary Informatics System (UYAP), and Law Enforcement Procedures Project (EKİP PROJE). The applicant filed a criminal complaint with the Ankara Chief Public Prosecutor's Office on 25.02.2019 alleging that the perpetrators committed offences of deprivation of liberty and armed threat. On 25.02.2019, the applicant testified before the Public Prosecutor's Office on Duty in the Ankara Courthouse. The applicant requested the prosecutor's office to determine the owner and driver of the car that brought her and their children to Ankara giving the plate number of this car; and to ask 155, 156, and 112 call centers in order to learn whether a call was made related to a "car driving on the opposite direction" between 18.00 and 21.00 on 21.02.2019, to identify the reports on accidents that occurred on that route on the given date, and to determine public officers that emitted signals at base stations on the same date and at the same time, but these requests were not met. Although the applicant stated that she wanted to testify before the prosecutor conducting the relevant investigation, review of the documents demonstrated that she has not been asked to testify until today. On 05.04.2019, the applicant filed an application with the Constitutional Court requesting an injunction, and this application was responded on 17.04.2019, stating that there was no need to send the application to the relevant unit for evaluation of the request for injunction, and admissibility of the application would be evaluated separately.

Kaya :



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20. The applicant stated that when she went to the police, she was told that her husband was not in detention, but fled abroad. When the applicant filed a criminal complaint, the Chief Public Prosecutor's Office in Ankara launched an investigation into the abduction on 16.02.2019 (hereinafter "initial investigation"). When the applicant sent letters to the Ministry of Interior and the Turkish Parliament Human Rights Investigation Commission, Deputies Sezgin Tanrikulu and Ömer Faruk Gergerlioğlu submitted written questions to the Turkish Parliament Human Rights Investigation Commission.

21. On 27.02.2019, the applicant requested the Chief Public Prosecutor's Office in Ankara via her lawyer to have testimony of eyewitnesses, and collect security camera recordings. The Chief Public Prosecutor's Office in Ankara issued a written order to the police, asking the police to make certain enquiries, but when no reply was given, and this request was repeated on 15.03.2019 and 27.03.2019.

22. On 26.02.2019, the applicant filed an individual application with the Constitutional Court, seeking an injunction, and this application was dismissed on 14.03.2019 on grounds that the public prosecutor's office was dealing with this event, the relevant police units were working on the case, and evidence was being collected.

23. On 18.02.2019, the applicant applied to CİMER and upon this application, her statement was taken at the Şentepe Şehit Cevdet Yeşilay Police Station on 12.03.2019.

24. On 24.05.2019, the Legal Affairs Unit in Ankara Governor's Office, wrote letters to Ankara Provincial Security Directorate and the Public Prosecutor's Office in Ankara in response to the application filed by the applicant on 21.05.2019, and requested these authorities to make necessary enquiries and examinations and to inform Ankara Governor's Office for the issue to be discussed at Provincial Human Rights Board.

25. The initial investigation file was joined with the second investigation, which is still conducted by the Chief Public Prosecutor's Office in Ankara, where Özgür KAYA is a suspect. Since there is a confidentiality order in this second investigation file, the applicant has not been able to learn anything on the actions taken to find the missing person after the decision to join the files, and the Chief Public Prosecutor's Office in Ankara has not informed the applicant.

Türkmen :

26. The applicant stated that Gökhan Türkmen's father went to Antalya Varsak Polic Station on 12 February for the first time, and he testified there, and later, police officers coming to their house from the Anti-Terrorism Department took his statement once more, and the police officers told them that the car registered to her husband was seen in Ulus, Ankara 10 days ago through city surveillance cameras. The applicant stated that this was impossible, because this car was in their house's garage for the last two years.

27. The Chief Public Prosecutor's Office in Antalya launched an investigation into this missing person case (hereinafter "initial investigation"), and decided on 26.02.2019 that Office on Missing and Wanted Persons, Public Security Branch Office at Ankara Provincial Security Directorate were handling procedures related to Gökhan Türkmen, and it was not necessary to prosecute since there was no criminal element.

28. Zehra Genç Türkmen, who applied to the General Directorate of Prisons and Detention Houses, Ministry of Justice, also applied to CİMER and asked whether the missing person was in any penal institution, and on 14.03.2019, she was informed that an enquiry was made



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into the records of convicts and detainees in the National Judiciary Informatics System, and Gökhan Türkmen's name was not found in these records.

29. The Chief Public Prosecutor's Office in Kayseri launched an investigation, after the applicant applied to CİMER (hereinafter "second investigation"), and decided on 20.03.2019 that "if Gökhan Türkmen was a victim of any offense, an investigation could be conducted upon his complaint."

30. On 27.03.2019, the Chief Public Prosecutor's Office in Antalya reviewed the initial investigation documentation, and reentered the investigation into records in order to deepen the investigation, and to summon telephone records and historical traffic search entries. Letters were sent to the Preparation Office of the Chief Public Prosecutor's Office in Antalya, and Antalya Varsak Police Station to make necessary enquiries, to allow examination of historical traffic search records, and to interview the family of the applicant's spouse.

31. On 04.04.2019, Zehra Genç Türkmen testified at Kayseri Melikgazi Police Station and stated that on 07.03.2019 at 02.34, three messages were sent to the Twitter account she opened for her husband Gökhan Türkmen on the phone she was using: "He cannot die before he answers with whom he shared the data he stole from the state and did not belong him. He is looking at me begging, like a sewer rat squeezed under a manhole cover. If he does not reply the questions with supplementing evidence he will suffer and be destroyed", "Ok", "He is secure now." She also stated that this account called "15 Temmuz @vforvendetta TUR" was then renamed as "NÖBET@nobetdizisi7_24". She stated that she believed that individual or individuals using this account abducted her husband, and therefore, she was complaining them. She also stated that when she checked the accounts once more, she noticed that these accounts were no longer in use.

32. On 07.05.2019, the Chief Public Prosecutor's Office in Antalya contacted the Chief Public Prosecutor's Office in Kayseri and asked to contact applicant Zehra Genç Türkmen to have her witness statement, to ask whether she contacted the victim, and whether the victim has called her, and wanted to be informed on the developments, later, the applicant gave her testimony once more.

33. On 05.03.2019 Zehra Genç Türkmen applied to Ombudsman's Office with no 2019/54540, and this application was dismissed and "Ineligible for Review" decision was made on 02.05.2019 with no. 2019/1671-S.2507.

Irmak :

34. The application filed with the İstanbul Governor's Office on 02.02.2019 with registration no. 63800 was not replied, and in response to the application filed with CİMER with no. 1900532752 was replied by Ümraniye District Security Department on 07.03.2019 as follows "you will be informed if you personally apply to competent authorities related to confidential aspects of your application."

35. Counsel to the applicant filed a request to receive information on 01.03.2019, under an investigation launched by the Chief Public Prosecutor's Office in İstanbul upon complaint of the applicant, and with this request, the applicant asked the prosecutor's office to review the footage from city surveillance cameras no 046-g-34 umr and 048-g-34 umr that cover the area, where the incident has occurred. On 24.04.2019, the initial investigation file was joined with the investigation, which is still conducted by the Chief Public Prosecutor's Office in Ankara, where Erkan IRMAK is a suspect (hereinafter "second investigation"). Since there is a confidentiality order in this second investigation file, the applicant has not been able to learn



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anything on the actions taken to find the missing person after the decision to join the files was taken, and the Chief Public Prosecutor's Office in Ankara has not informed the applicant.

36. On 11.03.2019, the counsel to the applicant filed an individual application with the Constitutional Court, seeking an injunction, and this application was dismissed on 26.03.2019 on grounds that the investigation was pending and there was no need for an injunction.

37. On 02.04.2019, an application was filed with the European Court of Human Rights, seeking an injunction, and on 11.04.2019, the Court notified that an injunction was not issued, and this case would be given priority according to Article 41 of the internal directive of the ECtHR. Furthermore, the application was notified to the Government on 10.04.2019. The application filed with the UN Working Group on Enforced or Involuntary Disappearance has not been replied yet.

38. Deputy Ömer Faruk Gergerlioğlu brought the abduction case to the Parliament, and submitted a parliamentary question, asking Vice President Fuat Oktay to answer this question.

Ugan :

39. In response to the application filed with CİMER, on 27.03.2019 the Altıntaş District Security Directorate replied as follows: "The inquiry made by Hüseyingazi Şehit İdris Aydın Police Center revealed that Yasin Ugan is not in prison, and he is not detained at any police department that he could have been detained". Also, on 02.04.2019, the Gölbaşı District Security Directorate replied as follows: "Anti-Terrorism Department – Security Office has not performed any judicial proceedings involving Yasin Ugan". When the Human Rights Association wrote to the Ministry of Interior, the Ministry of Interior replied as follows on 20.03.2019 related to allegations of enforced disappearance of Yasin Ugan and Özgür Kaya: "No missing person application has been found when enquiries were made into the Smuggling and Intelligence Unit (KİHBİ), National Judiciary Informatics System (UYAP), and Law Enforcement Procedures Project (Ekip Proje)." The Ombudsman's Office issued an "Ineligible for Review" decision on 05.04.2019. Under the initial investigation file, the Chief Public Prosecutor's Office in Ankara wrote a letter on 22.02.2019 to the Anti-Terrorism Department in Ankara Security Directorate and asked "to notify whether Yasin Ugan was in detention, and to send a copy of the notice informing his next-of-kin, if this was the case." This letter has not been replied. The initial investigation file was joined with the second investigation file against Yasin Ugan related to FETÖ/PDY structure within National Intelligence Organization, and the applicant was not asked to testify again. The Constitutional Court dismissed the request for an injunction on 20.03.2019 with no. 2019/8172 on grounds that the investigation was still continuing.

Tunç :

40. The Chief Public Prosecutor's Office in Ankara received Nuray Tunç's application on 08.08.2019, and issued an investigation number, however, did not assign a prosecutor for a long period of time, and after the applicant followed up the issue persistently, they wrote a letter on 19.08.2019 to the Office on Missing Persons, asking them to make an enquiry about Yusuf Bilge Tunç, but city surveillance camera recordings were not examined.

41. The applicant and relatives of the missing person filed a criminal complaint with the Chief Public Prosecutor's Office in Ankara on 12.08.2019, and requested an enquiry into the car, as well as into the camera footage, and the Chief Public Prosecutor's Office in Ankara issued an investigation number but did not take any action regarding this request. On 04.09.2019, the counsel to the applicant requested the Chief Public Prosecutor's Office in



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Ankara to conduct a survey in the area, to identify camera footage/pictures, examine all the footage from the city surveillance cameras, OTS, KGYS, private business on the route, to look into location of the missing person using his telephone number, and to identify public officers who emitted signal from the same base station, however, no action was taken in response to this request.

42. Above-mentioned investigation files, including the file of the Chief Public Prosecutor's Office in Ankara containing the missing person application were joined with the investigation file of the Chief Public Prosecutor's Office in Ankara, where Yusuf Bilge Tunç is a suspected FETÖ/PDY member. On 09.08.2019, the applicant applied to CİMER, but could not receive any response. On 21.08.2019, a criminal complaint was filed with the Judges and Prosecutors Board against the prosecutor and law enforcement officers who did not conduct an effective investigation, but no action has been taken related to this complaint. No decision has yet been made related to the individual application and request for an emergency injunction that had been filed with the Constitutional Court.

E. Minutes of Meeting of Human Rights Center of Ankara Bar Association

43. Members of the Human Rights Center of the Ankara Bar Association went to the Anti-Terrorism Department in Ankara to visit relatives of the six applicants, who appeared and were detained at different times. Law enforcement officers and the prosecutor's office did not allow our members to visit detained relatives of the applicants.

44. On 27.08.2019, members of the Human Rights Center of the Ankara Bar Association went to Sincan No 1. Type F Closed Penitentiary Institution to visit detained Erkan Irmak, Yasin Ugan, Özgür Kaya an Salim Zeybek. Guardians told that Erkan Irmak, Yasin Ugan, and Özgür Kaya did not want to meet the lawyers, who are members of the center. The meeting of the members of the Center with Salim Zeybek was recorded by a camera, and there was a guardian in the room during the interview. Zeybek stated that he was not missing during the time when no one heard from him; he did not feel the need to call his relatives, he received legal assistance, was examined by a physician, and was not subject to torture and ill treatment and his statements were recorded in the form of minutes. Members of the center were asked to deliver the original of the minutes of the meeting without any court order, but the members explained that it would be unlawful to deliver the original minutes of the meeting without a court order. Then prison officers threatened and treated the members unlawfully, and the minutes of the meeting including statements of Zeybek were taken from them by force. Ankara Bar Association filed a complaint against these officers.

F. General Findings related to Missing Person Applications

45. It is important to note some common features of the above-summarized 7 applications that were filed with our Center.

46. Relatives of the applicants remained missing for minimum 5 months, maximum 9 months. Yusuf Bilge Tunç, the husband of the last applicant Nuray Tunç was still missing at the time of writing this report. Applicants filed applications with numerous authorities for their missing relatives but all of these applications remained inconclusive.

47. Relatives of six applicants were found after the application. It is interesting that all of these individuals appeared in police units, and four of them allegedly were caught during a criminal record check, when they were going to a police station to surrender. Individuals, who



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were missing for months, are stated to have surrendered to security forces without informing their families.

48. All the applications describe detention processes in the same way. The statements of the applicants related to their relatives' physical condition, are also very similar. None of the applicants had to opportunity to see their relatives alone, and there was always at least one police officer present during their visits. It is also indicated that when they visited their relatives after the arrest these visits were recorded.

49. All the applicants stated that their relatives did not want the counsel brought by their families, and they wanted all the applications to be withdrawn. Moreover, the applicants stated that they did not meet the private counsels that their spouses have found as a coincidence, and the counsels that were appointed under the Code of Criminal Procedure system.

50. The applicants do not have reliable information on whether their relatives were examined by a physician when they were in detention. Although the detained individuals persistently stated that they would not claim they were subject to torture and ill treatment, in none of these cases, these statements were made to their families or private counsels in an environment, out of hearing and sight of others.

51. The fact that individuals who are still under investigation on suspicions of being FETÖ/PYD members appeared at a police station after remaining missing for more than six months, and stated that they did not want any counsel, other than those shown to them at the police station, strengthens the suspicion that they made their statements under duress. Given that relatives of the applicants have not communicated with the external world where the camera or sound recorders were not used and there were no law enforcement officers, the truthfulness of their statements should be approached with suspicion.

II. LEGAL STANDARDS TO BE APPLIED TO ENFORCED DISAPPEARANCE CASES

52. Turkey is not a party to the International Convention for Protection of All Persons from Enforced Disappearance² (ICCPED) of the UN. However, international legal standards for protection of all persons from enforced disappearance are regulated in customary law in addition to general and specific international conventions, and these standards are binding on Turkey. Humanitarian law, human rights law, and international criminal law govern prohibition on enforced disappearance.

53. The International Convention on Civil and Political Rights³, the European Convention on Human Rights⁴, the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment⁵ where Turkey is a contracting party, as well as the UN

² See, <http://www.un.org.tr/humanrights/images/pdf/butun-kisilerin-zorla-kaybedilmeden-korunmasina-dair-uluslararasi-sozlesme.pdf>, the most recent access 13.01.2020.

³ See, Official Journal dated 21/07/2003 and numbered 25175.

⁴ See, Official Journal dated 19/03/1954 and numbered 8662.

⁵ See, Official Journal dated 10/08/1988 and numbered 1989.



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Declaration on Protection of All Persons From Enforced Disappearance⁶ lay down obligations of the states and standards related to enforced disappearance.

54. Enforced disappearance; is defined as *“the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law”*.⁷

55. Above definition of enforced disappearance exists in international instruments, particularly in the International Convention for Protection of All Persons from Enforced Disappearance, where Turkey is not a party, as well as in customary law and interpretation of general agreements.

56. Prohibition on enforced disappearance is an absolute prohibition in international law. Pursuant to Article 7 of the 1992 Declaration on Protection of All Persons Against Enforced Disappearance (Declaration), no circumstances whatsoever, whether a threat of war or any other public emergency may be invoked to justify enforced disappearances. Enforced disappearance is a continuous violation, which begins at the time of abduction until the fate of the individual is found out.

57. In fact, an enforced disappearance case is a special type of violation, where multiple human rights violations occur at the same time. The Human Rights Committee (HRC) determined that enforced disappearance violated multiple rights protected under the International Convention on Civil and Political Rights. According to the HRC, enforced disappearance violates the right to liberty and security of a person (Article 9), prohibition on subjecting any person to torture or to cruel, inhuman or degrading treatment or punishment (Article 7), and the right of all persons deprived of their liberty to be treated with humanity and with respect for the inherent dignity of the human person. This act also violates or seriously threatens the right to life (Article 6).⁸

58. Pursuant to the human rights law and the humanitarian law, anyone violating the prohibition on enforced disappearance has to be punished under the criminal law in proportion to the offense. In fact, according to Article 17 of the Declaration, an act constituting enforced disappearance is considered a continuing offense as long as the perpetrators continue to conceal the fate and the whereabouts of persons who have disappeared. Enforced disappearance is an offense, where perpetrators cannot benefit from amnesty law or similar measures that may exempt them from criminal sanctions.

59. Violation of prohibition on enforced disappearance may also constitute an international offence in case of existence of certain conditions. According to Article 7.1.i. of the Rome Statute of the International Criminal Court, enforced disappearance of a person is considered a crime against humanity when committed as part of a widespread or systematic attack directed against any civilian population. It is possible to say that this rule reflects customary law. In other words, systematic enforced disappearance offense is a crime against humanity in the international criminal law.

⁶See, www.ombudsman.gov.tr/contents/files/312b12--Zorla-Kayip-Edilmeye-Karsi-Herkesin-Korunmasina-Dair-Bildiri.pdf, the most recent access 13.01.2020.

⁷ UN International Convention for Protection of All Persons From Enforced Disappearance, Article 2.

⁸ Communication No. 950/2000, Sarma v. Sri Lanka, 16 July 2003, para. 9.3.



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60. In addition to international conventions which apply as domestic laws, according Article 77 of the Turkish Criminal Court, voluntary manslaughter, malicious injury, torture, deprivation of liberty constitute crimes against humanity when committed systematically as part of a plan against any part of the society with political, philosophical, racial, or religious motives. There is no doubt that enforced disappearance cases, that are not a systematic or widespread attack will be subject to different provisions of the Turkish Criminal Code depending on the circumstances.

A. Obligations of the States related to Enforced Disappearance

1. Obligation to Protect Life

61. When a person disappears under conditions that threatens his or her life, the state has to take operational measures to protect the life of the disappeared person in line with its positive obligation enshrined in Article 2 of the European Convention on Human Rights (ECHR).⁹ ECtHR held that if a person had been threatened beforehand and the authorities are informed on the next day of abduction, that disappearance has occurred under life threatening conditions.¹⁰ In such case, if the state cannot prevent disappearance of that person, it should take operational measures to protect that person, who may be victim of other criminal acts.¹¹ In 1992 and 1998, ECtHR decided that enforced disappearance of persons suspected to be linked to PKK is life threatening.¹²

62. Under these circumstances, any negligence displayed by the investigating or supervising authorities in the face of real and imminent threats to an identified individual's life emanating from state agents, such as police, who are acting outside their legal duties, might entail a violation of the positive obligation to protect life.¹³ ECtHR concluded that by their failure to act rapidly and decisively, the authorities that are involved had not taken operative measures within the scope of their powers which, judged reasonably, might have been expected to avoid risking the missing man's life.¹⁴

2. Obligation to conduct an effective investigation

63. As a natural consequence of the absoluteness of the prohibition on enforced disappearance, the obligation of the state to conduct an effective investigation continues as long as the fate of the person is unaccounted for. Enforced disappearance cases are characterized by an ongoing situation of uncertainty and unaccountability. This may be due to lack of information or deliberate concealment of what has occurred. Therefore, in such cases, the obligation of the state to conduct a thorough investigation as long as the fate of the person is unaccounted for. Failure to provide the requisite investigation will be considered as a continuing violation. This is so, even where death may, eventually, be presumed.¹⁵

⁹Koku v. Turkey, Application no. 27305/95, 31/05/2005, §132; Osmanoglu v. Turkey, Application no. 48804/99, 24/01/2008, §75.

¹⁰Koku v. Turkey, Application no. 27305/95, 31/05/2005, Osmanoglu v. Turkey, Application no. 48804/99, 24/01/2008

¹¹ Koku v. Turkey, Application no. 27305/95, 31/05/2005, §132, Osmanoglu v. Turkey, Application no. 48804/99, 24/01/2008, §76.

¹² Meryem Çelik and Others v. Turkey, Application no. 3598/03, 16/04/2013, §58; Enzile Özdemir v. Turkey, 54169/00, 08/01/2008, §45.

¹³ Gongadze v. Ukraine, Application no. 34056/02, 08/11/2005, §170; Turluyeva v. Russia, Application no. 63638/09, 20/06/2013, § 100.

¹⁴ Turluyeva v. Russia, Application no. 63638/09, 20/06/2013, §101

¹⁵ Varnava and Others v. Turkey, Application no. 6064/90 16065/90 16066/90 16068/90 16069/90 16070/90 16071/90 16072/90 16073/90, 18/09/2009, §148.



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64. The necessity to effectively investigate allegations on violation of right to life also applies to enforced disappearance cases. ECtHR case law sets out four principles on how this obligation should be fulfilled. Accordingly, an effective investigation should have below elements:

- a) Independence of investigatory authorities
- b) Adequacy
- c) Promptness and reasonable expedition of investigations
- d) Public scrutiny and participation of the next-of-kin.¹⁶

65. When there is possibility of violation of right to life and prohibition on torture and ill treatment, the state has the obligation to conduct an effective investigation notwithstanding whether such violation has been committed by public officers. Pursuant to jurisprudence of the ECtHR¹⁷ the obligation of the state to conduct an effective investigation requires the state to uncover the circumstances in which the disappearance has occurred, to find the missing person, to prosecute and if necessary to impose penal sanctions on the perpetrators, and to compensate the damage suffered by relatives of the victim.¹⁸ Authorities conducting the investigation in disappearance cases have to start with a very small amount of evidence, and to look for more evidence to trail the missing person, or to find out his fate.

66. In fact, in the below examples ECtHR has identified how an investigation meeting these standards should be conducted.

67. ECtHR concluded as follows in Mustafa Tunç and Fecire Tunç v. Turkey judgment related to effective investigation obligation: *“The obligation to conduct an effective investigation is an obligation not of result but of means: the authorities must take the reasonable measures available to them to secure evidence concerning the incident at issue. In any event, the authorities must take whatever reasonable steps they can to secure the evidence concerning the incident, including, inter alia, eyewitness testimony, forensic evidence and (...) provides a complete and accurate record of (...).*

175. In particular, the investigation’s conclusions must be based on thorough, objective and impartial analysis of all relevant elements. “¹⁹

68. ECtHR concluded as follows in its Ak v. Turkey judgment *“Article 3 of the Convention imposes an obligation on the authorities to conduct an effective investigation to uncover facts and relevant circumstances and to identify and prosecute perpetrators. When natural persons are involved, these obligations apply notwithstanding who the perpetrators are. The obligation to provide an effective investigation implies reasonable promptness and duty of care. Protection mechanisms of the domestic law should be operated in practice in a reasonable period of time allowing conclusion of substantive review of the cases and preventing the perpetrators from enjoying impunity for violent acts. In fact, if the protection mechanisms of the domestic law only exist in theory, the State will not be deemed to have fulfilled its obligation under Article 3 of the Convention: These mechanisms should be*

¹⁶ For detailed information on these obligations See. Osman Doğru (2018), Yaşama Hakkı (Right to Life), (Ankara: Constitutional Court Publications), s. 295-321.

¹⁷ Varnava and Others v. Turkey, Application no 6064/90 16065/90 16066/90 16068/90 16069/90 16070/90 16071/90 16072/90 16073/90, 18/09/2009; Er and Others v. Turkey, Application no. 23016/04, 31/07/2012

¹⁸ Varnava and Others v. Turkey, Application no. 6064/90 16065/90 16066/90 16068/90 16069/90 16070/90 16071/90 16072/90 16073/90, 18/09/2009.

¹⁹ Mustafa Tunç and Fecire Tunç v. Turkey, Application no. 24014/05, 14/04/2015, §173.



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functioning effectively particularly in practice, and therefore the case must be reviewed promptly and without undue delay.”

69. In *G.U. v. Turkey* judgment, the duty to provide an investigation is defined as follows: *“In order to consider an investigation effective, it has to be conducted with reasonable care and promptness. In order to prevent giving the impression that any unlawful act is allowed or tolerated and to avoid losing the trust of the public, it is very important for the authorities to act promptly in line with principle of legality.”*²⁰

70. ECtHR described the obligation to provide an investigation in disappearance cases in more detail in its *Osmanoğlu v. Turkey* judgment: *“The Court is of the opinion that a number of basic steps could have been taken by the investigating authorities which would have offered a reasonable prospect of success in finding the applicant's son. To that end, the starting point for the prosecutor should have been to obtain more information from the applicant and to question the neighboring shop owners who, the applicant claimed, had witnessed his son being taken away by the two men. In the light of the descriptions given by the applicant, the prosecutor could have made attempts to verify whether the two men who took the applicant's son away were indeed police officers. Furthermore, the Court takes judicial notice of the fact that, during the relevant period, there were a large number of police and gendarmerie checkpoints on the roads in the area, which could have been alerted to be on the lookout for the applicant's son in case he was transported through one of the checkpoints.*

- a. an inspection of the relevant gendarmerie or police headquarters or any other premises to which the applicant's son might have been brought after he had been abducted;*
- b. the making of enquiries and the taking of statements from those in custody in the relevant gendarmerie or police headquarters at the time of the disappearance, in an attempt to establish whether or not the applicant's son had been taken into custody;*
- c. the making of enquiries and the taking of statements from those officers who were on duty on the relevant dates; and*
- d. attempts to secure potential eyewitnesses to the incident.*

As pointed out above, according to Turkish law it is a criminal offence to deprive an individual unlawfully of his or her liberty. Public prosecutors have a duty to investigate offences reported to them. Despite this, the prosecutor in the instant case remained completely and incomprehensibly inactive at a time when many people were being killed in that region of Turkey. By failing to take any steps, neither the prosecutor, nor indeed the Turkish authorities in general, did everything within their power to protect the right to life of the applicant's son after his abduction.

These obligations apply in the same way to cases where individuals disappear under conditions, which can be considered as life threatening. Therefore, the Court concluded that disappearance of the applicant's son can be considered life threatening. Nevertheless, as conceded by the Government themselves, no investigation was carried out into the disappearance of the applicant's son. In this connection, the Court also regrets that the allegations made by Mr Aygan did not spur the Government into action. The Court disagrees with the Government that Mr Aygan's allegations were abstract and unsubstantiated, and is of the view that the specific allegations at issue merited consideration by the domestic authorities. In this connection the Court cannot but remark that a decision not to carry out an investigation into those allegations on the ground that they were “unsubstantiated” reveals

²⁰ *G.U. v. Turkey*, Application no. 16143/10, 18/10/2016



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an illogical decision-making process, as allegations cannot be found to be unsubstantiated unless they are investigated first. 92. In the light of the total failure to carry out an investigation – which has already given rise to a violation of Article 2 of the Convention in its substantive aspect – the Court concludes that there has also been a violation of Article 2 of the Convention under its procedural limb.”²¹

a) Applying the Principles to the Facts

71. It is apparent that Salim Zeybek, who was abducted by armed individuals stopping his car, Özgür KAYA, who was abducted by almost forty heavily armed individuals wearing TEM (Anti-Terrorism Department) vests, Yasin UGAN and other missing persons, who were subject to legal proceedings on suspicions of being a member to a terror organization, disappeared under life threatening conditions. As underlined by the ECtHR in *Osmanoğlu v. Turkey* judgment, when individuals disappear under life-threatening conditions, the state has the obligation to conduct an effective investigation into the disappearance case. Therefore, even if public officers have not committed the enforced disappearance, disappearance cases that constitute the subject matter of the application must be duly investigated to avoid giving the impression that any unlawful act is allowed or tolerated.

72. The prosecutor’s office, that was aware of the disappearances that constitute the subject matter of the applications, has the testimonies of the applicants, and joined investigation files of the missing persons with a FETÖ/PDY membership investigation, which was subject to confidentiality restrictions. It has been determined that the authorities, particularly the prosecutor’s office has not provided any information or documents to the applicants or their counsels, demonstrating that below listed actions, which had to be promptly taken, were actually taken as long as the whereabouts of the disappeared persons has not been identified:

- Inspection of the relevant gendarmerie or police headquarters or any other premises to which the individual might have been brought after abducted and attempts to secure potential eyewitnesses to the incident;
- Making of enquiries and the taking of statements from those in custody in the relevant gendarmerie or police headquarters at the time of the disappearance in an attempt to establish whether or not the person had been taken into custody;
- Taking of statements from law enforcement officers who were on duty in the area, where abduction is alleged to have taken place on the relevant dates;
- Making of enquiries related to city surveillance camera recordings and if any, private camera recordings in the area where abduction is alleged to have taken place, collecting and examining footage from these cameras;
- Collecting information on the plate number, model, physical properties of the care alleged to have been used in abduction and making of enquiries to find the owner and why it is used;
- Making enquiries into GPRS records etc. to identify the location;
- Informing other law enforcement units, particularly the national intelligence organization and consulting other units that may be involved;

²¹ *Osmanoğlu v. Turkey*, Application no. 48804/99, 24/01/2008.



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- Taking statements of the applicant and relatives and associates of the disappeared person, and assessing any potential risks.

73. Since the applicants were not given any information which would indicate that above listed actions to secure evidence were taken promptly gives the impression that disappearance cases were not investigated effectively. Although six of the disappeared persons were found at different police stations months later, it is still not clear where and by whom these persons were held during that time. Moreover, no reasonable or logical explanation has been made to public on a matter, which closely involves the public. It is a coincidence quite difficult to explain in the ordinary course of life that individuals alleged to be abducted on different dates from different places had in fact surrendered to the police and appeared in a very similar way. There is no doubt that the authorities have the obligation to inform the public.

74. There is no information which indicates whether any investigation has been provided related to disappearance allegations of these 6 individuals who appeared later, and whether accuracy of these allegations have been inquired. As it will be discussed below, it is against the international standards to accept without questioning the accuracy of the statements made by these individuals to their families and counsels under police supervision that they did not have any complaints. If it is alleged that a person has disappeared and tortured, it should be taken into account that this person could be under duress. Under these circumstances, it has to be examined carefully whether this person has made a statement on his free will.

75. Examination of the facts of these cases as a whole does not indicate that an effective investigation has been conducted into the enforced disappearance allegations in order to identify perpetrators if these allegations prove to be true, and to prosecute and if necessary to impose sanctions on those perpetrators and to compensate the damage suffered by relatives of the victim.

b) Public Scrutiny of the Investigation and Participation of the Next-of-kin

76. An effective investigation should allow public scrutiny and participation of the next-of-kin of the victim to the extent it is possible. This requirement is graver in disappearance cases where applicants have difficulty in receiving information on their relatives, and uncertainty of their fate causes significant physiological damage.

77. According to the ECtHR, when there are allegations that there is a violation of right to life: *“The degree of public scrutiny required may well vary from case to case. In all cases, however, the victim’s next of kin must be involved in the procedure to the extent necessary to safeguard his or her legitimate interests.”*²²

78. Therefore, relatives of the victim should not be prevented from accessing contents of the investigation, excluding circumstances, which may prevent the investigation from being conducted reliably. In fact, in its *Benzer and Others v. Turkey* judgment, the ECtHR reached the following conclusion: *“The Court considers that the military investigating authorities’ attempts to withhold the investigation documents from the applicants is on its own sufficiently serious as to amount to a breach of the obligation to carry out an effective investigation. To this end, the Court is of the opinion that, had the applicants been in possession of the military prosecutor’s investigation file, which presumably contained the flight log, they could have increased the prospect of success of the search for the perpetrators. The Court also considers*

²² Al-Skeini and Others v. United Kingdom, Application no. 55721/07, 07/07/2011, §167.



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*that the withholding of the flight log from the applicants prevented any meaningful scrutiny of the investigation by the public”.*²³

79. As such in *Dimitrova and Others v. Bulgaria* judgment; “*Court concludes that applicants were not given any meaningful opportunity to participate in the investigation into their relative’s death, and therefore, requirements of Article 2 were violated*”.²⁴

80. The investigation should not be accessible only by the family; it should be accessible by the public. According to the ECtHR: “*There must be a sufficient element of public scrutiny of the investigation or its results to secure accountability in practice, maintain public confidence in the authorities’ adherence to the rule of law and prevent any appearance of collusion in or tolerance of unlawful acts*”.²⁵

81. ECtHR concluded that under below listed circumstances, the investigation is not open for public scrutiny and accessible by the victim’s relatives:

- the investigation or case file was not accessible to the victim’s relatives,²⁶ the victim’s relatives were not informed of significant developments in the investigation;²⁷
- victim’s wife was not provided with any information on the progress of the investigation, was not allow to study the case file appropriately, and was not given any record concerning the witness statements or other procedural steps undertaken;²⁸
- discontinuation order issued for the investigation was not notified to the victim’s father, and the investigation was conducted without participation of the father, who is acting as the complainant;²⁹
- the victim’s relatives was required to lodge a criminal complaint to join the proceedings as a civil party if they wish to be involved in the investigation proceedings;³⁰
- prosecution authorities attempted to conceal investigation documents from the applicants.³¹

82. Since multiple disappearance investigations were joined with a single investigation on terror organization membership, which was subject to confidentiality restriction, the applicants could not receive any information on the developments related to the fate of their disappeared relatives. However, disappearance allegations are not directly related to an on-going terrorism investigation. Moreover, when it is alleged that there has been a grave violation of human rights, it is evident that such confidentiality restriction has to be removed if it will cause continuation of violation or at least the disappearance investigation has to be separated from the main investigation file. The applicants complain that despite their persistent requests, they were not allowed to access the file by the prosecutor’s office and neither them nor their lawyers were informed on the steps taken and the developments that occurred. Furthermore, the applicants’ requests from the prosecutor’s office to secure evidence were not evaluated, dismissed or responded. As underlined in the ECtHR’s *Oğur v.*

²³ *Benzer and Others v. Turkey*, Application no. 23502/06 , 12/11/2013, §193.

²⁴ *Dimitrova and Others v. Bulgaria*, Application no. 44862/04, 27/01/2011, §87.

²⁵ *Kolevi v. Bulgaria*, Application no. 1108/02, 05/11/2009, §39.

²⁶ *Oğur v. Turkey*, Application no. 21594/93, 20/05/1999, §92.

²⁷ *Betayev and Betayeva v. Russia*, Application no. 37315/03, 29/05/2008, §88.

²⁸ *Mezhiyeva v. Russia*, Application no. 44297/06, 16/04/2015, §75.

²⁹ *Güleç v. Turkey*, Application no. 21593/93, 27/07/1998, §82.

³⁰ *Slimani v. France*, Application no. 57671/00 , 27/07/2004, §47.

³¹ *Benzer and Others v. Turkey*, Application no. 23502/06 , 12/11/2013, §193.



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Turkey judgment, the fact that the victim's relatives were not able to access the investigation or case file, led to violation of the obligation to conduct an effective investigation.

B. The accused's right to communicate with his counsel out of a hearing of a third person

83. The right of any accused person to communicate with his counsel without the risk of being overheard by a third party is one of the basic requirements of a fair trial.³² This is how ECtHR interpreted the right stipulated in Article 6(3)(c) of the European Convention on Human Rights providing that any person charged with a criminal offense is entitled to defend himself through legal assistance of his choosing.³³ In *Brennan v. United Kingdom* judgment, the ECtHR concluded that if a counsel were unable to confer with his client and receive confidential instructions from him without surveillance, his assistance would lose much of its usefulness.³⁴

84. As regards the attorney-client privilege, European Council Standard Minimum Rules on the Treatment of Prisoners, Article 93 provides as follows: "Untried prisoners shall be entitled, as soon as imprisoned, to choose a legal representative, or shall be allowed to apply for free legal aid where such aid is available and to receive visits from that legal adviser with a view to their defense and to prepare and hand to the legal adviser, and to receive, confidential instructions. On request, they shall be given all necessary facilities for this purpose. In particular, they shall be given the free assistance of an interpreter for all essential contacts with the administration and for their defense. Interviews between prisoners and their legal advisers may be within sight but not within hearing, either direct or indirect, of the police or institution staff."³⁵

85. According to Article 5 of the Basic Principles on the Role of Lawyers, government shall ensure that all persons are immediately informed by the competent authority of their right to be assisted by a lawyer of their own choice upon arrest or detention or when charged with a criminal offence.

86. UN Human Rights Council has stated that the right to access a lawyer must be provided from the beginning of detention.³⁶ UN Special Rapporteur on Torture underlines that access to counsel must be provided immediately after the moment of deprivation of liberty and unequivocally before any questioning by authorities.³⁷ The accused's right to consult his lawyer immediately is also recognized by the UN Human Rights Committee.³⁸

87. According to UN Basic Principles on the Role of Lawyers, consultation between the lawyer and his client cannot be heard, and they should take place without delay, interception or censorship and in full confidentiality.³⁹ According to Article 61/1 of the UN Standard

³² *Castravet v. Moldova*, Application no. 23393/05, 13.03.2007, §49, *Sakhnovskiy v. Russia*, [BD], Application no. 21272/03, 02.11.2010, §97.

³³ *Brennan v. United Kingdom*, Application no. 39846/98, 16.10.2001, §58

³⁴ *Brennan v. United Kingdom*, Application no. 39846/98, 16.10.2001, §58

³⁵ European Council Standard Minimum Rules on the Treatment of Prisoners, Recommendation of the Committee of Ministers No. R (87) 3, Article 93. See. <https://rm.coe.int/16804f856c>

³⁶ UN Human Rights Council Resolution, 24.03.2016, A/HRC/RES/31/31, §7.

³⁷ Special Rapporteur on Torture Juan E. Méndez's report, UN Doc A/71/298, §69.

³⁸ General Comments No. 32, Un Human Rights Committee, CCPR/C/GC/32, §34

³⁹ Basic Principles on Role of Lawyers, Principle 8; and Nelson Mandela Rules 61.1.



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Minimum Rules on Treatment of Prisoners⁴⁰ or so-called Nelson Mandela Rules, prisoners should be provided with adequate opportunity to communicate and consult with a legal adviser of their choosing in full confidentiality, and this consultation cannot be within hearing of the prison staff.

88. UN Human Rights Committee's General Comments on Article 14 of the UN Convention on Civil and Political Rights, which governs right to a fair trial, indicate that the lawyer should have the power to consult and confer with the suspect in a setting, where confidentiality is absolutely maintained.⁴¹ The Convention is considered to have been violated if confidentiality cannot be maintained.⁴² In *Öcalan v. Turkey* judgment, the ECtHR Grand Chamber reminded European standards on this matter and noted that consultation of the suspect with his lawyer within hearing of others will make such assistance lose much of its usefulness. When the government objected that this was done for the safety of the subject, the court replied that this risk could easily be avoided if the consultation is made within the sight but out of hearing of others.⁴³ Under these conditions, the right of the suspects to confer and consult with their lawyers out of hearing of others cannot be restricted, and it is possible to consider this right as an absolute right.

89. Detainees should be able to confer and consult with their lawyers without censorship and interception. Places of detention should provide an opportunity to consult the legal adviser in confidentiality. In a case, where the detainee and his lawyer had to yell to communicate, ECtHR decided that detention was unlawful because it breached the right to liberty and security.⁴⁴ In the event the lawyer of the detainee holds a genuine belief on reasonable grounds that their discussion was being listened to will hamper the detainee's right to effectively challenge the lawfulness of this detention.⁴⁵

90. Four of the disappeared relatives of the six applicants appeared on the same date, and the rest appeared on different dates. Relatives of the applicants, who have appeared insistently, stated that they did not want to confer with the lawyers their families brought. Yılmaz told his lawyer, to whom he had given a power of attorney in the past, that he did not want to confer with him. Zeybek, Kaya, Ugan, and Irmak stated that they were receiving legal assistance from two lawyers that they met as a coincidence at the Anti-Terrorism Department, where they were detained. Later, the families stated that they did not talk to these lawyers. The families also stated that there was always a police officer when they were visiting their relatives. There is no information, which indicates that six people, claimed to have disappeared could confer with and consult their lawyers when in detention, in full confidentiality in compliance with international standards. On the contrary, there are serious suspicions that they did not have the opportunity to confer with and consult a lawyer of their choosing out of hearing of others.

91. When members of the Human Rights Center of the Ankara Bar Association were visiting Salim Zeybek at Sincan Type F Closed Penitentiary Institution, their visits were recorded by a camera, and during their visit, a guardian was present, and listened to them. The

⁴⁰ Nelson Mandela Rules, Rule 61.1, See. http://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf

⁴¹ UN Human Rights Committee, General Comment No. 32, Article 14, *Right to equal treatment before courts and fair trial*, 23.08.2007, CCPR/C/GC/32, §34.

⁴² *Nazira Sirageva v. Uzbekistan*, No 907/2000 (12 December 1999)

⁴³ *Öcalan v. Turkey* (BD), no. 46221/99, 12.5.2005, §133.

⁴⁴ *Modarca v. Moldova*, 10.05.2007, Application no. 14437/05, §51.

⁴⁵ *Castravet v. Moldova*, Application no. 23393/05, 13 June 2005, §49-50



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minutes of meeting, which contained statements of Zeybek, were taken from the members by force. When it is taken into account that lawyers selected by the applicants were not allowed to communicate with the disappeared persons, and lawyers, who participated when disappeared persons were testifying during their detention, were not consulted, it is not certain whether individuals, who are charged with criminal offenses and constitute the subject matter of applications, could have exercised their right to confer with and consult their lawyers in confidentiality.

92. Particularly when the subject matter of the complaints is taken into account, it is considered that not allowing relevant individuals to meet lawyers sent by the Bar Association out of hearing of others is a clear violation of international standards.

C. Right to defend himself through legal assistance of his own choosing

93. The accused's right to defend himself through legal assistance of his own choosing is enshrined in Article 6(3)(c) of the European Convention on Human Rights, Article 14(3)(d) of the UN International Convention on Civil and Political Rights, and Principle 5 of UN Basic Principles of Role of Lawyers.

94. ECtHR frequently reminded that authorities must respect the accused's choosing of his legal assistance.⁴⁶ If the accused's right to a free choice of counsel is restricted, which in turn has an adverse effect on his defense; this is a violation of right to a fair trial.⁴⁷ The right to a free choice of counsel right from the beginning of the proceedings is protected under the right to access a lawyer. If a person charged with a criminal offence is deprived of his right to have recourse to legal assistance of his choosing, the rights of the defense may be adversely affected to such an extent as to undermine overall fairness of the proceedings.⁴⁸

95. ECtHR held in its *Dvorski v. Croatia* judgment that Article 6 of the Convention protecting right to a fair trial does not prevent a person from waiving on his free will of the guarantees of a fair trial. However, such a waiver of fair trial guarantees on free will must be established in an unequivocal manner and attended by minimum safeguards commensurate with its importance.⁴⁹ This means that it is possible for a person to waive on his own will of his right to a legal assistance of his own choosing, but there should be no uncertainty as to whether such waiver has been made willingly. If the person has waived of this right under duress, in circumstances where he cannot express his own will freely, this waiver must be questioned and enquired.

96. In its *Martin v. Estonia* judgment ECtHR held that the applicant's wish to replace counsel of his own (his parents') choosing could not be considered genuine given the applicant's young age and seriousness of charges.⁵⁰ In this judgment, ECtHR considered the counsel chosen by the applicant's parents, as the counsel chosen by the applicant. The Court concluded that the authorities' failure to make use of the formal procedure for the removal of counsel in case there were doubts about a conflict of interests on his part and their reliance, instead, on informal talks with the applicant, the applicant's apparent instability, which

⁴⁶ *Meftah and Others v. France* [BD], Application no. 32911/96, 26.07.2002, §45.

⁴⁷ *Croissant v. Germany*, 25.09.1992, §31; *Meftah and Others*, 26.07.2002, Application no. 32911/96, 35237/97 34595/97, §46-47; *Vitan v. Romania*, Application no. 42084/02, 25.03.2008, §53-55; *Zagorodniy v. Ukraine*, Application no. 27004/06, 24.11.2011, §55.

⁴⁸ *Dvorski v. Croatia*, Application no. 25703/11, 20.10.2015, §78.

⁴⁹ *Dvorski v. Croatia*, Application no. 25703/11, 20.10.2015, §100, *Sejdovic v. Italy* [BD], Application no. 56581/00, 01.03.2006, §86, *Poitrimol v. France*, Application no. 56581/00, 23.11.1993, §31.

⁵⁰ *Martin v. Estonia* Application no. 35985/09, 30.05.2013, §93



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prompted his subsequent psychiatric and psychological expert examination on two occasions, therefore there was an infringement of the applicant's right to defend himself through legal assistance of his own choosing.

97. In *Simeonovi v. Bulgaria*⁵¹ and *Pishchalnikov v. Russia*⁵² judgments, the ECtHR concluded that waiver of legal assistance can only be voluntarily which requires knowledge of consequences of such waiver and waiver can only be in compliance with the Convention if these consequences are accepted. According to the Court, a waiver of a right covered by the right to a fair trial and made knowingly should not conflict with an important public interest.⁵³ In *İbrahim and Others v. United Kingdom* judgment⁵⁴ the ECtHR underlined that knowing and intelligent waiver standard⁵⁵ is inherent in the privilege against self-incrimination, the right to silence and the right to legal assistance.

98. It has been observed that disappeared persons that constitute the subject matter of application were found at a police station 5 to 8 months later, lost a significant amount of weight, their skin color faded and seemed very unsettled. Applicants stated that their relatives who were found, stated that they should immediately withdraw their applications, and they were taking assistance from a lawyer they first saw at the police headquarters, and therefore they did not want legal assistance from lawyers, who represented them in the past, or from other lawyers.

99. These coincidental developments in choosing of counsel seem to conflict with what is told by the law enforcement officers, it is considered that potential victims could not exercise their right to have legal assistance of their own choosing. Given that the communication between applicants and their relatives is recorded and guardians accompanied their meeting makes it more likely that these persons, who were found months after their disappearance were under duress and could not make statements on their free will. Moreover, this does not only apply to one applicant, it has happened exactly in the same way for six different individuals. The fact that the prosecutor's office has not made any enquiries into this incident, which was also covered by press, and has not started any proceedings against perpetrators, left these individuals, who were probably under duress, completely vulnerable.

100. It cannot be known for certain whether these individuals, who had disappeared for a long period of time, were subject to torture and ill treatment. However, the possibility of existence of undue pressure on individuals whose reasons of disappearance and the time they disappeared under life threatening conditions have not been explained yet, raises doubts as to whether they decided to change counsels chosen by themselves (their families) voluntarily. This doubt over whether the waiver was voluntary, was the justification of the violation judgment made against Estonia in *Martin v. Estonia* ruling.⁵⁶

101. When there is uncertainty as to whether the waiver was made voluntarily, it is also possible to consider that those whose whereabouts were finally determined, did not actually choose a counsel with their free will and had to accept the counsel shown by law enforcement officers to them. In fact, what makes this possibility even more stronger is the fact that law enforcement officers and applicants stated that counsels who participated when the

⁵¹ *Simeonovi v. Bulgaria*, Application no. 21980/04, 12.05.2017, §115.

⁵² *Pishchalnikov v. Russia*, Application no. 7025/04, 24.09.2009, §77.

⁵³ *Håkansson and Sturesson v. Sweden*, Application no. 11855/85, 21.02.1990, §66.

⁵⁴ *Ibrahim et al v. United Kingdom [BD]*, Application no. 50541/08, 13/09/2016, §272.

⁵⁵ *Vizgirda v. Slovenia*, Application no. 59868/08, 28/08/2018, §87.

⁵⁶ *Martin v. Estonia*, Application no. 35985/09, 30.05.2013, §93.



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individuals were making their statements in detention, were there as a coincidence. It is not known whether the individuals, who constitute the subject matter of applications, replaced their counsels willingly and knowing consequences thereof that will meet standard of knowing and intelligent waiver. This uncertainty may lead to violation of right to defend him through legal assistance of his choosing. This possibility has to be inquired extensively and if relevant requirements are met, perpetrators should be persecuted.

D. Right to be brought promptly before a judge

102. Bringing anyone arrested or detained promptly before a judge is mandatory to determine ill treatment and reducing arbitrary intervention into right to freedom.⁵⁷ According to Article (9)(3) of the UN Civil and Political Rights Convention anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power.

103. Right to be promptly brought before a judge is also protected under Article 5(3) of the European Convention on Human Rights,⁵⁸ Article 10 of the 1992 Declaration on Protection of All Persons from Enforced Disappearance⁵⁹, Articles 11 and 37 of 1998 Body of Principles for the Protection of All Persons under Any form of Detention of Imprisonment⁶⁰, Article 59(2) of the Rome Statute of the International Criminal Court⁶¹, and Article 7(5) of the 1969 American Convention of Human Rights⁶²

104. According to the ECtHR, at first glance, any period of time exceeding four days is too long for the requirement of promptness.⁶³ Any delay in bringing any detainee before a judge should be justified with special challenges or exceptional conditions. Otherwise, even periods shorter than four days may violate requirement of promptness.⁶⁴ According to Article 5 (3) of

⁵⁷ McKay v. United Kingdom [BD], 03.10.2006, Application no. 543/03, §33.

⁵⁸ ECHR Article 5 (3): Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.

⁵⁹ 1992 UN Declaration on the Protection of all persons from Enforced Disappearance Article 10. Any person deprived of liberty shall be held in an officially recognized place of detention and, in conformity with national law, be brought before a judicial authority promptly after detention.

⁶⁰ 1988 Body of Principles for the Protection of All Persons under Any form of Detention of Imprisonment 1988 Principle 11: "A person shall not be kept in detention without being given an effective opportunity to be heard promptly by a judicial or other authority.". Principle 37: "A person detained on a criminal charge shall be brought before a judicial or other authority provided by law promptly after his arrest.. <https://www.ombudsman.gov.tr/contents/files/528b7--Herhangi-Bir-Bicimde-Tutulan-veya-Hapsedilen-Kisilerin-Korunmasi-Icin-Prensipler-Butunu.pdf>

⁶¹ 1998 Rome Statute of the International Criminal Court Article 59/2: A person arrested shall be brought promptly before the competent judicial authority in the custodial State which shall determine, in accordance with the law of that State, that: (a) The warrant applies to that person; (b) The person has been arrested in accordance with the proper process; and (c) The person's rights have been respected.

⁶² 1969 American Convention on Human Rights Article 7(5): "Any person detained shall be brought promptly before a judge or other officer authorized by law to exercise judicial power."

⁶³ Oral and Atabay v. Turkey, 23.06.2009, Application no. 39686/02, §43; McKay vs. United Kingdom [BD], 03.10.2006, Application no. 543/03, §47; Năstase-Silivestru v. Romania, 04.10.2007, Application no. 74785/01, §32

⁶⁴ Gutsanovi v. Bulgaria, 15.10.2013, Application no. 34529/10, §154-59; İpek et al v. Turkey, 03.02.2009, Application no. 17019/02 Application no. 30070/02, §36-37; Kandzhov v. Bulgaria, 06.11.2008, Application no. 68294/01, §66.



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the ECHR, there is no exception to right to be promptly brought before a judge after being arrested or detained.⁶⁵

105. A judge should automatically control detention, without requiring the detainee to lodge an application.⁶⁶ Before a decision is made, the person brought before a judge should be heard.⁶⁷ Although it is not an obligation to make available a lawyer during a hearing, preventing participation of a lawyer in a hearing may have an adverse effect on the defense of the applicant.⁶⁸

106. Article 13 of the Law No. 7145 added Provisional Article 19 to the Anti-Terrorism Law No. 3713. Accordingly: “As regards offenses listed in Sections Four, Five, Six and Seven in Chapter Four, Book Two of the Turkish Criminal Code No. 5237 and the offenses subject to Anti-Terrorism law No. 3713 or offenses committed as part of a criminal organization:

a) Time of detention may not be more than forty eight hours starting from the time of arrest, and four days in offenses committed collectively, excluding the time spent to send the detainee to the judge or court that is nearest to the place of arrest. The time of detention may be extended maximum two times due to difficulty in securing evidence or complexity of the case, provided that the time periods set forth in the first sentence are complied with. The decision to extend detention shall be made by a judge upon request of the public prosecutor, and the judge will hear the detained person. This provision shall apply to any person, who is caught relying on an arrest warrant.”

107. According to this provision, which is pending before the Constitutional Court on unconstitutionality claims, “extended detention time” is applied in our law. Accordingly, the detainee has to be brought before a judge at the end of the fourth day, but remains in detention. Although conformity of this provision to the Constitution and ECHR is disputable, it is known that it is applied extensively. Moreover, there is no example, where the prosecutor office has requested an extension, and the judge denied this request.

108. This new provision was also applied to these six individuals, for whom applications were made. However, it is not certain whether these individuals that constitute the subject matter of applications, were brought before a judge during the time they remained in detention for 12 days after being found at different police stations. Applicants explained that they waited at the courthouse on the days the criminal courts of peace decided to extend the detention for 4 days, but could not see their relatives, and they were not informed which criminal court of peace would make the decision. As such, it is not known why detention period of these individuals were extended. Although participation of applicants - who are relatives of the individuals that are alleged to be victims of enforced disappearance - in the investigation, is a part of the state’s obligation to conduct an effective investigation, the violation of this obligation, led to uncertainty whether the relevant individuals had benefited from the right to be promptly brought before a judge. The decisions of the criminal courts of peace to extend detention were not given to applicants. Therefore, the reasons for extending

⁶⁵ Bergmann v. Estonia, 29.05.2008, Application no. 38241/04, §45.

⁶⁶ McKay v. United Kingdom [BD], 03.10.2006, Application no. 543/03, §34; Varga v. Romania, 01.04.2008, 73957/01, §52; Viorel Burzo v. Romania, 30.06.2009, Application no. 75109/01, 12639/02, §107.

⁶⁷ Schiesser v. Switzerland, Application no. 7710/76, 04/12/1979, §31; De Jong, Baljet and Van den Brink v. Netherlands, Application no.8 805/79 8806/79 9242/81, 22/05/1984 §51; Nikolova v. Bulgaria [BD], Application no. 31195/96, 25/03/1999, §49; Aquilina v. Malta [BD], Application no. 25642/94, 29/04/1999, §50.

⁶⁸ Schiesser v. Switzerland, Application no. 7710/76, 04/12/1979, §36, Lebedev v. Russia, 25.07.2013, Application no. 11082/06, §83-91.



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detention are not known, and they did not have the opportunity to object to extension decisions.

E. Right to access of a person deprived of his liberty to access a physician

109. According to standards set by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) under the European Convention on Preventing Torture and Inhuman or Degrading Treatment or Punishment, persons in police custody should have a right of access to a physician as soon as deprivation of liberty.⁶⁹ The right of access to a physician should include the right of a person in custody to be examined, if the person concerned so wishes, by a doctor of his own choosing in addition to any medical examination carried out by a physician called by the police. In a recent report, the UN Special Rapporteur on Torture referred to right of persons deprived of their liberty, to access to a physician of their own choosing as part of guarantees against torture and ill treatment.

110. In its *Aksoy v. Turkey* judgment and many other subsequent judgments the ECtHR concluded that where an individual is taken into police custody in good health but is found to be injured at the time of release, it is incumbent on the State to provide a plausible explanation as to the causing of the injury. The right of access to a physician before and after detention is important because of the role it plays in preventing torture.⁷⁰

111. Medical examination of an individual under police custody should not be made in the presence of police officers, and the police officers should not hear the conversations during medical examination, or see the examination. The statements of the person under custody made during medical examination, and the findings of the physician, should be recorded by the physician.⁷¹

112. It is not known whether a physician examined these individuals, after they were taken into police custody. It is not known whether a law enforcement officer was present during medical examination, if an independent physician made such an examination. Even if medical examinations were made, and the relevant physicians issued medical reports, such reports were not given to the applicants. Therefore, it has not been possible to raise an objection against such report. Due to these reasons, it is still not certain if and under which conditions individuals deprived of their liberty had the opportunity to exercise their right of access to a physician.

III. ASSESSMENT :

113. Under the light of above listed duties and principles, it has been determined that in present cases, the investigations into enforced disappearance allegations were not open for public scrutiny, and relatives of possible victims could not participate. It has also been determined that disappearances, which constitute the subject matter of applications, were not duly investigated to prevent creating an impression that public officers allow or tolerate any unlawful act.

Enforced Disappearance Allegations

⁶⁹European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Developments concerning CPT standards in respect of police custody, CPT/Inf(2002)15, <https://rm.coe.int/16806cd1eb>

⁷⁰ *Aksoy v. Turkey*, Application no. 21987/93, 18/12/1996.

⁷¹ *Aksoy v. Turkey*, Application no. 21987/93, 18/12/1996, §38.



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114. Since whereabouts of Yusuf Bilge Tunç, the husband of applicant Nuray Tunç is still not known, an investigation into complaints of this person should be conducted without any delay, and in compliance with international standards.

115. In addition to Nuray Tunç's application, the state's obligation to provide an investigation has also not ended for the other applications. **Allegations of enforced disappearance, torture and ill treatment should be promptly investigated in compliance with the Constitution and international standards, and perpetrators who acted intentionally or negligently should be punished in proportion with their acts.**

Right to access a Lawyer and a Physician and to be brought before a Judge

116. The individuals, for whom applications were made, were not allowed to communicate with lawyers chosen by their families, and lawyers, who are members of the Human Rights Center could only communicate with Salim Zeybek. Prison officers were present during the visit at Sincan No 1. Type F Closed Penitentiary Institution, and were able to hear the conversation. There is no information, which indicates that these individuals had the opportunity to communicate with their lawyers, chosen by law enforcement officers, in full confidentiality whether in detention or thereafter. Therefore, it is concluded that these individuals charged with criminal offenses were allowed to benefit from their right to communicate with their lawyers in full confidentiality.

117. There are uncertainties as to whether the individuals - for whom applications were made - voluntarily waived of their right to receive legal assistance from a lawyer of their own choosing. It is not known whether these individuals changed the lawyers their families chose, willingly, and knowing consequences thereof. Since there is doubt over whether the waiver is voluntary, it is concluded that the right of these individuals to receive legal assistance from a lawyer of their own choosing was violated. **The relatives of the applicants should immediately be allowed to exercise their right to communicate with their lawyers in full confidentiality.**

118. It is not known whether the individuals - for whom applications were made - had been able to exercise their right to be promptly brought before a judge. Applicants stated that on the fourth and eight days of detention on which their relatives had to be brought before a court to decide on extension of detention, they waited at the courthouse all day long, but their relatives were not brought to the court. **It has to be clarified whether relatives of the applicants, who remained in detention for 12 days, were brought before a judge during this period of time.**

119. It is not known whether the individuals - for whom applications were made - had been able to exercise their right to access a physician. Even if there are medical reports issued after examination of these individuals, such reports were not given to their relatives or lawyers, and no opportunity was given to raise an objection.

120. Six out of seven disappeared person charged with being a FETÖ/PDY member, appeared at police headquarters months later. **Investigation into enforced disappearance should be separated from the investigation where these individuals are suspects, and information, which would not jeopardize the investigation into disappearance cases, should be shared with the public, and families should be informed on the progress of the investigation, and allowed to participate in the investigation.**



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Conclusion: Based on above grounds, it has been found out that the investigation conducted into allegations of enforced disappearance of 7 individuals, for whom applications were made, and their subsequent detention process do not comply with international standards of human rights law. It is beyond purview of the Human Rights Center to further investigate this finding. However, given the gravity of alleged violations, it has been concluded to submit this report together with its annexes to the Management of Ankara Bar Association to be forwarded to the Ankara Chief Public Prosecutor's Office to pursue a thorough investigation.

Ankara Bar Association, Human Rights Center
Monitoring Sub-Committee

Annex 2

ANNEX 2: STATE SPONSORED DOMESTIC ABDUCTIONS

1. MUSTAFA YILMAZ¹

- Mustafa Yilmaz was abducted on 19 February 2019 and resurfaced on 22 October 2019 after having disappeared for 245 days (8 months).
- Mustafa Yilmaz, a physiotherapist in a private healthcare organization, was abducted on his way to work by unknown people. As witnessed by camera footage, he was forced into a black Transporter van and taken away.
- At the moment of his abduction, Mustafa Yilmaz was awaiting the appeal procedure against his conviction by the 32nd High Criminal Court of Ankara to a prison sentence of 6 years and 3 months on charges of being a member of FETÖ/PDY.
- On 22 October 2019 at 23.30 h, the police called Mrs. Yilmaz to inform her that her husband resurfaced at the Karapürçek Police Station.
- Immediately after his arrest, Mustafa Yilmaz was put in solitary confinement.² Moreover, visits of Mrs. Yilmaz to her husband in prison have always taken place in the presence of prison guards and were recorded audio-visually. During these visits Mustafa Yilmaz was very reluctant to speak about his abduction and period of disappearance. Mrs. Yilmaz testified: *“Every time I have tried to ask about what happened, my husband would become tense and from his physical reactions I understood that he did not want to speak about it. He told me to withdraw my complaints, but he accepts I will not do that.”*³
- The physical health of Mustafa Yilmaz had deteriorated due to the detention: He had lost a significant amount of weight and looked very pale.⁴
- No effective investigation into the abduction and enforced disappearance of Mustafa Yilmaz was launched:
 - The Office on Missing and Wanted Persons at the Police Department reported that they had camera footage relevant to the abduction. This footage was, however, not included in the investigation file. Similarly, no investigation was conducted into metro camera recordings, city surveillance camera recordings, HTS, Base, Signal and GPRS recordings.
 - The Chief Public Prosecutor’s Office in Ankara decided on 9 March 2019 that there was no need to further investigate this case since he considered there was no evidence demonstrating that Mustafa Yilmaz had been abducted or

¹ Ankara Bar Association Human Rights Center, Joint Monitoring Report, 1 July 2019, (https://turkeytribunal.com/wp-content/uploads/2020/06/Enforced_Disappearances_JointMonitoringReport_AnkaraBar.pdf).

² Bold App, “Abductee turns up in police custody after nine months of disappearance, 25 October 2019, (<https://boldapp.de/en/2019/10/25/abductee-turns-up-in-police-custody-after-nine-months-of-disappearance/amp/>).

³ Human Rights Watch, “Turkey: Enforced Disappearances, Torture”, 29 April 2020, (<https://www.hrw.org/news/2020/04/29/turkey-enforced-disappearances-torture>).

⁴ Deutsche Welle (DW), “Turkey: The case of the vanished civil servants”, 27 October 2019, (<https://www.dw.com/en/turkey-the-case-of-the-vanished-civil-servants/a-51008072>).

unlawfully deprived of his liberty (decision no. 2019/27773 in case no. 2019/32930).

- Ms. Yılmaz filed an objection with the 5th Criminal Court of Peace of Ankara, which overturned the decision of the Chief Public Prosecutor's Office on 30 April 2019. Still, insisting on an effective investigation yielded no results. In investigation no. 2019/90003, the Chief Public Prosecutor's Office in Ankara decided once more that there was no need to prosecute because the missing person was not a minor and left home on his own will.
- The requests of Mrs. Yılmaz to look into the metro camera recordings, the city surveillance camera recordings, HTS, Base, Signal and GPRS recordings were all dismissed and so was her request of an injunction to the Constitutional Court on 30 April 2019 (case no. 2019/13374).

2. SALIM ZEYBEK⁵

- Salim Zeybek was abducted on 21 February 2019 and resurfaced on 28 July 2019 after having disappeared for 157 days (5 months).
- Salim Zeybek, a computer technician, was being driven with his wife Fatma Betül Zeybek and their children on the Edirne highway towards the Havsa toll stations when a Dacia Duster cut them off and tried to stop them. Their driver did not stop but quickly made a U-turn. He hit cars coming from the opposite direction, damaging their car heavily to the point that the driver told them to “run away”. Mr. Zeybek, his wife and children started to run without having any idea of what was going on. Shots were fired and armed individuals in plain clothes introduced themselves as police officers.⁶ They made Salim Zeybek lay on the ground and put him in a car which drove him to an unknown location. His wife and their children were put in another car by masked individuals and driven back to their home in Ankara.
- It was consequently discovered that the Chief Public Prosecutor's Office in Ankara had issued an arrest warrant against Salim Zeybek in the investigation file no. 2017/69394 on allegations of being a FETÖ/PDY member.
- On 28 July 2019, the police reported that Salim Zeybek was in detention at the Anti-Terrorism Department in Ankara. It was claimed that Salim Zeybek had been caught during a criminal record check while walking to the police station to surrender.
- Mrs. Zeybek stated that after her husband resurfaced, she was not allowed to meet the lawyers he had allegedly chosen at the Anti-Terrorism Department in Ankara. Her requests to have her husband examined by an independent physician were denied

⁵ Ankara Bar Association Human Rights Center, Joint Monitoring Report, 1 July 2019, (https://turkeytribunal.com/wp-content/uploads/2020/06/Enforced_Disappearances_JointMonitoringReport_AnkaraBar.pdf).

⁶ IPA News, “Abductions on the rise in Turkey as the latest, horrific one see a father brutally kidnapped in front of his kids”, 4 March 2019, (<https://ipa.news/2019/03/04/abductions-on-the-rise-in-turkey-as-the-latest-horrific-one-see-a-father-brutally-kidnapped-in-front-of-his-kids/>).

(without the authorities willing providing a written refusal).⁷ When visiting her husband at the Anti-Terrorism Department, Mrs. Zeybek was always accompanied by police officers and when she asked her husband about what had happened in the past months the police officers would intervene, not letting her husband discuss the abduction. Salim Zeybek's physical state had deteriorated as well: he was not wearing his eyeglasses as he usually did, he had lost considerable weight and was unable to maintain his balance while sitting. Moreover, after having been arrested on 28 July 2019, Salim Zeybek remained in detention for 12 days without being brought before a judge to decide on the extension of his detention. Salim Zeybek told his wife not to wait for him in front of the courthouse and refused to meet the counsel she selected.

- No effective investigation into the abduction and enforced disappearance of Salim Zeybek was launched:
 - The Edirne Provincial Directorate of Security, the Edirne Governor's Office, the Provincial Gendarmerie Command and the General Directorate of Security all denied that an abduction and consequent disappearance had taken place.
 - On 25 February 2019, Mrs. Zeybek filed a criminal complaint with the Ankara Chief Public Prosecutor's Office alleging that the perpetrators committed offences of deprivation of liberty and armed threat. On that 25 February 2019, she testified before the Public Prosecutor's Office on Duty in the Ankara Courthouse. She gave the Prosecutor's Office the license plate number of the car that brought her and their children to Ankara with the request to inform her on its owner and driver. She also requested to verify with emergency call centres whether an emergency call was made on a 'car driving in the opposite direction' between 18.00 and 21.00 on 21 February 2019. As well as to investigate all the reports on accidents that occurred on that route on the given date and to determine public officers that emitted signals at base stations on the same date and at the same time. However, none of these requests were met. Although Mrs. Zeybek stated that she wanted to testify before the prosecutor conducting the relevant investigation, a consultation of the relevant documents has shown that she has not been asked to testify until today.
 - On 5 April 2019, Mrs. Zeybek filed an application with the Constitutional Court requesting an injunction. This request was rejected on 17 April 2019.

3. ÖZGÜR KAYA⁸

- Özgür Kaya was abducted on 13 February 2019 and resurfaced on 28 July 2019 after having disappeared for 165 days / 5 months.

⁷ The Arrested Lawyers Initiative, "Suspensions and concerns continue about the four victims of enforced disappearance as the Ankara Court has decided to remand them", 10 August 2019, (<https://arrestedlawyers.org/2019/08/10/suspensions-and-concerns-continue-about-the-four-victims-of-enforced-disappearance/>).

⁸ Ankara Bar Association Human Rights Center, Joint Monitoring Report, 1 July 2019, (https://turkeytribunal.com/wp-content/uploads/2020/06/Enforced_Disappearances_JointMonitoringReport_AnkaraBar.pdf).

- Özgür Kaya, a teacher in a private institution connected to the Gülen movement, was abducted by a heavily armed group of almost 40 people wearing vests with the inscription of TEM (anti-terrorism units). They introduced themselves as police officers and provided an investigation number of the Chief Public Prosecutor’s Office in Ankara. Many neighbours witnessed his abduction.
- Özgür Kaya was the object of an investigation on suspicion of being a FETÖ/PDY member. This investigation led to a search of his house in September 2016. Subsequently, Özgür Kaya went temporarily into hiding. Mrs. Kaya herself was shortly before his abduction taken into custody and being asked about the whereabouts of her husband.
- On 28 July 2019, the police informed Mrs. Kaya that her husband was detained at the Anti-Terrorism Department in Ankara, as he had allegedly been caught during a criminal record check when he was walking to the police station to surrender.
- Mrs. Kaya stated that she went to visit him for almost half an hour at the Anti-Terrorism Department in Ankara but that she was always in the company of police officers. She noticed that her husband had lost much weight. He asked her to withdraw her applications, to shut down her social media accounts and not to meet deputies in order to lobby for his liberation.⁹ After having re-appeared in the Anti-Terrorism Department in Ankara, Özgür Kaya remained in detention for 12 days without being brought before a judge. Özgür Kaya did not want to meet the lawyer Mrs. Kaya paid for him. Özgür Kaya told her he had found a lawyer by coincidence at the police station. However, this lawyer never contacted Mrs. Kaya. The request of Mrs. Kaya to have her husband medically examined by an independent physician was denied.¹⁰
- No effective investigation into the abduction and enforced disappearance of Özgür Kaya was launched:
 - Mrs. Kaya regularly inquired at the police about the whereabouts of her husband. She was consistently told that her husband was not in detention but had fled abroad.
 - On 16 February 2019, Mrs. Kaya filed a criminal complaint to the Chief Public Prosecutor’s Office in Ankara in order to launch an investigation into the abduction of her husband (hereinafter “initial investigation”).
 - Mrs. Kaya also sent letters to the Ministry of Interior and to the Turkish Parliament Human Rights Investigation Commission. Deputies Sezgin Tanrıku and Ömer Faruk Gergerlioğlu submitted written questions to the Turkish Parliament Human Rights Investigation Commission.
 - On 27 February 2019, Mrs. Kaya requested the Chief Public Prosecutor’s Office in Ankara via her lawyer to collect the testimonies of the eyewitnesses and the footage of the relevant camera recordings. The Chief Public Prosecutor’s Office

⁹ Bold Medya, “Six special captives of Erdogan regime”, 12 November 2019, (<https://boldmedya.com/en/2019/11/12/six-special-captives-of-erdogan-regime/>).

¹⁰ The Arrested Lawyers Initiative, “Suspensions and concerns continue about the four victims of enforced disappearance as the Ankara Court has decided to remand them”, 10 August 2019, (<https://arrestedlawyers.org/2019/08/10/suspensions-and-concerns-continue-about-the-four-victims-of-enforced-disappearance/>).

in Ankara issued a written order to the police asking the police to make certain enquiries, but without any response. This request was repeated on 15 March 2019 and 27 March 2019.

- On 26 February 2019, Mrs. Kaya filed an individual application to the Constitutional Court, seeking an injunction. Her application was, however, dismissed on 14 March 2019.
- On 18 February 2019, Mrs. Kaya applied to CİMER (hereinafter “second investigation”). Consequently, her statement was taken on 12 March 2019 at the Şentepe Şehit Cevdet Yeşilay Police Station.
- On 24 May 2019, the Legal Affairs Unit in Ankara Governor’s Office wrote letters to the Ankara Provincial Security Directorate and the Public Prosecutor’s Office in Ankara in response to the application filed by the Mrs. Kaya on 21 May 2019. This Unit requested these authorities to make the necessary enquiries and to inform Ankara Governor’s Office on the matter so it could be discussed at the Provincial Human Rights Board. However, the initial investigation file was joined with the second investigation, which is still conducted by the Chief Public Prosecutor’s Office in Ankara where Mr. Kaya is a suspect. Since there is a confidentiality order in this second investigation file, Mrs. Kaya has not been able to access neither of the two files. Neither has the Chief Public Prosecutor’s Office in Ankara informed Mrs. Kaya.

4. GÖKHAN TÜRKMEN¹¹

- Gökhan Türkmen was abducted on 7 February 2019 and resurfaced on 5 November 2019 after having disappeared for 271 days / 9 months.
- Gökhan Türkmen was a former employee of the Agricultural and Rural Development Support Authority. His employment contract was terminated on 21 July 2016 on allegations that he was a FETÖ/PYD member. He was abducted on 7 February 2019 when he left his home without coming back.
- Gökhan Türkmen was the object of an arrest warrant in the context of an investigation on him being a FETÖ/PYD member. In August 2017, police officers from the Special Forces Department searched Gökhan Türkmen’s house and notified his wife, Zehra Genç Türkmen, that there was an arrest warrant against Mr Türkmen, who was not at home during the search. Mr. Türkmen had to present himself to the authorities as soon as possible, which he did not do.
- On 5 November 2019, the police informed Mrs. Türkmen that her husband was at the Antalya Police Department.

¹¹ Ankara Bar Association Human Rights Center, Joint Monitoring Report, 1 July 2019, (https://turkeytribunal.com/wp-content/uploads/2020/06/Enforced_Disappearances_JointMonitoringReport_AnkaraBar.pdf).

- An Ankara court sent Gökhan Türkmen to pretrial detention where he remains in solitary confinement in Ankara’s Sincan F-type Prison No. 1.¹²
- During a court hearing on 10 February 2020 Mr. Türkmen spoke for the first time on his abduction, enforced disappearance and the torture he had suffered.
 - Gökhan Türkmen told the judges he was abducted by people wearing police vests.¹³ He was taken by a van to a location four or five hours away and it’s there and then that months-long torture and ill-treatment started.¹⁴
 - Gökhan Türkmen said that, while he was in police custody in November 2019, he was prevented from retaining his own legal counsel. He announced during a hearing that he had dismissed lawyer Ayşegül Güney who had been assigned by a bar association.¹⁵
 - Gökhan Türkmen and his (new) lawyer filed complaints against the fact that men who introduced themselves as members of the National Intelligence Agency MIT visited him in prison six times since November 15, 2019 and threatened him and his family.¹⁶
 - During a March 2020 visit, the men pressured him to retract his complaints about abduction and torture at the February court hearing.¹⁷
- No effective investigation into the abduction and enforced disappearance of Gökhan Türkmen was launched:
 - On 12 February 2019, Gökhan Türkmen’s father went to Antalya Varsak Police Station. Eventually police officers from the Anti-Terrorism Department came to his house and took his statement. The officers told them that his son’s car had been seen in Ulus (in Ankara) 10 days earlier on city surveillance cameras. Mrs. Türkmen, however, immediately stated that this was impossible, as their car had been in their house’s garage for the last two years.
 - The Chief Public Prosecutor’s Office in Antalya launched a first investigation into this missing person case and decided on 26 February 2019 that the Office on Missing and Wanted Persons was handling the procedures related to

¹² Human Rights Watch, “Turkey: Enforced Disappearances, Torture”, 29 April 2020, (<https://www.hrw.org/news/2020/04/29/turkey-enforced-disappearances-torture>).z

¹³ Hizmet Movement News Archive, Man abducted by Turkish intel exposes torture during 9-month enforced disappearance, 17 February 2020 (<https://hizmetnews.com/25172/man-abducted-by-turkish-intel-exposes-torture-during-9-month-enforced-disappearance/#.X0qe6S2iHBI>).

¹⁴ Hizmet Movement News Archive, Man abducted by Turkish intel exposes torture during 9-month enforced disappearance, 17 February 2020 (<https://hizmetnews.com/25172/man-abducted-by-turkish-intel-exposes-torture-during-9-month-enforced-disappearance/#.X0qe6S2iHBI>).

¹⁵ Hizmet Movement News Archive, Man abducted by Turkish intel exposes torture during 9-month enforced disappearance, 17 February 2020 (<https://hizmetnews.com/25172/man-abducted-by-turkish-intel-exposes-torture-during-9-month-enforced-disappearance/#.X0qe6S2iHBI>).

¹⁶ Bold Medya, HUMAN RIGHTSHuman Rights Watch: Allegations of Abduction and Torture Not Investigated in Turkey, 29 April 2020 (<https://boldmedya.com/en/2020/04/29/human-rights-watch-allegations-of-abduction-and-torture-not-investigated-in-turkey/>).

¹⁷ Bold Medya, HUMAN RIGHTSHuman Rights Watch: Allegations of Abduction and Torture Not Investigated in Turkey, 29 April 2020 (<https://boldmedya.com/en/2020/04/29/human-rights-watch-allegations-of-abduction-and-torture-not-investigated-in-turkey/>).

Gökhan Türkmen. As a result, the prosecutor's Office did not find it necessary to prosecute since they considered there to be no criminal element.

- Upon her request, Mrs. Türkmen, was notified on 14 March 2019 by the General Directorate of Prisons and Detention Houses, that Mr Türkmen's name was not found in the records of convicts and detainees of the National Judiciary Informatics System.
- On 20 March 2019, the Chief Public Prosecutor's Office in Kayseri launched a second investigation after Mrs. Türkmen filed a complaint to CIMER. He concluded, however, that *"if Gökhan Türkmen was a victim of any offense, an investigation could be conducted upon his complaint."* Such a complaint was of course impossible since Gökhan Türkmen was in the impossibility to file such a complaint.
- On 27 March 2019, the Chief Public Prosecutor's Office in Antalya reviewed the initial investigation documentation in order to continue the investigation, to summon telephone records and historical traffic search entries. Letters were sent to the Preparation Office of the Chief Public Prosecutor's Office in Antalya, and Antalya Varsak Police Station to make the necessary enquiries, to allow examination of historical traffic search records and to interview the family of Mr. Türkmen.
- On 4 April 2019, Mrs. Türkmen testified at Kayseri Melikgazi Police Station and stated that on 7 March 2019 at 02:34, three messages were sent to the Twitter account she had opened for her husband Gökhan Türkmen: *"He cannot die before he answers with whom he shared the data he stole from the state and which did not belong to him. He is looking at me begging, like a sewer rat squeezed under a manhole cover. If he does not reply to the questions with additional evidence he will suffer and be destroyed", "Ok", "He is secure now."* She also mentioned that this account was called "15 Temmuz @vforvendetta TUR", which was later changed to "NÖBET@nobetdizisi7_24". Mrs. Türkmen stated that she believed that the individual or individuals using that account have abducted her husband. She also stated that when she checked the accounts again, these were no longer in use.
- On 7 May 2019, the Chief Public Prosecutor's Office in Antalya contacted the Chief Public Prosecutor's Office in Kayseri and asked him to interrogate Mrs. Türkmen as a witness. Mrs. Türkmen gave her testimony once more.
- On 5 March 2019, Mrs. Türkmen applied to the Ombudsman's Office. On 2 May 2019, her application was dismissed and a *"Ineligible for Review"* decision was rendered (case no. 2019/1671-S.2507).
- On April 16 2019, the Ankara prosecutor issued three decisions saying there was no need to investigate the complaints of Mrs. Türkmen.¹⁸

¹⁸ Bold Medya, HUMAN RIGHTSHuman Rights Watch: Allegations of Abduction and Torture Not Investigated in Turkey, 29 April 2020 (<https://boldmedya.com/en/2020/04/29/human-rights-watch-allegations-of-abduction-and-torture-not-investigated-in-turkey/>).

5. ERKAN IRMAK¹⁹

- Erkan Irmak was abducted on 16 February 2019 and resurfaced on 28 July 2019 after having disappeared for 162 days / 5 months.
- Erkan Irmak, a teacher, was abducted by three individuals in plain clothes.²⁰
- Erkan Irmak was under investigation of the Chief Public Prosecutor's Office in Ankara based on allegations of being a FETÖ/PYD member. During the period of his disappearance, this investigation continued and eventually led to an arrest warrant being issued against Mr. Irmak.
- On 28 July 2019, the police informed Mr. Irmak's wife, Nilüfer Irmak, that her husband was in detention at the Anti-Terrorism Department in Ankara and that he had been caught during a criminal record check when he was walking to the police station to surrender.
- Mrs. Irmak confirmed that, after her husband resurfaced in prison, she visited him for almost half an hour at the Anti-Terrorism Department in Ankara in the company of a police officer and with cameras in the room where they met. Her husband had lost almost 15 kilos. He remained in detention for 12 days without being presented to a judge. He was also not examined by an independent physician.²¹
- No effective investigation into the abduction and enforced disappearance of Erkan Irmak was launched:
 - Mrs. Irmak filed an application to the Istanbul Governor's Office on 2 February 2019 (case no. 63800), to which no reply was received. She also filed an application to CİMER with no. 1900532752. On 7 March 2019 she received the following response from the Ümraniye District Security Department: *"you will be informed if you personally apply to the competent authorities related to the confidential aspects of your application."*
 - On 1 March 2019, the counsel of Mrs. Irmak filed a request to receive information about an investigation launched by the Chief Public Prosecutor's Office in Istanbul upon the complaint of Mrs. Irmak.
 - Mrs. Irmak also asked the Prosecutor's Office to review the footage from city surveillance cameras (no. 046-g-34 umr and no. 048-g-34 umr) that cover the area where the abduction occurred. On 24 April 2019, the initial investigation file was joined to the investigation in which Mr. Irmak is a suspect and which is still ongoing. However, since there is a confidentiality order in this second investigation file, Mrs. Irmak has not been able to learn anything on the actions undertaken by the authorities on the abduction of her husband nor has she been informed by the Chief Public Prosecutor's Office in Ankara.

¹⁹ Ankara Bar Association Human Rights Center, Joint Monitoring Report, 1 July 2019, (https://turkeytribunal.com/wp-content/uploads/2020/06/Enforced_Disappearances_JointMonitoringReport_AnkaraBar.pdf).

²⁰ Stockholm Center for Freedom, Enforced Disappearance: One more abduction reported in Turkey, 4 March 2019, (<https://stockholmcf.org/enforced-disappearance-one-more-abduction-reported-in-turkey/>).

²¹ Human Rights Watch, "Turkey: Concerns for Disappeared Men Now in Police Custody", 6 August 2019, (<https://www.hrw.org/news/2019/08/06/turkey-concerns-disappeared-men-now-police-custody>).

- On 11 March 2019 an individual application for injunction has been filed with the Constitutional Court, which was dismissed.
- On 2 April 2019, an application was filed with the European Court of Human Rights, seeking an injunction. On 11 April 2019, the Court notified Mr. Irmak that an injunction would not be issued but that this case would be given priority according to Article 41 of the internal directive of the ECtHR. The application was notified to the Government on 10 April 2019. The application filed with the UN Working Group on Enforced or Involuntary Disappearance has not yet been replied to.
- Deputy Ömer Faruk Gergerlioğlu brought the abduction case to the Parliament and submitted a parliamentary question, asking Vice President Fuat Oktay to answer this question. No answer was provided.

6. YASIN UGAN²²

- Yasin Ugan was abducted on 13 February 2019 and resurfaced on 28 July 2019 after having disappeared for 165 days / 5 months.
- Yasin Ugan, an accountant working in the private sector, was abducted from a house in the Çamlık neighbourhood in the Altındağ District.²³ He was abducted by armed individuals in plain clothes who introduced themselves as police officers. A black plastic bag was placed on his head. The abductors claimed that their actions were part of a pending investigation before the Prosecutor's Office.
- On 28 July 2019, the police informed Mikail Ugan that his brother was being detained at the Anti-Terrorism Department in Ankara and that he had been caught during a criminal record check when he was walking to the police station to surrender.
- Selda Ugan, Yasin Ugan's wife, stated that after her husband resurfaced in prison, she was only allowed to visit him at the Anti-Terrorism Department in Ankara in the presence of police officers in plain clothes. Her husband had lost a lot of weight and he looked very pale. Her husband remained in detention for 12 days without being taken to a judge for the extension of the detention period. When Yasin Ugan gave his testimony, another counsel than the one his wife had chosen was present. She learned from a news site that her husband had hired that counsel while he was at the police department. This counsel refused to meet with Mrs. Ugan. Yasin Ugan was not examined by an independent physician.
- On 23 June, 2019 Yasin Ugan testified before the Ankara 34th High Criminal Court: *"the Turkish police abducted and heavily tortured me for six months."*²⁴ He was severely

²² Ankara Bar Association Human Rights Center, Joint Monitoring Report, 1 July 2019, (https://turkeytribunal.com/wp-content/uploads/2020/06/Enforced_Disappearances_JointMonitoringReport_AnkaraBar.pdf).

²³ Human Rights Watch, "Turkey: Concerns for Disappeared Men Now in Police Custody", 6 August 2019, (<https://www.hrw.org/news/2019/08/06/turkey-concerns-disappeared-men-now-police-custody>).

²⁴ IPA News, Tortured for six months by Turkish police: Detainee, 24 June 2020 (<https://ipa.news/2020/06/24/tortured-for-six-months-by-turkish-police-detainee/>).

beaten and only allowed to shower three times during the six months.²⁵ Yasin Ugan eventually dismissed his state-appointed lawyer after being made to sign a 58-page testimony, taken under the torture, without ever having read it.²⁶

- No effective investigation into the abduction and enforced disappearance of Yasin Ugan was launched:
 - Mikail Ugan went to all units of the police department and the Prosecutor's Office but did not manage to find out where his brother was being detained.
 - In response to the application filed with CİMER on 27 March 2019, the Altıntaş District Security Directorate replied as follows: *"The inquiry made by Hüseyingazi Şehit İdris Aydın Police Center revealed that Yasin Ugan is not in prison, and that he is not detained at any police department where he could have been detained"*.
 - On 2 April 2019, the Gölbaşı District Security Directorate replied as follows: *"Anti-Terrorism Department – Security Office has not performed any actions involving Yasin Ugan"*.
 - When the Human Rights Association wrote to the Ministry of Interior, it replied, on 20 March 2019, as follows regarding the allegations of enforced disappearance of Yasin Ugan and Özgür Kaya: *"No missing person application has been found when enquiries were made into the Smuggling and Intelligence Unit (KİHBİ), National Judiciary Informatics System (UYAP), and Law Enforcement Procedures Project (Ekip Proje)."*
 - On 5 April 2019, the Ombudsman's Office issued an *"Ineligible for Review"* decision.
 - Under the initial investigation file, the Chief Public Prosecutor's Office in Ankara wrote a letter on 22 February 2019 to the Anti-Terrorism Department in Ankara Security Directorate and asked "to notify whether Yasin Ugan was in detention, and to send a copy of the notice informing his next-of-kin, if this was the case." No answer was given to this letter. The initial investigation file was joined with a second investigation file against Yasin Ugan, relating to his implication in the FETÖ/PDY structure. Mikail Ugan was not asked to testify again.
 - The Constitutional Court dismissed the request for an injunction on 20 March 2019 on grounds that the investigation was still ongoing.

²⁵ IPA News, Tortured for six months by Turkish police: Detainee, 24 June 2020 (<https://ipa.news/2020/06/24/tortured-for-six-months-by-turkish-police-detainee/>).

²⁶ IPA News, Tortured for six months by Turkish police: Detainee, 24 June 2020 (<https://ipa.news/2020/06/24/tortured-for-six-months-by-turkish-police-detainee/>).

7. YUSUF BILGE TUNÇ²⁷

- Yusuf Bilge Tunç was abducted on 6 August 2019 and continues to have disappeared to this day.
- Yusuf Bilge Tunç, a Financial Services Expert at the Under secretariat of the Defense Industry, was removed from public office with the Decree Law No. Two. He disappeared in unknown circumstances on 6 August 2019.
- Yusuf Bilge Tunç was the object of an investigation conducted against him by the Chief Public Prosecutor's Office in Ankara. He was alleged, on the one hand, to be a FETÖ/PDY member and, on the other hand, to have leaked Public Personnel Selection Examination (KPSS) questions. In April 2017, the police searched his home address but Mr. Tunç was not at home at that time. Afterwards he did not surrender himself to the police.²⁸
- No effective investigation into the abduction and enforced disappearance of Yusuf Bilge Tunç was launched:
 - On 8 August 2019, the Chief Public Prosecutor's Office in Ankara received Mrs. Tunç's application to investigate the disappearance of her husband. The Prosecutor created an investigation number but did not assign a prosecutor to the case. On 19 August 2019, following the persistent requests of Mrs. Tunç, the Prosecutor sent a letter to the Office on Missing Persons, asking them to make an enquiry about Yusuf Bilge Tunç. However, no city surveillance camera recordings were examined. Eventually, Mr. Tunç's family members themselves found the car.
 - On 9 August 2019, Mrs. Tunç applied to CİMER, but did not receive any response.
 - On 12 August 2019, Mrs. Tunç and other relatives of Mr. Tunç filed a criminal complaint with the Chief Public Prosecutor's Office in Ankara. They requested, among others, an enquiry into the movements of his car and into relevant camera footage. The Chief Public Prosecutor's Office in Ankara did not take any action regarding this request.
 - On 4 September 2019, the counsel of Mrs. Tunç requested the Chief Public Prosecutor's Office in Ankara to conduct a survey in the area, to identify camera footage/pictures, examine all the footage from the city surveillance cameras, OTS, KGYS, private business on the route, to look into the location data of the missing person using his telephone number and to identify public officers who might have emitted alarm signals. However, no action was taken in response to this request.

²⁷ Ankara Bar Association Human Rights Center, Joint Monitoring Report, 1 July 2019, (https://turkeytribunal.com/wp-content/uploads/2020/06/Enforced_Disappearances_JointMonitoringReport_AnkaraBar.pdf).

²⁸ BOLD MEDYA Abducted political science graduate Tunç's wife: "The police are asking me where my husband is" 17 September 2019 (<https://boldmedya.com/en/2019/09/17/abducted-political-science-graduate-tuncs-wife-the-police-are-asking-me-where-my-husband-is/>).

- The investigation files, including the file of the Chief Public Prosecutor's Office in Ankara containing the missing person's application were joined with the investigation file against Mr. Tunç.
- On 9 August 2019, Mrs. Tunç applied to CİMER, but did not receive any response.
- On 21 August 2019, a criminal complaint was filed with the Judges and Prosecutors Board against the prosecutor and law enforcement officers who did not conduct an effective investigation, but no action has been taken related to this complaint. No decision has yet been issued related to the individual application and request for an emergency injunction that had been filed with the Constitutional Court.

8. ONDER ASAN²⁹

- Önder Asan was abducted on 1 April 2017 and resurfaced on 12 May 2017 after having disappeared for 41 days / 1 month.³⁰
- Önder Asan, a philosophy teacher, was abducted in broad daylight in the Turkish capital. Initially, the circumstances of his abduction remained unknown, but when Mr. Asan reappeared in the ordinary detention system, he managed to convey what happened to his lawyer, Mr. Burak Çolak. Mr. Asan testified that, on 1 April 2017, when he arrived at his car that was parked in the Şentepe neighbourhood, his tires were slashed by unknown people. He, consequently, had to take a cab. On the way to his destination the cab was cut-off by four vehicles on Vatan Street. The people who came out of the cars said they were the police. They blindfolded him and forced him to get into a black Volkswagen Transporter van. A witness confirmed that it were police officers who forced Mr. Asan out of the cab into a Transporter van.³¹ Mr. Asan stated that he was blindfolded and beaten on the way to an unknown location. He was then put in a cell and tortured for several days. On 12 May 2017, he was once more blindfolded and put into a van. When they removed his blindfold, he realized he was near Eymir Lake (some 20 kilometres south of Ankara). His abductors called the Ankara police department and forced Mr. Asan to say on the phone "*I am Önder Asan, a*

²⁹ Human Rights Watch, Turkey: Enforced Disappearances, Torture Investigate Disappearances; End Threats to Detainee and His Family, April 29, 2020 (<https://www.hrw.org/news/2020/04/29/turkey-enforced-disappearances-torture>); Human Rights Watch, "In Custody: Police Torture and Abductions in Turkey", 12 October 2017, (<https://www.hrw.org/report/2017/10/12/custody/police-torture-and-abductions-turkey#page>); Stockholm Center for Freedom, "Abducted teacher in Turkey turns up in police detention after 42 days of torture by government thugs", 14 May 2017, (<https://stockholmcf.org/abducted-teacher-in-turkey-turns-up-in-police-detention-after-42-days-of-torture-by-govt-thugs/>); Solidarity with Others, Enforced Disappearances: Turkey's Open Secret, May 2020, p. 11 (https://b2923f8b-dcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf).

³⁰ Human Rights Watch, "Turkey: Investigate Ankara Abductions, Disappearances", 3 August 2017, <https://www.hrw.org/news/2017/08/03/turkey-investigate-ankara-abductions-disappearances>.

³¹ Human Rights Watch, "Turkey: Investigate Ankara Abductions, Disappearances", 3 August 2017, <https://www.hrw.org/news/2017/08/03/turkey-investigate-ankara-abductions-disappearances>.

member of Fethullah Terrorist Organization, I want to surrender myself. Please come and take me in.” They then compelled him to sign a paper stating that he wanted to take advantage of repentance law. Eventually, the police officers of the Ankara police department arrived and picked him up.

- On May 12, Mrs. Asan received a phone call from the Ankara police department informing her that her husband was in detention in the Organized Crime and Smuggling Unit (KOM).³²
- Mrs. Asan was initially denied access to her husband. Only his lawyer was granted to access to him for 20 minutes. When Önder Asan was brought to the police station, he had great difficulty in standing and walking. He walked to the room to meet his lawyer by holding onto the walls. Although the police were present during his brief meeting with the lawyer, he had the courage to tell some parts of his story and asked for a medical and psychological treatment. Burak Çolak, the lawyer representing Önder Asan, was eventually also detained since he refused to sign a false testimony prepared by the police on behalf of his client. The police tried to force the lawyer to sign the document that included a false testimony by his client.³³ Burak Çolak was later released after a detention. Burak Çolak also informed Human Rights Watch on the fact that, although a medical report from the Forensic Medicine Institute diagnosed Asan as suffering from “acute stress,” the report did not include his statement to psychiatrists that his stress was the result of being abducted and tortured, and made no reference to how that may be relevant to his medical condition.³⁴
- No effective investigation into the abduction and enforced disappearance of Önder Asan was launched:
 - His wife, Fatma Asan, worried because her husband did not return. Eventually she found her husband’s car, with slashed tires, parked near Şentepe. Mrs. Asan immediately filed petitions with the police and the prosecutor to investigate his possible abduction.³⁵
 - The authorities were, however, very reluctant to look into his case. On April 3, 2017, Ms. Asan went to the police, who sent her to the prosecutor’s office. The prosecutor then sent her back to the police. On April 4, 2017, Ms. Asan went to a different police station, where the officers told her that her husband had “run off”.³⁶ They did not even bother to check CCTV cameras around the

³² Stockholm Center for Freedom, “Abducted teacher in Turkey turns up in police detention after 42 days of torture by government thugs”, 14 May 2017, (<https://stockholmcf.org/abducted-teacher-in-turkey-turns-up-in-police-detention-after-42-days-of-torture-by-govt-thugs/>).

³³ Stockholm Center for Freedom, “Abducted teacher in Turkey turns up in police detention after 42 days of torture by government thugs”, 14 May 2017, (<https://stockholmcf.org/abducted-teacher-in-turkey-turns-up-in-police-detention-after-42-days-of-torture-by-govt-thugs/>).

³⁴ Human Rights Watch, “Turkey: Enforced Disappearances, Torture”, 29 April 2020, (<https://www.hrw.org/news/2020/04/29/turkey-enforced-disappearances-torture>).

³⁵ Stockholm Center for Freedom, “Abducted teacher in Turkey turns up in police detention after 42 days of torture by government thugs”, 14 May 2017, (<https://stockholmcf.org/abducted-teacher-in-turkey-turns-up-in-police-detention-after-42-days-of-torture-by-govt-thugs/>).

³⁶ Human Rights Watch, “In Custody: Police Torture and Abductions in Turkey”, 12 October 2017, (<https://www.hrw.org/report/2017/10/12/custody/police-torture-and-abductions-turkey#page>).

neighbourhood where the incident took place.³⁷ Mrs. Asan filed a criminal complaint with the Public Prosecutor's Office and launched a social media campaign appealing to the public to help her and locate her husband. All these efforts yielded no result. Mrs. Asan attempted herself to recover the relevant CCTV footage but the relevant business owners who possessed this footage refused to share these recordings without judicial request thereto.³⁸

- At present no progress has been made in the investigation on Önder Asan's abduction.³⁹

9. FAHRI MERT⁴⁰

- Fahri Mert was abducted on 12 August 2018 and continues to have disappeared to this day.
- Fahri Mert was abducted in the Izmir province by a group of people who reportedly introduced themselves as police officers. They pushed him into a black Transporter van and told him: "We will take you to the security directorate".
- No effective investigation into the abduction and enforced disappearance of Fahri Mert was launched:
 - His family and friends have been unable to get any information about Mert's whereabouts since the incident.

³⁷ Change.org, "BBC interviews families of abducted Gülenists", 22 April 2019, (<https://www.change.org/p/amnesty-international-australia-whisked-away-erdogan-s-program-of-kidnappings-a3752055-3f72-495a-906f-6a924b410d60/u/24457607>).

³⁸ Stockholm Center for Freedom, "Abducted teacher in Turkey turns up in police detention after 42 days of torture by government thugs", 14 May 2017, (<https://stockholmcf.org/abducted-teacher-in-turkey-turns-up-in-police-detention-after-42-days-of-torture-by-govt-thugs/>).

³⁹ Human Rights Watch, "Turkey: Enforced Disappearances, Torture", 29 April 2020, (<https://www.hrw.org/news/2020/04/29/turkey-enforced-disappearances-torture>).

⁴⁰ Turkish Minute, "Another victim added to list of abducted Turkish citizens", 28 August 2018, (<https://www.turkishminute.com/2018/08/28/another-victim-added-to-list-of-abducted-turkish-citizens/>); TR724, "İzmir'de kaçırılan Fahri Mert'ten 2 haftadır haber alınamıyor", 26 August 2018, (<http://www.tr724.com/izmirde-kacirilan-fahri-mertten-2-haftadir-haber-alinamiyor/>); Stockholm Center for Freedom, "No news received from Fahri Mert since he was abducted in Turkey's Izmir 2 weeks ago", 26 August 2018, (<https://stockholmcf.org/no-news-received-from-fahri-mert-since-he-was-abducted-in-turkeys-izmir-2-weeks-ago/>); Stockholm Center for Freedom, "No news received from Fahri Mert since he was abducted in Turkey's Izmir 2 weeks ago", 26 August 2018, (<https://stockholmcf.org/no-news-received-from-fahri-mert-since-he-was-abducted-in-turkeys-izmir-2-weeks-ago/>); Solidarity with Others, Enforced Disappearances: Turkey's Open Secret, May 2020, p. 17 (https://b2923f8b-dcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf).

10. HASAN KALA⁴¹

- Hasan Kala was abducted on 21 July 2018 and continues to have disappeared to this day.
- Hasan Kala is an academician who was dismissed from his post at Çankırı Karatekin University by a government decree under the state of emergency declared in the aftermath of the alleged coup d'état. He was dismissed for reason of his alleged links to the Gülen movement. He was reportedly abducted on 21 July 2018 at 11.30 pm by an unknown group of people after being forced into a black Transporter van in Ankara's Batıkent district.
- No effective investigation into the abduction and enforced disappearance of Hasan Kala was launched:
 - Family members filed a number of complaints to the authorities, but these remained unanswered.

11. AHMET ERTURK⁴²

- Ahmet Ertürk was abducted on 16 November 2018 and resurfaced on 4 January 2019 after having disappeared for 49 days / 2 months.
- Ahmet Ertürk was a teacher at a private school which was shut down because of alleged links with the Gülen movement. He was abducted at the same time as a raid of the police forces was conducted at his parents' house in Ankara.⁴³
- On 8 January 2019, Ahmet Ertürk's wife tweeted that he was found and that he had been in police custody for four days - thus since 4 January 2019 - during which he was consistently questioned by the police.
- No further explanation has been given by Mr. Ertürk, his lawyer or his family members on his abduction and disappearance.

⁴¹ TR724, "Siyah transporterlar Ankara'da yine devrede: KHK ile ihraç edilen akademisyen kaçırıldı," 22 July 2018, <http://www.tr724.com/siyah-transporterlar-ankarada-yine-devrede-khk-ile-ihrac-edilen-akademisyen-kacirildi/>; Turkish Minute, Another victim added to list of abducted Turkish citizens, 28 August 2018 (<https://www.turkishminute.com/2018/08/28/another-victim-added-to-list-of-abducted-turkish-citizens/>); Solidarity with Others, Enforced Disappearances: Turkey's Open Secret, May 2020, p. 16 (https://b2923f8b-dcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf).

⁴² Turkish Minute, "Purged teacher from shut-down Gülen movement school disappears," 30 November 2018, (<https://www.turkishminute.com/2018/11/30/purged-teacher-from-shut-down-gulen-movement-school-disappears/>). See notably tweet thereon of Ertürk's wife of that day announced his disappearance on Twitter, saying her husband went missing at the same time that police raided his parents' house in Ankara; Solidarity with Others, Enforced Disappearances: Turkey's Open Secret, May 2020, p. 17 (https://b2923f8b-dcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf).

⁴³ Turkish Minute, "Purged teacher from shut-down Gülen movement school disappears," 30 November 2018, <https://www.turkishminute.com/2018/11/30/purged-teacher-from-shut-down-gulen-movement-school-disappears/>. See notably tweet thereon of Ertürk's wife of that day announced his disappearance on Twitter, saying her husband went missing at the same time that police raided his parents' house in Ankara.

- No effective investigation into the abduction and enforced disappearance of Mr. Ertürk was launched:⁴⁴
 - After her husband had been missing for 13 days, Mrs. Ertürk stated that she filed different complaints but that neither law enforcement nor the prosecutor in charge “have responded positively”.

12. UMIT HORZUM⁴⁵

- Ümit Horzum was abducted on 6 December 2017 and resurfaced on 16 April 2018 after having disappeared for 131 days / 4 months.
- Ümit Horzum was a former civil servant who was removed from his job at Turkey’s Banking Regulation and Supervision Agency (BDDK) by one of the emergency decrees after the alleged failed coup d’état. On 6 December 2017 at 6 p.m. he was abducted from his car near the Acity shopping mall in Ankara after his vehicle was cut off by a black Transporter van. Mr. Horzum was forced into the van and disappeared.⁴⁶
- Before his disappearance, Ümit Horzum was already sought by the police after a detention warrant had been issued for him over his alleged links to the Gülen movement. However, he had not surrendered to the police out of fear of the widespread and systematic torture in detention. For that reason, Ümit Horzum did not stay at home for a long time since he was afraid of being detained.
- On 16 April 2018, Mrs. Horzum was contacted by the police, saying that her husband was being held in custody in Ankara. He was allegedly delivered to the police by unknown people.
- When he reappeared, Ümit Horzum had rib fractures and burst eardrums.⁴⁷ Neither Mrs. Horzum nor her lawyer were allowed to meet him. On 27 April 2018, after 11 days of detention, Ümit Horzum appeared for the first time before a judge and was immediately released. He was, however, brought before the judge without having the possibility to choose his lawyer.

⁴⁴ Turkish Minute, “Purged teacher from shut-down Gülen movement school disappears,” 30 November 2018, (<https://www.turkishminute.com/2018/11/30/purged-teacher-from-shut-down-gulen-movement-school-disappears/>).

⁴⁵ Stockholm Center for Freedom, “Ümit Horzum released by Turkish court 145 days after his abduction in Ankara”, 28 April 2018, (<https://stockholmcf.org/umit-horzum-released-by-turkish-court-145-days-after-his-abduction-in-ankara/>); Solidarity with Others, Enforced Disappearances: Turkey’s Open Secret, May 2020, p. 15 (https://b2923f8b-dcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf); Leighann Spencer, Vocal Europe, “The Case of Ümit Horzum, Most Recent Victim In A String Of Abductions In Post-Coup Turkey,” 11 January 2018 (<https://www.vocaleurope.eu/the-case-of-umit-horzum-most-recent-victim-in-a-string-of-abductions-in-post-coup-turkey/>).

⁴⁶ Leighann Spencer, Vocal Europe, “The Case of Ümit Horzum, Most Recent Victim In A String Of Abductions In Post-Coup Turkey,” 11 January 2018 (<https://www.vocaleurope.eu/the-case-of-umit-horzum-most-recent-victim-in-a-string-of-abductions-in-post-coup-turkey/>).

⁴⁷ Stockholm Center for Freedom, “Abducted Turkish citizen subjected to heavy torture at Ankara Organized Crime Bureau”, 22 April 2018, (<https://stockholmcf.org/abducted-turkish-citizen-subjected-to-heavy-torture-at-ankara-organized-crime-bureau/>).

- In February 2020, Ümit Horzum Horzum discussed his abduction and disappearance during a court hearing. According to the Court records, he stated that, during his disappearance and before he was handed over to the regular police on 16 April 2018, he had been tortured and coerced to sign previously prepared incriminating statements on people he did not even recognize. He also confirmed that he was abducted after his abductors blocked his vehicle in Etlik.⁴⁸
- No effective investigation into the abduction and enforced disappearance of Ümit Horzum was launched:
 - Mr. Horzum’s family managed to find his empty car after his abduction. They immediately informed the police of the whereabouts of the car and requested them to use it to search for further evidence on the fate of Mr. Horzum. Still, the police simply towed the car from the scene of the crime to the Balgat car park without any examination.
 - Mrs. Horzum went to the police department, gendarmerie and prosecutor’s offices to get information about him and to check if and where he was detained. This without any result.
 - After learning that there was no detention registration of her husband, Mrs. Horzum applied to a gendarmerie station near her house and informed the authorities of the fact that her husband had been abducted. A Gendarmerie Commander reportedly warned her to give up looking for her husband and stated that “No good can come to you from him. He is a wanted man with a charge of life imprisonment for being a leader in a terror organisation.” The same commander has reportedly registered the application as “missing person” rather than “abduction.”⁴⁹
 - Consequently Mrs. Horzum tried to file a legal complaint. However, none of the prosecutors wanted to accept her complaint. Eventually, a prosecutor decided to accept her legal complaint on the condition that she would give up tracing her husband. The prosecutor, however, refused to give her an application registration number.
 - On 18 January 2018, an application no. 4475/18 was lodged against Turkey at the ECHR. The application concerns the disappearance of Ümit Horzum, following his alleged abduction by unknown persons on 6 December 2017 and the allegations of a lack of an effective investigation into his disappearance.⁵⁰

⁴⁸ Bold Medya, “Ümit Horzum mahkemede konuştu: Kaçırıldım, işkence gördüm,” 21 February 2020, <https://boldmedya.com/2020/02/21/umit-horzum-mahkemede-konustu-kacirildim-iskence-gordum/>

⁴⁹ See tweets Mrs. Horzum’s wife.

⁵⁰ European Court of Human Rights, *Aynur Horzum and others v. Turkey*, n°4475/18, 18 January 2018, ([https://hudoc.echr.coe.int/eng#{\"itemid\":\[\"001-182899\"\]}](https://hudoc.echr.coe.int/eng#{\)).

13. MESUT GEÇER⁵¹

- Mesut Geçer was abducted on 18 March 2017 and resurfaced on 14 July 2018 after having disappeared for 483 days / 16 months.
- Mesut Geçer was a former National Intelligence Organization (MIT) officer. He was abducted after his car was stopped in the district of Çakırlar in Yenimahalle following his dismissal from the MIT as part of the government's post-coup crackdown.
- On 3 December 2019, Mesut Geçer testified, as shown by the court records, before the Ankara 34th High Criminal Court that he was abducted by some of his former MIT colleagues while driving in Ankara. He publically stated that they blocked his car in traffic and then put him in another vehicle with a bag over his head. The next day, he was put in a cell on an unknown location, handcuffed from behind and interrogated while his head was banged against the wall. Mesut Geçer stated that, after his health deteriorated, he was transferred to another location, which he later found out was Syria, with people speaking Arabic around him, and was held there until 14 July 2018, when he was taken back to Turkey and subsequently arrested. At the moment of his testimony Mesut Geçer still experienced serious medical problems with his left foot and knee.⁵²
- No effective investigation into the abduction and enforced disappearance of Mesut Geçer was launched:
 - According to Aktif Haber, his family members have been experiencing difficulties even in submitting petitions to ask about Geçer's whereabouts as officials often refused to cooperate with them.
 - According to his testimony in court of 3 December 2019, Mesut Geçer has not seen his family since his abduction on 18 March 2017.⁵³
 - Later complaints submitted by Mesut Geçer and his family on his abduction have not been investigated. His lawyer has, consequently, appealed to the European Court of Human Rights.

⁵¹ Human Rights Watch, "Turkey: Enforced Disappearances, Torture Investigate Disappearances; End Threats to Detainee and His Family", 29 April 2020, (<https://www.hrw.org/news/2020/04/29/turkey-enforced-disappearances-torture>); Solidarity with Others, "Enforced Disappearances: Turkey's Open Secret", May 2020, p. 9 (https://b2923f8b-dcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf).

⁵² BOLD MEDYA, Siyah Transporterla kaçırılan Mesut Geçer mahkemede 16 aylık işkence sürecini anlattı, 2 January 2020 (<https://boldmedya.com/2020/01/02/16-ay-boyunca-alikonulan-mit-mensubu-mahkemede-konustu-iskencecilerimi-teshis-edebilirim/>); Cumhuriyet, FETÖ tutuklusundan çarpıcı ifadeler, 2 January 2020 (<https://www.cumhuriyet.com.tr/haber/feto-tutuklusundan-carpici-ifadeler-1712065>).

⁵³ IPA News, "Syria acted as Turkey's Guantanamo' says exiled journo on torture claims, 3 January 2020, (<https://ipa.news/2020/01/03/syria-acted-as-turkeys-guantanamo-says-exiled-journo-on-torture-claims/>).

14. SUNAY ELMAS⁵⁴

- Sunay Elmas was abducted on 27 January 2016 and continues to have disappeared to this day.
- Sunay Elmas, a teacher, was reported missing in Ankara as of January 27, 2016. He was abducted in front of the CEPA Shopping Center at 11:00 am by being pushed by unknown individuals in a black Transporter van. CCTV footage obtained by his family clearly showed Mr. Elmas being intercepted after getting out of his car and being forced into the van.
- No effective investigation into the abduction and enforced disappearance of Mesut Geçer was launched:
 - The family of Mr. Elmas filed applications to the Ankara police and prosecutors with the request to investigate the abduction. Since the authorities did not seem to take any active investigative steps, the relatives of Mr. Elmas collected CCTV footage of the abduction themselves and provided this to the police. No investigation has, however, taken place.⁵⁵
 - Similarly, the application made by Mr. Elmas's wife to Ankara Security Directorate has remained unanswered.

15. AYHAN ORAN⁵⁶

- Ayhan Oran was abducted on 1 November 2016 and continues to have disappeared to this day.
- Ayhan Oran was a former National Intelligence Organisation (MİT) employee. He was suspended from his duties on 17 July 2016 and dismissed on 2 August 2016 over alleged links with the Gülen movement.
- Security camera footage showed Ayhan Oran leaving, with his car, the residential compound where he lived at 12:38 am. The signal of his cell phone continued to

⁵⁴ Human Rights Association, "Those claimed to have been forcible and involuntarily disappeared must be clarified & perpetrators must be tried", 30 May 2017, (<https://ihd.org.tr/en/those-claimed-to-have-been-forcibly-and-involuntarily-disappeared-must-be-clarified-perpetrators-must-be-tried/>); Stockholm Center for Freedom, "CHP deputy asks about 7 abducted purge victims in parliamentary question", 25 April 2017, p. 6 (<https://stockholmcf.org/chp-deputy-asks-about-7-abducted-purge-victims-in-parliamentary-question/>); Solidarity with Others, "Enforced Disappearances: Turkey's Open Secret", May 2020, p. 9 (https://b2923f8b-dcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf).

⁵⁵ Bold MEDYA, "İlk siyah Transporter kurbanı Sunay Elmas'ın kaçırılışının 3üncü yılı," 27 January 2019, (<https://boldmedya.com/2019/01/27/ilk-siyah-transporter-kurbani-sunay-elmasin-kacirilisinin-ucuncu-yili/>).

⁵⁶ Stockholm Center for Freedom, "CHP deputy asks about 7 abducted purge victims in parliamentary question", 25 April 2017 (<https://stockholmcf.org/chp-deputy-asks-about-7-abducted-purge-victims-in-parliamentary-question/>); Human Rights Association, "Those claimed to have been forcible and involuntarily disappeared must be clarified & perpetrators must be tried", 30 May 2017, (<https://ihd.org.tr/en/those-claimed-to-have-been-forcibly-and-involuntarily-disappeared-must-be-clarified-perpetrators-must-be-tried/>); Solidarity with Others, "Enforced Disappearances: Turkey's Open Secret", May 2020, p. 8 (https://b2923f8b-dcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf).

receive signals until 16:00am the same day. Mr. Oran left his home without bidding farewell to his wife or taking any money with him.

- A news outlet close to the PKK alleged that Ayhan Oran had knowledge of the controversial January 2013 assassination of three Kurdish female activists in Paris,⁵⁷ which some believe was perpetrated by the MIT.
- No effective investigation into the abduction and enforced disappearance of Ayhan Oran was launched:
 - In April 2017, Sezgin Tanrikulu, an Istanbul deputy of Turkey's main opposition Republican People's Party (CHP) submitted a parliamentary question to the Parliament Speaker's Office in which he asked Prime Minister Binali Yıldırım why no effective investigation on this case was conducted.⁵⁸

16. MUSTAFA ÖZGÜR GÜLTEKİN⁵⁹

- Mustafa Özgür Gültekin was abducted on 21 December 2016 and seems to have resurfaced on 21 April 2017 after having disappeared for 121 days / 4 months.
- Mustafa Özgür Gültekin was an employee of the Turkish Competition Authority. He was abducted in Beştepe, Ankara, around 18:15 pm. CCTV footage from the neighbourhood gathered by his family members showed Mr. Gültekin's vehicle being followed by four other cars. Consequently, he was forced into a black Transporter van after having stopped by a convenience store for shopping.
- On 21 April 2017, Mustafa Özgür Gültekin reappeared in police custody in Ankara (close to the Kurtuluş Park). In a letter he sent to lawyers as well as judges and prosecutors overseeing his case, Mr. Gültekin revealed that he had been abducted by members of MIT.⁶⁰ He was subjected by them to brutal extrajudicial interrogations and

⁵⁷ ANF, "MIT'çi Ayhan Oran nerede? Öldürüldü mü?", 11 January 2018 (<https://anfurturce.net/kadin/mlt-ci-ayhan-oran-nerede-Oelduerueldue-mue-101343>).

⁵⁸ Stockholm Center for Freedom, CHP deputy asks about 7 abducted purge victims in parliamentary question, 25 April 2017 (<https://stockholmcf.org/chp-deputy-asks-about-7-abducted-purge-victims-in-parliamentary-question/>).

⁵⁹ Human Rights Association, "Those claimed to have been forcible and involuntarily disappeared must be clarified & perpetrators must be tried", 30 May 2017, (<https://ihd.org.tr/en/those-claimed-to-have-been-forcibly-and-involuntarily-disappeared-must-be-clarified-perpetrators-must-be-tried/>); The Globe Post, "Surge in Kidnappings of Purged Officials Recalls Dark 1990s", 23 April 2017, (<https://theglobepost.com/2017/04/20/surge-in-abductions-of-purged-officials-recalls-dark-1990s/>); Turkey Purge, "Report: 7 victims of Turkey's post-coup purge reportedly abducted", 20 April 2017, (<https://turkeypurge.com/exclusive-7-victims-of-turkeys-post-coup-purge-reportedly-abducted>); Solidarity with Others, "Enforced Disappearances: Turkey's Open Secret", May 2020, p. 8 (https://b2923f8b-dcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf).

⁶⁰ Hak İnisyatifi, "2016 Yılı Sonrası Kamu Görevlileri Tarafından Yasadışı Alıkonulma İddialarına İlişkin İnceleme ve Araştırma Raporu," 19 June 2019, p. 7 (<https://www.hyd.org.tr/attachments/article/537/Hakİnisyatifi.2019AlıkonulmaİddialarıRaporu.pdf>) (They based themselves on the parliamentary question asked on behalf of the CHP Group Deputy Chairperson Sezgin Tanrikulu of 26 April 2017, with numbers 9807 and 11565 and the letter with the signature of Mustafa Özgür Gültekin, which was sent to a lawyer on 21 July 2018). See also Solidarity with Others, Enforced Disappearances: Turkey's Open Secret, May 2020, p. 8 (https://b2923f8b-dcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf).

forced to read incriminating statements in front of a camera. Consequently, during his 13-day police custody, he was made to sign a number of prepared statements which he had previously been forced to read to a camera while being secretly interrogated by the MİT. This interrogation was conducted by the Ankara Anti-Terror Department. Mr. Gültekin said that he signed everything they put in front of him out of fear to be subjected to torture again. After having signed all these documents, he was released and fled abroad.

- No effective investigation into the abduction and enforced disappearance of Ayhan Oran was launched:
 - Mr. Gültekin's family members said the police did not conduct any investigation despite available CCTV footage on which the individuals involved were clearly identifiable.

17. HÜSEYİN KÖTÜCE⁶¹

- Hüseyin Kötüce was abducted on 28 February 2017 and seems to have resurfaced in the beginning of 2019 after having disappeared for almost 2 years.
- Hüseyin Kötüce was an employee of Turkey's Information Technologies and Communications Authority (BTK). He was abducted from the parking lot of the Batıkent subway station. His car was found nearby and in it Mr. Kötüce's winter coat as well as a cake that he had bought.⁶²
- In the beginning of 2019, Mr. Kötüce resurfaced as a defendant in the trial related to the assassination of Andrei Karlov, the Russian ambassador to Turkey. During a hearing in March 2019, he denied involvement in the assassination and said that the self-incriminating statement he had previously given in police custody constituted a scenario that he was made to memorize under torture during his interrogation while he was abducted. He confirmed that he had been abducted by the MİT and that they had intercepted his car while he was heading home from work. He had been handcuffed and put in a black van with a bag over his head.⁶³

⁶¹ Solidarity with Others, "Enforced Disappearances: Turkey's Open Secret", May 2020, p. 9 (https://b2923f8b-dcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf); IPA News, "Two imprisoned for Karlov assassination deny charges, citing torture", 26 March 2019 (<https://ipa.news/2019/03/26/two-imprisoned-for-karlov-assassination-deny-charges-citing-torture/>); Cumhuriyet, Karlov suikastının kritik ismi: Kaçırıldım, MİT işkence yaptı, 25 March 2019 (<https://www.cumhuriyet.com.tr/haber/karlov-suikastinin-kritik-ismi-kacirildim-mit-iskence-yapti-1313080>).

⁶² Hurriyet Daily News, "Turkish main opposition deputy asks about 'mysterious kidnapping incidents'", 26 April 2017, (<https://www.hurriyetdailynews.com/turkish-main-opposition-deputy-asks-about-mysterious-kidnapping-incidents-112447>); Stockholm Center for Freedom, "CHP deputy asks about 7 abducted purge victims in parliamentary question", 25 April 2017, (<https://stockholmcf.org/chp-deputy-asks-about-7-abducted-purge-victims-in-parliamentary-question/>).

⁶³ IPA News, "Two imprisoned for Karlov assassination deny charges, citing torture", 26 March 2019 (<https://ipa.news/2019/03/26/two-imprisoned-for-karlov-assassination-deny-charges-citing-torture/>); Cumhuriyet, Karlov suikastının kritik ismi: Kaçırıldım, MİT işkence yaptı, 25 March 2019 (<https://www.cumhuriyet.com.tr/haber/karlov-suikastinin-kritik-ismi-kacirildim-mit-iskence-yapti-1313080>).

- No effective investigation into the abduction and enforced disappearance of Hüseyin Kötüce was launched:
 - The police did not comply with family members' repeated requests to conduct a fingerprint search in the car and to gather CCTV footage from the area.

18. ORÇUN ŞENYÜCEL⁶⁴

- Orçun Şenyücel was abducted on 20 April 2018 and seems – but this is not certain - to have resurfaced in July 2018 after having disappeared for almost 3 months.
- Orçun Şenyücel was a former public sector worker who was employed as an expert at Turkey's Competition Authority until he was dismissed by an emergency decree over alleged Gülen links. He left his house in the evening to buy milk for his kids and he did not return home. His phone became unreachable shortly afterwards. Family members got hold of a convenience store CCTV footage where Şenyücel was seen being abducted by gunmen coming out of a black Transporter van and a white Toyota.
- Hak İnisiyatifi cited unconfirmed claims that Orçun Şenyücel was released three months after his disappearance and that he had been subjected to torture while he was missing. Orçun Şenyücel's name did appear as a witness in Mesut Geçer's trial.⁶⁵
- No effective investigation into the abduction and enforced disappearance of Orçun Şenyücel was launched:
 - Family members complained on social media about the lack of effective investigation. They collected the main evidence (CCTV footage) themselves. Despite this footage clearly showing the license plates of the vehicles involved in the abduction, no investigation into Orçun Şenyücel's disappearance was conducted.

⁶⁴ Solidarity with Others, Enforced Disappearances: Turkey's Open Secret, May 2020, p. 12 (https://b2923f8b-dcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf); Zaman Australia, No news received from Fahri Mert since he was abducted in Turkey's İzmir 2 weeks ago, 27 August 2018 (<https://zamanaustralia.com/en/2018/08/27/no-news-received-from-fahri-mert-since-he-was-abducted-in-turkeys-izmir-2-weeks-ago/amp/>); Hak İnisiyatifi, "2016 Yılı Sonrası Kamu Görevlileri Tarafından Yasadışı Alıkonulma İddialarına İlişkin İnceleme ve Araştırma Raporu," 19 June 2019, p. 19, (<https://www.hyd.org.tr/attachments/article/537/Hakİnisiyatifi.2019AlıkonulmaİddialarıRaporu.pdf>).

⁶⁵ Hak İnisiyatifi, "2016 Yılı Sonrası Kamu Görevlileri Tarafından Yasadışı Alıkonulma İddialarına İlişkin İnceleme ve Araştırma Raporu," 19 June 2019, p. 19 (<https://www.hyd.org.tr/attachments/article/537/Hakİnisiyatifi.2019AlıkonulmaİddialarıRaporu.pdf>) (They based themselves on the parliamentary question asked on behalf of the CHP Group Deputy Chairperson Sezgin Tanrıkulu of 30 April 2018, with number 24426).

19. TURGUT ÇAPAN⁶⁶

- Turgut Çapan was abducted on 31 March 2017 and continues to have disappeared to this day.
- Turgut Çapan was an employee at the Turgut Özal University which has been shut down after the July 2016 events. He was abducted in the district of Şentepe in Yenimahalle. CCTV footage from the area showed a black Transporter van approaching the place where Turgut Çapan was last seen, although the footage did not capture the moment of abduction.
- Turgut Çapan had a search warrant outstanding against him, as did three of his colleagues at the Turgut Özal University (amongst others Mustafa Özben who was also abducted). He rarely came home to his family out of fear of being arrested and consequently tortured.
- Turgut Çapan's disappearance was revealed to the public by his wife Ülkü Çapan who opened a Twitter account and released a video message on April 8 in which she told that a friend of her husband dropped by her home to say that Çapan had been abducted.⁶⁷ Closely after the revelation, Çapan's house was raided by the police and Ülkü Çapan was briefly detained and then released.
- No effective investigation into the abduction and enforced disappearance of Turgut Çapan was launched:
 - When Mrs. Çapan went public with the abduction of her husband she was briefly arrested herself.
 - Mrs. Çapan later met with Ankara governor Ercan Topaca who she said tried to convince her that her husband might have fled by himself.⁶⁸

⁶⁶ Solidarity with Others, Enforced Disappearances: Turkey's Open Secret, May 2020, p. 10 (https://b2923f8b-dcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf); Human Rights Association, "Those claimed to have been forcible and involuntarily disappeared must be clarified & perpetrators must be tried", 30 May 2017, (<https://ihd.org.tr/en/those-claimed-to-have-been-forcibly-and-involuntarily-disappeared-must-be-clarified-perpetrators-must-be-tried/>); Hak İnisyatifi, "2016 Yılı Sonrası Kamu Görevlileri Tarafından Yasadışı Alıkonulma İddialarına İlişkin İnceleme ve Araştırma Raporu," 19 June 2019, p. 9 (<https://www.hyd.org.tr/attachments/article/537/Hakİnisyatifi.2019AlıkonulmaİddialarıRaporu.pdf>).

⁶⁷ Turkish Minute, "Woman says husband abducted after losing job in post-coup crackdown," 9 April 2017, (<https://www.turkishminute.com/2017/04/09/woman-says-husband-abducted-losing-job-post-coup-crackdown/>).

⁶⁸Deniz Zengin "15 Temmuzla Kararan Hayatlar", December 2018, https://books.google.be/books/about/15_Temmuzla_Kararan_Hayatlar.html?id=Ih6VDwAAQBAJ&redir_esc=v

20. CENGİZ USTA⁶⁹

- Cengiz Usta seems to be abducted on 4 April 2017 and resurfaced on 30 June 2017 after having disappeared for more than 87 days / 3 months.
- Cengiz Usta was a former public-school teacher who, during the state of emergency, was dismissed from his job by an emergency decree over alleged Gülen links. He was reported missing in İzmir's Torbalı district. Family members said he left the house to make a routine apartment-related payment and did not come back. A local news website cited eyewitness who claimed to have seen him being forced into a vehicle.⁷⁰ This was recorded in police records as well.
- Three months later, Mr. Usta called his family members to let them know that he was in the Afyon province and that he was returning home. News reports said he had left because he had psychological problems and he needed to be alone for a while.⁷¹ On the other hand, Önder Asan told his lawyer that he had overheard someone named Mr. Cengiz being held in the same secret detention facility where he was interrogated.⁷² Both men effectively disappeared during the same period.

21. MUSTAFA ÖZBEN⁷³

- Mustafa Özben was abducted on 9 May 2017 and continues to have disappeared to this day.
- Mustafa Özben was a lawyer and an academic who used to give lectures at the Gülen-affiliated Turgut Özal University which was shut down during the state of emergency. He first disappeared after dropping his daughter at school. Family members later located his abandoned car. Eyewitnesses confirmed that

⁶⁹ Solidarity with Others, Enforced Disappearances: Turkey's Open Secret, May 2020, p. 11 (https://b2923f8b-dcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf); Hak İnisyatifi, "2016 Yılı Sonrası Kamu Görevlileri Tarafından Yasadışı Alıkonulma İddialarına İlişkin İnceleme ve Araştırma Raporu," 19 June 2019, p. 9 (<https://www.hyd.org.tr/attachments/article/537/Hakİnisyatifi.2019AlıkonulmaİddialarıRaporu.pdf>); Torbalı Güncel, "Cengiz öğretmen 45 gündür kayıp," Torbalı Güncel, 19 May 2017 (<https://torbaliguncel.com/gundem/cengiz-ogretmen-45-gundur-kayip-h12270.html>).

⁷⁰ Torbalı Güncel, "Cengiz öğretmen 45 gündür kayıp," Torbalı Güncel, 19 May 2017 (<https://torbaliguncel.com/gundem/cengiz-ogretmen-45-gundur-kayip-h12270.html>).

⁷¹ Torbalı Güncel, "Kayıp öğretmen 87 gün sonra bulundu," 10 July 2017, (<https://torbaliguncel.com/gundem/kayip-ogretmen-80-gun-sonra-bulundu-h14801.html>).

⁷² Solidarity with Others, Enforced Disappearances: Turkey's Open Secret, May 2020, p. 13 (https://b2923f8b-dcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf).

⁷³ Solidarity with Others, Enforced Disappearances: Turkey's Open Secret, May 2020, p. 12 (https://b2923f8b-dcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf); BBC Türkçe, "Ankara'da yakınları kaçırılanlar anlatıyor," 29 June 2017, (<https://www.bbc.com/turkce/haberler-turkiye-40372013>); Turkey Purge, Abducted academic's wife says threatened by authorities to stop pursuing case, 7 August 2017, (<https://turkeypurge.com/abducted-academics-wife-says-threatened-by-authorities-to-stop-pursuing-case>); TR724, Eşi kaçırılan Emine Özben'in hak mücadelesi: 'Bu işi kurcalamayın, sizin de başınız ağrır', 7 August 2017 (<http://www.tr724.com/esi-kacirilan-emine-ozbenin-hak-mucadelesi-isi-kurcalamayin-sizin-de-basiniz-agrir/>).

he was forcibly put into a black van in Ankara's Yeni Mahalle neighbourhood. Upon filing a missing notice with the police department, his wife Emine Özben found out about an outstanding detention warrant against her husband. A similar warrant was issued against three of his colleagues at the Turgut Özal University (amongst other Turgut Çapan who was also abducted). Two days later she received a brief phone call from Mustafa Özben who she said sounded worn out, hesitant and afraid. He continues, however, to have disappeared to this day.

- No effective investigation into the abduction and enforced disappearance of Mustafa Özben was launched:
 - Emine Özben went to the police, the gendarmerie and many other places to file complaints but without any result.
 - After failing to convince the police that her husband might have been abducted, Emine Özben conducted her own investigation and found eyewitnesses from the area who saw a man being pushed into a van by three men, one of whom was wearing a black ski mask.
 - The witness statements of students and shopkeepers who saw the abduction were not fully entered into police records and the investigation did not proceed.
- In May 2017, Emine Özben said she was threatened and ordered by authorities to stop following up on her husband's case. She was told several times at the Ankara Police Department and Public Prosecutor's Office that she would find herself in trouble if she insisted on claiming that her husband was abducted by the National Intelligence Organization (MİT).

22. FATİH KILIÇ⁷⁴

- Fatih Kılıç was abducted on 14 May 2017 and continues to have disappeared to this day.
- Fatih Kılıç was a teacher who was removed from his job by an emergency decree over alleged Gülen links. He disappeared after he sent off his family at the Ankara Intercity Bus Terminal (AŞTİ) around 23.00.
- No effective investigation into the abduction and enforced disappearance of Fatih Kılıç was launched:
 - The police refused to recover CCTV footage in the AŞTİ in spite of Kılıç's family's insistence.

⁷⁴ Solidarity with Others, Enforced Disappearances: Turkey's Open Secret, May 2020, p. 13 (https://b2923f8b-dcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf); Human Rights Watch, "Letter from Human Rights Watch to Minister Gül," 3 August 2017, (<https://www.hrw.org/news/2017/08/03/letter-human-rights-watch-minister-gul>); Hak İnisyatifi, "2016 Yılı Sonrası Kamu Görevlileri Tarafından Yasadışı Alıkonulma İddialarına İlişkin İnceleme ve Araştırma Raporu," 19 June 2019, p. 10 (<https://www.hyd.org.tr/attachments/article/537/Hakİnisyatifi.2019AlıkonulmaİddialarıRaporu.pdf>).

- Eventually Human Rights Watch reported that the CCTV footage revealed that Fatih Kılıç left the bus station by subway and got out at the Dikimevi station after which he has never been seen again. No official investigation into his disappearance has been conducted.

23. CEMİL KOÇAK⁷⁵

- Cemil Koçak was abducted on 15 June 2017 and resurfaced in late September 2017 after having been disappeared for more than 2 months.
- Cemil Koçak was a former public sector worker who was dismissed from the Ministry of Agriculture by an emergency decree over alleged Gülen links. On 15 June 2017, around 17:30, Mr. Koçak's car was followed by four cars (a black and a white Ford Focus, a VW Transporter van and a Fiat Doblo) near his home in Ankara's Altındağ district. His car was hit by another vehicle and he was forced into a black Transporter van. The incident took place in the presence of Koçak's 8-year-old son as well as eyewitnesses who reported seeing Koçak taken away in a dark-coloured van. The allegations were supported by CCTV footage.⁷⁶
- Human Rights Watch later learned that Mr. Koçak was released from a secret detention facility where he had been held for over three months by men who told him they worked for the state.⁷⁷

24. MURAT OKUMUŞ⁷⁸

- Murat Okumuş was abducted on 16 June 2017 and continues to have disappeared to this day.
- Murat Okumuş worked as an accountant for the Gülen-affiliated Şifa Hospital which was shut down during the state of emergency. He was reported missing in İzmir. His

⁷⁵ Solidarity with Others, Enforced Disappearances: Turkey's Open Secret, May 2020, p. 13 (https://b2923f8b-dcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf); Hak İnisyatifi, "2016 Yılı Sonrası Kamu Görevlileri Tarafından Yasadışı Alıkonulma İddialarına İlişikin İnceleme ve Araştırma Raporu," 19 June 2019, p. 10 (<https://www.hyd.org.tr/attachments/article/537/Hakİnisyatifi.2019AlıkonulmaİddialarıRaporu.pdf>); Human Rights Watch, "Letter from Human Rights Watch to Minister Gül," 3 August 2017, (<https://www.hrw.org/news/2017/08/03/letter-human-rights-watch-minister-gul>).

⁷⁶ Human Rights Watch, "Letter from Human Rights Watch to Minister Gül," 3 August 2017, (<https://www.hrw.org/news/2017/08/03/letter-human-rights-watch-minister-gul>).

⁷⁷ Human Rights Watch, "In Custody: Police Torture and Abductions in Turkey," 12 October 2017, (<https://www.hrw.org/report/2017/10/12/custody/police-torture-and-abductions-turkey#page>).

⁷⁸ Solidarity with Others, Enforced Disappearances: Turkey's Open Secret, May 2020, p. 14 (https://b2923f8b-dcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf); Turkish Minute, "Another post-coup victim abducted in broad daylight in Turkey", 23 June 2017, (<https://www.turkishminute.com/2017/06/23/another-post-coup-victim-abducted-in-broad-daylight-in-turkey/>); Politico, "Suspicious abductions in Turkey raise fears of state role", 19 September 2017, (<https://www.politico.eu/article/turkey-erdogan-suspicious-abductions-raise-fears-of-state-role/>).

family told Human Rights Watch that gunmen identifying themselves as the police forced Okumuş into a vehicle in a central street in İzmir. One bystander called the police to report the incident.

- No effective investigation into the abduction and enforced disappearance of Murat Okumuş was launched:
 - Family members who got hold of CCTV footage and filed criminal complaints with a prosecutor later discovered that the prosecutor was removed from the case and a secrecy order was imposed on the investigation.
 - On 21 August 2017, application no. 58984/17 was eventually lodged at the ECHR by his family members. The application concerns the disappearance of Murat Okumuş and the allegations of a lack of an effective investigation into his disappearance.⁷⁹

25. HİDIR ÇELİK⁸⁰

- Hıdır Çelik was abducted on 16 November 2017 and continues to have disappeared to this day.
- Hıdır Çelik was a farmer. He was reported missing in Diyarbakır. News reports indicated that he disappeared after he was caught in the midst of clashes between the armed forces and the PKK in Diyarbakır's Hazro district.⁸¹ Reports said that the Kurdish farmer happened to be at the scene to purchase livestock and that he was wounded during the incident. A press release published by the Diyarbakır governor's office stated that a certain PKK co-conspirator was captured alive during the combat, without giving names.⁸² The Turkish NGO Hak İnisyatifi claimed that by 'co-conspirator' the governor's office was referring to Mr. Çelik.⁸³

⁷⁹ European Court Human Rights, *Ahmet Okumus v. Turkey*, n° 58984/17, 21 August 2017, (<http://hudoc.echr.coe.int/eng?i=001-180190>).

⁸⁰ Solidarity with Others, *Enforced Disappearances: Turkey's Open Secret*, May 2020, p. 14 (https://b2923f8b-dcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf); Hak İnisyatifi, "2016 Yılı Sonrası Kamu Görevlileri Tarafından Yasadışı Alıkonulma İddialarına İlişkin İnceleme ve Araştırma Raporu," 19 June 2019, p. 14 (<https://www.hyd.org.tr/attachments/article/537/Hakİnisyatifi.2019AlıkonulmaİddialarıRaporu.pdf>); Grihat, "İki kayıp/kaçırılma olayı daha," 14 December 2017 (<https://grihat.com/iki-kayipkacirilma-olayi-daha/>).

⁸¹ Grihat, "İki kayıp/kaçırılma olayı daha," 14 December 2017 (<https://grihat.com/iki-kayipkacirilma-olayi-daha/>). Solidarity with Others, *Enforced Disappearances: Turkey's Open Secret*, May 2020, p. 14 (https://b2923f8b-dcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf).

⁸² Diyarbakır Valiliği, "Etkisiz hale getirilen BTÖ mensupları ve ele geçirilen mühimmatlar," 17 November 2017 (<https://diyarbakir.gov.tr/17112017-basin-duyurusu-etkisiz-hale-getirilen-bto-mensuplari-ve-ele-gecirilen-muhimmatlar>). See Solidarity with Others, *Enforced Disappearances: Turkey's Open Secret*, May 2020, p. 14 (https://b2923f8b-dcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf).

⁸³ Hak İnisyatifi, "2016 Yılı Sonrası Kamu Görevlileri Tarafından Yasadışı Alıkonulma İddialarına İlişkin İnceleme ve Araştırma Raporu," 19 June 2019, p. 14 (<https://hakinisyatifi.org/wp-content/uploads/2019/06/Hakİnisyatifi.2019AlıkonulmaİddialarıRaporu.pdf>). See Solidarity with Others, *Enforced Disappearances: Turkey's Open Secret*, May 2020, p. 14 (https://b2923f8b-dcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf).

- No news has been heard from Mr. Çelik from this day.

26. LIDER POLAT⁸⁴

- Lider Polat was abducted on 27 August 2020 and continues to have disappeared to this day.
- Lider Polat is a youth member of the pro-Kurdish party HDP.
- He was abducted by 4 men who identified themselves as police officers and pushed him into a white vehicle after being blindfolded. There exists video footage of the entire abduction.

⁸⁴ Mezopotamya Ajansi, HDP'li Polat'ın kaçırılma anına dair görüntüler ortaya çıktı, 3 September 2020 (<http://mezopotamyaajansi22.com/tum-haberler/content/view/108373>); BOLD MEDYA, GÜNDEM HDP'li Polat'ın kaçırılma anına ilişkin görüntüler ortaya çıktı, 3 September 2020 (<https://boldmedya.com/2020/09/03/hdpli-polatin-kacirilma-anina-iliskin-goruntuler-ortaya-cikti/>). See also twitter account of Mezopotamya Ajansi for the footage on the abduction.

Annex 3

1. MOLDOVA: CASES OF YASIN OZDIL, MUJDAT CELEBI, RIZA DOGAN, SEDAT HASAN KARACAAGLU, MEHMET FERIDUN TUFEKCI, AND TWO UNIDENTIFIED TURKISH NATIONALS

- Yasin Ozdil, Mujdat Celebi, Riza Dogan, Sedat Hasan Karacaoglu and Mehmet Feridun Tufekci and two other Turkish nationals were abducted on 6 September 2018 and immediately deported to Turkey, where they remain imprisoned.
- On the morning of 6 September 2018, they were arrested in their homes or on their way to work by individuals wearing plain clothes and they were taken to an unknown destination.¹
- Later in the day, the Moldovan SIS (Intelligence and Security Service) issued statements concerning a large anti-terrorist operation which had taken place that day and during which seven foreign nationals, suspected of ties to an Islamist organization, had been arrested and removed from Moldova in cooperation with secret services from other countries.² It has been confirmed that Turkey's National Intelligence Organization (MIT) was directly involved in the operation.³ On the same day, the Turkish media namely reported that the Turkish National Intelligence Organization had conducted a successful operation in Moldova during which seven members of the Fethullah Gülen movement had been arrested.⁴
- The arrested were taken directly to Chişinău Airport where a specially chartered airplane was waiting for them. It took them immediately to Turkey.⁵
- Their families had no knowledge of their fate for several weeks.⁶
- They were all linked to a private chain of schools in Moldova, in Chişinău's Durleşti neighbourhood, called Orizont, which has been in operation since 1993.
- They all had had valid residence permits for Moldova.
 - Mr Yasin Ozdil had lived in Moldova since 2015 with his wife and their two minor children.
 - Mr Mujdat Celebi had lived in Moldova since 2014 with his wife and their three minor children.
 - Mr Riza Dogan had lived in Moldova since 1993 with his wife and their two minor children who are Moldovan citizens. He was the director of the school.
 - Mr Sedat Hasan Karacaoglu had lived in Moldova since 1998 with his wife.
 - Mr Mehmet Feridun Tufekci had lived in Moldova since 1993 together with his Moldovan wife and their two minor children who are Moldovan citizens.

¹ ECtHR, *Ozdil and Others v. the Republic of Moldova*, 11 June 2019, Application No. 42305/18, at. 13.

² ECtHR, *Ozdil and Others v. the Republic of Moldova*, 11 June 2019, Application No. 42305/18, at. 13; Amnesty International, *Moldova: Seven people deported to Turkey despite major human rights concerns*, 6 September 2018 (<https://www.amnesty.org/en/latest/news/2018/09/moldova-seven-people-deported-to-turkey-despite-major-human-rights-concerns/>).

³ Nordic Monitor, *Teachers abducted by Turkish intelligence in Moldova hit by bogus criminal charges*, 9 August 2020 (<https://www.nordicmonitor.com/2020/08/teachers-kidnapped-by-turkish-intelligence-in-moldova-were-accused-of-terrorist-group-membership/>); Madalin Necsutu, *Moldova's Human Rights Deficit: ECHR ruling highlights wider failings in system* (<https://iwpr.net/global-voices/moldovas-human-rights-deficit>).

⁴ ECtHR, *Ozdil and Others v. the Republic of Moldova*, 11 June 2019, Application No. 42305/18, at. 14.

⁵ ECtHR, *Ozdil and Others v. the Republic of Moldova*, 11 June 2019, Application No. 42305/18, at. 17; Madalin Necsutu, *Moldova's Human Rights Deficit: ECHR ruling highlights wider failings in system* (<https://iwpr.net/global-voices/moldovas-human-rights-deficit>).

⁶ ECtHR, *Ozdil and Others v. the Republic of Moldova*, 11 June 2019, Application No. 42305/18, at. 16.

- In April 2018, months before their abduction, they had all applied for asylum with the Moldovan Bureau for Migration and Asylum. They sought to obtain refugee status in Moldova because they feared reprisals in Turkey on the grounds of their political views. Several days after the arrests, the families received letters from the Moldovan Bureau for Migration and Asylum rejecting their applications. The Bureau confirmed that the fear of reprisals at the hands of the Turkish authorities were justified, however they rejected the application on the basis of a classified note, received from the Moldovan secret service, according to which the Turkish nationals presented a threat to national security. The decisions did not provide any details.⁷
- Five of the seven teachers applied to the European Court for Human Rights, which rendered judgment on 11 June 2019. The Court found that the deprivation of liberty on 6 September 2018 was neither lawful nor necessary within the meaning of Article 5 § 1 (f), nor devoid of arbitrariness.⁸ The Court also confirmed that it concerned a joint operation between the Moldovan and Turkish secret services that was prepared well in advance of 6 September 2018.⁹ The Court held that Moldova is to pay each applicant 25 000 EUR.
- The international community condemned the illegal abduction that took place on 6 September 2018:
 - On 15 October 2016 the European Parliament made public a report on the implementation of the EU Association Agreement with Moldova: *“29. Strongly condemns the recent extradition/abduction of Turkish citizens to Turkey due to their alleged links to the Gülen movement, in violation of the rule of law and basic human rights; urges the Moldovan authorities to ensure that any extradition requests coming from third countries are processed in a transparent manner while following judicial procedures fully in line with European principles and standards...”*
 - On the day of the abduction, the Amnesty International’s director for Eastern Europe and Central Asia issued the following statement: *“The Moldovan authorities didn’t just violate these individuals’ rights once by deporting them - they put them on a fast-track to further human rights violations such as an unfair trial. ... The latest arrests in Moldova follow the pattern of political reprisals against Turkish nationals living abroad by the increasingly repressive government of Recep Tayyip Erdoğan. ... Forcible return of those seeking protection in Moldova is a flagrant violation of Moldova’s international human rights obligations. The state authorities must immediately hold to account those responsible for the arbitrary detention and expulsion of the Turkish nationals.”*

⁷ ECtHR, *Ozdil and Others v. the Republic of Moldova*, 11 June 2019, Application No. 42305/18, at. 19.

⁸ ECtHR, *Ozdil and Others v. the Republic of Moldova*, 11 June 2019, Application No. 42305/18.

⁹ ECtHR, *Ozdil and Others v. the Republic of Moldova*, 11 June 2019, Application No. 42305/18, at. 55: *“The material in the case file also indicates that the joint operation of the was prepared well in advance of. The fact that the applicants were transported to Turkey in a specially chartered airplane for that purpose is only one of the elements that support that point of view. The facts of the case also indicate that the operation was conceived and organized in such a manner as to take the applicants by surprise (...)”*

- According to a leaked document of the Turkish public prosecutor's office, dated 18 December 2019, an investigation was launched.¹⁰ In July 2019, the seven Turkish teachers were convicted by Turkish courts on terrorism-related charges and are currently imprisoned in Turkey.¹¹

2. AZERBAIJAN: CASE OF ISA OZDEMIR

- Isa Ozdemir, who enjoyed legal residence in Azerbaijan¹², was abducted on 12 July 2018 and 8 days later, on 20 July 2018, he was further detained in Turkey (Ankara).¹³
- Isa Ozdemir lived in Azerbaijan for more than 20 years. He was the owner of his own construction business.¹⁴
- He was abducted by the Directorate of Turkey's National Intelligence Organization (MIT).¹⁵ MIT announced the detention of Isa Ozdemir as part of an investigation into the movement of Fetullah Gülen.
- He was brought to Istanbul by private plane on Thursday afternoon by MIT-agents.¹⁶
- Before his abduction, Isa Ozdemir had been detained in Baku (Azerbaijan) at the request of the Turkish authorities. He was, however, released from custody by the Baku Serious Crimes Court which rejected the request for deportation. Immediately after his release, Isa Ozdemir disappeared.¹⁷
- Upon arrival in Turkey, he was immediately arrested on charges of *"being a member of an armed terrorist organization"* and, until today, he remains behind bars.¹⁸
- In February 2018, an application (n° 8098/18) on behalf of Isa Ozdemir and 4 other Turkish nationals was lodged before the European Court for Human Rights. On 6

¹⁰ Nordic Monitor, Teachers abducted by Turkish intelligence in Moldova hit by bogus criminal charges, 9 August 2020 (<https://www.nordicmonitor.com/2020/08/teachers-kidnapped-by-turkish-intelligence-in-moldova-were-accused-of-terrorist-group-membership/>).

¹¹ Nordic Monitor, Teachers abducted by Turkish intelligence in Moldova hit by bogus criminal charges, 9 August 2020 (<https://www.nordicmonitor.com/2020/08/teachers-kidnapped-by-turkish-intelligence-in-moldova-were-accused-of-terrorist-group-membership/>); Madalin Necsutu, Moldova's Human Rights Deficit: ECHR ruling highlights wider failings in system (<https://iwpr.net/global-voices/moldovas-human-rights-deficit>).

¹² Turkey News, ECtHR to accelerate cases of 5 Turks abducted from Azerbaijan by Turkish intelligence, 26 February 2019 (<https://trnews0.blogspot.com/2019/02/ecthr-to-accelerate-cases-of-5-turks.html>).

¹³ Anadolu Ajansı (AA), FETÖ'nün 'Azerbaycan kasası' tutuklandı, 20 July 2018 (<https://www.aa.com.tr/tr/turkiye/fetonun-azerbaycan-kasasi-tutuklandi/1209711>).

¹⁴ Turan, The Turk, freed by the Court of Baku, was kidnapped and taken to Turkey, 13 July 2018 (<https://www.turan.az/ext/news/2018/7/free/politics%20news/en/73570.htm>).

¹⁵ Barış Kılıç and Serdar Açıl, Anadolu Ajansı (AA), FETÖ'nün 'Azerbaycan kasası' tutuklandı, 20 July 2018 (<https://www.aa.com.tr/tr/turkiye/fetonun-azerbaycan-kasasi-tutuklandi/1209711>); Turkey Purge, Man abducted from Azerbaijan put in pre-trial detention in Ankara (<https://turkeypurge.com/man-abducted-from-azerbaijan-put-in-pre-trial-detention-in-ankara>).

¹⁶ Anadolu Ajansı (AA), FETÖ'nün 'Azerbaycan kasası' tutuklandı, 20 July 2018 (<https://www.aa.com.tr/tr/turkiye/fetonun-azerbaycan-kasasi-tutuklandi/1209711>); Stockholm Center of Freedom, Turkey's intelligence service abducts 2 people from Azerbaijan and Ukraine over Gülen links, 12 July 2018 (<https://stockholmcf.org/turkeys-intelligence-service-abducts-2-people-from-azerbaijan-and-ukraine-over-gulen-links/>).

¹⁷ Turan, The Turk, freed by the Court of Baku, was kidnapped and taken to Turkey, 13 July 2018 (<https://www.turan.az/ext/news/2018/7/free/politics%20news/en/73570.htm>).

¹⁸ Turkey News, ECtHR to accelerate cases of 5 Turks abducted from Azerbaijan by Turkish intelligence, 26 February 2019 (<https://trnews0.blogspot.com/2019/02/ecthr-to-accelerate-cases-of-5-turks.html>).

February 2019 the Court communicated the case, under an accelerated procedure, to the State of Azerbaijan for observations.¹⁹

3. **AZERBAIJAN: CASES OF MEHMET CELIK, AYHAN SEFEROGLU, FAIK SEMIH BASOGLU AND ERDOGAN TAYLAN**

- In 2018 (exact date unknown), Mehmet Çelik, Ayhan Seferoğlu, Faik Semih Başoğlu and Erdoğan Taylan²⁰ were abducted and delivered to Turkey despite of the fact that they were enjoying legal residence in Azerbaijan.²¹
- They were taken by the Turkish intelligence while Azerbaijani officials looked the other way.²²
- They were detained and arrested by Turkey over their alleged links to the Gülen movement and they remain behind bars.
- In February 2018, an application (n° 8098/18) on behalf of these 4 Turkish nationals was lodged before the European Court for Human Rights. On 6 February 2019, the Court communicated the case, under an accelerated procedure, to the State of Azerbaijan for observations.²³

4. **AZERBAIJAN: CASE OF TACI ŞENTÜRK**

- Taci Şentürk was deported to Turkey on 8 June 2017.²⁴ 15 days later, on 23 June 2017 he resurfaced in Turkey.²⁵
- He was working as a private teacher in Azerbaijan.²⁶

¹⁹ LawEuro, Ozdemir v. Azerbaijan and 4 other applicants (European Court of Human Rights), 14 April 2019 (<https://laweuro.com/?p=927>); Turkey News, ECtHR to accelerate cases of 5 Turks abducted from Azerbaijan by Turkish intelligence, 26 February 2019 (<https://trnews0.blogspot.com/2019/02/ecthr-to-accelerate-cases-of-5-turks.html>).

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²¹ Turkey News, ECtHR to accelerate cases of 5 Turks abducted from Azerbaijan by Turkish intelligence, 26 February 2019 (<https://trnews0.blogspot.com/2019/02/ecthr-to-accelerate-cases-of-5-turks.html>).

²² Turkey News, ECtHR to accelerate cases of 5 Turks abducted from Azerbaijan by Turkish intelligence, 26 February 2019 (<https://trnews0.blogspot.com/2019/02/ecthr-to-accelerate-cases-of-5-turks.html>).

²³ LawEuro, Ozdemir v. Azerbaijan and 4 other applicants (European Court of Human Rights), 14 April 2019 (<https://laweuro.com/?p=927>); Turkey News, ECtHR to accelerate cases of 5 Turks abducted from Azerbaijan by Turkish intelligence, 26 February 2019 (<https://trnews0.blogspot.com/2019/02/ecthr-to-accelerate-cases-of-5-turks.html>).

²⁴ Turkey Purge, ECHR asks Azerbaijan to clarify why Turkish teacher was deported despite asylum request, 25 July 2018 (<https://turkeypurge.com/echr-asks-azerbaijan-to-clarify-why-turkish-teacher-was-deported-despite-asylum-request>); ECHR, n° 41326/17, *Taci Shenturk v. Azerbaijan*, communicated on 5 July 2018, statement of facts; Stockholm Center for Freedom, Turkish teacher under UN protection detained in Azerbaijan for deportation to Turkey, wife says, 10 June 2017 (<https://stockholmcf.org/turkish-teacher-under-un-protection-detained-in-azerbaijan-for-deportation-to-turkey-wife-says/>).

²⁵ Turkish minute, Turkish teacher under UN protection detained in Azerbaijan for deportation to Turkey, wife says, 10 June 2017 (https://www.youtube.com/watch?time_continue=13&v=jDu5rWqE0IA&feature=emb_title).

²⁶ <https://turkeypurge.com/echr-asks-azerbaijan-to-clarify-why-turkish-teacher-was-deported-despite-asylum-request>

- He was legally residing in Azerbaijan. He was granted a temporary residence permit, which was regularly extended. On 9 March 2017, his temporary residence permit was extended *de novo* until 9 September 2017.²⁷
- On 3 June 2017, the Turkish authorities informed their Azerbaijani counterparts via Interpol that Taci Şentürk's passport had been cancelled and therefore requested to arrest and deport him to Turkey.²⁸
- On 7 June 2017, Taci Şentürk was arrested and brought to a deportation facility of the Organized Crime Department of the Ministry of Internal Affairs in Azerbaijan, where he was informed that he would be taken to Baku International Airport and deported to Turkey on the same day.²⁹ His wife declared in a video that went viral on social media that her husband was picked up from work around 2:00 PM and that they tried to put him on a plane at 10:00 PM.³⁰
- He requested not to be deported and voiced his intention to apply for asylum on the grounds of his persecution in Turkey. While he was already in the boarding area, hence on his way to Turkey, an officer of UNHCR was able to prevent the deportation. Mr. Taci Şentürk was then taken back to the detention facility.³¹
- The same day, his lawyer wanted access to Taci Şentürk. However, he was denied access.³²
- On 8 June 2017, without informing his family, Taci Şentürk was put on a plane to Ankara.³³
- Upon arrival, he was arrested by the Turkish police and sent to Konya where he was placed in custody.³⁴
- The wife of Taci Şentürk, who was not aware of the deportation, applied to various authorities concerning his whereabouts.³⁵ She was not able to obtain any information concerning the whereabouts of her husband.³⁶ On 23 June 2017, 15 days after his disappearance, she was informed that her husband had been deported to Turkey.³⁷

²⁷ ECHR, n° 41326/17, *Taci Shenturk v. Azerbaijan*, communicated on 5 July 2018, statement of facts.

²⁸ ECHR, n° 41326/17, *Taci Shenturk v. Azerbaijan*, communicated on 5 July 2018, statement of facts.

²⁹ ECHR, n° 41326/17, *Taci Shenturk v. Azerbaijan*, communicated on 5 July 2018, statement of facts; Stockholm Center for Freedom, Turkish teacher under UN protection detained in Azerbaijan for deportation to Turkey, wife says, 10 June 2017 (<https://stockholmcf.org/turkish-teacher-under-un-protection-detained-in-azerbaijan-for-deportation-to-turkey-wife-says/>).

³⁰ Turkish minute, Turkish teacher under UN protection detained in Azerbaijan for deportation to Turkey, wife says, 10 June 2017 (https://www.youtube.com/watch?time_continue=13&v=jDu5rWqE0IA&feature=emb_title).

³¹ ECHR, n° 41326/17, *Taci Shenturk v. Azerbaijan*, communicated on 5 July 2018, statement of facts.

³² ECHR, n° 41326/17, *Taci Shenturk v. Azerbaijan*, communicated on 5 July 2018, statement of facts.

³³ ECHR, n° 41326/17, *Taci Shenturk v. Azerbaijan*, communicated on 5 July 2018, statement of facts.

³⁴ ECHR, n° 41326/17, *Taci Shenturk v. Azerbaijan*, communicated on 5 July 2018, statement of facts.

³⁵ Stockholm Center for Freedom, Turkish teacher under UN protection detained in Azerbaijan for deportation to Turkey, wife says, 10 June 2017 (<https://stockholmcf.org/turkish-teacher-under-un-protection-detained-in-azerbaijan-for-deportation-to-turkey-wife-says/>).

³⁶ Turkish minute, Turkish teacher under UN protection detained in Azerbaijan for deportation to Turkey, wife says, 10 June 2017 (https://www.youtube.com/watch?time_continue=13&v=jDu5rWqE0IA&feature=emb_title).

³⁷ ECHR, n° 41326/17, *Taci Shenturk v. Azerbaijan*, communicated on 5 July 2018, statement of facts.

- The circumstances of the deportation are currently under review by the European Court for Human Rights.³⁸ The case was communicated for observation to the Azerbaijan government.³⁹

5. GABON: CASES OF OSMAN ÖZPINAR, İBRAHİM AKBAŞ AND ADNAN DEMİRÖNAL

- On 15 March 2018, at 11:00 PM, the Gabonese police came to the school in Libreville (Gabon) where Osman Özpınar and İbrahim Akbaş were working and arrested them.⁴⁰ On the 16 March 2018, the two men were handed over to the Turkish police and taken to Turkey.⁴¹ Adnan Demirönel was arrested one week later.⁴²
- The Turkish nationals were held *incommunicado* and without access to their lawyers, with little, if any, clarity on charges or allegations against them.⁴³ After receiving a text message to friends in Gabon saying “*the police are here, they want to take us into custody,*” their friends never heard from them again.⁴⁴ Hence, the normal legal procedures were not followed.⁴⁵
- A French human rights lawyer (Richard Sedillot) confirmed that he saw two employees of the Turkish embassy at the police headquarters in Libreville where the men were held.⁴⁶
- In relation to such abductions President Erdoğan’s lawyer Hüseyin Aydın stated that Turkish intelligence officers could be involved in more abductions around the world in the coming days. He added: “*fugitive Gülenists will walk looking behind their backs all*

³⁸ ECHR, n° 41326/17, *Taci Shenturk v. Azerbaijan*, communicated on 5 July 2018, statement of facts.

³⁹ ECHR, n° 41326/17, *Taci Shenturk v. Azerbaijan*, communicated on 5 July 2018, statement of facts.

⁴⁰ Stockholm Center for Freedom, 3 detained Turkish educators and their families handed over to Turkey by Gabon, 8 April 2019 (<https://stockholmcf.org/3-detained-turkish-educators-and-their-families-handed-over-to-turkey-by-gabon/>).

⁴¹ Stockholm Center for Freedom, 3 detained Turkish educators and their families handed over to Turkey by Gabon, 8 April 2019 (<https://stockholmcf.org/3-detained-turkish-educators-and-their-families-handed-over-to-turkey-by-gabon/>).

⁴² Stockholm Center for Freedom, 3 detained Turkish educators and their families handed over to Turkey by Gabon, 8 April 2019 (<https://stockholmcf.org/3-detained-turkish-educators-and-their-families-handed-over-to-turkey-by-gabon/>); Journalists and Writers Foundation, Escaping the witch hunt from Turkey & around the world: the right to leave, April 2018 (<http://jwf.org/jwf/wp-content/uploads/2018/05/Escaping-the-Witch-Hunt-from-Turkey-and-Around-the-World-JWF-Report-April-2018.pdf>), p. 63.

⁴³ Journalists and Writers Foundation, Escaping the witch hunt from Turkey & around the world: the right to leave, April 2018 (<http://jwf.org/jwf/wp-content/uploads/2018/05/Escaping-the-Witch-Hunt-from-Turkey-and-Around-the-World-JWF-Report-April-2018.pdf>), p. 63.

⁴⁴ Stockholm Center for Freedom, 3 detained Turkish educators and their families handed over to Turkey by Gabon, 8 April 2019 (<https://stockholmcf.org/3-detained-turkish-educators-and-their-families-handed-over-to-turkey-by-gabon/>).

⁴⁵ Stockholm Center for Freedom, 3 detained Turkish educators and their families handed over to Turkey by Gabon, 8 April 2019 (<https://stockholmcf.org/3-detained-turkish-educators-and-their-families-handed-over-to-turkey-by-gabon/>).

⁴⁶ Stockholm Center for Freedom, Turkey tries to snatch Gülen supporters in Gabon, 3 April 2018 (<https://stockholmcf.org/turkey-tries-to-snatch-gulen-supporters-in-gabon/>); Stockholm Center for Freedom, 3 detained Turkish educators and their families handed over to Turkey by Gabon, 8 April 2019 (<https://stockholmcf.org/3-detained-turkish-educators-and-their-families-handed-over-to-turkey-by-gabon/>).

the time. The National Intelligence Organization will continue its operations everywhere.”⁴⁷

- On 8 April 2018, at 8:30 PM, their spouses (Nesibe Özpınar, Fikriye Akbaş and Darya Demirönel) and children were taken into custody following coordinated actions by Gabonese and Turkish authorities and immediately transferred to the Libreville airport, where they were forced to board a plane heading to Istanbul.⁴⁸
- Osman Özpınar, İbrahim Akbaş and Adnan Demirönel were arrested upon arrival, while their spouses and children were released.⁴⁹

6. SUDAN: CASE OF MEMDUH ÇIKMAZ

- On 6 September 2017, Memduh Çıkmağ was arrested in Sudan and immediately deported to Turkey where he was further detained.⁵⁰
- The abduction is the result of a joint operation between Sudan’s National Intelligence and Security Service and the Turkey’s National Intelligence Organization (MIT).⁵¹ Memduh Çıkmağ was arrested in the morning at his home, where he was interrogated by MIT.⁵²
- After 15 July 2016, the Turkish government had been sending letters to the Sudanese government requesting the deportation of Mr. Memduh Çıkmağ.⁵³
- His lawyer and family had urged domestic authorities not to deport Mr. Çıkmağ as he might face persecution in Turkey.⁵⁴
- Their call was not responded positively.⁵⁵ He was detained and, after deportation, arrested in Turkey.

⁴⁷ Stockholm Center for Freedom, 3 detained Turkish educators and their families handed over to Turkey by Gabon, 8 April 2019 (<https://stockholmcf.org/3-detained-turkish-educators-and-their-families-handed-over-to-turkey-by-gabon/>).

⁴⁸ Stockholm Center for Freedom, Turkey tries to snatch Gülen supporters in Gabon, 3 April 2018 (<https://stockholmcf.org/turkey-tries-to-snatch-gulen-supporters-in-gabon/>); Stockholm Center for Freedom, 3 detained Turkish educators and their families handed over to Turkey by Gabon, 8 April 2019 (<https://stockholmcf.org/3-detained-turkish-educators-and-their-families-handed-over-to-turkey-by-gabon/>).

⁴⁹ Journalists and Writers Foundation, Escaping the witch hunt from Turkey & around the world: the right to leave, April 2018 (<http://jwf.org/jwf/wp-content/uploads/2018/05/Escaping-the-Witch-Hunt-from-Turkey-and-Around-the-World-JWF-Report-April-2018.pdf>), p. 63.

⁵⁰ Anadolu Ajansı, Red Action, FETÖ’nün “para kasası” Memduh Çıkmağ tutuklandı, 27 November 2017 (<https://www.redaction.media/tr/articles/fetonun-para-kasasi-memduh-cikmaz-tutuklandi/>).

⁵¹ Haberler, FETÖ’nün Para Kasası Memduh Çıkmağ, MİT Operasyonuyla Türkiye’ye Getirildi (<https://www.dailymotion.com/video/x6aniwv>); Stockholm Center for Freedom, Report: Turkey’s MIT abducts Turkish businessman from Sudan, 27 November 2017 (<https://stockholmcf.org/report-turkeys-mit-abducts-turkish-businessman-from-sudan/>).

⁵² TRT Haber, FETÖ’nün 'para kasası' Memduh Çıkmağ MİT operasyonuyla Türkiye’ye getirildi, 27 November 2017 (<https://www.trthaber.com/haber/gundem/fetonun-para-kasasi-memduh-cikmaz-mit-operasyonu-la-turkiyeye-getirildi-342007.html>).

⁵³ Advocates of Silenced Turkey (AST), Report: Erdogans long arms abroad and recommendations to governments, July 2018 (https://silencedturkey.org/wp-content/uploads/2018/07/AST_7-28-18_REPORT10_Erdogans-long-arms-abroad.pdf), p. 4-5.

⁵⁴ Advocates of Silenced Turkey (AST), Report: Erdogans long arms abroad and recommendations to governments, July 2018 (https://silencedturkey.org/wp-content/uploads/2018/07/AST_7-28-18_REPORT10_Erdogans-long-arms-abroad.pdf), p. 4-5.

⁵⁵ Turkish Minute, Sudan arrests Gülen-linked businessman at Turkey’s request, 9 September 2017 (www.turkishminute.com/2017/09/09/sudan-arrests-gulen-linked-businessman-at-turkeys-request/).

- At his first appearance before the 2nd High Criminal Court, Memduh Çıkmaz declared, via an audio and video information system, that he was very tired because he had not been able to sleep for days and that his head “*was throbbing due to the air pressure in the plane*”, thus rendering him physically incapable to defend himself.⁵⁶
- In May 2018, he was sentenced to 10 years in prison and remains detained.⁵⁷

7. **KOSOVO: CASES OF CIHAN OZKAN, KAHRAMAN DEMIREZ, HASAN HUSEYIN GUNAKAN, MUSTAFA ERDEM, OSMAN KARAKAYA AND YUSUF KARABINA**

- On 29 March 2018 Cihan Ozkan, Kahraman Demirez, Hasan Huseyin Gunakan, Mustafa Erdem, Osman Karakaya And Yusuf Karabina were arrested and within 24 hours deported to Turkey by private jet.⁵⁸
- President Erdogan confirmed that that the Turkish National Intelligence Organization (MIT) in cooperation with the Kosovo Intelligence Agency⁵⁹ snatched and brought back 6 Turkish nationals living in Kosovo.⁶⁰ It concerns⁶¹:
 - Mustafa Erdem, General Director of Mehmet Akif College;
 - Mr. Yusuf Karabina – Deputy Director of Mehmet Akif College;
 - Mr. Kahraman Demirez - Director of Gjakova/Djakovica Branch of Mehmet Akif College;
 - Mr. Cihan Ozkan – Biology teacher at Mehmet Akif College;
 - Mr. Hasan Hüseyin Günakan – Chemistry teacher at Mehmet Akif College;
 - Prof. Osman Karakaya – Turkish medical doctor visiting on a tourist visa.
- All six Turkish nationals had legal residence in the country or stayed with a legitimate tourist visa.⁶² Their residence permits were unilaterally annulled on public security grounds by the Kosovo Intelligence Service.⁶³
- The abduction of Mr. Yusuf Karabina, on the morning of 29 March 2018, was caught on surveillance cameras. Mrs. Yasmine Karabina, his wife and also a teacher at Mehmet Akif College, and their son were on their way to school when they were

⁵⁶ Anadolu Ajansı, Red Action, FETÖ'nün “para kasası” Memduh Çıkmaz tutuklandı, 27 November 2017 (<https://www.redaction.media/tr/articles/fetonun-para-kasasi-memduh-cikmaz-tutuklandi/>).

⁵⁷ Anadolu Ajansı (AA), FETÖ'nün 'para kasası'na 10 yıl hapis, 25 May 2018 (<https://www.aa.com.tr/tr/turkiye/fetonun-para-kasasina-10-yil-hapis/1157072>).

⁵⁸ Advocates of Silenced Turkey (AST), Report: Erdogans long arms abroad and recommendations to governments, July 2018 (https://silencedturkey.org/wp-content/uploads/2018/07/AST_7-28-18_REPORT10_Erdogans-long-arms-abroad.pdf), p. 11-12.

⁵⁹ T24, Erdoğan'dan MIT'in Kosova'daki operasyonu hakkında açıklama, 30 March 2018 (<https://t24.com.tr/haber/erdogandan-mitin-kosovadaki-operasyonu-hakkinda-aciklama,593613>).

⁶⁰ DW, Turkey abducts Erdogan opponents in Kosovo (<https://www.dw.com/en/turkey-abducts-erdogan-opponents-in-kosovo/av-43780323>).

⁶¹ Journalists and Writers Foundation, Escaping the witch hunt from Turkey & around the world: the right to leave, April 2018 (<http://jwf.org/jwf/wp-content/uploads/2018/05/Escaping-the-Witch-Hunt-from-Turkey-and-Around-the-World-JWF-Report-April-2018.pdf>), p. 66-67.

⁶² Advocates of Silenced Turkey (AST), Erdogan Dissidents face risk of abduction and extradition (<https://silencedturkey.org/tag/deportation>).

⁶³ Mandates of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on human rights of migrants; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and the Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment, AL TUR 5/2020, 5 May 2020 (<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=25209>).

stopped by two vehicles. Mrs. Yasmine Karabina declared that they first dragged her son out of the car, grabbed him by the neck and threw him on the ground. She ran after her son, while in the meantime her husband was being overpowered.⁶⁴

- They were arbitrarily detained and expelled within 24 hours.
- Lawyers of the teachers have complained to the local media that they are not being informed about the whereabouts of their clients.⁶⁵
- The six Turkish nationals were held into custody and accused of international espionage and management of a terror organization.⁶⁶ The prosecution is demanding sentences ranging from 16 years and six months to 28 years and six months.⁶⁷
- In Kosovo, these abductions led to a governmental crisis, resulting in the removal of the Minister of Internal Affairs and the Intelligence Chief from duty.⁶⁸

8. MYANMAR: CASE OF MUHAMMET FURKAN SÖKMEN

- On 24 May 2017, Muhammet Furkan Sökmen was detained and two days later, on 26 May 2017, he was deported to Turkey.⁶⁹
- Myanmar authorities subsequently confirmed that they had cooperated in the deportation of Muhammet Furkan Sökmen, based on a request from the Turkish government.⁷⁰
- Muhammet Furkan Sökmen had been working as an administrator at Horizon International Schools in Myanmar.⁷¹
- On 24 May 2017, officials at Yangon International Airport prevented Muhammet Furkan Sökmen, his wife and their daughter from boarding a flight from Yangon to Bangkok.⁷² Muhammet Furkan Sökmen and his family were subsequently detained at

⁶⁴ DW, Turkey abducts Erdogan opponents in Kosovo (<https://www.dw.com/en/turkey-abducts-erdogan-opponents-in-kosovo/av-43780323>).

⁶⁵ Advocates of Silenced Turkey (AST), Report: Erdogans long arms abroad and recommendations to governments, July 2018 (https://silencedturkey.org/wp-content/uploads/2018/07/AST_7-28-18_REPORT10_Erdogans-long-arms-abroad.pdf), p. 11-12.

⁶⁶ Handan Kazanci, Anadolu Ajansi (AA), Turkish Court remands six senior FETO members, 12 April 2018 (<https://www.aa.com.tr/en/todays-headlines/turkish-court-remands-six-senior-feto-members/1115494>).

⁶⁷ Die Morina, Balkan Insight, Ankara indicts six Turks deported from Kosovo, 13 March 2019 (<https://balkaninsight.com/2019/03/13/ankara-indicts-six-turks-deported-from-kosovo/>); Ipa News, Prosecution seeks up to 22 years in jail for Turkish nationals deported to Kosovo, 21 February 2020 (<https://ipa.news/2020/02/21/prosecution-seeks-up-to-22-years-in-jail-for-turkish-nationals-deported-from-kosovo/>).

⁶⁸ Advocates of Silenced Turkey (AST), Systematic Torture & Ill-Treatment in Turkey, January 2020 (<https://silencedturkey.org/wp-content/uploads/2020/01/SYSTEMATIC-TORTURE-AND-ILL-TREATMENT-IN-TURKEY-January-5th.pdf>), p. 79.

⁶⁹ Human Rights Watch, Burma/Thailand: Deported Turkish Man at Risk, 1 June 2017 (<https://www.hrw.org/news/2017/06/01/burma/thailand-deported-turkish-man-risk>).

⁷⁰ Amnesty International, Between a rock and a hard place, 2017 (<https://www.amnesty.org/download/Documents/ASA3970312017ENGLISH.PDF>).

⁷¹ Advocates of Silenced Turkey (AST), Report: Erdogan's long arms abroad and recommendations to governments, July 2018 (https://silencedturkey.org/wp-content/uploads/2018/07/AST_7-28-18_REPORT10_Erdogans-long-arms-abroad.pdf), p. 8; Amnesty International, Between a rock and a hard place, 2017 (<https://www.amnesty.org/download/Documents/ASA3970312017ENGLISH.PDF>).

⁷² Amnesty International, Between a rock and a hard place, 2017 (<https://www.amnesty.org/download/Documents/ASA3970312017ENGLISH.PDF>).

the airport for approximately 24 hours, during which time they were questioned by a Turkish embassy official.

- He was not allowed to board the plane and had issues with Myanmar’s immigration officers. In a video posted on social media, Muhammet Furkan Sökmen said that the Turkish Ambassador had pressured the Myanmar police to confiscate the family’s passports.⁷³
- On the evening of 25 May 2017, Muhammet Furkan Sökmen was forced to board a Myanmar International Airways flight to Bangkok, while his wife and daughter were released from custody.⁷⁴
- At Bangkok’s Suvarnabhumi International Airport, Muhammet Furkan Sökmen was taken into the custody of Thai immigration officials.⁷⁵
- Before his phone was confiscated, Muhammet Furkan Sökmen, while in custody in Myanmar, had sent two videos into the world in which he said⁷⁶:
 - *“I am calling everyone, please help me. I am in the terminal area; they are pushing me. They are trying to give me to the Turkish Embassy. Please help me, all over the world, please help me.”*
 - *“Please help me, now I am in Bangkok Suvarnabhumi Airport in the terminal area. They are pushing me to give me to Turkish Embassy staff, they are pushing me to go to Turkey. I don’t want to go to Turkey, I want to stay here. Please help me—all over the world please help me.”*
- The imminent deportation of Muhammet Furkan Sökmen was also flagged at the Office of the United Nations High Commissioner for Human Rights (OHCHR) and other UN agencies. It was argued that, if he would be deported, he would face an imminent risk of human rights abuse upon his return to Turkey. The case was never examined and Muhammet Furkan Sökmen was deported to Turkey.⁷⁷
- Muhammet Furkan Sökmen subsequently told family members that he was handcuffed and that tape was placed over his mouth before he was physically forced onto the plane.⁷⁸
- On 27 May, Muhammet Furkan Sökmen was pictured disembarking from a plane in Istanbul, handcuffed and in the custody of a Turkish Interpol official.⁷⁹

9. SAUDI ARABIA: THE NAMES WERE KEPT ANONYMOUS FOR SECURITY REASONS⁸⁰

⁷³ Jacob Goldberg, Coconuts Yangon, Myanmar-based family abducted by Turkish embassy from Yangon Airport, 25 May 2017 (<https://coconuts.co/yangon/news/turkish-teacher-abducted-embassy-officials-yangon-airport/>).

⁷⁴ Amnesty International, Between a rock and a hard place, 2017 (<https://www.amnesty.org/download/Documents/ASA3970312017ENGLISH.PDF>).

⁷⁵ Amnesty International, Between a rock and a hard place, 2017 (<https://www.amnesty.org/download/Documents/ASA3970312017ENGLISH.PDF>).

⁷⁶ Human Rights Watch, Burma/Thailand: Deported Turkish Man at Risk, 1 June 2017 (<https://www.hrw.org/news/2017/06/01/burma/thailand-deported-turkish-man-risk>).

⁷⁷ Human Rights Watch, Burma/Thailand: Deported Turkish Man at Risk, 1 June 2017 (<https://www.hrw.org/news/2017/06/01/burma/thailand-deported-turkish-man-risk>).

⁷⁸ Amnesty International, Between a rock and a hard place, 2017 (<https://www.amnesty.org/download/Documents/ASA3970312017ENGLISH.PDF>).

⁷⁹ Anadolu Ajansi (AA), FETÖ'nün 'Myanmar imami' Türkiye'ye getirildi, 27 May 2017 (aa.com.tr/tr/gunun-basliklari/fetonun-myanmar-imami-turkiyeye-getirildi/827416).

⁸⁰ Turkey Purge, 11 Gülen sympathizers held hostage at Saudi hotel deported to Turkey, 4 May 2017 (<https://turkeypurge.com/15-gulen-sympathizers-held-hostage-at-saudi-hotel-deported-to-turkey>).

- On 15 March 2017, 16 Turkish nationals, living in Saudi Arabia and involved in the organization of Hajj pilgrimage events, were arrested. They were kept in custody for weeks in Medinah before they were deported to Turkey on 4 May 2017.⁸¹
- Among those deported, the children and women were reportedly released in Turkey.⁸² 4 of the 16 detainees were, upon arrival in Turkey, put in pre-trial detention.⁸³ At first, the whereabouts of the men remained unknown.⁸⁴
- They were deported with a plane sent by the Turkish government.⁸⁵ Turkey's National Intelligence Organization (MIT) played an active role in their arrests.⁸⁶
- Saudi Arabia had put travel bans on Turkish nationals in their country who had links to the Gülen movement.⁸⁷
- Based upon a letter received by news outlet 'Turkey Purge', the deported never saw a prosecutor or a judge nor were they informed on the grounds of their arrests. The letter also states that they did not have access to their lawyers, nor to their families.⁸⁸
- Their case was also flagged to the Office of the United Nations (Riyadh), however without success.

10. BULGARIA: CASE OF ABDULLAH BÜYÜK

- On 10 August 2016, Abdullah Büyük was deported to Turkey.⁸⁹

⁸¹ Stockholm Center for Freedom, Saudi Arabia deports members of 16 Turkish families to Turkey over alleged links with Gülen movement, 4 May 2017 (<https://stockholmcf.org/saudi-arabia-deported-members-of-16-turkish-families-to-turkey-over-alleged-links-with-gulen-movement/>).

⁸² Stockholm Center for Freedom, Saudi Arabia deports members of 16 Turkish families to Turkey over alleged links with Gülen movement, 4 May 2017 (<https://stockholmcf.org/saudi-arabia-deported-members-of-16-turkish-families-to-turkey-over-alleged-links-with-gulen-movement/>).

⁸³ Stockholm Center for Freedom, Saudi Arabia deports members of 16 Turkish families to Turkey over alleged links with Gülen movement, 4 May 2017 (<https://stockholmcf.org/saudi-arabia-deported-members-of-16-turkish-families-to-turkey-over-alleged-links-with-gulen-movement/>).

⁸⁴ Stockholm Center for Freedom, Saudi Arabia deports members of 16 Turkish families to Turkey over alleged links with Gülen movement, 4 May 2017 (<https://stockholmcf.org/saudi-arabia-deported-members-of-16-turkish-families-to-turkey-over-alleged-links-with-gulen-movement/>).

⁸⁵ Stockholm Center for Freedom, Saudi Arabia deports members of 16 Turkish families to Turkey over alleged links with Gülen movement, 4 May 2017 (<https://stockholmcf.org/saudi-arabia-deported-members-of-16-turkish-families-to-turkey-over-alleged-links-with-gulen-movement/>).

⁸⁶ Stockholm Center for Freedom, Saudi Arabia deports members of 16 Turkish families to Turkey over alleged links with Gülen movement, 4 May 2017 (<https://stockholmcf.org/saudi-arabia-deported-members-of-16-turkish-families-to-turkey-over-alleged-links-with-gulen-movement/>); Fatma Bulubul, Anadolu Ajansi (AA), Saudi Arabia arrests 16 Turks over suspected FETO links, 6 May 2017 (<https://www.aa.com.tr/en/middle-east/saudi-arabia-arrests-16-turks-over-suspected-feto-links/812492>).

⁸⁷ Hizmet Movement News Archive, 4 Turks deported from Saudi Arabia sent to jail over donations to Gülen movement, 18 May 2017 (<https://hizmetnews.com/22426/4-turks-deported-saudi-arabia-sent-jail-donations-gulen-movement/#.X0oSXy2YMdU>).

⁸⁸ Stockholm Center for Freedom, Saudi Arabia deports members of 16 Turkish families to Turkey over alleged links with Gülen movement, 4 May 2017 (<https://stockholmcf.org/saudi-arabia-deported-members-of-16-turkish-families-to-turkey-over-alleged-links-with-gulen-movement/>); Fatma Bulubul, Anadolu Ajansi (AA), Saudi Arabia arrests 16 Turks over suspected FETO links, 6 May 2017 (<https://www.aa.com.tr/en/middle-east/saudi-arabia-arrests-16-turks-over-suspected-feto-links/812492>).

⁸⁹ ECtHR, *Abdullah Büyük v. Bulgaria*, Application No. n° 23843/17, communicated on 29 March 2018, statement of facts.

- Abdullah Büyük, a Turkish national and businessman, was subject to an extradition request of 15 February 2016 from the Istanbul Prosecutor General’s Office.⁹⁰
- The Bulgarian courts rejected the extradition request and confirmed that the request was based on Büyük’s political views and that there were no guarantees that he would enjoy a fair trial.⁹¹
- During the Bulgarian proceedings on the extradition request, Abdullah Büyük, was detained for 41 days in a Bulgarian detention centre, where he was allegedly kept under inhuman and degrading circumstances.⁹²
- On 10 August 2016, he was suddenly arrested by the Bulgarian police.⁹³
- He was taken to the Turkish border without being able to communicate with the authorities in a language he understood and without the legal procedures being followed.⁹⁴ He was then surrendered to the Turkish authorities and since then he remains detained by them.⁹⁵
- The circumstances of the deportation are currently under review by the European Court for Human Rights.⁹⁶ The case was communicated for observation to the Bulgarian government.⁹⁷

11. BAHRAIN: CASE OF METIN TEKECI

- On 25 April 2017, Metin Tekeci, the national manager for a Turkish bank in Bahrain, was deported to Turkey.⁹⁸
- Turkey had an arrest warrant pending concerning his person. Metin Tekeci came on the radar of the domestic police after he had contacted Turkey’s Manama Embassy in January 2017.⁹⁹

⁹⁰ ECtHR, *Abdullah Büyük v. Bulgaria*, Application No. n° 23843/17, communicated on 29 March 2018, statement of facts.

⁹¹ ECtHR, *Abdullah Büyük v. Bulgaria*, Application No. n° 23843/17, communicated on 29 March 2018, statement of facts.

⁹² ECtHR, *Abdullah Büyük v. Bulgaria*, Application No. n° 23843/17, communicated on 29 March 2018, statement of facts.

⁹³ NDTV, Outcry as Bulgaria deports Fethullah Gulen Supporter To Turkey, 11 August 2016 (<https://www.ndtv.com/world-news/outcry-as-bulgaria-deports-fethullah-gulen-supporter-to-turkey-1443059>).

⁹⁴ Journalists and Writers Foundation, Escaping the witch hunt from Turkey & around the world: the right to leave, April 2018 (<http://jwf.org/jwf/wp-content/uploads/2018/05/Escaping-the-Witch-Hunt-from-Turkey-and-Around-the-World-JWF-Report-April-2018.pdf>), p. 62.

⁹⁵ ECtHR, *Abdullah Büyük v. Bulgaria*, Application No. n° 23843/17, communicated on 29 March 2018, statement of facts.

⁹⁶ ECtHR, *Abdullah Büyük v. Bulgaria*, Application No. n° 23843/17, communicated on 29 March 2018, statement of facts.

⁹⁷ ECtHR, *Abdullah Büyük v. Bulgaria*, Application No. n° 23843/17, communicated on 29 March 2018, statement of facts.

⁹⁸ Hizmet Movement News Archive, Turkey’s Erdogan Regime extends post-coup witch hunt targeting Gülen followers abroad, 25 April 2017 (<https://hizmetnews.com/22175/turkeys-erdogan-regime-extends-post-coup-witch-hunt-targeting-gulen-followers-abroad/#.X0uHvC2YM U>).

⁹⁹ Hizmet Movement News Archive, Turkey’s Erdogan Regime extends post-coup witch hunt targeting Gülen followers abroad, 25 April 2017 (<https://hizmetnews.com/22175/turkeys-erdogan-regime-extends-post-coup-witch-hunt-targeting-gulen-followers-abroad/#.X0uHvC2YM U>).

- His passport was seized by Bahrain and he was handed over to the Turkish Interpol police and arrested.¹⁰⁰

12. INDONESIA: CASE OF MUSTAFA KENEL

- On 16 December 2017, Mustafa Kenel, a Turkish businessman, was deported to Turkey by the Indonesian government.¹⁰¹
- Mustafa Kenel was detained, together with 4 other Turkish citizens, by the Indonesian authorities after a list of 10 people was given to the Indonesian government by the Turkish government.¹⁰²
- While the other 4 detainees were later released, Mustafa Kenel was deported to Turkey.¹⁰³
- In May 2018, he was sentenced to 10 years in prison and he remains detained.¹⁰⁴

13. KAZAKHSTAN: CASES OF ENVER KILIÇ AND ZABIT KİŞİ

- On 30 September 2017, Enver KILIÇ and Zabit KİŞİ were abducted. Zabit KİŞİ disappeared for 108 days.¹⁰⁵ As to 15 July 2020, Enver KILIÇ remains missing.¹⁰⁶
- On 30 September 2017, Enver KILIÇ and Zabit KİŞİ were detained at Kazakhstan airport. The two men were about to board the Air Astana Airways flight number KG 109 from Almaty to Bishkek (Kyrgyzstan) at 18:00.¹⁰⁷ Both were denied access to the plane because their passports were allegedly cancelled.¹⁰⁸

¹⁰⁰ Sabah, Interpol FETÖ'cü hainlerin ensesinde, 20 April 2017 (<https://www.sabah.com.tr/gundem/2017/04/20/interpol-fetocu-hainlerin-ensesinde>).

¹⁰¹ Stockholm Center for Freedom, Indonesia deports Turkish businessman to Turkey over Erdogan(regime's request, 19 December 2017 (<https://stockholmcf.org/indonesia-deports-turkish-businessman-to-turkey-over-erdogan-regimes-request/>); MC EU TV, Indonesia returned a Turkish businessman to Turkey unlawfully, 20 December 2017 (<https://www.youtube.com/watch?v=DB-DTC5w9k>).

¹⁰² Stockholm Center for Freedom, Indonesia deports Turkish businessman to Turkey over Erdogan(regime's request, 19 December 2017 (<https://stockholmcf.org/indonesia-deports-turkish-businessman-to-turkey-over-erdogan-regimes-request/>); TR724, Haber Merkezi, Endonezya'daki Türk işadamı Türkiye'ye iade edildi, 19 April 2017 (<http://www.tr724.com/endonezyadaki-turk-isadami-turkiyeye-iade-edildi/>).

¹⁰³ Stockholm Center for Freedom, Indonesia deports Turkish businessman to Turkey over Erdogan(regime's request, 19 December 2017 (<https://stockholmcf.org/indonesia-deports-turkish-businessman-to-turkey-over-erdogan-regimes-request/>).

¹⁰⁴ Anadolu Ajansı (AA), FETÖ'nün 'para kasası'na 10 yıl hapis, 25 May 2018 (<https://www.aa.com.tr/tr/turkiye/fetonun-para-kasasina-10-yil-hapis/1157072>).

¹⁰⁵ Cevheri Güven, Bold Medya, Zabit Kişi işkencede geçen 108 günü anlattı: İntihar edenleri artık yadırgamıyorum, 26 June 2019 (<https://boldmedya.com/2019/06/26/zabit-kisi-iskencede-gecen-108-gunu-anlatti-intihar-edenleri-artik-yadrigamiyorum/>).

¹⁰⁶ Stockholm Center for Freedom, Enforced disappearances in Turkey, 15 July 2020 (<https://stockholmcf.org/enforced-disappearances-in-turkey-2/>).

¹⁰⁷ Advocates of Silenced Turkey (AST), Systematic Torture & Ill-Treatment in Turkey, January 2020 (<https://silencedturkey.org/wp-content/uploads/2020/01/SYSTEMATIC-TORTURE-AND-ILL-TREATMENT-IN-TURKEY-January-5th.pdf>), p. 80.

¹⁰⁸ Ecol.net, Kazakhstan: The Fethullah Gülen movement (Hizmet movement), including activities and regions of operation; treatment by society and authorities; state protection (2016-July 2018) [KAZ106139.E], 13 July 2018 (<https://www.ecoi.net/de/dokument/2015738.html>).

- There was no information about Zabit Kiři for 108 days after his disappearance. During this period, the Turkish government did not admit to his family and his lawyer that he was in custody.¹⁰⁹ Through his family's efforts in Kazakhstan, Kazakhstan's Intelligence Directorate issued an official document that included information about Zabit Kisi's delivery to MIT personnel and stated that he was taken to Turkey on the Turkish Airlines Almati-Ankara plane with flight number TT-4010, on September 30, 2017 at 23:32.¹¹⁰
- Zabit Kiři testified on what happened to him during his court proceedings.
 - He declared that he was very brutally tortured and that he was delivered to plainclothes Turkish agents on the same night, and forcibly taken to a non-scheduled aircraft with military camouflage patterns.¹¹¹
 - He identified his capturers as members of the Turkish National Intelligence Organization (MIT). This was later confirmed.¹¹²
 - After arriving in Turkey, he was placed into a cell where he was detained and tortured for months.¹¹³ After his landing in Ankara, he was detained in a container that was in an unknown location about a 6-minute drive from the airport. He was stripped naked. He was electrocuted and not given water for days. He was sexually abused. He was continuously beaten. He was watched while he was performing toilet needs. When he was nearing death, torture continued after being injected medications that he did not know.¹¹⁴
 - He asked that the individuals responsible for the torture be investigated. In spite of the information he gave, the court committee did not start any legal procedures for investigation. The torture case was not filed.¹¹⁵

¹⁰⁹ Advocates of Silenced Turkey (AST), Systematic Torture & Ill-Treatment in Turkey, January 2020 (<https://silencedturkey.org/wp-content/uploads/2020/01/SYSTEMATIC-TORTURE-AND-ILL-TREATMENT-IN-TURKEY-January-5th.pdf>), p. 80.

¹¹⁰ Cevheri Güven, Bold Medya, Zabit Kiři işkencede geçen 108 günü anlattı: İntihar edenleri artık; yadırgamıyorum, 26 June 2019 (<https://boldmedya.com/2019/06/26/zabit-kisi-iskencede-gecen-108-gunu-anlatti-intihar-edenleri-artik-yadrigamiyorum/>).

¹¹¹ Mandates of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on human rights of migrants; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and the Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment, AL TUR 5/2020, 5 May 2020 (<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=25209>).

¹¹² Cevheri Güven, Bold Medya, Zabit Kiři işkencede geçen 108 günü anlattı: İntihar edenleri artık; yadırgamıyorum, 26 June 2019 (<https://boldmedya.com/2019/06/26/zabit-kisi-iskencede-gecen-108-gunu-anlatti-intihar-edenleri-artik-yadrigamiyorum/>); MC EU TV, It is officially announced MIT abducted people, 18 December 2017 (<https://www.youtube.com/watch?v=Zw5Y11vtkqo>); Advocates of Silenced Turkey (AST), Systematic Torture & Ill-Treatment in Turkey, January 2020 (<https://silencedturkey.org/wp-content/uploads/2020/01/SYSTEMATIC-TORTURE-AND-ILL-TREATMENT-IN-TURKEY-January-5th.pdf>), p. 80.

¹¹³ Cevheri Güven, Bold Medya, Zabit Kiři işkencede geçen 108 günü anlattı: İntihar edenleri artık; yadırgamıyorum, 26 June 2019 (<https://boldmedya.com/2019/06/26/zabit-kisi-iskencede-gecen-108-gunu-anlatti-intihar-edenleri-artik-yadrigamiyorum/>).

¹¹⁴ Advocates of Silenced Turkey (AST), Systematic Torture & Ill-Treatment in Turkey, January 2020 (<https://silencedturkey.org/wp-content/uploads/2020/01/SYSTEMATIC-TORTURE-AND-ILL-TREATMENT-IN-TURKEY-January-5th.pdf>), p. 80.

¹¹⁵ Advocates of Silenced Turkey (AST), Systematic Torture & Ill-Treatment in Turkey, January 2020 (<https://silencedturkey.org/wp-content/uploads/2020/01/SYSTEMATIC-TORTURE-AND-ILL-TREATMENT-IN-TURKEY-January-5th.pdf>), p. 80.

- On 18 January 2018, around 20:00 PM, after being tortured for 108 days, Mr. Zabit Kiři was brought to the Ankara Courthouse by the Counterterrorism Unit of the Ankara Police Department. He was brought before a prosecutor.¹¹⁶ The police asserted that Mr. Kiři surrendered himself, although he refuted the claim and stated that he was kidnapped, flown to Turkey and detained at the Kandiri F-type High Security Prison.¹¹⁷
- Mr. Zabit Kiři wrote an extensive letter reiterating the abduction and detention.¹¹⁸
 - *“(…) I was detained by Kazakh officials at Kazakhstan Almati Airport. After judicial procedures based on Kazakhstan justice system, a decision was made to return me to Kyrgyzstan. Regardless, me and my friend named Enver Kilic²⁸ were kidnapped by MIT by a MIT plane: On the return trip from Almati to Kyrgyzstan on September 30th, 2017, I was detained once again. My belongings were confiscated, and I was locked into a room. Around 22.30, when the runway was completely empty, I was given to civilian looking individuals who came from Turkey.”¹¹⁹*
 - *“(…) Thereafter, the container cell where I would struggle for my life for 108 days. An area that is 3 square meters that does not receive any sunshine, just enough to turn around one’s own circumference like a closed box without any windows. It was no different from grave to me. They stripped me naked as soon as I entered the place. I am ashamed to write the molestation and the foul language I experienced while they took off my clothes. Two people crashed me to a wall-like place while holding my arms. Starting from my upper body, they electrocuted my feet and different parts while increasing the voltage from time to time. While I was in sitting position, they pushed the bottom of my feet facing upwards and crushed my toes one by one. Meanwhile they continued cursing by saying “We will bring your generation to extinction, we will ... your wife, you will never be able to see...”.”¹²⁰*
 - *“(…) During torture, they said: “Here, we are both the judge and the prosecutor. Here, there is no lawyer, no police. The way out of here is by accepting what we say, accepting everything. Do what we say, we will torture as long as you do not die. If you die, we will bury you. You would become an unresolved case. If you do not accept, we would give you medication from your back and your*

¹¹⁶ Cevheri Güven, Bold Medya, Zabit Kiři işkencede geçen 108 günü anlattı: İntihar edenleri artık; yadırgamıyorum, 26 June 2019 (<https://boldmedya.com/2019/06/26/zabit-kisi-iskencede-gecen-108-gunu-anlatti-intihar-edenleri-artik-yadrigamiyorum/>).

¹¹⁷ Mandates of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on human rights of migrants; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and the Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment, AL TUR 5/2020, 5 May 2020 (<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=25209>).

¹¹⁸ Cevheri Güven, Bold Medya, Zabit Kiři işkencede geçen 108 günü anlattı: İntihar edenleri artık; yadırgamıyorum, 26 June 2019 (<https://boldmedya.com/2019/06/26/zabit-kisi-iskencede-gecen-108-gunu-anlatti-intihar-edenleri-artik-yadrigamiyorum/>).

¹¹⁹ Advocates of Silenced Turkey (AST), Systematic Torture & Ill-Treatment in Turkey, January 2020 (<https://silencedturkey.org/wp-content/uploads/2020/01/SYSTEMATIC-TORTURE-AND-ILL-TREATMENT-IN-TURKEY-January-5th.pdf>), p. 83.

¹²⁰ Advocates of Silenced Turkey (AST), Systematic Torture & Ill-Treatment in Turkey, January 2020 (<https://silencedturkey.org/wp-content/uploads/2020/01/SYSTEMATIC-TORTURE-AND-ILL-TREATMENT-IN-TURKEY-January-5th.pdf>), p. 84-85.

*mouth. We would inject you; they would not be able to detect it in autopsy. They would report heart attack and forget about it”.*¹²¹

- On 21 June 2018, he was sentenced to 13 years and 6 months in prison.¹²²

14. PAKISTAN: CASES OF MESUT KAÇMAZ, HIS WIFE MERAL KAÇMAZ AND THEIR TWO CHILDREN

- On 27 September 2017, Mesut Kaçmaz, his wife Meral Kaçmaz and their two children were abducted by Pakistani state intelligence, held in secret or incommunicado detention for 17 days, and then involuntarily returned to Turkey on 14 October 2017.¹²³
- The house of the Kaçmaz family was raided by intelligence agents in the middle of the night while the family was asleep, presumably after days of surveillance. Allegedly the agents behaved brutally, having pushed, shoved and slapped the parents and their children.¹²⁴
- According to the Human Rights Commission of Pakistan, the family was taken by “20 armed people in plain clothes.” A neighbour and a fellow friend of the family stated the family was “restrained, blindfolded and hustled into unmarked pickup trucks in Lahore.” Moreover, that only because he wanted to intervene, he too was taken to a secret facility and released after several days.¹²⁵ Pakistani police officers stated that they had no information regarding the family which directed suspicions to intelligence agencies.¹²⁶
- The family was deprived of any contact with the legal counsel or the extended family, while their identification documents were forcibly taken during the arrest.¹²⁷
- Mesut Kaçmaz and his wife Meral Kaçmaz were reportedly transferred to Ankara for interrogation.¹²⁸

¹²¹ Advocates of Silenced Turkey (AST), Systematic Torture & Ill-Treatment in Turkey, January 2020 (<https://silencedturkey.org/wp-content/uploads/2020/01/SYSTEMATIC-TORTURE-AND-ILL-TREATMENT-IN-TURKEY-January-5th.pdf>), p. 88.

¹²² Cevheri Güven, Bold Medya, Zabıt Kişi işkencede geçen 108 günü anlattı: İntihar edenleri artık yadırgamıyorum, 26 June 2019 (<https://boldmedya.com/2019/06/26/zabit-kisi-iskencede-gecen-108-gunu-anlatti-intihar-edenleri-artik-yadigamiyorum/>).

¹²³ <https://stockholmcf.org/pakistan-government-deports-abducted-kacmaz-family-to-turkey/>

¹²⁴ Mandates of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on human rights of migrants; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and the Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment, AL TUR 5/2020, 5 May 2020 (<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=25209>), p. 4.

¹²⁵ Advocates of Silenced Turkey (AST), Report: Erdogans long arms abroad and recommendations to governments, July 2018 (https://silencedturkey.org/wp-content/uploads/2018/07/AST_7-28-18_REPORT10_Erdogans-long-arms-abroad.pdf), p. 6.

¹²⁶ Advocates of Silenced Turkey (AST), Report: Erdogans long arms abroad and recommendations to governments, July 2018 (https://silencedturkey.org/wp-content/uploads/2018/07/AST_7-28-18_REPORT10_Erdogans-long-arms-abroad.pdf), p. 6.

¹²⁷ Stockholm Center for Freedom, Pakistan government deports abducted Kaçmaz family to Turkey, 14 October 2017 (<https://stockholmcf.org/pakistan-government-deports-abducted-kacmaz-family-to-turkey/>).

¹²⁸ Stockholm Center for Freedom, Pakistan government deports abducted Kaçmaz family to Turkey, 14 October 2017 (<https://stockholmcf.org/pakistan-government-deports-abducted-kacmaz-family-to-turkey/>).

- Whilst being held incommunicado, the family was reportedly subjected to physical and verbal abuse aimed at coercing them to voluntarily return to Turkey. They were blindfolded and boarded on an unmarked flight from Islamabad for Istanbul in the morning of 14 October 2017.¹²⁹

15. UKRAINE: CASES OF YUSUF INAN AND SALIH ZEKI YIGIT

- On 11 July 2018, Salih Zeki Yigit was arrested by the Turkish MIT and four days later he was deported to Turkey by private jet.¹³⁰ On 12 July 2018, Yusuf Inan too was arrested and on 15 July 2018, he was deported to Turkey.¹³¹
- Yusuf Inan is a Turkish journalist and Salih Zeki Yigit was active as a businessman.
- On 14 July 2018, in daytime, Salih Zeki Yigit was seen being forced into a car by two Turkish officials who had put a sack onto his head.¹³²
- The wife of Yusuf Inan described the arrest: *“I saw a crowd in the field, my daughter went running, and two men grabbed him. They hit him.”*¹³³ According to her, the police officers did not show their documents, nor did they identify themselves.¹³⁴
- Neither the wife, nor the lawyers of Yusuf Inan were informed concerning his whereabouts or the fact that he was deported to Turkey.¹³⁵
- Yusuf Inan’s residence permit had been cancelled, making him eligible for deportation. He had never received an official notice of the cancellation.¹³⁶ Yusuf Inan requested political asylum; he was, however, extradited to Turkey before the end of the procedure.¹³⁷

¹²⁹ Stockholm Center for Freedom, Pakistan government deports abducted Kaçmaz family to Turkey, 14 October 2017 (<https://stockholmcf.org/pakistan-government-deports-abducted-kacmaz-family-to-turkey/>).

¹³⁰ Advocates of Silenced Turkey (AST), Report: Erdogans long arms abroad and recommendations to governments, July 2018 (https://silencedturkey.org/wp-content/uploads/2018/07/AST_7-28-18_REPORT10_Erdogans-long-arms-abroad.pdf), p. 13; Turkey Purge, [VIDEO] Gulenist abducted from Ukraine says he feared torture in Turkey, 20 July 2018 (<https://turkeypurge.com/video-gulenist-abducted-from-ukraine-says-he-feared-torture-in-turkey>).

¹³¹ Kyiv Post, Turkish security forces allegedly abduct two Erdogan critics from Ukraine, 16 July 2018 (<https://www.kyivpost.com/ukraine-politics/turkish-security-forces-allegedly-abduct-two-erdogan-critics-from-ukraine.html>); Kemal Karadag, Anadolu Ajansi (AA), Key FETO suspect brought back to Turkey, 15 July 2018 (<https://www.aa.com.tr/en/europe/key-feto-suspect-brought-back-to-turkey/1204965>); Hromadske International, Turkish Journalist Extradited from Ukraine in Covert Operation, 21 July 2018 (<https://en.hromadske.ua/posts/turkish-journalist-extradited-from-ukraine-in-covert-operation>).

¹³² Advocates of Silenced Turkey (AST), Report: Erdogans long arms abroad and recommendations to governments, July 2018 (https://silencedturkey.org/wp-content/uploads/2018/07/AST_7-28-18_REPORT10_Erdogans-long-arms-abroad.pdf), p. 13; Turkey Purge, [VIDEO] Gulenist abducted from Ukraine says he feared torture in Turkey, 20 July 2018 (<https://turkeypurge.com/video-gulenist-abducted-from-ukraine-says-he-feared-torture-in-turkey>).

¹³³ Hromadske International, Turkish Journalist Extradited from Ukraine in Covert Operation, 21 July 2018 (<https://en.hromadske.ua/posts/turkish-journalist-extradited-from-ukraine-in-covert-operation>).

¹³⁴ Hromadske International, Turkish Journalist Extradited from Ukraine in Covert Operation, 21 July 2018 (<https://en.hromadske.ua/posts/turkish-journalist-extradited-from-ukraine-in-covert-operation>).

¹³⁵ Hromadske International, Turkish Journalist Extradited from Ukraine in Covert Operation, 21 July 2018 (<https://en.hromadske.ua/posts/turkish-journalist-extradited-from-ukraine-in-covert-operation>).

¹³⁶ Hromadske International, Turkish Journalist Extradited from Ukraine in Covert Operation, 21 July 2018 (<https://en.hromadske.ua/posts/turkish-journalist-extradited-from-ukraine-in-covert-operation>).

¹³⁷ Hromadske International, Turkish Journalist Extradited from Ukraine in Covert Operation, 21 July 2018 (<https://en.hromadske.ua/posts/turkish-journalist-extradited-from-ukraine-in-covert-operation>).

- The Ukrainian Ministry of Justice and State Border Services assert that they did not receive any request for extradition, nor did they have any information concerning the extradition.¹³⁸
- On 19 July 2018, Yusuf Inan was brought before a court in the western Aegean province of Izmir. It decided to keep him in custody.¹³⁹

16. LEBANON: CASE OF AYTEN OZTURK

- On 8 March 2018, Ayten Ozturk was arrested at Lebanon Airport. She was brought to Turkey on 13 March 2018, where she disappeared for six months and resurfaced on 28 August 2018.¹⁴⁰
- The official records of the Ankara Counter Terrorism Branch indicate that she was arrested on 28 August 2018. However, she had been illegally transferred to Turkey on 13 March 2018. One night she was handed over to the police in a rural area.¹⁴¹
- She was handed over to the Turkish authorities by the Lebanese officials and she was brought to Turkey by a private jet.¹⁴²
- On 13 June 2019, during her hearing before the Istanbul 3rd High Criminal Court, Ms. Ozturk submitted to the court a 12-page petition about her conditions of detention, torture and ill-treatment¹⁴³:
 - *“In the Ankara indictment my arrest date is written as August 28, 2018. This is the official date in the police records. But I was kept and tortured at a secret location illegally for six months before this date. Therefore, the date in custody report is wrong and fake.”*
 - *“I was arrested by the Lebanese authorities at the Lebanon Airport on March 8, 2018. While I was under custody, someone named “Kadri” from the Turkish Embassy came and talked to me and took my pictures by his smartphone.”*
 - *“Lebanese authorities said they would release me. But they brought me to the airport pell-mell on March 13 evening. I was brought these my eyes tied and hands rear cuffed. (...) And put me into the plane with the same speed as if they*

¹³⁸ Hromadske International, Turkish Journalist Extradited from Ukraine in Covert Operation, 21 July 2018 (<https://en.hromadske.ua/posts/turkish-journalist-extradited-from-ukraine-in-covert-operation>).

¹³⁹ Hurriyet Daily News, Ukraine criticized by OSCE for extraditing Turkish coup suspect, blogger, 20 July 2018 (<https://www.hurriyetaidailynews.com/ukraine-criticized-by-osce-for-extraditing-turkish-coup-suspect-blogger-134801>).

¹⁴⁰ Advocates of Silenced Turkey (AST), Systematic Torture & Ill-Treatment in Turkey, January 2020 (<https://silencedturkey.org/wp-content/uploads/2020/01/SYSTEMATIC-TORTURE-AND-ILL-TREATMENT-IN-TURKEY-January-5th.pdf>), p. 61-62.

¹⁴¹ Advocates of Silenced Turkey (AST), Systematic Torture & Ill-Treatment in Turkey, January 2020 (<https://silencedturkey.org/wp-content/uploads/2020/01/SYSTEMATIC-TORTURE-AND-ILL-TREATMENT-IN-TURKEY-January-5th.pdf>), p. 62.

¹⁴² Advocates of Silenced Turkey (AST), Systematic Torture & Ill-Treatment in Turkey, January 2020 (<https://silencedturkey.org/wp-content/uploads/2020/01/SYSTEMATIC-TORTURE-AND-ILL-TREATMENT-IN-TURKEY-January-5th.pdf>), p. 62.

¹⁴³ Advocates of Silenced Turkey (AST), Systematic Torture & Ill-Treatment in Turkey, January 2020 (<https://silencedturkey.org/wp-content/uploads/2020/01/SYSTEMATIC-TORTURE-AND-ILL-TREATMENT-IN-TURKEY-January-5th.pdf>), p. 63-76.

were running in panic. I understood that it was a private jet since it was working silent.”

- “I was blindfolded, handcuffed from behind, and with a sack over my head for almost 25 days.
- “They were saying: “There is no lawyer, judge, or prosecutor here. No one will ever know if you die here. Nobody will care. No one is looking for you outside anyhow. They gave up hope on you. There is no record about you anywhere”.”
- “They were frequently saying: “The government trained us. We have every equipment here. If you have a fracture or broken bone, we’ll apply a cast; if you have an organ failure, we’ll transplant it. We’ll treat you, you’ll recover and then we’ll continue with the torture. This will go on like that. There is no end to it. This is the bottom of the hell. You can’t get out of here. We know everything about human anatomy. We are professionals. You will not die, you will beg to die. If you ever get out of here one day, you will remain insane”.”
- Ayten Ozturk remains, as per 29 April 2020, in pre-trial detention.¹⁴⁴
- There has been no effective investigation into the circumstances of her detention, the forcible disappearance and the torture.¹⁴⁵ She filed an official complaint, but the prosecutor issued a decision not to prosecute and no probe was launched into her allegations of torture.¹⁴⁶

17. MALAYSIA: CASES OF TURGAY KARAMAN, IHSAN ASLAN AND ISMET OZCELIK

- On 12 May 2017, Turgay Karaman, Ihsan Aslan and Ismet Özçelik were deported to Turkey.¹⁴⁷
- On 2 May 2017, Turgay Karaman, principal of Time International School, had been abducted.¹⁴⁸ Closed-circuit television footage revealed that Turgay Karaman was forced into a car by five unidentified persons in an underground parking garage.¹⁴⁹ He

¹⁴⁴ Human Rights Watch, Turkey: enforced disappearances, Torture, 29 April 2020 (<https://www.hrw.org/news/2020/04/29/turkey-enforced-disappearances-torture>).

¹⁴⁵ Human Rights Watch, Turkey: enforced disappearances, Torture, 29 April 2020 (<https://www.hrw.org/news/2020/04/29/turkey-enforced-disappearances-torture>).

¹⁴⁶ Mandates of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on human rights of migrants; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and the Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment, AL TUR 5/2020, 5 May 2020 (<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25209>), p. 6.

¹⁴⁷ Human Rights Committee 28 May 2019, Views adopted by the Committee under article 5(4) of the Optional Protocol, concerning communication No. 2980/2017; Advocates of Silenced Turkey (AST), Report: Erdogans long arms abroad and recommendations to governments, July 2018 (https://silencedturkey.org/wp-content/uploads/2018/07/AST_7-28-18_REPORT10_Erdogans-long-arms-abroad.pdf), p. 8-9.

¹⁴⁸ Advocates of Silenced Turkey (AST), Report: Erdogans long arms abroad and recommendations to governments, July 2018 (https://silencedturkey.org/wp-content/uploads/2018/07/AST_7-28-18_REPORT10_Erdogans-long-arms-abroad.pdf), p. 8-9.

¹⁴⁹ Human Rights Committee 28 May 2019, Views adopted by the Committee under article 5(4) of the Optional Protocol, concerning communication No. 2980/2017.

was on his way to a meeting with his lawyer when he was bundled into a car by five unknown plain clothed men.¹⁵⁰

- Ihsan Aslan has gone missing the same day as Turgay Karaman.¹⁵¹
- Within the same week, Ismet Özçelik, former academic at the Mevlana University, was abducted from his car.¹⁵² He was arrested by the Malaysian police on 4 May 2017.¹⁵³ Ismet Özçelik was waiting for a resettlement by the United Nations High Commissioner for Refugees (UNHCR) after earlier having been the victim of an attempted abduction from the home of his son in Kuala Lumpur. Unidentified gunmen, who appeared to be linked to the security services of Malaysia, then attempted to kidnap him and send him to Turkey. The local police intervened and halted this extraordinary rendition. Mr. Ismet Özçelik was nevertheless kept in jail for 50 days before Malaysian authorities decided to release him, pending trial.¹⁵⁴
- Turgay Karaman, Ihsan Aslan and Ismet Özçelik did not have access to a lawyer or to their case files. Their Malaysian lawyer immediately filed a request to obtain such access. On 9 May 2017, brief contact with a lawyer was allowed. The request for access to the case file was denied.¹⁵⁵
- On 12 May 2017, they were removed to Turkey despite the fact that no extradition hearing had been held and no judicial decision to that effect had been taken.¹⁵⁶
- The Turkish Foreign Minister, Mr. Mevlüt Çavuşoglu, in one of his speeches openly bragged about these cases and revealed that these abductions were effectuated by Turkey with the personal consent of the Malaysian Prime Minister.¹⁵⁷
- Similarly, it became clear that the kidnapping of Mr. Turgay Karaman was executed by a special team from Turkey composed of intelligence officers, police officers and even an anaesthetist.¹⁵⁸
- Upon arrival in Turkey, Turgay Karaman and Ismet Özçelik were held in incommunicado detention at an unknown location. Afterwards it appeared that at first, they were held at DSI Sport Center. This unofficial detention center is notorious for its practices of torture and abuse. Subsequently, some time in May 2017 (exact date unknown, since no family members were informed of this transfer), they were

¹⁵⁰ Advocates of Silenced Turkey (AST), Report: Erdogans long arms abroad and recommendations to governments, July 2018 (https://silencedturkey.org/wp-content/uploads/2018/07/AST_7-28-18_REPORT10_Erdogans-long-arms-abroad.pdf), p. 9.

¹⁵¹ Advocates of Silenced Turkey (AST), Report: Erdogans long arms abroad and recommendations to governments, July 2018 (https://silencedturkey.org/wp-content/uploads/2018/07/AST_7-28-18_REPORT10_Erdogans-long-arms-abroad.pdf), p. 8-9.

¹⁵² Advocates of Silenced Turkey (AST), Report: Erdogans long arms abroad and recommendations to governments, July 2018 (https://silencedturkey.org/wp-content/uploads/2018/07/AST_7-28-18_REPORT10_Erdogans-long-arms-abroad.pdf), p. 9.

¹⁵³ Human Rights Committee 28 May 2019, *Views adopted by the Committee under article 5(4) of the Optional Protocol, concerning communication No. 2980/2017*.

¹⁵⁴ Human Rights Committee 28 May 2019, *Views adopted by the Committee under article 5(4) of the Optional Protocol, concerning communication No. 2980/2017*.

¹⁵⁵ Human Rights Committee 28 May 2019, *Views adopted by the Committee under article 5(4) of the Optional Protocol, concerning communication No. 2980/2017*.

¹⁵⁶ Human Rights Committee 28 May 2019, *Views adopted by the Committee under article 5(4) of the Optional Protocol, concerning communication No. 2980/2017*.

¹⁵⁷ The Stockholm Center For Freedom, *Erdogan's long arms: the case of Malaysia*, May 2017, p. 3.

¹⁵⁸ The Stockholm Center For Freedom, *Turkey's Espionage Activities In Malaysia Exposed As More Details Uncovered*, 23 May 2017.

brought to the Sincan T Type prison in Ankara. On 3 June 2017 they were transferred to the Denizli T Type prison in Denizli (Southwest Turkey).

- The only information the relatives of these Turkish nationals were given, was that they had been interrogated by the anti-terror unit of the Ankara police department on 14 May 2017. Their relatives had no information as to where they were detained nor whether they had been brought before a judge or whether they had access to a lawyer and to their case files.
- Ismet Özçelik has been subject to ill-treatment. He suffers from a heart condition, which drastically worsened during the detention. He was also threatened with solitary confinement.¹⁵⁹
- On 28 May 2019, the UN Human Rights Committee examined the cases of Mr. Özçelik and Mr. Karaman. The Committee concluded that they were arbitrarily detained and deprived of their liberties by Turkey.¹⁶⁰

18. MALAYSIA: CASES OF ARIF KOMIS, ULKU KOMIS AND THEIR FOUR MINOR DAUGHTERS (BEYZA KOMIS, AZRA KOMIS, SALIHA KOMIS AND HAFZAK KOMIS)

- On 28 August 2019 Arif Komis, Ulku Komis and their four minor daughters were arrested and detained in an immigration center near Putrajaya (Malaysia). On 29 August 2019, they were deported to Turkey.¹⁶¹
- On 28 August 2019, around 10:30 PM, the Komis family was detained in a house raid by 30 individuals. They were taken by Turkey's National Intelligence Services (MIT).¹⁶²
- Arif Komis was a renowned chemistry teacher at The Hibiscus International School in Kuala Lumpur (Malaysia).¹⁶³
- Before his abduction, Arif Komis had been aware of a number of suspicious events. He noticed that he repeatedly was being followed and that an unknown man was taking pictures of his car and school. In light of his profile as a teacher and the previous abductions of Turkish citizens in Malaysia on the instructions of the Turkish authorities (see cases of Turgay Karaman, Ihsan Aslan and Ismet Özçelik), Arif Komis was concerned for the safety of himself and his family and therefore alerted the national authorities.

¹⁵⁹ Human Rights Committee 28 May 2019, *Views adopted by the Committee under article 5(4) of the Optional Protocol, concerning communication No. 2980/2017*.

¹⁶⁰ Human Rights Committee 28 May 2019, *Views adopted by the Committee under article 5(4) of the Optional Protocol, concerning communication No. 2980/2017*.

¹⁶¹ Stockholm Center for Freedom, Turkish nationals under UN protection deported: report, 30 August 2019 (<https://stockholmcf.org/turkish-nationals-under-un-protection-deported-report/>).

¹⁶² Dilara Hamit, Anadolu Ajansi (AA), Turkish intelligences captures FETO member in Malaysia, 30 August 2019 (<https://www.aa.com.tr/en/asia-pacific/turkish-intelligences-captures-feto-member-in-malaysia-/1569092>); Malay Mail, Turkish teacher nabbed, brought back to Turkey, 30 August 2019 (<https://www.malaymail.com/news/malaysia/2019/08/30/turkish-teacher-nabbed-brought-back-to-turkey/1785916>).

¹⁶³ Stockholm Center for Freedom, Turkish nationals under UN protection deported: report, 30 August 2019 (<https://stockholmcf.org/turkish-nationals-under-un-protection-deported-report/>).

- The Komis family could not leave Malaysia, since the Turkish Embassy of Malaysia refused to deliver a passport to the youngest daughter of the family.¹⁶⁴
- Arif Komis alerted the Director of The Hibiscus International School of his suspicions. When then the morning of the arrest, Arif Komis did unexpectedly and without any notice not attend school, the Director took immediate action and sent one of his employees to Arif Komis' house to verify his whereabouts and those of his family. It is there that they learned from the Condominium Security Staff that the entire Komis family had been arbitrarily detained.
- After contact with the national authorities, they were only willing to confirm that the Komis family was indeed being detained. They refused to provide any additional information on the situation of the Komis family to their family, friends or lawyers – more precisely why and by whom they were arrested and detained.
- Via informal contacts, it was learned that the family was to be deported to Turkey on 29 August 2019 at 23:00 local Malaysian time. This was also confirmed by one of the daughters, Mss. Beyza Komis, who succeeded to contact – without being caught by the national authorities – a family member via Whatsapp. In a message she confirms that they will be taken to the airport the evening of 29 August 2019 ("*aksam gidicez havalalnina*").¹⁶⁵
- Arif Komis and his family members are all Turkish nationals who were registered with the Office of the United Nations High Commissioner for Refugees in Malaysia. They all enjoyed the status of registered asylum-seeker.¹⁶⁶
- Their current status is unknown.

19. MALAYSIA: CASES OF TAMBER TIBIK AND ALETTIN DUMAN

- On 13 October 2016, two other Turkish nationals, Tamber Tibik and Alettin Duman, have also been abducted in Malaysia and been deported to Turkey.¹⁶⁷
- Alettin Duman is one of the founders of the Time International School.¹⁶⁸
- Alettin Duman left his house in the Jalan Sentul Indah district on 13 October 2016, around 16:00 h, for the afternoon prayer in the mosque. When he did not return home as expected, his family notified his friends. Malaysian citizen Mukhlis Amir Nordin (29), who served as a board member with Alettin Duman in the company that owns the

¹⁶⁴ Bold Medya, Malaysia has disregarded UN protection: Arif Komis has been sent to Turkey, 29 August 2019, (<https://boldmedya.com/en/2019/09/12/malaysia-has-disregarded-un-protection-arif-komis-has-been-sent-to-turkey/>).

¹⁶⁵ Asia Pacific Refugee Rights Network, Press release: Malaysia returns UNHCR-recognized refugee to Turkey despite serious protection concerns, 2 September 2019 (<http://aprrn.info/press-release-malaysia-returns-unhcr-recognised-refugee-to-turkey-despite-serious-protection-concerns/>).

¹⁶⁶ Turkey Purge, Turkish family, detained by Malaysian police, deported to Turkey Friday morning: report, 30 August 2019 (<https://turkeypurge.com/turkish-family-detained-by-malaysian-police-deported-to-turkey-friday-morning-report>); Asia Pacific Refugee Rights Network, Press release: Malaysia returns UNHCR-recognized refugee to Turkey despite serious protection concerns, 2 September 2019 (<http://aprrn.info/press-release-malaysia-returns-unhcr-recognised-refugee-to-turkey-despite-serious-protection-concerns/>).

¹⁶⁷ Stockholm Center for Freedom, Erdogan's long arms: the case of Malaysia, May 2017 (<https://stockholmcf.org/wp-content/uploads/2017/05/Erdogans-Long-Arms-The-Case-Of-Malaysia.pdf>), p. 10.

¹⁶⁸ Stockholm Center for Freedom, Cellmate: teacher abducted by Turkey's MIT from Malaysia subjected to torture in Ankara, 1 April 2018 (<https://stockholmcf.org/cellmate-teacher-abducted-by-turkeys-mit-from-malaysia-subjected-to-torture-in-ankara/>).

school, reported him missing to the police. The police said they could not act until 24 hours elapsed. On 14 October 2016, when Alettin Duman did not show up after 24 hours, the police launched an investigation by sending detectives to the mosque to talk to witnesses and take statements. Despite the investigation, the police could not locate him.¹⁶⁹

- Tamber Tibik had been going to the Elite Language Center in Kuala Lumpur every day to take English classes. And so did he on 13 October 2016, but this time he did not return to his home. When his family could not reach him on his mobile phone, the police was notified. Since both missing cases were recorded on the same day, friends and family members suspected that the two men were abducted by the same people, but they had no clue about the identity of the people nor of the motive.¹⁷⁰
- Alettin Duman and Tamber Tibik were taken to a remote wooded area, subjected to torture and abuse and later turned over to Turkish officials to be taken back to Turkey.¹⁷¹
- On 14 October 2016, Turkish Foreign Minister Mevlüt Cavusoglu issued a statement: *“Last night we received three terrorists from Malaysia.”*¹⁷² He also said: *“Last week we met with the Malaysian Prime Minister in Thailand, Bangkok, they said they would deliver three people at the Asia Dialogue Meeting. After I returned, I gave information to the President, the Prime Minister, the relevant institutions. As a result of mutual contacts, three people were handed over last night.”*¹⁷³
- Alettin Duman has been subjected to beating, torture, death threats and staged executions during his pre-trial detention in Ankara. When his cellmate, S.T., was released he testified on the detention circumstances of Alettin Duman.¹⁷⁴

20. SWITZERLAND: UNIDENTIFIED BUSINESSMAN (ATTEMPT)

- On 15 March 2018, lawmakers from the Swiss Parliament requested a strong reaction from the Swiss government in response to active preparations by two Turkish

¹⁶⁹ Stockholm Center for Freedom, Erdogan’s long arms: the case of Malaysia, May 2017 (<https://stockholmcf.org/wp-content/uploads/2017/05/Erdogans-Long-Arms-The-Case-Of-Malaysia.pdf>), p. 11-12.

¹⁷⁰ Stockholm Center for Freedom, Erdogan’s long arms: the case of Malaysia, May 2017 (<https://stockholmcf.org/wp-content/uploads/2017/05/Erdogans-Long-Arms-The-Case-Of-Malaysia.pdf>), p. 11-12.

¹⁷¹ Stockholm Center for Freedom, Cellmate: teacher abducted by Turkey’s MIT from Malaysia subjected to torture in Ankara, 1 April 2018 (<https://stockholmcf.org/cellmate-teacher-abducted-by-turkeys-mit-from-malaysia-subjected-to-torture-in-ankara/>).

¹⁷² Stockholm Center for Freedom, Erdogan’s long arms: the case of Malaysia, May 2017 (<https://stockholmcf.org/wp-content/uploads/2017/05/Erdogans-Long-Arms-The-Case-Of-Malaysia.pdf>), p. 11-10.

¹⁷³ Stockholm Center for Freedom, Erdogan’s long arms: the case of Malaysia, May 2017 (<https://stockholmcf.org/wp-content/uploads/2017/05/Erdogans-Long-Arms-The-Case-Of-Malaysia.pdf>), p. 11-10.

¹⁷⁴ Stockholm Center for Freedom, Cellmate: teacher abducted by Turkey’s MIT from Malaysia subjected to torture in Ankara, 1 April 2018 (<https://stockholmcf.org/cellmate-teacher-abducted-by-turkeys-mit-from-malaysia-subjected-to-torture-in-ankara/>).

diplomats to kidnap (and subject to rendition in Turkey) a dual citizen and Swiss-based businessman, who was allegedly active in the Gülen movement.¹⁷⁵

- The existence of the plot was confirmed by the Office of the Swiss Attorney General based *“on suspicion of political intelligence gathering...and prohibited acts for a foreign state.”*¹⁷⁶

21. MONGOLIA: CASE OF VEYSEL AKCAY (ATTEMPT)

- On 27 July 2018, Veysel Akcay was abducted by Turkey’s National Intelligence Organization (MIT).¹⁷⁷
- He was abducted in front of his house in the capital city of Ulan Bator. Veysel Akcay left his home at 9:00 AM and was stopped by a minibus right in front of his house. At Ulan Bator Airport, a private jet plane was waiting to transfer him to Turkey.¹⁷⁸
- Around 12:00 AM, Veysel Akcay was returned home. Resistance from citizens and politicians prevented the illegal transfer to Turkey.¹⁷⁹

¹⁷⁵ Journalists and Writers Foundation, Escaping the witch hunt from Turkey & around the world: the right to leave, April 2018 (<http://jwf.org/jwf/wp-content/uploads/2018/05/Escaping-the-Witch-Hunt-from-Turkey-and-Around-the-World-JWF-Report-April-2018.pdf>), p. 76.

¹⁷⁶ Journalists and Writers Foundation, Escaping the witch hunt from Turkey & around the world: the right to leave, April 2018 (<http://jwf.org/jwf/wp-content/uploads/2018/05/Escaping-the-Witch-Hunt-from-Turkey-and-Around-the-World-JWF-Report-April-2018.pdf>), p. 76.

¹⁷⁷ Advocates of Silenced Turkey (AST), Report: Erdogans long arms abroad and recommendations to governments, July 2018 (https://silencedturkey.org/wp-content/uploads/2018/07/AST_7-28-18_REPORT10_Erdogans-long-arms-abroad.pdf), p. 14.

¹⁷⁸ Advocates of Silenced Turkey (AST), Report: Erdogans long arms abroad and recommendations to governments, July 2018 (https://silencedturkey.org/wp-content/uploads/2018/07/AST_7-28-18_REPORT10_Erdogans-long-arms-abroad.pdf), p. 14.

¹⁷⁹ Advocates of Silenced Turkey (AST), Report: Erdogans long arms abroad and recommendations to governments, July 2018 (https://silencedturkey.org/wp-content/uploads/2018/07/AST_7-28-18_REPORT10_Erdogans-long-arms-abroad.pdf), p. 14.



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