



ABDUCTIONS and ENFORCED DISAPPEARANCES

in Türkiye After the July 15 Coup Attempt



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ABOUT US

Stichting Justice Square, based in Amsterdam, is a non-profit and non-governmental organization working globally to make a meaningful impact on the lives of persecuted people, refugees, victims of war and those affected by conflict and displacement by promoting democratic values, encouraging international cooperation and advocating for the protection of human rights. In particular, human rights violations in Türkiye are closely monitored by the Foundation and regularly reported to the public. In this context, our Foundation also sends briefing letters and submissions to the relevant institutions and organizations in order to present the violations of rights to the international institutions and organizations.

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PREFACE

As is known, acts of enforced abduction and disappearance are defined as crimes against humanity in Article 7 of the Rome Statute. Despite this, many enforced abductions and disappearances took place in Türkiye during the state of emergency. Enforced abductions and disappearances are systematically and widely organised by state authorities in accordance with a specific plan. These unlawful acts have often targeted members of the Gülen Movement.

With the 17-25 December bribery and corruption investigations, the Erdoğan regime started to take strict measures and develop unlawful practices against the Gülen Movement, which does not accept to be a partner of the regime's practices and policies contrary to the democratic society and universal legal order, on the contrary, integrates with the modern world, is based on peace and tolerance, and opposes radical Islam discourses. The government has continued these unlawful policies by involving all powers of the state. In this context, one of the most important unlawful and rogue state practices against the members of the Gülen Movement, who were accused of terrorism charges without any evidence against them, is the cases of kidnapping and disappearances in Türkiye and abroad. These unlawful operations were planned and implemented by the National Intelligence Organisation.

Although enforced abductions and disappearances are crimes against humanity, they are publicised as legal practices by the competent authorities in Türkiye. Therefore, the statements made by the ministers and bureaucrats of the State and the statements made by the official news agency of the State as if these acts, which are crimes against humanity, are in accordance with the law, reveal that these illegal activities are implemented in a planned and organised manner as a state policy.

In this context, in order to record and follow up the acts of enforced abduction and disappearance, which are an example of crimes against humanity in Türkiye, this study, which includes the process of implementation of illegal acts, the violations of rights experienced afterwards and the final situation, has been prepared.

With the hope that this study prepared by **Justice Square** will be useful and that the violations of rights in Türkiye will end as soon as possible ...

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ABBREVIATIONS

AA : Anadolu Agency

EU : European Union

OSCE : Organisation for Security and Cooperation in Europe

CPT : European Committee for the Prevention of Torture and Inhuman or Degrading
Treatment or Punishment

ECtHR : European Court of Human Rights

ECHR : European Convention on Human Rights

EC : European Council

AKP : Justice and Development Party

PACE : Parliamentary the Council of Europe

AST : Advocates of Silenced

CC : Constitutional Court

UN : United Nations

UNHCR : United Nations High Commissioner

CAT : United Nations Committee for the Prevention of Torture

CBC : Swiss Intelligence Service

CED : Committee on Enforced Disappearances

CHP : Republican People's Party

CIMER : Presidential Communication Centre

HDP : Peoples' Democratic Party

HRC : Human Rights Committee

HRW : Human Rights Watch

ICC : International Criminal Court

ICCPR : International Covenant on Civil and Political Rights

ICMP : International Commission on Missing Persons

IRB : Immigration and Refugee Board of Canada
IHD : Human Rights Association
KIA : Kosovo Intelligence Service
MEDEL : European Association of Judges
MIT : National Intelligence Organisation
OCD : Organised Crime Department (Azerbaijan)
SCF : Stockholm Centre for Freedom
TBMM : Grand National Assembly of Türkiye
TCK : Turkish Penal Code
TEM : Anti-Terror Branch
THY : Turkish Airlines
ICC : International Criminal Court
WGEID : Working Group on Enforced and Involuntary Disappearances
VSA : Van Steenbrugge Advocaten (Belgium)

INTRODUCTION

Cases of enforced abductions and disappearances, which are considered crimes against humanity and one of the most shameful human rights violations of our recent history, have increased significantly within the framework of a state policy since 21 July 2016, when the State of Emergency was declared. Thus, Türkiye has sailed into the dark corridors of the 90s, full of bad memories in terms of human rights. This situation is reflected in the reports of the United Nations (UN) Working Group on Enforced or Involuntary Disappearances, decisions of the European Court of Human Rights (ECtHR) and reports of human rights organisations.

Although enforced abduction and disappearance is a crime against humanity, it is publicised as a legal practice by the authorities in Türkiye. Therefore, the fact that the official news agency of the state refers to these acts as lawful acts and reflects them as a state achievement reveals that these illegal activities are state policy.

These criminal acts are organised by the MIT (National Intelligent Agency of Türkiye) carried out using Turkish judicial law enforcement agencies. The targeted persons are abducted in public places, in pre-arranged vehicles (usually black Transporters), in ambush, by civilian law enforcement or intelligence officers, in full view of the public, and taken to torture centres. Complaints to administrative and judicial authorities about abducted and disappeared persons are either ignored and not processed or the files are closed without being subject to investigation.

Some of the enforced disappeared are handed over to the official law enforcement agencies after a long period of time, after their statements have been forcibly taken in torture centres without any legal protection. Even if the abductees filed a complaint about the torture and ill-treatment they have been subjected to courts and prosecutors' offices, these complaints are ignored and not investigated. Victims of abductions, whose freedom to claim their rights is restricted, are also subjected to the harshest penalties based on the statements they give under torture.

Forced abductions are carried out not only in Türkiye but also in various countries by intelligence units under the guidance of the political power and using illegal methods. People are abducted and brought to Türkiye in violation of international law.

Forced abductions and disappearances are not limited to one or two cases, actually the number of incidents has exceeded 30 until this report issued. The number of abductions and disappearances from abroad is also quite high. On 12 July 2022, Bekir Bozdağ, the then Minister of Justice, told Anadolu Agency (AA), the official news agency of the State, that as of 1 July 2022, 121 people from 28 different countries were abducted and brought to Türkiye

without an extradition order during operations against the Gülen Movement between 2014 and 2022. These figures clearly show that abduction and enforced disappearance are widely practised.

In this context, in order to record and follow up the acts of abduction and disappearance in Türkiye, which are crimes against humanity, this study has been prepared, which includes the process of these acts and the violations of rights experienced afterwards and the final situation. In the first part of the study, the legal nature of the acts of abduction and disappearance within the framework of national and international legislation; in the second part, the process of abduction and disappearance, which has become a state policy against the Gülen Movement in Türkiye; in the third part, the decisions and reports of international institutions and organisations, especially the decisions of the European Court of Human Rights regarding the cases of abduction and disappearance in Türkiye, and in the last part, the cases of abduction and disappearance detected in Türkiye will be discussed.

SECTION I:

LEGAL NATURE OF THE CASES OF ABDUCTION AND ENFORCED DISAPPEARANCE

A. IN GENERAL

Internationally, abductions and enforced disappearances are particularly grave cases following conflicts or oppressive regimes. Under international humanitarian law, "missing persons" or "persons whose fate is unknown" are persons whose families have no information about them as a result of international or non-international armed conflict, internal violence or civil unrest, or persons who have been reported missing on the basis of reliable information. The term "missing" is also used for victims of natural disasters or calamities.

In general, enforced disappearance refers to the deprivation of a person's liberty by the state in such a way that the person is ignored in the legal order, and sometimes the destruction of his or her physical existence. At this point, even if the person is sometimes actually in the hands of the state, the fact that the state authorities claim that they have no knowledge of the fate of the person and follow a strict policy of denial in this regard is accepted as the appearance of this practice.¹

Enforced disappearance used to be a classic example of Nazi German practice. The practice of enforced disappearance in Nazi Germany is based on the decree of 7 December 1941 known as "**Nacht und Nebel Erlass/Night and Fog Decree**".² In accordance with the name of the decree in question, the targeted persons were disappeared in the darkness of the night, no information could be obtained about their fate and the events were covered with a veil of fog. Based on this decree, many people were taken away from their neighbourhoods to be tried secretly in special courts on the grounds that they had resisted and resisted the occupation forces. The main purpose of these secret detentions and subsequent executions was, firstly, to frighten and intimidate the relatives of the disappeared, and secondly, to leave no evidence, witnesses or records against any possible investigation. During the Nazi period, the aim of trying to spread fear among the relatives of the disappeared or other persons who

¹ Alpkaya, Gökçen: "The Problem of the Missing and Türkiye", Ankara University Journal of the Faculty of Political Sciences, Prof. Dr. Turan Güneş'e Armağan, vol. 50, no. 3-4, June-December 1995, p.31

² Vibhute, Khushal; "The 2007 Convention Against Enforced Disappearance: Some Reflections", Mizan Law Review, Vol. 2, No. 2, July 2008, p. 287, <http://197.156.93.91/bitstream/123456789/1239/1/THE%202007%20INTERNATIONAL%20CONVENTION.pdf>

opposed the Nazi regime through enforced disappearance, as if to intimidate them that the same thing could happen to them if they opposed the Nazi regime, is evident. During this period, especially in France, Belgium and the Netherlands, many people were taken from their places of residence in great secrecy and executed quickly, some of them were taken to Germany and sentenced to death after being tried there or disappeared with their fate completely unknown.³

Enforced disappearance is a crime under international law and a violation of numerous human rights, including the right to liberty and security, the right to recognition of personality before the law, the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment, the right to a fair trial and the right to life. Enforced disappearance also violates the economic, social and cultural rights of the disappeared person and his or her family. When Committed as part of a widespread and systematic attack against any civilian population, enforced disappearance is a crime against humanity. The prohibition of enforced disappearance and the associated obligation of states to investigate and punish those responsible are given the status of *ius cogens*.⁴

In this context, although enforced disappearance is mostly Committed in the context of armed conflict or repressive regimes, it is also a crime that can be Committed in times of peace and under supposedly democratic regimes. This practice is used to silence political opponents and instil terror among the public. In doing so, secret detention and "inter-country suspect transfer" methods are used under the name of organised crime or the fight against terrorism.⁵

In the context of Türkiye, hundreds of cases of enforced disappearances have occurred within the scope of operations carried out due to the "Kurdish issue" in Türkiye. Although the exact number could not be determined with certainty, approximately 1,350 cases of enforced disappearance were estimated between 1980 and 2013.⁶

³ Gündoğan, Şerife: Zorla Kaybetme within the Framework of the State's Obligation to Protect the Right to Life of the Individual, Istanbul Şehir University Institute of Social Sciences Department of Public Law Master's Thesis, August 2016, p. 62

⁴ In Turkish doctrine, *jus cogens* is referred to as *jus cogens* in basic terms such as mandatory rule, peremptory rule or *âmir hüküm*. (Melda Sur, *Uluslararası Hukukun Esasları*, Updated 4th Edition, Istanbul, Beta, 2010, p. 45; İrem Karakoç, "Uluslararası Hukukta Emredici Kural (Jus Cogens = Peremptory Norms) Olgusu Tarihsel Bir Yaklaşım", *Dokuz Eylül Üniversitesi Hukuk Fakültesi Dergisi*, Vol: 8, Issue (S.):1, 2006, p. 87

⁵ Council of Europe, "Missing persons and victims of enforced disappearance in Europe", March 2016, p.4, Translation: Truth Justice Memory Centre, <https://hakikatadalethafiza.org/sites/default/files/2023-01/kayipkisiler-sorun-odakli-belge-ak-.pdf>

⁶ Council of Europe, "Missing persons and victims of enforced disappearances in Europe", p.25; Truth Justice Memory Centre (2013), "Enforced disappearances and the attitude of the judiciary",

Recently, the target group has been members of the Gülen Movement. Cases of kidnapping and disappearances against the Gülen Movement started to increase rapidly, especially with the effect of the climate of chaos created by the state of emergency declared after the 15 July coup attempt.

B. INTERNATIONAL LEGISLATION

Under customary international humanitarian law, in both international and non-international armed conflicts, all parties to the conflict must take all reasonable measures to determine the fate of persons reported missing as a result of the conflict and provide family members with all available information on the fate and whereabouts of the person. This is recognised in a number of international instruments.

1. International Instruments Established under the United Nations

a. UN Declaration on the Protection of All Persons from Enforced Disappearance

In order to combat kidnapping and disappearance, which is a grave crime against humanity, some international texts have been prepared from time to time within the UN. In this context, **the UN Declaration on the Protection of All Persons from Enforced Disappearance**⁷ defines enforced disappearance as "the arrest, detention, abduction or other deprivation of liberty of persons by persons or groups of persons acting on behalf of the State or with the authorisation, support or knowledge of the State; followed by the denial by such persons of their acts or concealment of the whereabouts and condition of the disappeared person, with the result that the disappeared person is outside the protection of the law".

According to Article 1 of the UN Declaration, enforced disappearance is a crime against humanity. Enforced disappearance is a denial of the purposes of the United Nations Charter and must be condemned as a grave and flagrant violation of human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights. Similarly, Article 7 of the Declaration states that no circumstances, whether war, the threat of terrorism or any other public emergency, can justify enforced disappearances.

b. International Convention for the Protection of All Persons from Enforced Disappearance

Istanbul. (<http://bit.ly/2lfm4X9>). 36 WGEID, "Report on the visit to Türkiye", E/CN.4/1999/62/Add.2, 28 December 1998, paragraphs 2 and 7

⁷ UN, "Declaration on the Protection of all Persons from Enforced Disappearance", 18 December 1992, General Assembly resolution 47/133, <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-protection-all-persons-enforced-disappearance>

Twenty-four years after the proclamation of the Declaration on the Protection of All Persons from Enforced Disappearance, which aims to protect people against enforced disappearances, **the International Convention for the Protection of All Persons from Enforced Disappearance**⁸ was adopted by UN General Assembly resolution 61/177 on 20 December 2006. The Convention, which entered into force on 23 December 2010, was signed by UN member states with the aim of preventing all enforced disappearances, including in the event of actual war, threat of war, internal political instability or any other public emergency, and to combat the shield of impunity for this crime.

The Convention, which defines enforced disappearance and obliges States to apply criminal law in respect of anyone who contributes to, or has knowledge or consent to, the enforced disappearance of persons, is the first internationally legally binding instrument to deal specifically with enforced disappearance, detailing the obligations of States to prevent the practice, to investigate and punish those responsible, and to put in place adequate and appropriate measures to guarantee the rights of victims. The Convention clearly establishes the right of all persons not to be subjected to enforced disappearance as a right that cannot be limited. The Convention also declares that the widespread or systematic practice of enforced disappearance constitutes a crime against humanity and is not subject to statute of limitations.

In its general comment of 10 January 2008, the UN Working Group on Enforced Disappearance stated that "Although countries are not obliged to include in their penal codes the exact definition in the Declaration, they should ensure that they include a definition of enforced disappearance that is somehow clearly distinguishable from related crimes such as deprivation of liberty and abduction".⁹

Since 2011, the UN has commemorated 30 August as the "International Day of the Enforced Disappeared" to honour the memory of the disappeared.

2. International Criminal Court

The International Criminal Court (ICC) investigates genocide, war crimes, crimes against humanity and crimes of aggression that concern societies and, where deemed necessary, prosecutes persons accused of committing these crimes. The ICC was established on 1 July 2002 and started to run on 11 March 2003. Governed by an international treaty called

⁸ UN, International Convention for the Protection of All Persons from Enforced Disappearance 23 December 2010, BY General Assembly of the United Nations in its resolution 47/133, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-protection-all-persons-enforced>

⁹ UN, Report of the Working Group on Enforced or Involuntary Disappearances, A/HRC/7/2, p.11, paragraph 3, <https://documents.un.org/doc/undoc/gen/g08/101/05/pdf/g0810105.pdf?token=5KPjyULEwTqQA9ZIdi&fe=true>

the Rome Statute, the ICC is the world's first permanent international criminal court. ICC judges conduct judicial proceedings and ensure that trials are fair.

Prosecutors to serve at the International Criminal Court are elected by the Assembly of States Parties to the Convention, which meets once a year, by a vote of one more than the total number of its members - general, equal and secret - for a term of office of nine years in principle. Prosecutors may be elected only once. They cannot be elected for a second term. The prosecutorial organisation is part of the court, but is financially autonomous and independent in terms of administrative and judicial activities.

In the Statute, it is stated that the prosecutors of the ICC must be fully impartial (Art. 42/7 of the Statute). The Office of the Prosecutor of the International Criminal Court is obliged to operate in complete impartiality, regardless of the suspect it is investigating, whether a head of state or an ordinary citizen. The Prosecutor may not act in the interests of any state party. No organ or person within the International Criminal Court or State Party to the Rome Statute may give instructions to the Prosecutor. Prosecutors shall enjoy the privileges and immunities accorded to chiefs of diplomatic missions in the course of their investigative and investigative activities and in the conduct of the business of the Court. After the expiry of their term of office, they continue to enjoy immunity from all legal proceedings for their oral or written statements or actions taken in the course of their official duties (Statute 48/2).

In order for the Prosecutor's Office to have jurisdiction to investigate, the offences defined in the Statute must be Committed within the territory of the State party to the Statute or by its nationals. If the offence is Committed on board a ship or aircraft, it is sufficient for the state in which the ship or aircraft is registered to be a party to the Convention. Each State party to the Statute is deemed to have accepted the investigative jurisdiction of the court and, in the meantime, of the prosecutor's office (Art. 12 of the Statute).

One of the important prerequisites for the prosecution to exercise its authority to initiate an investigation is the age of the perpetrator. There is no upper limit for the age of the person to be investigated or prosecuted, only a lower limit. According to Article 26 of the Statute, the court has no jurisdiction, and therefore the prosecutor's office has no authority to investigate, persons who were under the age of 18 at the time of the offence. In other words, the prosecutor's office cannot carry out any investigative action against a perpetrator under the age of 18.

The Public Prosecutor's Office cannot conduct investigations against states or other legal entities. However, it would not be wrong to say that in investigations concerning natural persons, state actions are also indirectly the subject of the investigation since the persons are mostly state officials.

If any State notifies the Court of its acceptance of the jurisdiction of the Court - and, by the way, the investigative competence of the Prosecutor's Office - on the grounds that one of the crimes defined in the Statute was Committed in its territory or that the person who Committed the criminal act in question is a national of its territory, the Prosecutor's Office of the International Criminal Court may conduct an exclusive investigation into the act, even if the State in question is not a party to the Statute.¹⁰

As can be seen, the International Criminal Court established by the Rome Statute is also authorised to try crimes against humanity Committed by state policy. Since this court will conduct criminal proceedings, it confronts state sovereignty and stands out with its complementary nature. Essentially, the International Criminal Court will step in when national proceedings are not or cannot be conducted. In addition, since the influence of the international political order may come to the fore in crimes against humanity Committed with state policy, the impartiality and independence of the trials to be held in this court are of particular importance.¹¹

In this context, another important piece of legislation that addresses and sanctions enforced disappearance, which is an act against humanity, is the Rome Statute, which is the basic legislation of the ICC. The Rome Statute defines enforced disappearance in Article 7.2.i as *"the arrest, detention or abduction of persons by a State or political organisation, or with the authorisation, support or connivance of a State or political organisation, and the subsequent refusal by the State to acknowledge that such persons have been deprived of their liberty, or to provide information as to the fate or whereabouts of such persons, with the intent to deprive them of the protection of the law for a prolonged period of time"*. According to Article 7.1.i of the same Statute, enforced disappearance is considered a crime against humanity *"when Committed as part of a widespread or systematic attack against any civilian population"*.¹²

3. EU Standards

Many organisations in Europe are active in combating abductions and disappearances. For example, the Organisation for Security and Cooperation in Europe (OSCE) helps to identify exhumed bodies and provides support to the families of the disappeared. The Council of Europe addresses the issue at different levels. The Council of Europe Commissioner for Human Rights has addressed the issue in his Human Rights Comments and in several country

¹⁰ The International Criminal Court,

¹¹ Koç Başar, Cansu: State Policy in Crimes Against Humanity in the Context of the Rome Statute, On iki Levha Publishing, Istanbul 2019, p. 23

¹² Council of Europe, "Missing persons and victims of enforced disappearance in Europe", p.25

reports, including Armenia, Georgia, Kosovo, Croatia, Bosnia and Herzegovina, Cyprus, Russia, Serbia and the former Yugoslav Republic of Macedonia.¹³

On the other hand, the Parliamentary Assembly of the Council of Europe has issued numerous reports, adopted recommendations and adopted the **International Convention for the Protection of All Persons from Enforced Disappearance**.

Similarly, the Committee of Ministers of the Council of Europe adopted the **Guidelines on Eradicating Impunity for Serious Human Rights Violations** at the 1110th meeting of the Ministers' Deputies on 30 March 2011. The document emphasises that states have an absolute obligation to investigate cases relating to Articles 2 and 3 of the ECHR. These guidelines are largely based on the case law of the European Court of Human Rights and the work of the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment. Of particular importance for the fight against enforced disappearance are the principles of the obligation of States to carry out effective investigations into persons deprived of their liberty, including those for whom there are no eyewitness accounts since their disappearance, the involvement of victims in investigations, including the provision of information to the families of missing persons, and the accountability of subordinates.¹⁴

For the purposes of these guidelines, *gross violations of human rights* encompass the obligations of States under the Convention and the obligation to enforce criminal law provisions in accordance with the case law of the Court. These obligations arise in the context of the right to life under Article 2 of the Covenant, the prohibition of torture or inhuman or degrading treatment or punishment under Article 3 of the Covenant, the prohibition of slavery and forced labour under Article 4 of the Covenant, certain aspects of the right to liberty and security under Article 5(1) of the Covenant and the right to respect for private and family life under Article 8 of the Covenant. Kidnapping and enforced disappearances are cited in the document as examples of gross violations of human rights.

¹³ Commissioner for Human Rights: "Report on the Visit to Cyprus", 12 February 2004, paragraphs 46-47 (<https://wcd.coe.int/ViewDoc.jsp?id=115655>); "Report on the Visit to Armenia", 30 April 2008, paragraphs 96-97 (<https://wcd.coe.int/ViewDoc.jsp?id=1283639>); "Report on the Visit to Kosovo", 2 July 2009, paragraphs 185-193. Paragraphs (<https://wcd.coe.int/ViewDoc.jsp?id=1466279>); "Report on the Visit to Bosnia and Herzegovina", 29 March 2011, 162-171. Paragraphs (<https://wcd.coe.int/ViewDoc.jsp?id=1766837>); "Report on the Visit to Croatia", 17 June 2010, para. 93 (<https://wcd.coe.int/ViewDoc.jsp?id=1636837>); "Report on the Visit to Serbia", 22 September 2011, paras 28-45 (<https://wcd.coe.int/ViewDoc.jsp?id=1834869>); "Report on the Visit to Serbia", 8 July 2015, paras 30-39 and 69 (<https://wcd.coe.int/ViewDoc.jsp?id=2331051>); "Report on the Visit to the Russian Federation", 6 September 2011, (<https://wcd.coe.int/ViewDoc.jsp?id=1825257>); and "Report on the Visit to the former Yugoslav Republic of Macedonia", 9 April 2013, (<https://wcd.coe.int/ViewDoc.jsp?id=2052823>). Paragraphs 42-51

¹⁴ Council of Europe, "Eradicating impunity for serious human rights violations", Guidelines and reference texts, Directorate General of Human Rights and Rule of Law, 2011

4. Institutional Mechanisms

In the international arena, some mechanisms have been established to follow up cases of kidnapping and disappearance and to provide assistance to the victims. The **International Commission on Missing Persons (ICMP)** is one of these mechanisms. It works with governments, non-governmental organisations, judicial authorities, international organisations and other stakeholders to find solutions to the problem of missing persons on a global scale, to locate and identify missing persons.

Another organisation working in this field is the **Working Group on Enforced or Involuntary Disappearances (WGEID)**. WGEID can refer allegations of enforced disappearances that constitute crimes against humanity to international, regional, sub-regional or national authorities. In 2014, WGEID requested the UN Security Council to consider referring cases of enforced disappearances in Syria and the Democratic People's Republic of Korea to ICC. WGEID also monitors states' progress in implementing the 1992 **UN Declaration on the Protection of All Persons from Enforced Disappearance**.

The Committee on Enforced Disappearances (CED) is the body that monitors the implementation of the *International Convention for the Protection of All Persons from Enforced Disappearance*. The CED analyses reports subMITted by state parties on measures taken to implement the Convention. It publishes its recommendations and concluding observations, including requests for follow-up information on the level of implementation within one year.

The Human Rights Committee (HRC), one of the leading bodies working in this area, requires states parties to the International Covenant on Civil and Political Rights (ICCPR) to take specific and effective measures to prevent the disappearance of individuals and to provide effective means and procedures to fully investigate cases of disappearances and enforced disappearances in circumstances that may involve violations of the right to life. The HRC reaffirmed that States are obliged to investigate and bring to justice those responsible for enforced disappearances. The HRC has developed a significant body of jurisprudence on enforced disappearance. In its concluding observations, the HRC formulates several recommendations, including with regard to some Council of Europe member states.¹⁵

C. FROM THE PERSPECTIVE OF THE ECHR

The legal nature and grave consequences of abductions and disappearances are reflected in the jurisprudence of the European Court of Human Rights. In this context, the

¹⁵ Council of Europe, "Missing persons and victims of enforced disappearance in Europe", p.37 et seq.

European Court of Human Rights provides an overview of its important case law on enforced disappearances in Bosnia-Herzegovina, Croatia, Russia, Spain and Türkiye.

The Court held that enforced disappearances violate Article 2 (right to life), Article 3 (prohibition of torture), Article 5 (right to liberty and personal security) and Article 13 (right to an effective remedy) of the European Convention on Human Rights.

Relatives of persons who have been forcibly disappeared are also considered to be victims of violations of Article 3 due to the indifference shown by the authorities, in particular in relation to the severe suffering they have suffered.

The Court's reversal of the burden of proof and inconsistencies in the criteria applied are at times glaring. This puts both applicants, relatives of disappeared persons and witnesses in a difficult position. The scarce use of interim measures to protect them from reprisals and the narrow interpretation of the concept of reparation measures - often limited to material and non-material compensation - are also challenges.

The slow or non-existent implementation of the Court's judgements in this area by the respondent States is a problem in itself.

The ECtHR has found violations of Article 5 of the Convention in its judgements concerning cases of kidnapping and disappearance. The ECtHR has stated that kidnapping and disappearance cases cannot be understood only as an aggravated form of arbitrary detention due to their extremely serious nature and peculiar characteristics, but may also lead to violations of other human rights.

In the case of a violation of Articles 2 and 3 of the Convention in relation to an enforced disappeared person, the Court considers that the offence Committed encompasses not only the substantive dimension but also the procedural dimension, which requires States to conduct an effective investigation into the offence. Such an investigation must be conducted *ex officio* and must necessarily fulfil certain specific characteristics of an effective investigation, such as independence and impartiality, competence, promptness and public scrutiny. In particular, the involvement of victims or their relatives should be ensured to the extent necessary to safeguard their interests.

According to the ECtHR, in cases of enforced disappearance and abduction, the burden of proof lies with the state. According to the Court, it is sufficient for the applicants to allege that their relatives were abducted by public officials in a manner which at first sight appears to be true, in order to show that the person came under the control of state officials¹⁶. It is then incumbent on the State to prove that the events were not as alleged, either by producing

¹⁶ Dođru, Osman: Right to Life, Council of Europe, Ankara 2018, p. 32

documents exclusively in its possession or by providing a satisfactory and convincing explanation of how they occurred. If the State fails to rebut this presumption, this will lead to a violation of Article 2 of the Convention.¹⁷

According to the ECtHR, the state will be held responsible for the disappearance of an individual if it can be proved beyond reasonable doubt that the disappeared person was taken into custody by state agents and there are sufficient indications, based on concrete elements, that the person has died.¹⁸

Again, in such cases, the Court considered the failure to widen the investigation to identify possible witnesses to the abduction process and the failure to hear important persons and witnesses as incomplete investigations.¹⁹

In this context, the Court applies a presumption of violation of the substantive limb of Article 2 ECHR when the victim was last seen alive, is in life-threatening conditions and the State concerned is unable to provide a convincing explanation for the fate and whereabouts of the victim.²⁰ In such cases, the obligation of states to conduct an effective investigation, identify and prosecute perpetrators in cases of disappearance does not end with the discovery of the victim's body or the presumption of death²¹. In some cases, the Court also examines whether the state concerned has taken effective measures to protect the right to life of the disappeared person, as required by the positive obligations under Article 2 of the ECHR.²² For example, in *Cyprus v. Türkiye*, the Court found a continuing violation of Article 2 where the Turkish authorities failed to carry out an effective investigation to establish the whereabouts and fate of persons who had disappeared in life-threatening circumstances. The Court also found a continuing violation of Article 5, as well as a violation of Article 3 for the families of the missing persons, considering that the authorities' silence in the face of genuine concerns had reached a level of severity that amounted to inhuman treatment.²³ In its judgement announced in 2014, the Court sentenced Türkiye to pay 30 million Euros in just satisfaction for the moral damage suffered by the families of the missing persons.²⁴

¹⁷ *Kushtova and Others v. Russia* (No. 2), Application No: 60806/08, K.T: 21.02.2017, Prg.76

¹⁸ *Doğru*, p.75; *Çakıcı v. Türkiye*, Application No: 23657/94, K.T: 12/03/1998, Prg.85; *Taniş and Others v. Türkiye*, 65899/01, 02.08.2005, Prg.200

¹⁹ *Tekdağ v. Türkiye*, Application No: 27699/95, K.T: 15.1.2004, Prg. 80

²⁰ *Bazorkina v. Russia*, Application No: 69481/01, K.T: 27/07/ 2006, Prg. 110-112

²¹ *Varnava and Others v. Türkiye*, Application Nos: 16064/90, 16065/90, 16066/90, K.T:10.01.2008, Prg. 144 and 145

²² *Osmanoğlu v. Türkiye*, Judgement, Application No: 48804/99, K.T: , 24/01/2008, Prg. 72, <https://hudoc.echr.coe.int/eng#%20>

²³ *Cyprus v. Türkiye*, Application No: 25781/94, K.T: 10/05/2001, <https://hudoc.echr.coe.int/eng#%20>

²⁴ *Kıbrıs v. Türkiye*, Application No: 25781/94, K.T: 12/05/2014, <https://hudoc.echr.coe.int/eng#%20>

The Court has also made important observations in the international arena in relation to acts of kidnapping. The Court has ruled that in cases of international criminal transfer, the state of persistent uncertainty and untraceability that characterises the captivity of the victims constitutes an enforced disappearance, even if temporary.²⁵

According to the Court, the direct victim, his family, other victims of similar crimes and the general public have the right to know the truth about what happened.²⁶ In a number of applications concerning abductions or enforced disappearances in the context of extraditions of suspects from Russia to Tajikistan or Uzbekistan, the Court found that Russia had Committed various violations, taking into account that it was impossible for the applicants to have been abducted, disappeared or forcibly transferred from Russian territory without the knowledge and passive or active involvement of the Russian authorities. In some of these cases, the Court also found several violations of Article 3 of the ECHR, notably due to the failure of the State concerned to protect the applicants from torture and other forms of ill-treatment and to conduct an effective investigation into the disappearances and abductions.²⁷

The ECtHR has also issued many judgements of violation regarding cases of disappearances in Türkiye from past to present.

Türkiye is not a party to the UN Convention on enforced disappearance. For this reason, the ECtHR appears as an effective protection mechanism to which victims can apply in the international arena. However, as it is known, the right not to be subjected to enforced disappearance is not regulated in the ECHR. For this reason, applications can only be made in terms of violation of the rights regulated in the convention. Enforced abduction constitutes a violation of personal liberty and enforced disappearance constitutes a violation of the right to life. Failure to conduct effective investigations into these acts is a violation of the right to a fair trial. In addition, even if there is no death, it is clear that the prohibition of torture and ill-treatment is also violated in terms of torture, ill-treatment, threats and other acts against abducted persons.

²⁵ El-Masri v. The former Yugoslav Republic of Macedonia, Application No: 39630/09,, K.T: 13/12/2012, Prg. 240

²⁶ ECtHR Al Nashiri v. Poland, Application No: 28761/11, K.T: 24/07/2014, Prg. 495, [https://hudoc.echr.coe.int/eng#{%22fulltext%22:\[%22Al%20Nashiri%22\],%22itemid%22:\[%22002-9596%22\]}](https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22Al%20Nashiri%22],%22itemid%22:[%22002-9596%22]}); ECtHR Husayn (Abu Zubaydah) v. Poland, Application No:, 7511/13 , K.T: 24/07/2014 Prg. 489, [https://hudoc.echr.coe.int/eng#{%22fulltext%22:\[%22Husayn%20\(Abu%20Zubaydah\)%22\],%22itemid%22:\[%22001-123768%22\]}](https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22Husayn%20(Abu%20Zubaydah)%22],%22itemid%22:[%22001-123768%22]})

²⁷ Garabayev v. Russia, Application No: 38411/02 K.T: 07/06/2007, [https://hudoc.echr.coe.int/eng#{%22fulltext%22:\[%22Garabayev%22\],%22itemid%22:\[%22001-70275%22\]}](https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22Garabayev%22],%22itemid%22:[%22001-70275%22]})

In this context, the **Kurt v Türkiye** judgement of 25 May 1998 is the first ECtHR judgement on enforced disappearances in Türkiye.²⁸ In 1993, Ü.K. was taken to the European Court of Human Rights by his father on the grounds of detention during a raid by village guards and gendarmes on their village and was never heard from again. The Commission, which evaluated the application, assessed the application in terms of violation of the right to liberty and security of person rather than the right to life, since there was no conclusive evidence beyond doubt that the disappeared person could have died at the hands of the security forces. In its reasoning, the Court ruled that Article 5 of the Convention had been violated, citing reasons such as the lack of an effective and adequate investigation and the absence of detention records.

The Court has subsequently issued a number of violation judgements on disappearances. One of these judgments is the **Canan v Türkiye** judgment of 26 June 2007. In the case of Abdullah Canan, who was detained on 17 January 1996 during a check on the Yüksekova-Van highway, taken away in a military vehicle and whose bullet-riddled body was later found, the ECtHR stated that the State had failed to discharge the burden of proving that the security forces were not involved in the death of Abdullah Canan, who was allegedly killed by the security forces, and therefore the State was responsible for Canan's death and therefore found a violation of Article 2 of the Convention.²⁹ The Court emphasised that the right to life set out in Article 2 of the Convention imposes an obligation on states to carry out an effective and prompt investigation if the right to life is violated.

D. NUREMBERG STATUTE TO THE ROME STATUTE AS AN EXAMPLE OF CRIME AGAINST HUMANITY, ACTS OF ABDUCTION AND DISAPPEARANCE

The first international document regulating crimes against humanity in international law is the Treaty of London, which was announced at the end of the London Conference held in 1945 and established the Nuremberg Tribunal. The concept and trials of crimes against humanity, which started with the Nuremberg Tribunal, continued with the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda and was finalised with Article 7 of the Rome Statute of 17 July 1998.³⁰

²⁸ Kurt v Türkiye, Application No: 24776/94, K.T: 25.05.1998, <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22Kurt%22%5D,%22itemid%22:%5B%22001-2183%22%5D%7D>

²⁹ Canan v. Türkiye, Application No: 39436/98, K.T: 26/06/2007, <https://hudoc.echr.coe.int/eng#%20>

³⁰ Seymen Çakar, Ayşen: "Crimes against Humanity", Journal of TBB, Y.2012, S. 103, p.176

The Rome Statute has been ratified by 123 countries. There is no EU member state that has not ratified the Rome Statute. States parties to the Statute have regulated their domestic legislation in accordance with the Rome Statute. Although Türkiye is not a party to the Rome Statute, the Turkish Criminal Code No. 5237, which entered into force in 2006, regulates crimes against humanity in Article 77 and the crime of genocide in Article 78.

Article 7 of the Rome Statute regulates crimes against humanity. According to the Article, for the purposes of this Statute, "*crimes against humanity*" include acts Committed as part of a widespread or systematic attack against any civilian population. According to Article 7/1 of the Rome Statute, crimes against humanity include "*acts (enumerated in the article) Committed knowingly and as part of a widespread or systematic attack against any civilian population*". The acts listed in Article 7 of the Rome Statute that constitute crimes against humanity are as follows:

- Manslaughter
- Total annihilation,
- Enslavement
- Deportation or forced transfer of the population,
- Imprisonment or other deprivation of physical liberty in violation of fundamental provisions of international law,
- Torture
- Rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilisation or other forms of sexual violence of similar gravity,
- Persecution against any identifiable group or community, as defined in paragraph 3, based on political, racial, national, ethnic, cultural, religious, sexual or other grounds not universally recognisable under international law, in connection with any act referred to in this paragraph or any offence within the jurisdiction of the Court
- Forced losses
- Racial discrimination
- Other inhumane acts of a similar nature that intentionally cause serious suffering or serious damage to bodily or mental or physical health.

There is no difference whether crimes against humanity are Committed in peacetime or wartime. If an attack against a civilian population meets the elements of Article 7 of the Statute, it will be considered a crime against humanity, regardless of whether it is Committed in peacetime or wartime.³¹

³¹ Seymen Cakar, p.180

As can be seen, in accordance with Article 7 of the Rome Statute entitled "*crimes against humanity*" include acts Committed as part of a widespread or systematic attack against any civilian population. In this context, it is accepted that acts of enforced disappearance are crimes against humanity by including the concept of "*enforced disappearances*" in Article 7/1-i of the Rome Statute. Article 7/1-(i) of the Statute defines enforced *disappearance* as a crime against humanity, which is not subject to statute of limitations, by stating that Enforced *disappearance means the refusal to provide information about the whereabouts and fate of persons following the arrest, detention or abduction of persons by a State or a political organisation, or with their authority, support or knowledge, with a view to keeping such persons away from the protection of the law for a prolonged period of time, and the denial of information that such persons have been deprived of their liberty*".³²

Both the Rome Statute and other international instruments regulating enforced disappearance emphasise that enforced disappearance is a crime against humanity if it is Committed in a widespread and systematic manner. In other words, enforced disappearance is when the act is carried out with a systematic plan, a specific order and policy against multiple individuals, a specific community or large masses.³³ Violation of the right not to be subjected to enforced disappearance directly affects some other rights of the individual. In fact, as soon as the act of removal from the protection of the law, which is the most fundamental element of the practice of enforced disappearance, takes place, the person is deprived of the most fundamental rights and protections such as protection from torture, inhuman and degrading treatment, the right to life, the right to liberty and security of person, the right to a fair and public (transparent) trial, the right to know the truth, the recognition of legal status and the right to equal protection before the law.³⁴

It is also a reality that persons disappeared during detention, arrest or abduction are often subjected to torture, inhuman and degrading treatment. Most enforced disappearances may result in death. Since the disappeared person is deprived of his/her freedom and plunged into a dark uncertainty, his/her right to liberty and security is also denied. Moreover, since the disappeared person is excluded from the protection of the law, it is not possible for him/her to exercise his/her right to a fair trial and legal remedies.³⁵

On the other hand, according to Article 2 of the United Nations International Convention for the Protection of All Persons from Enforced Disappearance, "Enforced

³² Gundogan, p.68

³³ Byron, Christine: War Crimes and Crimes Against Humanity in the Rome Statute of the International Criminal Court, Manchester University Press, 2009, pp.192-193; Gündoğan, p.67

³⁴ Gundogan, p.69

³⁵ Gundogan, p.70

Disappearance" means the arrest, detention, abduction or other deprivation of liberty of persons by persons or groups of persons acting on behalf of the State or with the authorisation, support or knowledge of the State, followed by their denial of their acts or concealment of the whereabouts and condition of the disappeared person, with the result that the disappeared person is outside the protection of the law.

When the international documents adopted by the United Nations and the Rome Statute are analysed in a holistic manner, it is seen that the act of enforced disappearance is closely defined in terms of its content and elements. When the definitions are analysed in detail, in order to speak of enforced disappearance, firstly, a person or persons must be deprived of their liberty through a method such as arrest, detention or abduction. Another important point is that the act of deprivation of liberty is not carried out by any third party, but by persons directly or indirectly linked to the state. These persons may be official officials of the state, or they may be private individuals or groups acting with the order, support, or even with the consent or connivance of the state. What is important is that the person or persons carrying out this act, even if they are not official officials, are somehow connected to the state, even indirectly, or are acting on its behalf and account.³⁶

E. AS A TYPE OF CRIME AGAINST HUMANITY

1. The Concept of Crimes Against Humanity in General and the Emergence of this Crime

Law, which is a social phenomenon, started with human history. In all societies, legal rules regulating human relations have always existed. The fact that the field of application of the rules of law cannot be limited to the borders of nation states was clearly understood at the end of the two world wars in the 20th century. The great brutality and destruction that emerged as a result of these wars obliged states to make many regulations in the international arena. One of these areas has been law. The results of both world wars not only influenced international law, but also paved the way for the emergence of international organisations that would ensure the implementation of this law.

As a result of the studies conducted in the field of international criminal law, four groups of crimes have been identified. These are the crime of genocide, crimes against humanity, war crimes and crimes of aggression. Crimes against humanity were first included in the Nuremberg Statute as a response to the actions of the Nazis, and then evolved in various international texts and found its most detailed definition in the Rome Statute.

³⁶ Gündoğan, p.71

As it is known, the concept of crimes against humanity was first introduced into an international text with the Charter of the Nuremberg Tribunal, then it was included in the statutes of the International Criminal Tribunals for Tokyo, the former Yugoslavia and Rwanda and took its final form in the Rome Statute.³⁷ Crime against humanity means to victimise all humanity, to be hostile to mankind.³⁸ For an act to be considered a crime against humanity, it must be Committed as part of a widespread or systematic attack against a civilian community in a region or country. In other words, it is the perpetration of a large-scale, continuous and wide-ranging act of grave seriousness, directly against a mass group of victims by following an organised and orderly system that has become general policy, involving a public or private authority.³⁹

The Rome Statute does not contain a limiting provision on the perpetrators of crimes against humanity. Therefore, the perpetrator of crimes against humanity can be anyone. They can be state officials or civilians. It is not a requirement that the person or persons commit the crime against humanity as an official of the state or with the explicit or implicit approval and encouragement of the state. Subparagraph (a) of paragraph 2 of Article 7 of the Rome Statute states that the perpetrator may be a state official or a civilian by stating "*an organisation or an extension of state policy*".

According to the Rome Statute, in order for the acts listed in Article 7 to constitute crimes against humanity, the perpetrator must commit these acts systematically or in a widespread manner and must know that these acts are Committed against a civilian population in accordance with a specific plan.

As a result of the efforts of international and regional organisations mentioned in the relevant sections, regulations have been enacted that explicitly state that enforced disappearance is a grave crime. When enforced disappearance is widespread and systematic, it constitutes a crime against humanity under international criminal law. In the preamble of the **UN Declaration on the Protection of All Persons from Enforced Disappearance**, it is stated that "*Knowing that enforced disappearance undermines the deepest values of any society bound to respect the rule of law, human rights and fundamental freedoms and that the systematic commission of such acts constitutes a crime against humanity...*". In this context, Article 1 of the Declaration states that enforced disappearance is a crime against humanity. Likewise, Article 5 of the

³⁷ Seymen Çakar, Ayşen: Crimes against Humanity, Journal of TBB, Y. 2012, S.103, p.194-195

³⁸ Geras, Norman: Crime Against Humanity-Birth of a Concept, Manchester University Press, 2011, pp. 34,35

³⁹ Kirsten, Anderson; "How Effective is the International Convention for the Protection of All Persons from Enforced Disappearance Likely to be in Holding Individuals Criminally Responsible for Acts of Enforced Disappearance?", Melbourne Journal of International Law, Vol.7, p. 258

International Convention for the Protection of All Persons from Enforced Disappearance⁴⁰ stipulates that enforced disappearance is a crime against humanity. The Rome Statute, on the other hand, regulates this issue in more detail than other conventions. In this context, Article 5 of the UN Convention stipulates that if the practice in question is systematic and widespread, it will be considered as a crime against humanity as defined in international law. Similarly, in Article 7 of the Rome Statute, enforced disappearance is explicitly listed among crimes against humanity. As a result, enforced disappearance is defined as a crime in its own right, separate from related crimes such as murder, deprivation of liberty and torture. While states are held responsible for violations of UN legislation on enforced disappearance, the Rome Statute transforms enforced disappearance into an international crime that also gives rise to individual criminal liability.⁴¹

2. Enforced Disappearance as a Crime Against Humanity

The act of enforced disappearance emerges as a new and single crime with the combination of some other crimes that are organised around the crime of deprivation of liberty. The act of enforced disappearance, which has been characterised as one of the greatest human rights violations, is one of the international human rights violations that puts states under responsibility together with the perpetrators.⁴²

Enforced disappearance, which is also recognised as a crime against humanity in international law, is an act that involves a violation of many human rights, including the right to liberty and security, the right to recognition of personality before the law, the right not to be subjected to torture and other cruel, inhuman or degrading punishment or treatment, the right to a fair trial and the right to life. If this act is committed as part of a widespread and systematic attack against any civilian population, the perpetrators will be responsible for a crime against humanity.⁴³ For this reason, the prohibition of enforced disappearance and the

⁴⁰ UN: International Convention for the Protection of All Persons from Enforced Disappearance, General Assembly of the United Nations in its resolution 47/133, 23 December 2010, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-protection-all-persons-enforced>

⁴¹ Alpkaya, Gökçen: "Forced Disappearances in International Law", Forced Disappearances and the Attitude of the Judiciary, Truth, Justice and Memory Studies Association Publications, Istanbul 2013, p.47

⁴² Genovese, Cristina / Wilt, H. Van Der: "Fighting Impunity of Enforced Disappearances through a Regional Model", Amsterdam Law Forum, Vol 6:1, pp.4-5

⁴³ UN, Report of the Working Group on Enforced or Involuntary Disappearances (WGEID), "Study on enforced or involuntary disappearances and economic, social and cultural rights". A/HRC/30/38/Add.5, 9 July 2015, https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/30/38/Add.5; WGEID, "General comment Enforced disappearances as a crime against humanity", https://www.ohchr.org/sites/default/files/Documents/Issues/Disappearances/GCas_crime_against_humanity.pdf

associated obligation of states to investigate and punish those responsible have been given the status of "*ius cogens*".⁴⁴

Enforced disappearances involve interconnected acts ranging from deprivation of liberty to torture to extrajudicial execution of an "unwanted" person. In the practice of enforced disappearances, which are similar to each other, there is primarily a state-related or state-tolerated policy. Within the scope of this policy, target groups or individuals are abducted and disappeared. Since everything is under the control of those who hold state power, it is not possible to find the perpetrators or hold those responsible to account. No record is usually kept of the disappeared individual and afterwards neither an investigation is carried out nor any attempt is made to clarify the situation. In other words, enforced disappearances are state-sponsored unsolved murders. In cases of death, attempts are made to leave no trace of the body behind, and for this purpose, inhumane methods such as "*vuelos de la muerte*", which is a method of extrajudicial execution and means 'death flights' or burning the remains of the body.⁴⁵ As a result of all these acts, public confidence in the state and local judicial authorities is eroded.⁴⁶

The UN Working Group on Enforced Disappearance has identified the elements that combine with deprivation of liberty as torture and inhuman treatment, denial of recognition as a person before the law, endangering the liberty and security of the person and often killing.⁴⁷ Therefore, within the framework of the definition given by the convention, enforced disappearance as a type of crime should be evaluated within the framework of elements such as typicality, perpetrator, victim and intent.

In this context, the two elements necessary for the typicality of the act are deprivation of liberty and exclusion from the protection of the law. According to Article 2 of the UN Convention on deprivation of liberty, deprivation of liberty may be by arrest, detention, arrest or abduction. After listing these, the Convention emphasises that the act in question is not limited to arrest, abduction or detention by using the expression "*deprivation of liberty in any other form*".⁴⁸

⁴⁴ Sarkin, Jeremy: "Why the prohibition of enforced disappearance has attained the status of *ius cogens* in international law", Nordic Journal of International Law, 2012, No. 81, pp. 537-84

⁴⁵ ECtHR Kurt v. Türkiye Judgment, Judgment of 25 May 1998, ECtHR Reports 1998-III, no. 74, pp. 124-125, 128.

⁴⁶ Scovazzi, Tullio/ Citroni, Gabriella: The struggle against enforced disappearance and the 2007 United Nations Convention, Leiden: Martinus Nijhoff Publishers 2007, pp. 8-10, 267-284

⁴⁷ UN Human Rights Council, Report of the Working Group on Enforced or Involuntary Disappearances, A/HRC/16/48, 26 January 2011, https://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A.HRC.16.48_en.pdf

⁴⁸ Gündoğan, p.78; Alpkaya, p.48

On the other hand, another element necessary for typicality is that the disappeared person is taken outside the protection of the law. Although taking the person out of the protection of the law, which is regulated in Article 2 of the UN Convention, may at first appear to be a consequence of the crime of enforced disappearance, it should be understood as the state authorities' denial of their actions, concealment of the whereabouts and condition of the person, and taking the person out of the protection of the law.

In the 2011 "General comment on the right to recognition as a person before the law in the context of enforced disappearance" of the United Nations Working Group against Enforced Disappearance⁴⁹, this point is explained as follows: "To place outside the protection of the law means not only that the authorities deny detention or arrest, or conceal the fate or whereabouts of the person. It also means depriving the person of all rights conferred by law for as long as he or she is deprived of his or her liberty, leaving him or her in legal limbo and completely defenceless". As stated in the UN Convention, the closure of all legal remedies against deprivation of liberty and the removal of the person outside of legal guarantees is to take them outside the protection of the law.⁵⁰

In terms of identifying the perpetrator of the crime, one of the features that distinguishes the crime of enforced disappearance from other crimes is that the perpetrator, as stated in international legislation, is state officials or persons or groups acting with the order or authority, support, consent, approval or connivance of the state. However, what is meant by public officials here is not only law enforcement officers. As well as those who implement the deprivation of liberty of the person, those who make this decision are also accepted in the group of state officials who have the title of perpetrator.⁵¹ Therefore, the perpetrator here may be the state officials who carry out, decide on and ensure that a detention or arrest is carried out in accordance with the law, as well as the public officials who decide and implement the abduction and disappearance of the person.

On the other hand, in terms of perpetrators, Article 7(2)(i) of the Rome Statute defines what is to be understood by the term "disappeared person" as *"...by the State or a political organisation, with their authorisation, support or knowledge..."*. Therefore, in the presence of systematic and widespread practices of enforced disappearance by an organisation other than the state, i.e. an organisation not affiliated with the state, the perpetrator of the crime against humanity in question may also be a political organisation and its members. In this context, the

⁴⁹ UN Working Group on Enforced or Involuntary Disappearances, "General Comment on the right to recognition as a person before the law in the context of enforced disappearances"

⁵⁰ Gundogan, p.80

⁵¹ Alpkaya, Gökçen; "Enforced Disappearances in International Law", p.54; Gündoğan, p.81

International Criminal Court established by the Rome Statute can decide on the personal criminal responsibility of individuals.⁵²

Enforced disappearance is a practice that is often used against regime opponents, insurgents, individuals or groups that the state considers to have links with terrorist groups on the grounds of counter-terrorism, and sometimes against persons belonging to a particular religion, race or ideological group, as the perpetrators of the crime are persons directly or indirectly linked to the state.

In fact, under the provisions of international legislation, states are obliged to investigate such acts of disappearance and prosecute the perpetrators. However, the possibility of state officials' involvement in the crime, legal gaps or the improper functioning of the local judicial system prevent justice from being served and lead to impunity.⁵³

At this point, the establishment of international courts and the ICC play an important role in bringing down the veil that the state draws over justice and convicting individuals responsible for the most serious crimes. These crimes against humanity, which are covered up in domestic law, can be pursued thanks to the effective institutions of international criminal law. In this context, the Rome Statute defines enforced disappearances as an international crime where it corresponds in practice to crimes against humanity.⁵⁴

3. Situation Under Turkish Law

a. Forced Disappearance

The act of enforced disappearance has not been defined as a specific type of offence in Turkish Criminal Law. One of the main reasons for this is that Türkiye is not a party to any convention in this regard. However, the offence against humanity, which includes enforced disappearance, is regulated in the Turkish Criminal Code. Article 77 of the Turkish Penal Code reads as follows:

(1) The systematic commission of the following acts in accordance with a plan against a section of the population on political, philosophical, racial or religious grounds constitutes a crime against humanity:

- a) Deliberate killing.
- b) intentional injury.

⁵² Gundogan, p.81

⁵³ Genovese/Wilt, p.5

⁵⁴ Greppi, Edoardo: "The Evolution of Individual Criminal Responsibility under International Law", *International Review of the Red Cross*, 1999-835, pp. 531-553

- c) Torture, persecution or enslavement.
- d) Deprivation of personal liberty.
- e) Subjecting to scientific experiments.
- f) Sexual assault, sexual abuse of children.
- g) Don't make me pregnant.
- h) Forced incitement to prostitution.

(2) If the act described in subparagraph (a) of the first paragraph is Committed, the perpetrator shall be sentenced to aggravated life imprisonment; if the acts described in the other subparagraphs are Committed, the perpetrator shall be sentenced to imprisonment not less than eight years. However, for the offences of intentional killing and intentional wounding Committed within the scope of subparagraphs (a) and (b) of the first paragraph, the provisions of actual aggregation shall apply for the number of victims determined.

(3) Security measures shall also be imposed on legal entities for these offences.

(4) The statute of limitations does not run for these offences.

As seen in the article, the commission of acts of deportation, enslavement, mass and systematic killing of persons, abduction and destruction of persons, subjection to torture or inhuman treatment or biological experiments, forced impregnation, forced prostitution against a civilian group of the population by means of the implementation of a plan and for political, philosophical, racial or religious motives is considered a crime against humanity.

The most significant difference between the definition in the TPC No. 5237 and the crime in the Rome Statute is related to *the moral element*. While general intent is considered sufficient for the commission of crimes against humanity in the Rome Statute, the presence of specific intent is required in the TPC No. 5237. According to TPC No. 5237, crimes against humanity must be Committed with discriminatory motives based on political, philosophical, racial or religious reasons.⁵⁵

Especially when the unlawful arrests, detentions, arrests, torture, kidnappings and disappearances in the process following the 15 July coup attempt are considered together with the fact that they were carried out in accordance with a plan and against the Gülen Movement, which was declared "opposition criminals" by the government, and the lynching practices carried out through the media, it is seen that what has been done is essentially a crime against humanity.

⁵⁵ Koç Başar, p.236

The fact that the bureaucrats and ministers of the Erdoğan regime present the kidnappings and disappearances as a state success reveals that these acts were carried out within a system. As per Article 77 of the Turkish Penal Code titled "Crimes against humanity", a crime against humanity will occur if the acts specified in the text of the article are "systematically Committed against a political, philosophical, racial or religious group within a plan". As stated in the preamble of the relevant article, Article 6/c of the Nurnberg Statute is the source of this provision. The decision and perspective on crimes against humanity, which were first included in the Nurnberg Statute, were also included in Article 7/1 of the Rome Statute. Here, first abducting persons, depriving them of their liberty, subjecting them to torture and some of them to disappearance by violating the basic concepts of international law is accepted as a "*crime against humanity*". While the Rome Statute requires the act to be systematic and widespread in order to constitute this offence, the Nurnberg Statute and Article 77 of the TPC do not require widespread. Pursuant to Article 77 of the Law, it is considered sufficient that the act in question is planned and systematic. Furthermore, the perpetrator of this offence is not required to be a person authorised to arrest. The same article also states that crimes against humanity are not subject to "*statute of limitations*".

As is well known, the government in Türkiye has labelled a civilian group of opponents as FETÖ/PDY and declared this group, which numbers in the hundreds of thousands, an armed terrorist organisation, labelling and accusing them as terrorists, coup plotters and traitors.

Unlawful systematic detentions, arrests, violations of rights in prisons, torture and ill-treatment, kidnappings and disappearances, etc. initiated with the slander of "*coup plotters*," "*traitors*" or "*terrorists*" against journalists, businessmen, businessmen, academics, judges and prosecutors, doctors, teachers, religious officials, shopkeepers, housewives, students, etc. as a whole are crimes against humanity within the scope of the Nurnberg and Rome Statutes and Article 77 of the Turkish Penal Code.

While crimes against humanity were Committed by the Erdoğan regime, the fundamental principles of the Constitution and the most basic individual rights were deliberately shelved after the civil coup. All mechanisms of the judiciary, especially the Constitutional Court, as well as other public institutions and organisations have taken on the protection of this unlawful interim period.

b. Kidnappings

Another offence that constitutes the preliminary stage of enforced disappearance is kidnapping. The offence of kidnapping is regulated under the title of "Deprivation of Liberty" in the Turkish Penal Code. Pursuant to Article 109 of the Turkish Penal Code, *the person who unlawfully deprives a person of his/her liberty to go to a place or stay in a place shall be punished*. The

legal value protected by the offence of deprivation of liberty is the freedom of persons to act within the framework of their own desire and will. Persons have the freedom to choose whether to stay in one place or go to another. By committing the offence in question, the person's freedom to stay in one place and go to another place is violated. The offence in question occurs when a person is unlawfully deprived of the freedom to go to a place or stay in a place. For example; the acts of confining a person to a place, keeping him/her in a place or taking him/her to a place or preventing him/her from going to a place require criminal sanctions according to this definition. The commission of the offence of deprivation of personal liberty by using force, threat or deception has been determined as a qualified case requiring a heavier penalty for this offence. Likewise, the fact that the perpetrator who commits the act of abduction is armed or that it is committed by abusing the influence provided by public office is also among the qualified cases.

On the other hand, the actual qualification of this act of kidnapping or deprivation of liberty, as it is called in the Turkish Penal Code, is regulated in Article 77 of the TCC, which regulates the crime against humanity. Pursuant to Article 77/1-d of the TCC, the systematic commission of the act of deprivation of liberty against a section of the society with political, philosophical, racial or religious motives in accordance with a plan shall constitute a crime against humanity. Pursuant to the second paragraph of the Article, the perpetrator shall be sentenced to imprisonment of not less than 8 years for acts of kidnapping committed within the scope of crime against humanity.

In order for acts of kidnapping to qualify as 'crimes against humanity', it must be a course of conduct committed in furtherance of, or as an extension of, a State or corporate policy, targeting any civilian population, involving the repeated commission of widespread or systematic acts.⁵⁶ Otherwise, isolated kidnappings will not be recognised under Article 77.

It is an undeniable fact that kidnappings have become a state policy in Türkiye, which the state insists on refraining from elucidating, and which have come back to the agenda after the controversial 15 July coup attempt and intensified day by day. Under the pretext of the fight against terrorism, people are kidnapped and deprived of their liberty inside and outside the country without a legal detention or arrest warrant, with the participation of Turkish judicial law enforcement forces and the organisation of Turkish intelligence. Victims of this crime are often abducted in public places in pre-arranged vehicle ambushes, in full view of the public, and taken to torture centres. After a long period of time, most of the abductees are

⁵⁶ Lanotte, Em. Johan Vande : Crimes against Humanity in Modern Türkiye under the Rome Statute, August 2021, https://Türkiyetrybunal.org/wp-content/uploads/2021/12/6-Insanliga-Karsi-Islenen-Suclar_TürkiyeTribunal_report-2.pdf, p.2

handed over to law enforcement officers after their statements are taken in torture centres without any legal protection. Even if the abductees file complaints about the torture and ill-treatment they have been subjected to in courts and prosecutor's offices, they do not get any results. Not only are they unable to seek their rights through legal means, but they are also sentenced to the heaviest penalties based on the statements they give under torture.

Some of the abducted persons are later executed at the stage of enforced disappearance, as described above. Complaints made to administrative and judicial authorities about abducted persons are either not processed or the complaint files are closed without an effective investigation.

Especially after the operations launched against the Gülen Movement after 15 July, it is observed that many kidnappings took place both inside and outside the country. In this context, the then Minister of Justice Bekir Bozdağ, in his statements to Anadolu Agency reporter on 12 July 2022; stated that as of 1 July 2022, 121 people from 28 different countries were kidnapped and brought to Türkiye without an extradition order during the terrorist operations against the Gülen Movement between 2014 and 2022. These statements made by the Minister of Justice to the official news agency of the state and the figures mentioned clearly show that abduction is widespread and unlawful.

At this point, the Erdoğan regime denies the kidnappings and tortures carried out inside the country. However, kidnappings from outside the country are publicised by the President, ministers and bureaucrats as state achievements. The fact that almost all of the victims of kidnappings are affiliated with the Gülen Movement, and that the subsequent accusations are in this direction, suggests that the kidnappings of members of this movement are not random, but rather take place within a system. It is also clear that domestic and international kidnappings have become a mass, frequent, large-scale and "*widespread policy*" targeting a large number of victims.⁵⁷

F. FROM THE PERSPECTIVE OF ROME STATUTE

One of the acts defined as a crime against humanity in Article 7 of the Rome Statute is enforced disappearance. The ECtHR recognises enforced disappearance as a stand-alone offence characterised by a persistent state of uncertainty and irresponsibility, often with no information about the missing person, or where such information is deliberately concealed. The act of enforced disappearance often violates both the substantive and procedural aspects of the right to life.⁵⁸ It also violates the right of the relatives of the disappeared person to be

⁵⁷ Lanotte, p.3

⁵⁸ ECtHR Meryem Çelik and Others v. Türkiye Judgement, Application No: 3598/03, KT: 16/04/ 2013, [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-118569%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-118569%22]})

free from ill-treatment on account of the pain and suffering they have suffered as a result of the prolonged absence of news about their loved ones and the right to liberty and security of the disappeared person.⁵⁹

There have been numerous abductions and enforced disappearances of Gülen Movement volunteers. Believing that they would not be able to obtain statements from Gülen Movement volunteers if lawyers participated in their defence, Turkish law enforcement agencies, with the support of intelligence services, abducted hundreds of individuals and held them for months without the security of legal protection. Organised by Turkish intelligence and with the participation of Turkish judicial law enforcement agencies, Gülen Movement volunteers have been abducted from their homes on their way to work or for any other reason, in public view, in pre-arranged vehicles and taken to torture centres. The enforced disappearances were not liMITed to one or two individuals. The numbers given by the state authorities clearly show that enforced disappearances are widespread.

Forced abductions have not only taken place in Türkiye, but have also been carried out through the abduction of Gülen Movement volunteers from countries persuaded by the political power and intelligence units through various extra-legal procedures and bringing them to Türkiye in accordance with a specific plan.

Applications to administrative and judicial authorities concerning enforced disappeared persons were either not processed or were denied and closed. Some of the forcibly disappeared persons were deprived of legal protection in torture centres for a long period of time and somehow handed over to judicial law enforcement units after their statements were taken. It was possible to learn the details of the incident through the statements given by the forcibly disappeared persons after their delivery to judicial law enforcement units and before judicial authorities. Some of the forcibly disappeared Gülen Movement volunteers are still missing. The enforced disappearances targeting Gülen Movement volunteers, organised and carried out by state officials, are carried out systematically and widespread in accordance with a specific plan. The act constitutes a crime against humanity. In the following section, the elements of the crime against humanity and the legal nature of the acts of abduction and disappearance will be presented.

1. Perpetrator of the Offence

The perpetrators of the acts of kidnapping and disappearance committed against the volunteers of the Gülen Movement, which are crimes against humanity, are all those who

⁵⁹ In the case of Meryem Çelik and Others, the ECtHR found violations of the "Right to Life" under Article 2, the "Prohibition of Torture and Ill-Treatment" under Article 3 and finally the "Right to Liberty and Security" under Article 5 of the Convention.

directly or indirectly took part, instigated, aided, planned, encouraged, supported and contributed to the systematic and widespread attacks. Therefore, a causal link can be established between the acts of kidnapping and disappearance against the Gülen Movement volunteers, and the perpetrators of the crime will include the President of the Republic, politicians, prime ministers and ministers, bureaucrats, judges and prosecutors, soldiers, intelligence officers, police officers, doctors, prison directors and prison guards, and other civilians who played a role in the one-man regime. At this point, the perpetrators do not have to be Turkish citizens or reside in Türkiye. Therefore, perpetrators who are not Turkish citizens or who reside outside of Türkiye will also be responsible for the persons abducted from abroad and taken to Türkiye.

2. Victim of the Offence

As Article 7 of the Rome Statute clarifies, it has been stated above that crimes against humanity can be Committed against any civilian population. In order for a crime against humanity to occur, first of all, there must be an attack and this attack must be Committed "against any civilian population". Therefore, it is not possible for an act Committed against a single person to constitute a crime against humanity. The people in the targeted group need not be members of a national, ethnic, religious, racial, etc. community.

The Gülen Movement, a civil society movement in Türkiye, is a victim of crimes against humanity as defined by the Rome Statute. Volunteers of the Movement, who have been subjected to many acts of crimes against humanity, have been the focus of kidnappings and disappearances. The Movement volunteers, who became victims of systematic and widespread attacks especially after the 17-25 December 2013 corruption investigations against State ministers and businessmen who were found to have bribed these ministers, have been subjected to hundreds of kidnappings and disappearances in Türkiye and abroad with the state of emergency (OHAL) process that started after the 15 July coup attempt, which was carried out within the plan and control of the government.

3. Material Element of the Offence

Article 7 of the Rome Statute stipulates that crimes against humanity may be Committed as part of a widespread or systematic attack against any civilian population by the acts listed in the article. Within the scope of the definition in this article, the material elements of the offence are as follows:

- There must be an attack
- The attack must fall within the scope of at least one of the acts listed in the article
- The attack must be carried out against any civilian population
- The attack must be widespread or systematic.

In order to be able to speak of a crime against humanity, it is first necessary to mention the existence of an attack. This attack must fall within the scope of at least one of the acts such as killing, sexual assault, torture, unlawful imprisonment and enforced disappearance, which are listed in 11 subparagraphs in Article 7 of the Statute. As explained in item 7 in detail, the attacks against Gülen Movement volunteers fall within the scope of the Statute in terms of most of the acts listed in the Statute that constitute crimes against humanity.

In order for acts of kidnapping and disappearance to qualify as crimes against humanity, the act must be Committed against a civilian population and must be widespread and systematic. In other words, acts of kidnapping and disappearance must be widespread and systematic;

- Direct and severe collective acts against a large number of victims in a direct and severe manner, frequently repeated and of a large scope
- Acts Committed to exterminate, persecute or debilitate a civilian population within the framework of a policy using public or private resources shall constitute crimes against humanity if they follow an organised and regular course that is extensive, frequently repeated or uninterrupted.

When evaluated in this context; systematic and intensive attacks and rights violations were experienced against the volunteers of the Gülen Movement with the 15 July coup attempt. A civil society organisation was targeted collectively under the name of the fight against terrorism. According to the statement made by the Minister of Justice, between 15 July 2016 and 13 July 2023, **693,162** people were prosecuted and **122,632** people were convicted. Currently, **67,893** people are under preliminary investigation and **26,667** people are being tried at the courts of first instance.⁶⁰ As of 31 December 2023, **63,643** files are pending at the 3rd Criminal Chamber of the Court of Cassation,⁶¹ and **95,043** files are pending⁶² at the Constitutional Court. Almost all of the pending cases at the 3rd Criminal Chamber of the Court of Cassation and the majority of the cases awaiting review at the Constitutional Court relate to the period after the coup attempt. The number of persons currently held in Turkish penal institutions on remand or in prison for alleged membership of the Gülen Movement is **15,539**. As can be seen from these numbers, despite the eight years that have elapsed, investigations and trials are still ongoing against nearly **100,000** people, and the files of at least **60,000** people are awaiting judgement at the Court of Cassation.

⁶⁰ “ Bakan Tunç, 15 Temmuz’u Anlatır”, 13.07.2023, <https://www.adalet.gov.tr/bakan-tunc-15-temmuz-u-anlati#:~:text=Sonu%C3%A7lan%20kararlara%20bakt%C4%B1%C4%9F%C4%B1m%C4%B1z%20zaman%20122,>

⁶¹ Official Gazette, 23 January 2024, Issue: 32438 General Assembly Decision of the Court of Cassation, <https://www.resmigazete.gov.tr/eskiler/2024/01/20240123-10.pdf>

⁶² Presidency of the Constitutional Court Individual Application Statistics (23/9/2012 - 31/12/2023),

On the other hand, 99 people abducted from abroad have been brought back to Türkiye, while 28 people were abducted or forcibly disappeared.⁶³ Kidnapping activities continued unabated in 2023 and in this context: Mehmet Cintosun was kidnapped from Iraq in April 2023;⁶⁴ Emsal Koç was kidnapped from Tajikistan on 02 June 2023;⁶⁵ Koray Vural was kidnapped from Tajikistan on 05 October 2023⁶⁶ and Mustafa Tan and Mustafa Bircan were kidnapped from Algeria on 27 December 2023 and brought to Türkiye by MIT.⁶⁷ Again, Turkish-American political scientist Prof. Dr. Ahmet T. Kuru, who is of Turkish descent, was captured on 10 January 2024 at Kuala Lumpur Airport in Malaysia on charges of being a member of the Gülen Movement and was tried to be forcibly brought to Türkiye, but this operation was prevented by the intervention of Malaysian authorities.⁶⁸

The aim of the kidnappings and disappearances carried out against the Gülen Movement is not to initiate a judicial process against these individuals, but to obtain information through torture. One of the most vivid examples of this is the experience of Mustafa Özben, a lawyer, who was abducted in broad daylight in Ankara by the Turkish National Intelligence Organisation and tortured for 92 day.⁶⁹ The documentary *"92 Days in the Dark"*, in which Özben recounts his experiences, was released on 02 December 2023.⁷⁰

The lack of international outcry against these acts of crimes against humanity against the Gülen Movement, combined with the absolute impunity granted by the Turkish Government to agents of the Intelligence Organisation who engaged in torture and other inhumane treatment, further emboldened the Turkish Government, including the President, to carry out abductions publicly and boldly. Even more strikingly, the government has taken the unprecedented step of publicising pictures of the victims that clearly show signs of

⁶³ <https://twitter.com/OthersInfo/status/1750579293904658853/photo/1>; <https://twitter.com/OtherSInfo/status/1733914475659407399>

⁶⁴ Türkiye's Transnational Repression: 2023 in Review, January 25, 2024, <https://turkishminute.com/2024/01/25/Türkiyes-transnational-repression-2023-review/>

⁶⁵ "Turkish national illegally renditioned from Tajikistan detained over Gülen links, July 5, 2023, <https://stockholmcf.org/turkish-national-illegally-renditioned-from-tajikistan-detained-over-gulen-links/>

⁶⁶ "FETÖ Member Fugitive Koray Vural Caught in Tajikistan by MIT Operation", 05.10.2023, https://www.MIT.gov.tr/basin-yansimasi_feto-mensubu-firari-koray-vural-MIT-operasyonuyla-tacikistanda-yakalandi_12.html

⁶⁷ "MIT's illegal kidnapping operation in Algeria", 27 December 2023, <https://www.tr724.com/MITten-cezayirde-yasadisi-adam-kacirma-operasyonu/>

⁶⁸ "Attempt to kidnap academic Prof. Ahmet T. Kuru in Malaysia", 11 January 2024,

⁶⁹ "Lawyer abducted by Turkish intel talks about his experience in new documentary", December 1, 2023

⁷⁰ "92 Days in the Zifiride: Mustafa Özben", Documentary, Tenkil Museum, <https://www.youtube.com/watch?v=K4PBRZ1m02M&t=2s> (Engelse ondertiteloctie beschikbaar)

torture.⁷¹ For example, a photo of Orhan İnandı, a Kyrgyzstan citizen who was abducted on 01 June 2021 and tortured for 37 days, with a broken arm, was shared by Anadolu Agency.⁷² In the other hand, there has been no news about at least 10 abductees for years and it is presumed that they were tortured to death.⁷³ The Turkish Government has also requested the extradition of a total of **1,269** persons from 112 countries for alleged membership of the Gülen Movement.⁷⁴

As can be understood from the foregoing, persons imprisoned due to their membership of the Gülen Movement have been and continue to be subjected to many violations of rights in prisons, particularly the right to life, torture and ill-treatment, kidnapping and disappearance. Likewise, those who have requested asylum in a safe country are in constant anxiety due to extradition and those who are in other countries are in constant anxiety due to kidnappings. Considering the number of ongoing investigations and prosecutions, the seriousness of the situation in Türkiye will be better understood when it is considered that more than 100,000 people are currently facing the threat of imprisonment. In addition to these, tens of thousands of people have been dismissed from public office and thousands of educational institutions, associations and foundations have been closed down with a total of 37 State of Emergency Decree Laws issued on different dates.

The above figures on investigations, detentions, arrests, torture, ill-treatment, kidnappings and disappearances against the Gülen Movement volunteers alone demonstrate that the attacks are systematic and widespread. At different times and in large numbers, acts such as murder, torture, ill-treatment, sexual assault, unlawful imprisonment and enforced disappearance have been Committed.

As mentioned above, Article 7/2-a of the Rome Statute states that the *attack* must be "*pursuant to a policy*". The policy must be made on a discriminatory basis against the civilian population, within a certain programme. This policy does not only have to be made by the state, but can also be made by private individuals and groups. In this context, kidnappings and disappearances Committed against the Gülen Movement are carried out within the framework of a specific policy. The systematic and planned kidnapping and disappearances carried out against the Gülen Movement at home and abroad have become a state policy. This is evident in the statements made by the highest level presidents, ministers and bureaucrats. In this context, Bekir Bozdağ, the then Minister of Justice, stated in a statement to Anadolu Agency correspondent on 12 July 2022 that **121** people from **28** different countries were

⁷¹ "Abducted and tortured, educator İnandı gives details of his ordeal at first hearing of his trial, November 25, [2021](#)

⁷² "FETÖ's Central Asia General Responsible Orhan İnandı brought to Türkiye", 05.07.2021,

⁷³ "Enforced disappearances in Türkiye: an old habit or a new trend?", February 12, 2021

⁷⁴ "Türkiye's Transnational Repression: 2023 in Review", January 25, [2024](#)

abducted and brought to Türkiye without an extradition order during the terrorist operations against the Gülen Movement between 2014 and 2022 as of 1 July 2022. These figures clearly show that enforced disappearance is widely practised.

Although enforced abduction and disappearance is a crime against humanity, it is publicised by the Turkish authorities as a legal practice. Therefore, the fact that the crimes against humanity Committed by the president, ministers and bureaucrats of the state in the official news agency of the state and other media organisations are expressed as if they were lawful acts, essentially reveals that these illegal activities are state policy.

The fact that kidnapping is carried out as a state policy is confirmed by the statements made by the then Vice President of the Republic Fuat Oktay, who made a presentation on the budget of the Presidency of the Republic during the discussions on the budgets of the Presidency and affiliated organisations for 2023 in the TBMM Plan and Budget Commission. Fuat Oktay regarded the abductions which consist a crime against humanity, as a routine state activity in the Grand National Assembly of Türkiye with the statement: "*The Organisation has also ensured **the extradition of more than 100 FETO terrorists** from various countries through its intelligence diplomacy activities*".⁷⁵ Likewise, MIT confirmed in its annual report for 2022 that it had conducted operations to forcibly return more than 100 people allegedly linked to the Gülen Movement. In its report, MIT publicises that it has carried out these actions, stating that "... more than 100 members (of the Gülen movement) from different countries were brought to Türkiye as a result of [the organisation's] increased operational capacity abroad".

As can be seen, in Türkiye, a country where the separation of powers is over, where the judiciary has lost its independence and impartiality and where the executive has considerable influence over the judiciary (the judiciary is completely subordinated to Erdoğan), where there is no democracy and no law, and where many fundamental rights such as freedom of expression are suspended, the acts of kidnapping and disappearance that took place as a result of this policy of hatred and extermination adopted against the Gülen Movement constitute crimes against humanity for being systematic and widespread.

4. Moral Element of the Offence

As for the Rome Statute, the mental element or *mens rea* of the crime against humanity is *general intent*. The perpetrator must know of the existence of a widespread or systematic attack against the civilian population and must intentionally participate in this process. On the other hand, the perpetrator does not need to know all the characteristics, plan or policy of the

⁷⁵ Number of FETÖ members brought by MIT from abroad announced, 25.11.2022<https://www.sozcu.com.tr/son-dakika-MITin-yurt-disindan-getirdigi-fetocu-sayisi-aciklandi-wp7499978>

attack. It is also stated in the doctrine that it is sufficient for the perpetrator of the crime against humanity to have knowledge about the attack and it is not necessary to know the details.⁷⁶ Therefore, criminal responsibility will arise if the perpetrator intentionally and knowingly commits the material elements or *actus reus* of the crime against humanity.

In this context, acts of kidnapping and forced disappearances against the Gülen Movement are carried out by the perpetrators knowing the identity and location of the victims and the nature of the act. In other words, these acts are Committed with the awareness that the abducted and disappeared persons are Gülen Movement volunteers.

G. THE EFFECTS OF ABDUCTIONS AND ENFORCED DISAPPEARANCES

1. Culture of Impunity in General

Impunity refers to the fact that perpetrators of a de facto or de jure violation of rights are not subjected to the judicial processes that exist or should exist, or are not punished as they deserve, and that those who have been victimised do not have access to reparation. The culture of impunity manifests itself in the fact that the perpetrators of a violation of a right that should be subject to investigation due to the absence of legal legislation, the inappropriateness of existing laws to remedy violations of rights, the inappropriateness of existing laws to remedy violations of rights, the inability to remedy violations of rights, the ineffective application of the law or the de facto prevention of the application of the law, are not investigated, arrested, prosecuted or appropriately punished, and the victims are not able to access the right to reparation.⁷⁷

Underlying the emergence of a culture of impunity is the relationship between states and the perpetrators of crimes. Impunity arises when the state fails to fulfil its obligations in relation to gross human rights violations Committed by the state or by actors supported, directed or condoned by the state. At the root of the problem, therefore, are state institutions and officials at all levels of the judiciary or administration. States are obliged to conduct investigations into violations, to investigate and prosecute suspects, to impose the necessary sanctions on perpetrators and, if necessary, to punish them appropriately; to ensure that those who have been victimised have access to effective remedies, receive compensation for the damage they have suffered, and know the truth about the violations, and to prevent the recurrence of violations. Therefore, the culture of impunity is rooted in the fact that states prefer to protect perpetrators for various motives rather than fulfil their obligations.

⁷⁶ "Crimes against humanity", https://en.wikipedia.org/wiki/Crimes_against_humanity

⁷⁷ Amnesty, "Impunity",

It is generally accepted that a culture of impunity indirectly encourages the commission and repetition of crimes, imposes additional suffering on victims and undermines public confidence in the rule of law and the justice system, particularly if the country has a serious history of human rights violations. When crimes are not properly investigated and prosecuted, this sends the message that perpetrators go unpunished, encouraging others to commit similar crimes. The impunity of perpetrators leads to an increase in violent incidents. The absence of any protection against violent incidents leads to citizens belonging to disadvantaged groups losing confidence in the law and public institutions and thus becoming even more isolated. In order to overcome this situation, states should subject perpetrators of serious violations of human rights or international humanitarian law to effective investigation, prosecution and fair trials.⁷⁸ In this context, impunity for perpetrators of kidnapping and enforced disappearance remains widespread in many countries, including Council of Europe member states. Investigations initiated following serious or mass violations face extraordinary difficulties. These challenges include the high number of suspects, the relative lack of financial and human resources, capacity and will, and the continued influence of key figures of the previous regime in many transitional processes.⁷⁹ In the current case of kidnappings and disappearances, the challenge is that if these acts are state-sponsored or state policy, it is impossible to reach the perpetrators. If the perpetrators of these acts are state officials, they are subject to a process directly under the auspices of the relevant state.

According to the report of the Council of Europe's European Committee for CPT on "Combating Impunity"⁸⁰ credibility for the prohibition of torture and other forms of ill-treatment is eroded with each case in which the authorities responsible for these crimes walk free rather than be held accountable for their actions. Unless the disclosure of information on ill-treatment is followed up promptly and effectively, perpetrators and the mentality that nurtures them will naturally continue to increase their confidence that they can continue their criminal behaviour with impunity. All efforts to promote human rights principles through careful employment policies and professional training will be sabotaged. Ultimately, in the absence of effective measures, all those concerned - colleagues, senior managers, investigating Committee s - will have contributed to the erosion of the values that underpin a democratic society.

2. Culture of Impunity in Türkiye

⁷⁸ Committee of Ministers of the Council of Europe, "Guidelines On Eradicating Impunity For Serious Human Rights Violations", 30 March 2011, <https://rm.coe.int/1680695d6e>

⁷⁹ Council of Europe, "Missing persons and victims of enforced disappearance in Europe", p.58 et seq.

⁸⁰ Council of Europe: European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Combating impunity, CPT/Inf(2004)28-part, <https://rm.coe.int/16806cd08c>

One of the important reasons for the intense human rights violations in Türkiye in certain periods is the culture of impunity, which has almost become a state policy. It is known that some of the activities carried out in certain periods, especially under the name of the fight against terrorism, have turned into unlawful practices and crimes. It is observed that the applications of the victims against these unlawful practices and crimes do not yield any results. While the perpetrators are taken under protection due to actions that are given the impression that they are carried out on behalf of the state, the victims are not allowed to use legal mechanisms.

Due to this culture of impunity, the ECtHR has repeatedly found Türkiye guilty of gross human rights violations Committed by security forces in Türkiye. In hundreds of cases, the lack of effective investigations into the violations was emphasised, resulting in *de facto* impunity. Victims of human rights violations Committed by intelligence, police and gendarmerie in Türkiye continue to face an entrenched culture of impunity. Victims' chances of access to justice are diminishing due to a judicial system that favours the state and its activities. With a criminal justice system that has lost its independence, is pressurised by disciplinary proceedings and overburdened by excessive workloads, Türkiye still lacks an independent body that can impartially and effectively investigate human rights violations Committed by state agents. According to Amnesty International, no effective action has been taken to date to end impunity for widespread and systematic human rights violations, enforced disappearances and killings in the South-East and Eastern Anatolia regions in the 1990s. Likewise, many grave human rights violations Committed by security forces in the climate of chaos following the coup attempt in 2016 continue to be at risk of *de facto* impunity due to the lack of effective investigations and slow progress of the trials. Many perpetrators of torture, enforced disappearances and similar acts have gone unpunished in Türkiye.⁸¹

The 2023 Türkiye Report, prepared by the EU Commission and released on 8 November 2023, included concerns regarding cases of abductions and disappearances in Türkiye. According to the report, no adequate investigations have been conducted into cases of abductions and enforced disappearances allegedly carried out by security forces since the 2016 coup attempt. Deaths allegedly caused by security forces in the south-east, particularly during the events in 2015, were not effectively investigated and prosecuted. Although soldiers or police officers were implicated in many of these incidents (as emphasised by ECtHR judgments and reports of the UN Working Group on "Enforced or Involuntary Disappearances in Türkiye"), investigations against them were never properly conducted. The statute of limitations remains a major concern in terms of impunity for perpetrators. In the South-East,

⁸¹ Amnesty, "Impunity", <https://www.amnesty.org.tr/icerik/cezasizlik>

many of the crimes Committed in the 1990s (e.g. the murder of writer Musa Anter in Diyarbakır in 1992) went unpunished due to acquittal or statute of limitations.⁸²

In its reports, the HRW heavily criticises Türkiye under the headings of '*freedom of expression, women's rights, torture and abductions, refugees and repression of opposition*'. The reports emphasised that people allegedly linked to the Gülen Movement continue to be abducted from different parts of the world. In its 2022 Report, the HRW emphasised that Türkiye violated international law in this regard. The report emphasised that prosecutors have made no progress in investigating the increasing number of allegations of torture and ill-treatment in police custody and in prison over the past five years, that very few such allegations have resulted in the prosecution of security forces, and that a widespread culture of impunity persists. Giving examples of 'abductions' of persons allegedly linked to the Gülen Movement after the coup attempt in 2016, the report stated that abductions and enforced disappearances were reported and incidents were not properly investigated.⁸³

Although many human rights violations have taken place in Türkiye, including systematic torture, kidnappings, enforced disappearances, extrajudicial executions,⁸⁴ Türkiye has neither effectively combated nor adequately responded to these gross human rights violations. Nevertheless, in more than 175 cases, the ECtHR has consistently found that Türkiye has violated multiple the ECHR provisions, with most cases concerning the ineffectiveness of investigations under Articles 2, 3 and 13 the ECHR. Despite increasing allegations of abductions, enforced disappearances and torture, rare official investigations and prosecutions continue to create a strong perception of impunity for torture and other forms of ill-treatment.⁸⁵

3. Legal and Criminal Irresponsibility Regulations Introduced by State of Emergency Decree Laws

The recent rights violations in Türkiye are based on the legal and penal regulations introduced to protect those who cause rights violations. In this context, Article 9 of the Decree

⁸² European Commission, 2023 Türkiye Report, 8/11/2023, p.31, <https://ab.gov.tr/siteimages/resimler/2023%20T%C3%BCrkiye%20Raporu.pdf>

⁸³ Human Rights Watch (HRW), World Report 2022, p.665 et al., https://www.hrw.org/sites/default/files/media_2022/01/World%20Report%202022%20web%20pdf_0.pdf

⁸⁴ According to the Human Rights Association (IHD), in the first eleven months of 2021, at least 144 people in total were subjected to abduction, spying and threats. 2021 Human Rights Association (IHD): Special Report on the Incidents of Statement Taking, Interviewing, Spying and Abduction, p.2, 30 December 2021, https://www.hrw.org/sites/default/files/media_2022/01/World%20Report%202022%20web%20pdf_0.pdf

⁸⁵ Haack, Yves/ Turkut, Emre : "Impunity in Today's Türkiye", September 2020, https://Türkiyetribunal.org/wp-content/uploads/2021/12/3-Cezasizlik__TürkiyeTribunal_report-1.pdf, p. 2

Law No. 667, which entered into force upon its publication in the Official Gazette on 23.07.2016,⁸⁶ states that the legal, administrative, financial and criminal liability of persons who take decisions and fulfil duties within the scope of Decree Law No. 667 will not arise due to these duties. Article 37 of the Decree Law No. 668, which entered into force on 27 July 2016, expanded the state of non-responsibility. Likewise, Article 37 of the Decree Law No. 668, which entered into force upon its publication in the Official Gazette on 27 July 2016,⁸⁷ states that persons who take decisions, execute decisions or measures within the scope of the suppression of the coup attempt and terrorist acts Committed on 15 July 2016 and the acts in the nature of their continuation, and persons who take decisions and execute duties within the scope of all kinds of judicial and administrative measures, and persons who take decisions and execute duties within the scope of the Decree Laws issued during the state of emergency shall not be held legally, administratively, financially and criminally liable for these decisions, duties and acts.

On the other hand, the State of Emergency Decree Law No. 696 introduced an armour of impunity for also civilians. The 15 July coup attempt and its aftermath have been regulated to remove the criminal liability of civilians who intervened in the coup attempt and its aftermath. With Article 121 of the Executive Decree 696 published in the Official Gazette on 24 December 2017, Article 37 of the Law No. 6755 dated 8.11.2016 on the Amendment and Adoption of the Decree Law No. 6755 on the Measures to be Taken within the Scope of the State of Emergency and on the Regulation of Certain Institutions and Organizations was amended. Article 37 of the Law on the Amendment and Adoption of the Decree Law on the Measures to be Taken within the Scope of the State of Emergency and the Regulation on Certain Institutions and Organisations has been amended to add a paragraph as follows: *"The provisions of the first paragraph shall also apply to persons who act within the scope of the suppression of the coup attempt and terrorist acts carried out on 15/7/2016 and their continuation acts, regardless of whether they bear an official title or fulfil an official duty"*.

The irresponsibility regulations previously had been imposed on public officials by emergency decrees have now been imposed on civilians, leading to very grave consequences. In addition to the uncertainty regarding which acts in the regulation will be considered as a

⁸⁶ Executive Decree 667 Article 9- Persons who take decisions and fulfil duties within the scope of this Executive Decree shall not be held legally, administratively, financially or criminally liable for these duties.

⁸⁷ Executive Decree No. 668 Article 37- Persons who take decisions, execute decisions or measures within the scope of the suppression of the coup attempt and terrorist acts committed on 15/7/2016 and the acts in continuation of these acts, persons who take duties within the scope of all kinds of judicial and administrative measures, and persons who take decisions and fulfil duties within the scope of the decrees having the force of law issued during the state of emergency shall not be held legally, administratively, financially and criminally liable for these decisions, duties and acts.

continuation of the coup attempt, who is authorised to make this determination, which means are allowed to be used in the execution of the suppression action, the legal and criminal irresponsibility of civilians as well as public officials due to this regulation has led to the legalisation of the culture of impunity. With all these regulations, it is aimed not to file complaints against public officials who make decisions or take actions under the Decree Laws, and not to file criminal, civil or administrative lawsuits. Similarly, legal and criminal irresponsibility has been introduced for the crimes Committed by civilians involved in the coup process and its aftermath; however, this irresponsibility, i.e. the inability to be held accountable, has led to arbitrary behaviour of public officials and civilians and some violations of rights. The hesitation of public officials and civilian elements acting with them to commit criminal acts has been eliminated. In other words, they have been given a guarantee by the state to commit these acts.

4. The Contribution of the Turkish Judiciary to the Culture of Impunity

Unfortunately, the culture of impunity is gaining legitimacy day by day in Türkiye due to the indifferent and statist attitude of the judicial authorities towards gross human rights violations. It is observed that no effective investigation is carried out, evidence is not collected and the files are directly on permanent search (an investigation method in which the Public Prosecutor's Office does not close the investigation in cases where it is not possible to identify the perpetrator of the act in accordance with the type of crime, but writes to the relevant institutions to identify the perpetrator at certain time intervals within the statute of limitations of the crime subject to investigation) or decisions of non-prosecution are made. The perpetrators of the acts are almost protected by judicial armour.

The best examples of this can be seen in the inadmissibility decisions of the Constitutional Court. In this context, Önder Asan's application is an example.⁸⁸ On 01 April 2017, while the applicant was travelling in a taxi in the city centre, two vehicles stopped the taxi in which the applicant was travelling by squeezing it, and the persons getting out of the black Transporter type vehicle, introducing themselves as police officers, forced the applicant out of the taxi, handcuffed his hands, tied his feet, put a sack over his head and forced him into the vehicle. The applicant stated that he was beaten in the vehicle; The applicant, who stated that he was beaten in the vehicle, was then taken to a cell, kept there for forty-two days, was beaten with a stick in a room he called the torture room for the first twenty days - in some statements twenty-five -, was subjected to electric shocks and sexual and psychological harrasment, was threatened with his family and subjected to insults, heard screams from the neighbouring rooms, was pressurised to give his name, was not subjected to a medical

⁸⁸ Constitutional Court Önder Asan Decision, Application No: 2018/18685, K.T: 16/3/2023,

examination during this period, instead he was waited 25 days until the scars to disappear. He stated that on 12 May 2017 he was taken out of detention and put in a car, that his phone was returned to him while he was in the car and that he was asked to call the Ankara Security Directorate, and that he was detained by law enforcement officers who came to his location upon his call.

The applicant repeated that he had been abducted by persons he did not recognise, detained for more than 40 days and tortured during his interrogation before the Chief Prosecutor's Office and the Criminal Judgeship of Peace. However, these allegations were not investigated. On 12 June 2018, the applicant made an individual application to the Constitutional Court with the allegation that his complaint regarding the incident was not thoroughly investigated by law enforcement officers, and therefore his right to effective remedy and the principle of equality were violated.

Dealing with the application the Constitutional Court, made findings and assessments that contributed to the culture of impunity in an application involving grave crimes against humanity such as abduction and torture, although it ruled a procedural violation of rights. According to the Court, it said that the applicant would have been expected in principle to realise that the investigations were ineffective with the permanent search warrants issued on 6 June 2017 and 1 August 2017 (§ 58). With this acceptance, the Constitutional Court recognised that the applicant should have followed the failure to take action on the "*permanent search*" decision, which had no effect. Instead of questioning the obligation of the judiciary to conduct an effective investigation, it imposed a legally unacceptable obligation of follow-up on the victim.

On the other hand, the Constitutional Court, in order to reinforce its presumption that there was no question as to the merits of the application, relied on the argument that not every allegation of ill-treatment could be expected to benefit from the protection afforded by the third paragraph of Article 17 of the Constitution and the positive obligations imposed on the State by Article 5 of the Constitution (§ 65).

According to the Constitutional Court, forty days before he was taken into custody - two days after the day he claimed to have been abducted - a criminal investigation was initiated after the applicant's wife applied to the Chief Public Prosecutor's Office and stated that she had not heard from the applicant for weeks and feared for his life. In the aforementioned criminal investigation, it is established by the CCTV footage and the statement of the taxi driver that the applicant got into a taxi on 01 April 2017, and then people getting out of two vehicles stopped the taxi and forced the applicant into one of the other vehicles. Therefore, the applicant's allegations that he was detained for a while before being taken into custody are reasonable and supported by evidence. However, according to the same

Constitutional Court, the applicant did not support his allegation that he had been subjected to various physical, psychological and sexual violence in the first days of his detention with a medical report to be issued at the time of his detention. The conditions under which medical reports are given before and after detention in Türkiye have been described in detail in the ECtHR judgements for years and there are many violation judgements on this practice. As such, the Constitutional Court's reference to medical reports is really interesting and grave.

As can be seen, the Önder Asan judgement constitutes a concrete example of the culture of impunity practised by the Constitutional Court. Önder Asan was abducted by state officials in the middle of the day, and although they left evidence behind - unlike another case of enforced disappearance, Yusuf Bilge Tunç - the Constitutional Court ignored the fact that the applicant was abducted and tortured for days, did not examine the allegation of violation of the prohibition of torture and ill-treatment in terms of substance, and found a violation **by examining only procedural aspects**. The Constitutional Court, which justified the violation on the grounds of permanent search warrants, decided that no further action was necessary, instead of requesting a meaningful and effective investigation against those responsible for the incident in terms of the execution of the decision. This decision of the Constitutional Court clearly demonstrates how superficially the Court examines the allegations of kidnapping and torture in Türkiye and how it is part of the established culture of impunity.⁸⁹

H. POSITIVE OBLIGATIONS OF THE STATE IN CASE OF ABDUCTION AND ENFORCED DISAPPEARANCE

As it is known, within the scope of the positive obligations imposed by Article 17 of the Constitution, the State has a duty to protect the fundamental rights of all individuals under its jurisdiction, such as life, liberty and security, freedom from torture and ill-treatment, against the risks that may arise from the actions of public officials, other individuals or even the person himself. In order to fulfil the aforementioned duty of protection, the state must take measures through its officials to prevent the realisation of this danger within reasonable limits, where the public authorities know or should know that there is a real and imminent danger to these fundamental rights.

In this context, the abduction and subsequent disappearance of individuals on the grounds of the concept of combating terrorism is a violation of the state's positive obligations. As can be seen in the cases detailed below, it will be seen that instead of fulfilling these positive obligations of the state, especially during the State of Emergency, people's fundamental rights

⁸⁹ Güneş, Gökhan: "Anayasa Mahkemesi'nin Oluşturduğu Cezsizlik Kültürü Ve Somut Örnekleri", 26/08/2023,

such as the right to life, the right to liberty and security, the right not to be subjected to torture and ill-treatment are violated by the state itself.

On the other hand, the procedural aspect of the positive obligations mentioned here requires an independent investigation to be carried out in every suspicious case of death, abduction and disappearance in order to reveal all aspects of the case, to identify those responsible and, if necessary, to punish them.⁹⁰

The principles recognised on the effectiveness of criminal investigations also apply to situations where a person has disappeared under life-threatening circumstances. This is because the most important step to be taken to protect the life of a person who has disappeared under suspicious circumstances is to conduct an effective criminal investigation that allows the missing person to be found and, if others are responsible for the disappearance, to identify and punish those responsible. In this context, in order to recognise that the criminal investigation into the abduction and disappearance is effective as required by Article 17 of the Constitution;

- As soon as the investigating authorities become aware of the incident, they should act ex officio to establish all the evidence that could shed light on the circumstances of the death and identify those responsible,
- The investigation process should be open to public scrutiny and the relatives of the deceased should be able to participate in the investigation process to the extent necessary to protect their legitimate interests,
- The investigation must be conducted with reasonable diligence and speed (*Ayşe Rana Özben and Others*, § 68; *Fatma Akın and Mehmet Eren*, § 99).

It is therefore necessary to protect the right to life of the missing person and, in this context, to take the necessary steps to find the missing person.

The ECtHR has made important observations and judgements on the obligations of the State in relation to missing persons. With regard to the procedural obligation to investigate disappearances, the Court underlines that in the case of disappearances the procedural obligation under Article 2 of the Convention is independent of the substantive obligation.⁹¹ Furthermore, in the Court's case-law, it is important to distinguish between the obligation to

⁹⁰ Constitutional Court *Ayşe Rana Özben and others*, Application No: 2017/28717, K.T: 24/2/2021, § 66, <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2017/28717>; *Fatma Akın and Mehmet Eren*, [GK], Application No: 2017/26636, K.T: 10/11/2021, §. 97, <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2017/26636>

⁹¹ *Nuray TUNÇ and Mustafa TUNÇ v. Türkiye*, Application no: 45801/19, K.T: 17/03/2022, [https://hudoc.echr.coe.int/eng#{%22fulltext%22:\[%22Nuray%20TUN%C3%87%20and%20Mustafa%20TUN%C3%87%22\],%22itemid%22:\[%22001-216703%22\]}](https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22Nuray%20TUN%C3%87%20and%20Mustafa%20TUN%C3%87%22],%22itemid%22:[%22001-216703%22]})

investigate a suspicious death and the obligation to investigate a suspected disappearance. Disappearance is a different phenomenon, characterised by a situation in which relatives are constantly exposed to uncertainty and have no explanation or information as to what has happened, as the relevant facts in this respect may sometimes be deliberately concealed or obscured. Therefore, the procedural obligation potentially persists as long as the fate of the person concerned is not clarified.⁹²

In this context, the scope of the procedural obligation is clear. It is essentially concerned with ensuring, through a formal investigation, the effective implementation of national laws protecting the right to life and, where State officials or organs are involved, ensuring that they are held to account for deaths occurring under their responsibility. Where obstacles arise that make it impossible for the investigation to proceed in a particular case, it is important that the competent authorities respond promptly in order to maintain public loyalty and confidence in the rule of law and to avoid the impression that unlawful acts are tolerated or condoned.⁹³ The investigation must be independent and accessible to the victim's family to the extent necessary to safeguard their legitimate interests, carried out with reasonable promptness and diligence, and provide the public with an adequate right of public scrutiny, as well as being effective.⁹⁴

According to the ECtHR, in order for the investigation to be characterised as "effective" in the context of Article 2 of the Convention in cases of disappearance

- The investigation must first of all be "adequate". This means that it must lead to the establishment of facts and circumstances and, if necessary, to the identification and punishment of those responsible,
- According to the Court, the obligation to conduct an effective investigation is an obligation of means, not of ends: The authorities must take all reasonable measures at their disposal to obtain evidence of the facts in dispute,
- In particular, the conclusions of the investigation must be based on a thorough, objective and impartial analysis of all relevant facts. Failure to follow a clear line of enquiry reduces the possibility for the investigation to establish the

⁹² Varnava and Others v. Türkiye, [CU], Application no. 16064/90 and 8 other applications, § 186, <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22%3A%5B%2216064%2F90%22%2C%22itemid%22%3A%22001-216491%22%5D%7D>

⁹³ McKerr v. the United Kingdom, Application No: 28883/95, K.T: 04.05.2001, §. 111 and 114, <https://hudoc.echr.coe.int/eng#%7B%22appno%22%3A%5B%2228883%2F95%22%2C%22itemid%22%3A%22001-59451%22%5D%7D>; Brecknell v. the United Kingdom, Application No: 32457/04, K.T: 27/11/2007, § 65, <https://hudoc.echr.coe.int/eng#%7B%22appno%22%3A%5B%2232457%2F04%22%2C%22itemid%22%3A%22001-83470%22%5D%7D>

⁹⁴ ANuray TUNÇ and Mustafa TUNÇ v. Türkiye, Application no: 45801/19, K.T: 17/03/2022, Prg.59, <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22%3A%5B%22Nuray%20TUN%20C3%87%20and%20Mustafa%20TUN%20C3%87%22%2C%22itemid%22%3A%22001-216703%22%5D%7D>

circumstances of the case and the identity of those responsible (*Kolevi v. Bulgaria*, Application No. 1108/02, § 201, 5 November 2009).

On the other hand, it is true that the nature and degree of scrutiny which, in the Court's view, fulfils the minimum criterion of the effectiveness of the investigation depends on the particular circumstances of the case. It is not possible to reduce the wide variety of situations which may arise to a mere list of investigative procedures or other simplified criteria (*Tanrıkulu v. Türkiye* [GC], no. [23763/94](#), §§ 101-110, ECHR 1999-IV and *Velikova v. Bulgaria*, no. [41488/98](#), § 80, ECHR 2000-VI).

Within the framework of these principles, it is observed that the Turkish State has failed to fulfil its obligations with regard to cases of abduction and disappearances in Türkiye. It is observed that complaints of disappearances are not effectively investigated, those responsible are not identified, evidence is not collected and perpetrators are deliberately protected.

SECTION II:

TRANSFORMATION OF ABDUCTIONS AND ENFORCED DISAPPEARANCES INTO A STATE POLICY

A. THE TARGETED SOCIETY: GÜLEN MOVEMENT

The Gülen Movement, whose spiritual leader is Fethullah Gülen, is a movement in Türkiye that stands out with its educational and cultural activities, bases its activities on dialogue and tolerance, and most importantly adopts a modern and moderate understanding of Islam.⁹⁵ The Movement, also known as "Hizmet" and "Cemaat" in Türkiye, is a civil society

⁹⁵ See. Özdalga, Elisabeth: 'Worldly Asceticism in Islamic Casting: Fethullah Gülen's Inspired Piety and Activism', *Critique*, no. 17 (Fall 2000): 83-104; Turam, Berna: 'Between Islam and the State: The Politics of Engagement: The Engagements between the Gülen Community and the Secular Turkish State', PhD Thesis, McGill University, Montreal, 2001; Ergil, Doğu: *Fethullah Gülen & The Gülen*

movement consisting of volunteers who carry out activities around the principle of coexistence within the framework of universal humanitarian values. Known for its philanthropic, educational, cultural and dialogue activities in Türkiye and abroad, the Gülen Movement has transformed into an international social movement. Movement volunteers make positive contributions to social life through educational, cultural, dialogue, media, health and humanitarian aid institutions as well as associations and foundations established by businessmen, professionals and intellectuals. In addition to these activities, the Movement is also known worldwide for its interfaith and intercultural dialogue activities, promoting mutual understanding, appreciating diversity in society, contributing to a culture of non-violence and coexistence.⁹⁶ The Gülen Movement, which started its educational activities by opening university preparation courses in Türkiye, today provides education to hundreds of thousands of students through more than 2,000 schools in more than 140 countries around the world, which are independent from each other in terms of name and legal status.⁹⁷

The Gülen Movement, which adopts a modern understanding of Islam in terms of its basic philosophy of belief and human resources, has not been accepted in Türkiye, especially by "*political Islamist*" movements and political parties. Although they have been in harmony with the Gülen Movement in certain periods in order to use the sympathy of the Gülen Movement in the eyes of the society in their favour and to benefit from the educated human resources of the Gülen Movement, they have never adopted this movement and its philosophy. In this context, the Justice and Development Party (AKP), founded under the leadership of Recep Tayyip Erdoğan, initially appeared to be in harmony with the Movement in order to come to power and create a good image in the eyes of the society. However, in time, after the party cadres became stronger in the state and gained sufficient social support, the Erdoğan regime started to target the Gülen Movement. The basis of this targeting is that the Gülen Movement adopts a modern understanding of Islam that is based on non-violence, dialogue and education, whereas the AKP under the leadership of Erdoğan pursues a policy based on political Islam.

As emphasised above, Gülen Movement, which could not harmonise with the AKP regime, which pursues a policy based on political Islam in Türkiye, and did not fall under the

Movement In 100 Questions, Blue Dome Press (17 Dec. 2012); Agai, Bekim: The Fethullah Gülen Movement's Project for Islamic Ethics in Education, 27.02.2003, <https://fgulen.com/tr/hayati-tr/hareketi-incelemeler/Bekim-Agai-Fethullah-Gulen-Hareketinin-Egitime-Islami-Etik-Kazandirma-Projesi>

⁹⁶ Michel. Thomas: Fethullah Gülen as Educator, 24.02.2002, TIME, Leaders, <https://fgulen.com/tr/hayati-tr/hareketi-incelemeler/Dr-Thomas-Michel-Egitimci-Olarak-Fethullah-Gulen>

⁹⁷ Kinzer, Stephen: "Fethullah Gulen: Turkish educator and Islamic scholar", April 18, 2013, <https://time100.time.com/2013/04/18/time-100/slide/fethullah-gulen/>

will of the regime, was targeted by the most intense, large-scale and systematic unlawful practices in the history of the country. Especially after the 17/25 December investigations, when the corruption and bribery investigations involving the Erdoğan regime began, the Gülen Movement has been the target of a systematic, planned and ultimately hate policy based on exclusion and erasure from society. The 17/25 December bribery and corruption investigations initiated by the police and judiciary into illegal activities involving many government bureaucrats, ministers, minister's children and people of Iranian origin such as Reza Zarrab, who confirmed the process with his confessions in the USA, led to the start of a new process in Türkiye.⁹⁸

The policies that were put into effect based on dismantling the Gülen Movement after the turning point 17/25 December when corruption and bribery investigations started, have been transformed into a state policy this time, citing the 15 July coup attempt as justification. After the 15 July coup attempt, systematic and mass detention and arrest decisions were made in the investigations launched against the opposition, especially the members of the Gülen Movement, and they were sentenced to heavy sentences by judicial authorities that almost turned into a sort of regime courts. In this unlawful process, the most fundamental rights of people such as life, prohibition of torture and ill-treatment, freedom and security and fair trial have been taken away as a state policy. People have been left to civil death both in prisons and in civil life under the influence of this hate policy.

With the 17/25 December bribery and corruption investigations, strict measures and unlawful practices began to be taken against members of the Gülen Movement who refuse to be a partner in the Erdoğan regime's practices, methods and policies that do not comply with democratic practices and contradict the universal legal order; on the contrary, they are integrated with the modern world, based on peace and tolerance, and oppose radical Islam discourses. The government has continued these unlawful policies by involving all powers of the state. In this context, the widespread unlawful and rogue state practice against the members of the Movement, who were accused of terrorism without any evidence against them, is the case of abduction and disappearance of men in Türkiye and abroad. It is clear that the organisation role in these cases is carried out by MIT.

B. ABDUCTIONS AND ENFORCED DISAPPEARANCES AGAINST MEMBERS OF THE GÜLEN MOVEMENT

⁹⁸ For detailed information see: "17-25 December Corruption and Bribery Operation", https://tr.wikipedia.org/wiki/17-25_Aral%C4%B1k_Yolsuzluk_ve_R%C3%BC%5%9Fvet_Operasyonu,

"Enforced disappearances", as defined by the Rome Statute, have always existed in Türkiye as an act of the state. There are thousands of cases regarding this issue, which have been recognised by the ECtHR violation judgements in the past and later by the state authorities.⁹⁹ It is observed that these acts have been experienced intensively in the recent period. Especially after the 15 July coup attempt abductions and forced disappearances of members of the Gülen Movement have introduced to be implemented as a state policy.

Forced abduction and disappearance as another form of manifestation of the acts of causing serious harm to the physical or mental integrity of the members of the Gülen Movement, which is recognised under international law, is implemented as a state policy. Cases of abduction, disappearance and unlawful detention, as defined by international documents, continue to occur frequently in Türkiye. Although enforced abduction and disappearance is a crime against humanity, it is publicised by the Turkish authorities in Türkiye as a legal practice by the Minister of Justice, Vice President and bureaucrats of the state. Therefore, the fact that these acts are expressed in the official news agency of the state as if they were lawful acts reveals that these illegal activities are state policy.

The first abduction and enforced disappearance of members of the Gülen Movement in Türkiye started with the abduction of a citizen named Sunay Elmas on 27 June 2016. Since then, more than a hundred citizens associated with the Gülen Movement from Türkiye and abroad have been abducted, enforced disappeared or unlawfully brought to Türkiye from their countries of residence and put in prisons.

C. THE ABDUCTION AND ENFORCED DISAPPEARANCE CASES AS A STATE POLICY

One of the most shameful human rights violations of our recent history, enforced abductions and enforced disappearances, which are considered crimes against humanity, have increased significantly since 21 July 2016, when the State of Emergency was declared as a state policy. Thus, Türkiye has suddenly sailed into the dark corridors of the 1990s. This situation is reflected in many reports, including the report of the UN Working Group on Enforced or Involuntary Disappearances dated 31 July 2019.¹⁰⁰

Although abduction and enforced disappearance is a crime against humanity, it is publicised as a legal practice in Türkiye. Therefore, the fact that the official news agency of the state refers to these acts as lawful acts reveals that these illegal activities are state policy.

⁹⁹ "Don't lose by force", https://tr.wikipedia.org/wiki/Zorla_kaybetme

¹⁰⁰ As of 26 June 2021, *The Reality of Torture in Türkiye in Its Various Dimensions*,

From this point onwards, the systematic and planned kidnappings and disappearances carried out against the Gülen Movement in Türkiye and abroad have become a state policy. This is evident from the statements made by the highest level ministers and bureaucrats of the state. In this context, Bekir Bozdağ, the then Minister of Justice, stated in a statement to Anadolu Agency correspondent on 12 July 2022 that 121 people from 28 different countries were abducted and brought to Türkiye without an extradition order during the terrorist operations against the Gülen Movement between 2014 and 2022 as of 1 July 2022. These figures clearly show that abductions are widespread and applied to members of a particular civil society organisation.

Similarly, the current Minister of Justice, Yılmaz Tunç, stated that 1,271 members of the Gülen Movement have been requested for extradition since the coup attempt on 15 July 2016 and 126 suspects have been extradited so far.¹⁰¹ However, the persons who are said to have been extradited here are those who were mostly kidnapped and brought to Türkiye through unlawful methods and in violation of the functioning of international law.

The fact that kidnapping is carried out as a state policy is confirmed by the statements made by then Vice President Fuat Oktay, who made a presentation on the budget of the Presidency of the Republic during the discussions on the budgets of the Presidency and its affiliated organisations for 2023 at the Plan and Budget Commission of the Grand National Assembly of Türkiye (TBMM). In his statement here, Oktay said: *"Through its intelligence diplomacy activities, the Organisation has also ensured the extradition of more than 100 FETÖ terrorists from various countries"* and explained abduction, which is a crime against humanity, as a routine state activity in the Grand National Assembly of Türkiye.¹⁰²

As can be seen, although abduction and enforced disappearance is a crime against humanity, it is publicised as a legal practice by the Turkish authorities and it is stated by the most authorised persons that it is a state policy.

D. ORGANISED COOPERATION OF STATE INSTITUTIONS

Considering the grave consequences of domestic and international abductions and enforced disappearances that started within the framework of a policy, the process was carried out in accordance with a plan by MIT, law enforcement and judicial bodies. Here, it is seen that the official institutions of the state were used for the execution of these illegal activities

¹⁰¹ "Fight against FETÖ prevails 7 years after coup attempt in Türkiye, Jul 13, 2023,

¹⁰² "Number of FETÖ members brought from abroad by National Intelligence Organisation announced", 25.11.2022<https://www.sozcu.com.tr/son-dakika-MITin-yurt-disindan-getirdigi-fetocu-sayisi-aciklandi-wp7499978>

and the elimination of the severe consequences they would bring about. In other words, these unlawful practices against the Gülen Movement have turned into a deep state organisation.

a. The Role of MIT

b. Classified Place of MIT for Imprisoning and Torturing the Victims

With the 17/25, MIT has been one of the institutions that has become the focus of debates by distancing itself from its institutional identity.¹⁰³ MIT, whose role was constantly questioned, especially in relation to the shady 15 July coup attempt, was transformed from a state institution into the protector of the Erdoğan regime. Pursuant to Law No. 2937 and other legislative provisions, MIT, which is supposed to focus its activities on regional and global strategic issues began to take part in an outdated practice such as labelling, kidnapping and torturing citizens. Due to these efforts, actions and activities, which are contrary to freedoms and incompatible with the values of a democratic society, MIT became a private intelligence apparatus of the Erdoğan regime instead of being a state body.

Likewise, it is seen that the state intelligence organisation especially carries out kidnapping cases and that this is reported in order to make it known to the public. It is seen that many cases are carried out by MIT as if they were a success, and they are reported in the media organs that have become the official propaganda tool of the Erdoğan regime.¹⁰⁴ In fact, Assoc. Prof. Dr. Burak Darıcılı explained in a television programme that the majority of the kidnappings, which are presented to the public as big operations to deceive the public, were carried out with bribes given to people abroad.¹⁰⁵

According to the statements made by those abducted by MIT both to judicial authorities and through written, visual and social media, the abductees were taken in a black Transporter-type vehicle to the imprisonment centre belonged to MIT at the intersection of Anadolu Bulvarı and Marşandiz in Ankara, called in Turkish as 'Çiftlik'. It is understood that some of those abducted in 2016 and 2017 were held at the MIT headquarters in Yenimahalle, Ankara for several months before being taken to Çiftlik. This place is known as the secret Operational Centre of the MIT. While this centre was a torture centre where leftists were taken in the 80s, after 15 July it turned into a centre where members of the Gülen Movement, as well

¹⁰³ "Türkiye's most private institution: MIT", 09.06.2023, h

¹⁰⁴ FETÖ operation by National Intelligence Organisation: Fugitive Koray Vural brought to Türkiye", <https://www.ntv.com.tr/turkiye/MITten-feto-operasyonu-firari-koray-vural-turkiyeye-getirildi,zjZlrVLVSEunt2dLB-p3OA>

¹⁰⁵ <https://x.com/IskenceReport/status/1646941279064825858?s=20>

as some Kurds brought from Syria, were tortured. This has been deciphered by the confessions of two senior MIT officers held by the PKK.¹⁰⁶

c. International Reports and Decisions on MIT's Abductions and Enforced Disappearances

According to various reports by international institutions and organisations, MIT has been involved in the abduction of members of the Gülen Movement in Türkiye and abroad¹⁰⁷ In this context, the Working Group on Enforced or Involuntary Disappearances, one of the thematic special procedures overseen by the United Nations Human Rights Council, has reflected the role of MIT in abductions in its resolutions and reports. According to the Working Group's findings, these individuals were abducted and then forcibly taken to secret places of detention, often **under torture**, in order to extract confessions to alleged offences. In this context, the Working Group emphasises in its reports that the abduction and forcible return of Turkish nationals from third countries appears to be a **systematic practice**.¹⁰⁸ The Working Group notes that in public statements by Mr Erdoğan on these unlawful acts, he praised the Turkish intelligence service for the forced return of more than 100 people from multiple states.¹⁰⁹

Again, in Özçelik and Karaman applications, the UN Human Rights Committee concluded that the detention in Türkiye of two Turkish citizens abducted from Malaysia by MIT did not meet the criteria of reasonableness and necessity and violated their right to liberty and security under Article 9 (1-3) of the UN Covenant on Civil and Political Rights.¹¹⁰

Similar observations and assessments are also made in the European Commission's reports on Türkiye.¹¹¹ The European Parliament, on the other hand, has called on EU member

¹⁰⁶ "Dark deeds in Marşandiz: Journey to the torture centre of the gang [ERDOĞAN'S DIRTY TÜRKİYE -4]", 18 February 2018, <https://www.tr724.com/MIT-yoneticileri-itiraf-etti-cetenin-iskence-merkezine-yolculuk/>

¹⁰⁷ "Erdoğan's long arm in Europe", October 7, 2020

¹⁰⁸ https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/334/74/PDF/G193347_4.pdf?OpenElement

¹⁰⁹ Erdoğan announced that Orhan İnandı was brought to Türkiye from Kyrgyzstan", 06/07/2021, <https://tr.euronews.com/2021/07/06/erdogan-orhan-inand-n-n-k-rg-zistan-dan-turkiye-ye-getirildigini-ac-klad>

¹¹⁰ UN Human Rights Committee, Communication No 2980/2017, İsmet Özçelik and Turgay Karaman v. Türkiye, UN Doc. CCPR/C/125/D/2980/2017., 23 September 2019, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2F125%2FD%2F2980%2F2017&Lang=en

¹¹¹ European Commission, 2021 Türkiye Report, Strasbourg, 19.10.2021 SWD (2021) 290 final

states to closely monitor such activities in Africa, the Western Balkans, the Middle East and North Africa, where kidnappings carried out by Türkiye's MIT are prevalent.¹¹²

In the report released on 26 October 2023 by the United Kingdom, one of the countries that prepares periodic reports on Türkiye,¹¹³ cases of kidnapping originating from Türkiye were also included. The report also emphasised the role of MIT in these acts.

In its report prepared in August 2023, the Dutch Ministry of Foreign Affairs also stated that MIT has been transferring members of the Gülen Movement from abroad to, sometimes in cooperation with foreign intelligence agencies.¹¹⁴

Citing July 2020 report by Anadolu Agency, Freedom House stated that the Government of Türkiye had returned 116 people (in connection with the coup) from 27 countries to Türkiye.¹¹⁵ In the report, citing the 2022 annual report of MIT, sources stated that more than 100 people allegedly linked to the Gülen Movement were forcibly returned to Türkiye from abroad by MIT.¹¹⁶¹¹⁷

Human Rights Watch, in its most recent report released on 22 February 2024 **"We Will Find You": A Global Look at How Governments Repress Nationals Abroad**", the report evaluates the situation in the world in general and includes detailed coverage of incidents in Türkiye, with special emphasis on the fact that these operations were carried out by MIT.¹¹⁸

¹¹² European Parliament, 2021 Report on Türkiye, (2021/2250(INI)) (2022/C 493/01), Tuesday 7 June 2022, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX%3A52022IP0222>

¹¹³ "Country Policy and Information Note: Gülenist Movement, Türkiye, October 2023", <https://www.gov.uk/government/publications/Türkiye-country-policy-and-information-notes/country-policy-and-information-note-gulenist-movement-Türkiye-february-2022-accessible-version>

¹¹⁴ "General Country of Origin Information Report on Türkiye (August 2023)", p.46, <https://www.government.nl/documents/reports/2023/08/31/general-country-of-origin-information-report-on-turkiye-august-2023>

¹¹⁵ Freedom House, "Türkiye: Transnational Repression Origin Country Case Study", Special Report 2021

¹¹⁶ Turkish Minute, "PACE expresses concern over Türkiye's pursuit of anyone related to 'Gülen movement,' condemns transnational repression", 23 June 2023, <https://www.turkishminute.com/2023/06/23/pace-express-concern-over-Türkiye-pursuit-anyone-related-to-gulen-movement-condemns-transnational-repression/>

¹¹⁷ SCF, "Türkiye's intelligence agency confirms abduction of more than 100 people with alleged links to Gülen movement", 6 March 2023, <https://stockholmcf.org/Türkiyes-intelligence-agency-confirms-abduction-of-more-than-100-people-with-alleged-links-to-gulen-movement/>

¹¹⁸ Human Rights Watch: "We Will Find You": A Global Look at How Governments Repress Nationals Abroad", 22 February 2024, <https://www.hrw.org/report/2024/02/22/we-will-find-you/global-look-how-governments-repress-nationals-abroad>

The dossier '**Black Sites Türkiye**'¹¹⁹ prepared by the German-based Correctiv.org in cooperation with media organisations such as the German ZDF, Spanish El Pais, French Le Monde, Israeli Haaretz, Italian Il Fatto Quotidiano, Austrian Addendum, Danish Monday Morning and Swedish TT News Agency describes how the Erdoğan regime forcibly abducted members of the Gülen Movement in and abroad, held them in secret places and tortured them.

In the studies of the above-mentioned international institutions and organisations, it is emphasised in detail that MIT is the main actor in Türkiye-based abduction and disappearance cases. Therefore, MIT has become the most important institutional perpetrator of abductions, disappearances and torture after 15 July 2016. It is observed that the MIT systematically abducted people it claimed to be close to the Gülen Movement, held them in 'secret' detention and torture centres, tortured them and forced these people to become secret witnesses. Many reports have been written on the role of MIT in these abductions and enforced disappearances.¹²⁰

d. The Role of the Judiciary

As it can be understood from the testimonies reflected in the files regarding domestic and international cases of kidnapping and disappearance, which result in serious violations against humanity, very serious crimes such as torture, sexual harassment, insult, threats, serious injury and deprivation of liberty are Committed during abduction and disappearance. After being abducted, citizens who are unlawfully interrogated at unknown addresses for a long period of time, subjected to torture and ill-treatment, and eventually forced to sign pre-prepared **confession** statements, are then handed over to law enforcement officers as if it were a normal case. These victims are then brought before the judicial authorities as suspects captured within the scope of terrorist operations. At this stage, it is seen that they are arrested by the judicial authorities without even informing their families and their own lawyers.

The judicial processes have turned into the cover-up practices by the judiciary. It is observed that the judicial authorities do not take action despite the fact that the abducted

¹¹⁹ Correctiv: 'Black Sites Türkiye', 11. December 2018

¹²⁰ Advocates of Silenced Türkiye (AST): Erdoğan's Long Arms, Abductions in Türkiye and Abroad, Sep 2020, <https://silencedTürkiye.org/wp-content/uploads/2020/09/Abductions-Report-September-7-1.pdf>; HRW: Türkiye: Enforced Disappearances, Torture, April 29, 2020, <https://www.hrw.org/news/2020/04/29/Türkiye-enforced-disappearances-torture> ; Ankara Bar Association Human Rights Centre: Joint Monitoring Report, Enforced Disappearance, https://b2923f8b-dcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_99634537e34349aeab389ebe27605bae.pdf , [https://www.hrw.org/news/2019/08/06/Türkiye-concerns-disappeared-men-now-police-custody#:~:text=\(London\)%20%E2%80%93%20The%20Turkish%20authorities,disappearance%2C%20Human%20Rights%20Watch%20said;https://b2923f8b-dcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_1f77097041e94303bbf4076413b8ecc2.pdf](https://www.hrw.org/news/2019/08/06/Türkiye-concerns-disappeared-men-now-police-custody#:~:text=(London)%20%E2%80%93%20The%20Turkish%20authorities,disappearance%2C%20Human%20Rights%20Watch%20said;https://b2923f8b-dcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_1f77097041e94303bbf4076413b8ecc2.pdf)

victims describe in detail the acts of abduction and disappearance, torture and ill-treatment in the statements they give to the investigation prosecutors, the criminal judgeships of peace to which they are brought with a request for arrest and the High Criminal Courts to which they are later tried. Likewise, the petitions of complaint submitted by victims or relatives of the disappeared are kept waiting, and even if an investigation is initiated, it is procrastinated, no indictment is prepared, and procedures such as collecting evidence and listening to witnesses are either carried out in a sloppy manner or not carried out at all. Again, in this process, the disappeared are realised as a result of detention procedures that do not comply with the legal detention.¹²¹ It is observed that persons to be abducted or disappeared are subjected to torture, sexual harassment, insult, threats, serious injury and death after being detained by persons who identify themselves as law enforcement officers.

In these cases, although the victims made clear statements in criminal complaints and in the courts, it is seen that the judicial bodies cover up with a conscious preference. It is evident from documents and minutes that decisions of non-prosecution were made without even the need for an investigation or that their statements were not recorded in the court minutes. At this point, it is seen that the individual applications made to the Constitutional Court were found inadmissible without being examined.

In this context, Yunus Akyol, one of the abducted persons allegedly belonging to Gülen Movement, filed a criminal complaint to Ankara Chief Public Prosecutor's Office for being abducted by unidentified persons and being subjected to ill-treatment while in custody. On 13 September 2018, the Public Prosecutor's Office Civil Servant Crimes Investigation Bureau issued an additional decision of non-prosecution against the "*relevant police officers*" on charges of torture and insult.

In the individual application made to the Constitutional Court against the decision (Yunus Akyol, B. No: 2018/36395, 20/9/2023), the Court unanimously decided on 20 September 2023 that the allegation of violation of the prohibition of ill-treatment was inadmissible as it was clearly lacking in grounds. By ignoring concrete allegations on abstract grounds, the Court has obviously legitimised a rogue state practice.¹²²

The Court reiterated a similar position in the cases of *Sümeyye Yılmaz and others* (B. No: 2019/13374) dated 8 June 2023 and *Önder Asan* (B. No: 2018/18685) dated 16 March 2023. The Court found the cases of torture, ill-treatment and abduction inadmissible with abstract and

¹²¹ Sevimli Ataktürk, Emel: "Zorla Kaybetmelerde Yargının Tutumu", *Zorla Kaybetmeler ve Yargının Tutumu*, Anadolu Kültür Yayınları, 2nd edition, İstanbul 2013, p.21

¹²² Constitutional Court Yunus Akyol Decision, Application No: 2018/36395, K.T:20/9/2023, §. 6-20-21,

generalised reasoning. It is seen that these cases, which are crimes against humanity, are covered up by the judiciary.

E. PATTERNS OF THE ABDUCTIONS AND ENFORCED DISAPPEARANCES

As stated by the abducted victims in their individual applications and in their statements to the judicial authorities, they were abducted in the middle of the street in broad daylight in black Transporters, which have become a symbol of abduction. The victims are kept for a long period of time in unknown interrogation and torture centres of MIT. There, the victims are subjected to torture, ill-treatment, sexual harassment, insults, threats and beatings in order to obtain the desired statements and are then handed over to law enforcement officers in a planned manner.

It is observed that law enforcement forces, after detaining and arresting the victims as terrorist criminals, bring them before the court in secret. In the first stages, the abducted victims are not allowed to communicate with their families. After the prosecution procedures, they are brought before the criminal judgeships of peace to be arrested. Here, they are interrogated in the presence of a lawyer whom they do not know and with whom they are not allowed to communicate, within the framework of the statements they had previously given under torture, and then they are arrested. Only after their arrest and imprisonment can the abducted victims inform their families.

The nightmares that victims experience during the abduction process continue in prisons. Victims, who are often isolated from other prisoners in prisons, are subjected to systematic unlawful and ill-treatment by the prison administration. In particular, it is known that those who have filed criminal complaints about the abduction incident they have experienced or who have told about these issues in their defence in court, later, have been interviewed and threatened by people who are considered to be members MIT in order to make them retract their statements. They are seriously threatened not to tell their families or lawyers about their experiences in prison. Similarly, their requests to be examined by independent doctors in prisons in order to prove the ill-treatment, beatings and torture they have been subjected to are rejected and they are examined by prison doctors arranged by the prison administration or MIT who will not issue an unfavourable report. Stories of injuries and signs of beatings are not recorded. Most victims were only able to give details of what had happened to them after they had sought refuge in a safe country following their release.

On the other hand, it is observed that for some abducted persons, the process has turned into a disappearance or an unknown perpetrator.¹²³ In this context, many abduction

¹²³ "Türkiye's Transnational Repression: 2023 in Review", January 25, [2024](#)

cases have turned into disappearance cases, especially Sunay Elmas, the victim of the first abduction incident.¹²⁴ In this context, Yusuf Bilge Tunç, who was kidnapped on 06 August 2019, is still missing. In the Amnesty International report, it is stated that *"...the fate and whereabouts of Yusuf Bilge Tunç, the seventh person to disappear under suspicious circumstances in August, was still unclear at the end of the year"*.¹²⁵

F. THE AIM OF THE COMMITTED ABDUCTIONS

The aim is not to initiate a judgement process against these people, but to obtain information through torture and to create a fear effect on the volunteers of the Gülen Movement. One of the most vivid examples of this is the experiences of Mustafa Özben, a lawyer, who was kidnapped by MIT in Ankara in broad daylight and tortured for 92 days.¹²⁶ The documentary *"92 Days in the Dark"* in which Özben describes his experiences was released on 02 December 2023.¹²⁷

Likewise, there is no harm in the publication of the pictures of the abducted persons in such a way that the torture inflicted on them can be seen by the official agency of the state itself.¹²⁸ For example, the photograph of Orhan İnandı, a citizen of Kyrgyzstan, who was abducted on 01 June 2021 and tortured for 37 days, with a broken arm, was shared by Anadolu Agency.¹²⁹

G. CONTINUAL DENIALS

It is known that the applications to the official institutions regarding the kidnapping cases of the Gülen Movement in Türkiye have been inconclusive. The attitude of the state towards these applications is completely inconsistent. At this point, it is seen that cases of kidnapping and disappearance in Türkiye are not recognised. On the other hand, it is seen that the cases of kidnapping from abroad are openly acknowledged at the level of minister and vice-president and are subject to statements in many places, especially in the Parliament, as a

¹²⁴ "Enforced disappearances in Türkiye: an old habit or a new trend? ", February 12, 2021 <https://www.turkishminute.com/2021/02/12/enforced-disappearances-in-Türkiye-an-old-habit-or-a-new-trend/>

¹²⁵ Amnesty International: Human Rights in Türkiye 2019 Assessment, 2020 <https://amnesty.org.tr/public/uploads/files/Türkiye'de%20Insan%20Hakları-2019.pdf>

¹²⁶ "Lawyer abducted by Turkish intel talks about his experience in new documentary", December 1, 2023

¹²⁷ 92 Days in the Dark: Mustafa Özben, Documentary,

¹²⁸ "Abducted and tortured, educator İnandı gives details of his ordeal at first hearing of his trial, November 25, 2021, <https://www.turkishminute.com/2021/11/25/ucted-and-tortured-educator-inandi-gives-details-of-his-ordeal-at-first-hearing-of-his-trial/>

¹²⁹ "Orhan İnandı, FETO's General Responsible for Central Asia, was brought to Türkiye", 05.07.2021,

state success. In other words, while the Erdoğan regime constantly denies any involvement in domestic kidnappings and disappearances, it openly admits that it carried out these kidnappings in relation to the kidnappings abroad.¹³⁰

In the Türkiye section of its 2023 World Report, the HRW highlighted that the National Intelligence Agency, in cooperation with authorities in countries with weak rule of law, organised the abduction and return to Türkiye of individuals allegedly linked to the Gülen Movement and continued to do so after the May 2023 elections. The report specifically emphasised that legal extradition proceedings were ignored by the Tajik authorities when Emsal Koç and Koray Vural were abducted in July and September and brought to Türkiye where they were arrested.¹³¹

As can be seen, since 2016, Türkiye has turned domestic and international abductions and enforced disappearances, which constitute grave violations against humanity, into a state policy.

H. CONTINUED CASES

According to recent reporting on Türkiye, between 10 August 2016 and 15 February 2021, a total of 100 people associated with the Gülen Movement were abducted or unlawfully returned to Türkiye in 53 incidents from 30 countries. Another detailed report on abductions¹³² also includes case details. Similarly, the Stockholm Centre for Freedom,¹³³ which has also reported on this problem, has examined in detail the unlawful operations carried out in many different countries.

Abductions and enforced disappearances against the members of Gülen Movement, which has become a state policy, continued unabated in 2023. In this context;

- **Mehmet Cintosun** was abducted by MIT from Iraq and brought to Türkiye in April 2023, on the allegation that he was a member of the Movement.
- **Emsal Koç**, a resident of Tajikistan since 1994 and a teacher at a Tajik-Turkish high school for 11 years, was abducted on 2 June 2023 by an MIT operation and brought to Türkiye.¹³⁴

¹³⁰ Heymans, Johan: Abductions in Türkiye Today, September 2020, Türkiye Tribunal, https://ccprcentre.org/files/documents/INT_CCPR_ICS_TUR_44931_E.pdf,

¹³¹ HRW: Türkiye Events of 2023,

¹³² Advocates of Silenced Türkiye (AST): Erdoğan's Long Arms, Abductions in Türkiye and Abroad, Sep 2020, <https://silencedTürkiye.org/wp-content/uploads/2020/09/Abductions-Report-September-7-1.pdf>

¹³³ SCF: Erdoğan's Long Arm: The Case of Norway, December, 2017

¹³⁴ <https://stockholmcf.org/turkish-national-illegally-renditioned-from-tajikistan-detained-over-gulen-links/>

- **Koray Vural**, also living in Tajikistan, was abducted and brought to Türkiye on 05 October 2023 by an MIT operation on the allegation that he was a member of the Gülen Movement.¹³⁵
- The MIT abducted **Mustafa Tan** and **Mustafa Bircan** in Algeria on the allegation that they were members of the Gülen Movement and brought them to Türkiye on 27 December 2023.¹³⁶
- Turkish-American political scientist **Prof. Dr. Ahmet T. Kuru** was arrested on 10 January 2024 at the Kuala Lumpur Airport in Malaysia on charges of being a member of the Gülen Movement by an MIT operation and attempted to be taken to Türkiye, but this operation remained at the attempted stage due to the intervention of senior Malaysian officials.¹³⁷

I. CRIMES AGAINST HUMANITY AND ABDUCTIONS

The cases of abductions and disappearances in Türkiye and the torture and ill-treatment practices in the aftermath have been reflected in national and international public opinion. The cases have been confirmed by victim statements, video footage and international reports. Victims have been subjected to torture, ill-treatment, sexual harassment, insults, threats and beatings after abduction.

The cases of abduction, which will be analysed in detail in the relevant section below, show that most of the abductees were subjected to torture, beatings, threats, psychological violence, harassment and ill-treatment when they reappeared. In this context, Gökhan Türkmen and Yasin Ugan confirmed that they were subjected to months of severe torture and ill-treatment. UMIT Horzum was found to have a fractured rib and a burst eardrum when he appeared. When Önder Asan was brought to the police station, it was observed that he had great difficulty in standing and walking; he had to hold on to the walls to walk to the room to see his lawyer. Salim Zeybek was observed to be unable to maintain his balance while sitting.¹³⁸

The EU's progress reports on Türkiye also include findings on the incidents. In the 2018 report, it is stated that *"There are also worrying reports on allegations of abductions and enforced disappearances"*.¹³⁹ The 2019 progress report states that *"Furthermore, cases of abductions and enforced disappearances allegedly carried out by security or intelligence units in many provinces have*

¹³⁵ "Fetö Member Fugitive Koray Vural Caught in Tajikistan by MIT Operation", 05.10.2023,

¹³⁶ "MIT's illegal kidnapping operation in Algeria", 27 December 2023,

¹³⁷ "Attempt to kidnap academic Prof. Ahmet T. Kuru in Malaysia", 11 January 2024,

¹³⁸ Advocates of Silenced Türkiye (AST): Systematic Torture and Ill-Treatment in Türkiye, January, 2020, <https://silencedTürkiye.org/wp-content/uploads/2020/01/SYSTEMATIC-TORTURE-AND-ILL-TREATMENT-IN-TÜRKİYE-January-5th.pdf>

¹³⁹ European Commission: Türkiye 2018 Report, Strasbourg, 17.4.2018 SWD (2018) 153 final, p. 32

*not been adequately investigated. In such cases of abuse, the offence still remains unpunished. Legislation adopted in June 2016 grants judicial privileges to security forces, which increases the risk of impunity”.*¹⁴⁰

The German TV channel ZDF, in a documentary based on interviews with victims and experts, detailed the systematic abductions, disappearances and torture Committed by the suspects.¹⁴¹ One of the most important documents revealing these allegations is the report on the examinations made by the Ankara Bar Association regarding the applications in 2019.¹⁴² The following points were emphasised in the evaluations made by the Ankara Bar Association:

- All of the people involved in the kidnapping allegations are volunteers of the Gülen Movement and are under investigation or prosecution for FETÖ/PDY,
- No results were obtained from the applications made to official institutions regarding missing persons,
- According to the police reports, these people, who were reported missing for months, were handed over to the security units without informing their families,
- The same statements were used in all applications regarding the detention processes, the (negative) statements of the applicants about the physical condition of their relatives (which would justify the concern of torture) were very similar to each other, none of the applicants were allowed to meet with their relatives alone, at least one police officer was present in all of the interviews, and the interviews were recorded in the interviews held after the arrest,
- All the applicants stated that their relatives who had been abducted and found did not want the lawyer brought by the family and that they demanded that all the applications made be withdrawn; likewise, the applicants did not have the opportunity to meet with their private lawyers, who were not known to them but were said to represent their spouses, and with the lawyers appointed through the Criminal Procedural Law system,
- The applicants did not have precise information as to whether their relatives had been subjected to medical examination during their detention; although the detainees persistently stated that there were no allegations of torture or ill-

¹⁴⁰ European Commission: Türkiye 2018 Report, Strasbourg, 17.4.2018 SWD (2018) 153 final, p. 34, <https://ec.europa.eu/neighbourhood-enlargement/sites/default/files/20180417-Türkiye-report.pdf>

¹⁴¹ <https://www.zdf.de/dokumentation/zdfinfo-doku/die-verschleppten-erdogans-geheimes-entfuhrungs-und-folterprogramm-100.html#main-content>

¹⁴² http://www.ankarabarosu.org.tr/upload/HD/Donem65/2020/diger/20200213_ihmrapor.pdf

treatment, in no case were these statements communicated to private lawyers or their families in such a way that no one could see or hear them,

- Failure to conduct effective investigations into allegations of abduction and disappearance,
- That relatives of abducted or disappeared persons are not included in the investigation processes,
- It is stated in the report that the right of the abducted persons to have private meetings with their lawyers was prevented, even during the visit made by the Ankara Bar Association to the relevant persons in prisons, the meeting was recorded on camera and the prison officials attended the meeting in such a way that they could hear the conversations, and the minutes of the statements of Salim Zeybek, one of the abducted persons, were forcibly taken away from the lawyers by the prison officials,
- Abducted persons are not entitled to the assistance of a lawyer of their choice,
- Abducted persons were deprived of the right to be brought immediately before a judge,
- It is emphasised that doubts as to whether abducted persons effectively enjoy their right to access to a physician have not been resolved.

In this report, only the cases of abduction and disappearance that took place in 2019 and were the subject of investigations based on the applications made to the Ankara Bar Association are discussed, and the number of cases that have occurred in Türkiye since 15 July 2016 has reached 30.

HRW made statements on abduction/disappearance cases on its website on 6 August 2019,¹⁴³ 29 April 2020¹⁴⁴ and 2021.¹⁴⁵ It was stated that although there is concrete information on allegations of torture and ill-treatment, Türkiye has not investigated these incidents. *"...in blatant violation of its legal obligations, Türkiye has persistently failed to effectively investigate credible evidence of enforced disappearances,"* said Hugh Williamson, Europe and Central Asia Director at Human Rights Watch.¹⁴⁶⁻¹⁴⁷

In 2019, Amnesty International's 2019 Assessment of Human Rights in Türkiye Report on abduction/disappearance cases in 2019 stated that *"Six men accused of links to Gülen Movement who disappeared in February were suspected of enforced disappearance. They appeared in*

¹⁴³ HRW: Türkiye: Concerns for Disappeared Men Now in Police Custody, August 6, [2019](#)

¹⁴⁴ HRW: Türkiye: Enforced Disappearances, Torture, April 29, 2020, <https://www.hrw.org/news/2020/04/29/Türkiye-enforced-disappearances-torture>

¹⁴⁵ HRW: World Report 2021, Türkiye Events of 2020

¹⁴⁶ HRW: Türkiye: Enforced Disappearances, Torture, April 29, [2020](#)

¹⁴⁷ HRW: In Custody Police Torture and Abductions in Türkiye, October 12, 2017, <https://www.hrw.org/tr/report/2017/10/12/310026>

custody five to nine months after their disappearance. The authorities did not provide any information to their families or the public about how they disappeared, or how they turned up months after their disappearance, five in the Anti-Terror Branch of the Ankara Security Directorate and one in the Antalya Security Directorate. Their families reported that they were emaciated, extremely pale and nervous. They reportedly did not explain what had happened to them while they were missing. After being held in police custody for 12 days, all six were taken to court without informing their families or lawyers and sent to prison to stand trial on terrorism charges".¹⁴⁸

The Working Group on Arbitrary Detention of the United Nations Human Rights Council, in many of its 2020 decisions,¹⁴⁹ on the applications of victims who were subjected to arrest, abduction and disappearance on the grounds of alleged links to the Gülen Movement, has clearly emphasised that the mere mass detention and arrest of people linked to the Gülen Movement, let alone killings and torture, **may constitute crimes against humanity**.

SECTION III:

RESOLUTIONS AND REPORTS OF INTERNATIONAL ORGANISATIONS AND INSTITUTIONS

¹⁴⁸ Amnesty International: Human Rights in Türkiye 2019 Assessment, 2020, <https://amnesty.org.tr/public/uploads/files/T%C3%BCrkiye'de%20%C4%B0nsan%20Haklar%C4%B1-2019.pdf>; Amnesty International: TURKEI 2019, <https://www.amnesty.de/informieren/amnesty-report/tuerkei-tuerkei-2019#section-11764369>

¹⁴⁹ Human Rights Council Working Group on Arbitrary Detention, Opinion No. 51/2020 concerning Arif Komiş, Ülkü Komiş and four minors whose names are known to the Working Group (Malaysia and Türkiye), A/HRC/WGAD/2020/51

A. INCORPORATION OF THE CASES IN APPLICATION TO THE INTERNATIONAL CRIMINAL COURT

A request for an investigation has been submitted to the International Criminal Court in The Hague for acts of crimes against humanity that have been implemented as state policy by the Erdoğan regime in Türkiye in recent years. The application seeks an investigation of the Government of Türkiye for alleged crimes against humanity in its persecution and persecution of dissidents around the world.

In 2023, a delegation of European legal experts compiled a dossier of witness testimonies detailing torture, state-sponsored abductions, disappearances and wrongful imprisonment of some 200,000 people, all of which were found to have been Committed by the Erdoğan regime. The dossier stated that crimes against humanity had been Committed against hundreds of thousands of opponents of the Erdogan regime and that these crimes amounted to a **widespread and systematic attack** against the civilian population, crossing the threshold for the ICC to bring cases against senior officials of the Erdogan regime.¹⁵⁰

In the application to the Court, systematic abductions and disappearances were among the reasons for the application. In this context, 59 cases of enforced disappearances abroad and in Türkiye concerning 109 persons were documented. The press release on the application emphasised that while the Turkish state has always denied its involvement in domestic abductions and disappearances, the authorities have consistently boasted of illegal abductions abroad, and that footage of these abductions has been disseminated to the media.¹⁵¹ In particular, the application referred to 17 cases of enforced disappearance in which victims were abducted from Kenya, Cambodia, Gabon, Albania, Bulgaria, Moldova, Mongolia and Switzerland and brought to Türkiye.

On 9 February 2023, the application to the Office of the Prosecutor of the International Criminal Court was lodged by the Belgian law firm **Van Steenbrugge Advocaten (VSA)**, the Belgium-based non-governmental organisation **Türkiye Tribunal** and the European Association of Judges **Magistrats Européens pour la Démocratie et les Libertés (MEDEL)**, on behalf of a significant number of victims, and by **Prof. Dr. Johan Vande Lanotte**, former Deputy Prime Minister of Belgium and renowned expert on international human rights law.

At a press conference in The Hague, the applicants stated that they were complaining to the ICC against Türkiye for "*crimes against humanity*".¹⁵² Representatives of the applicant organisations and lawyers estimate that 200,000 people have been tortured, disappeared or

¹⁵⁰ "ICC asked to investigate Turkish government over persecution of opponents around the world", Wed 1 Mar 2023

¹⁵¹ "Vande Lanotte challenges Turkish regime before the International Criminal Court", 14-02-22

¹⁵² "Türkiye taken to International Court for 'crimes against humanity'", 2 Mar 2023

imprisoned and convicted without a fair trial in Türkiye. It is also stated in the application that the offences are not only Committed in Türkiye but also in other countries, notably Belgium. The application emphasises that the acts of torture and abductions Committed by the Turkish state authorities since July 2016 may constitute crimes against humanity. Therefore, the VSA, MEDEL and the Türkiye Tribunal sent a letter to the ICC Prosecutor's Office stating that crimes against humanity have been and are being Committed by the Erdoğan regime. The communication includes a list of 1,300 victims of crimes against humanity in Türkiye.

In particular, the application alleges that the Erdoğan regime has organised systematic attacks on the civilian population in support of its government policies. They also claim that the evidence gathered is a deliberate disregard for fundamental principles of international law.

The application to the prosecutor's office of the International Criminal Court requests an investigation into the crimes against humanity Committed by the Erdoğan regime in accordance with Article 15 of the Rome Statute. Although the application includes the acts that constitute crimes against humanity and the victims of these acts, the issue of who will be responsible is left to the outcome of the investigation to be carried out by the prosecutor's office.

While Türkiye does not recognise the International Criminal Court as it is not a party to the Rome Statute, which establishes genocide, crimes against humanity, war crimes and the crime of aggression as the four core international crimes, the applicants, in their VSA, Turkish Tribunal and MEDEL submissions, highlighted a 2019 decision by a chamber of the ICC authorising an investigation into allegations of genocide against the Rohingya by a chamber of the ICC, as the displaced Rohingya had travelled to Bangladesh, a state party to the statute, despite Myanmar not being a party to the treaty. The notification in this context includes evidence of alleged crimes Committed by the Turkish regime in 45 States Parties to the Rome Statute. In particular, cases of kidnappings in Albania, Bulgaria, Moldova and Switzerland are included, as well as cases of discriminatory withdrawal of passports and denial of identity cards in 29 States, including Austria, Belgium, France, Germany and the United Kingdom.

B. ECtHR DECISIONS ON CASES OF ABDUCTION AND DISAPPEARANCE FROM TÜRKİYE

Individual applications have been made to the ECtHR due to the abductions and disappearances carried out by Türkiye through MIT as a state policy in Türkiye and abroad, and the ECtHR, which has evaluated the issue, has issued judgements of violation with important findings and evaluations. The relevant parts of the judgements are summarised below.

1. Özdil and Others v Moldova Judgement (Application No. 42305/18)

In the *Özdil and Others v Moldova* judgment dated 11 June 2019,¹⁵³ the ECtHR ruled that there was a violation of human rights in the application of 5 persons who were detained in Moldova on charges of "FETÖ membership" and sent to Türkiye in a joint operation involving the secret service of this country and MIT. All of the applicants in this case are teachers at a private school in Moldova, some of them have been living in this country since 1993, some of them have Moldovan spouses and their children are Moldovan citizens. The applicants, who had been living in Moldova for a long time and were no longer in contact with Türkiye, were accused of plotting a coup against the Erdoğan regime and were abducted from Moldova.

On the morning of 06 September 2018, seven teachers from Orizont Schools, including the applicants, were detained by plainclothesmen at their homes or on their way to work and taken to an unknown destination. Later in the day, the Moldovan secret service issued several statements about the arrest and removal from Moldova, in cooperation with secret services from other countries, of seven foreigners suspected of links with an Islamic organisation. On the same day, the Turkish press reported that MIT had carried out a successful operation in Moldova in which seven members of the Gülen Movement had been arrested. The fate of the applicants and even their absence in Moldova remained unknown to their families for several weeks. The Moldovan authorities refrained from providing any information concerning them to their families or to the press. It later emerged that, on the very morning of their arrest, the applicants had been taken directly to Chisinau Airport, where a plane chartered for that purpose was waiting for them and which immediately took them to Türkiye.

Pursuant to Rule 41 of the Rules of Court, the ECtHR, taking into account the importance and urgency of the matter, gave priority to this case and concluded the case. Moreover, since the case directly concerns Türkiye, the Court invited Türkiye to intervene in the case, but Türkiye did not accept the invitation to intervene. Although the ECtHR condemned the Moldovan State for the teachers abducted by MIT from Moldova in this case, Türkiye was actually condemned between the lines or in the general reasoning of this condemnation.

The ECtHR found that Moldova had violated Article 5(1) of the European Convention on Human Rights concerning the right to security and liberty and Article 8 concerning family and private life, while finding inadmissible the complaint of a violation of Article 6(1) of the Convention concerning the right to a fair trial.

¹⁵³ *Özdil and Others vs. Moldova*, Application No. 42305/18, K.T: 11/06/2019, [https://hudoc.echr.coe.int/eng#{%22fulltext%22:\[%22%C3%96zdil%22\],%22itemid%22:\[%22001-187660%22\]}](https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22%C3%96zdil%22],%22itemid%22:[%22001-187660%22]})

In its reasoned judgment, the Court emphasised that although the applicants had made it clear in their asylum application in Moldova that they feared prosecution in Türkiye, the fact that they were not given a choice as to which jurisdiction they would be deported to and that they were knowingly handed over directly to the Turkish authorities constituted a violation of human rights. The judgement also found fault with the fact that the Moldovan Office for Migration and Refugees sent the decision on the asylum claim not to the applicants but to their families after deportation.

In the reasoned judgement, it was stated that the deportation of the applicants on a private plane by a joint operation of the Moldovan and Turkish secret services revealed a pre-prepared plan and that the manner of deportation constituted a violation on the grounds that it had no legal basis. In the reasoned judgement, it was noted that the applicants were people who had adapted to the society in Moldova and had families, and it was ruled that the deportation of these persons radically disrupted their private lives and violated the ECHR principle of respect for family and private life.

In the Court's view, in the present case it appears that the Moldovan authorities not only failed to give the applicants a preference of location for deportation, but also deliberately transferred them to the Turkish authorities. The material in the case file also shows that the joint operation of the Moldovan and Turkish secret services was well prepared and planned before 06 September 2018. The fact that the applicants were transported to Türkiye on a plane chartered specifically for that purpose is only one of the elements supporting this point of view. The facts of the case also show that the operation was designed and organised in such a way as to take the applicants by surprise so that they did not have the time and means to defend themselves. The Court considers that depriving the applicants of their liberty in this way amounted to an unlawful transfer of persons from the territory of the respondent State to Türkiye, circumventing all the guarantees afforded to them by domestic and international law. There was therefore a violation of Article 5 § 1 of the Convention.

The Court reiterates that the Convention does not guarantee an alien the right to enter or reside in a particular country. However, the expulsion of a person from a country in which close family members live may amount to a violation of the right to respect for family life guaranteed by Article 8.1 of the Convention. The Court notes that Moldovan law contains provisions regulating expulsion and extradition. The applicants were, however, removed from Moldova by means of an unlawful transfer which, as established above, circumvented the guarantees offered by domestic and international law. This forced transfer, which led to a fundamental disruption of the applicants' private and family life, was not "*in accordance with the law*" within the meaning of Article 8 § 2 of the Convention, in that it lacked a sufficient legal basis. Since the applicants did not enjoy the minimum level of protection against arbitrary treatment by the authorities, there was, in the Court's view, a violation of Article 8 of the

Convention as the interference with their private and family life was not in accordance with a "law" meeting the requirements of the Convention.

In its judgment, the Court did not use any word that could mean "terrorist organisation" for the Gülen Movement and stated separately that this accusation was based on the Government's allegation. It was explained in detail that the abduction had been planned by the intelligence services of the two countries in violation of the law and international conventions.

The ECtHR did not consider it reasonable for the Moldovan Migration and Asylum Office to reject the applicants' requests for asylum on the basis of a secret note from the Moldovan secret service stating that they posed a threat to national security, when it had detailed analytical information on the treatment of followers of the Gülen movement in Türkiye and found that the Turkish authorities had committed harassment, threats, arbitrary detention and other serious human rights violations in respect of opposition leaders and members of the Gülen movement. As regards the Moldovan government's argument that the applications made by the applicants' spouses had been rejected due to the applicants' failure to provide a valid power of attorney and that domestic remedies had therefore not been exhausted, the ECtHR rejected this objection, stating that it was unreasonable to meet such a request from applicants who had been detained and denied the opportunity to be reminded of their rights and given a proper opportunity to litigate.

The ECtHR has taken into account the international reactions arising from the applicants' deportation to Türkiye in violation of international legislation. This shows that the ECtHR, when examining a case, attaches importance to the views of certain organisations such as the UN, the CoE, the Venice Commission and Human Rights Associations, is influenced by them and even includes their findings in its reasoning. Therefore, it is very important for all victims to use such information and documents in their applications.

The ECtHR notes that on 15 October 2018, the European Parliament published a report on the implementation of the EU Association Agreement with Moldova, in which Moldova was strongly condemned for citizens abducted due to allegations related to the Gülen Movement. Again, the ECtHR noted that Amnesty International had stated that *"the Moldovan authorities have not only violated the rights of these persons by deporting them once, but have also put them in a situation where they could more quickly generate human rights violations such as unfair trials in the future. Furthermore, the recent arrests in Moldova follow a pattern of political reprisals against Turkish citizens living abroad by the increasingly repressive government of Recep Tayyip Erdoğan..."*

When the ECtHR's case-law on deportation is analysed, it is possible to see that the ECtHR has frequently ruled on the violation of Article 3 of the Convention on the prohibition of torture and ill-treatment. However, since the applicants did not make a request in this

respect in the application petition, the Court did not enter into this examination. Nevertheless, it is seen in the judgement that the Court accepted that these persons would be ill-treated in Türkiye. It found that the Moldovan Immigration Office had also accepted this and concluded that the extradition was unlawful.

The Court notes that in the present case some of the applicants have lived in Moldova for more than twenty years, that they reside there legally, that they have employment, that some of them have families with Moldovan nationals, that some of the couples have children with Moldovan nationals, that contrary to the alleged intelligence note there is no evidence that they are involved in any criminal offence, Finding that it was not disputed by the Government that the applicants had been integrated into Moldovan society and had a genuine family life there, it found that the exclusion of the applicants from Moldovan territory had put an end to that integration and radically disrupted their private and family life.

The ECtHR analysed Moldovan law, international conventions, the ECHR, international organisations' reports, the facts in detail and referred to its previous case-law to find a violation, which once again demonstrates the need to use every detail in applications. For example, in order to find out their whereabouts, some members of the applicants' families, colleagues at school and human rights defenders spent the day at the airport in order to stop the deportation of the applicants to Türkiye and this was recorded in the judgement.

As a result, the UN and ECtHR rulings have established that Turkish authorities have carried out cases of *abduction*. If applications are made, there will be precedent judgements for other abductions. These should also be considered as justified and legal steps that will ensure the accountability of those responsible for **crimes against humanity**.¹⁵⁴

2. Şentürk and Others v Azerbaijan

In respect of 4 applications, lodged on different dates and in separate files, concerning kidnappings in Azerbaijan by unlawful operations of the Turkish National Intelligence Organisation, the Court considers it appropriate to examine the applications jointly as their subject-matter is similar. The applicants complained, mainly under Articles 3 and 5 of the Convention, that their detention and subsequent removal from Azerbaijan to Türkiye violated their Convention rights.¹⁵⁵

The cases concerning the applicants are as follows:

¹⁵⁴ Heymans, Johan: Abduction In Türkiye Today, Türkiye Tribunal, July 2021, pp.90-92, https://Türkiyetribunal.org/wp-content/uploads/2021/11/AbductionsinTürkiye_Türkiye-Tribunal-Report_FINAL.pdf

¹⁵⁵ ECtHR Shenturk and Others v. Azerbaijan, Application No: 41326/17, K.T: 10/03/2022, [https://hudoc.echr.coe.int/eng#{%22tabview%22:\[%22document%22\],%22itemid%22:\[%22001-216016%22\]}](https://hudoc.echr.coe.int/eng#{%22tabview%22:[%22document%22],%22itemid%22:[%22001-216016%22]})

- Taci Şentürk (Application No. 41326/17)

The applicant Taci Şentürk (Application No. 41326/17), who worked in Azerbaijan in private schools affiliated with the Gülen Movement, was granted a temporary residence perMIT by Azerbaijan, which was regularly extended. On 9 March 2017, the temporary residence perMIT was again extended until 9 September 2017. On 3 June 2017 the Turkish authorities informed their Azerbaijani counterparts through Interpol that the applicant's passport had been cancelled and therefore requested the Azerbaijani authorities to arrest and deport the applicant to Türkiye. On 8 June 2017, the Azerbaijani Ministry of Interior received a letter from the Turkish Embassy in Baku stating that the applicant should be arrested as a suspect for participation in an armed terrorist organisation based on the decision of the Konya Criminal Court No. 2. The applicant was arrested on 7 June 2017 at around 14.00 hours and brought to the temporary detention centre of the Organised Crime Department of the Ministry of Interior, where he was informed that he would be taken to Heydar Aliyev International Airport in Baku and deported to Türkiye at 20.30 hours on the same day. The applicant informed the officers at the OCD of his intention to seek asylum in Azerbaijan on the grounds that he would be persecuted in Türkiye and repeatedly asked them not to deport him. However, his requests were ignored and the applicant was deported to Türkiye on 8 June 2017. On 23 June 2017, the State Border Service informed the applicant's wife that her husband had been deported to Türkiye on 8 June 2017.¹⁵⁶

- İsa Özdemir (Application No. 8098/18)

The applicant, İsa Özdemir moved to Azerbaijan in 1992, where he first worked as a teacher in private schools affiliated with the Gülen Movement, and then in different companies affiliated with the Gülen Movement. On 9 October 2017, while travelling to Georgia, the applicant was stopped by Azerbaijani border guards and informed that a travel ban had been imposed. In December 2017, the applicant applied to the State Migration Service (SMS) for an extension of his residence visa. On 24 January 2018, the SMS rejected the applicant's request and cancelled his residence perMIT. By 2 February 2018 he was ordered to leave the country. On 2 February 2018, the applicant applied for asylum to the United Nations High Commissioner in Azerbaijan (UNHCR) and the UNHCR issued him a letter of protection as a person of concern.

The applicant was summoned to the Chief Public Prosecutor's Office on 2 February 2018 to be questioned as a witness in the criminal case against FETÖ/PDY. The questioning took place on 5 February 2018. On 8 February 2018, the applicant was arrested by the police

¹⁵⁶ ECtHR Shenturk and Others v. Azerbaijan, Application No: 41326/17, K.T: 10/03/2022, [https://hudoc.echr.coe.int/eng#{%22tabview%22:\[%22document%22\],%22itemid%22:\[%22001-216016%22\]}](https://hudoc.echr.coe.int/eng#{%22tabview%22:[%22document%22],%22itemid%22:[%22001-216016%22]})

and taken to the Narimanov District Court. On the same date, the court ordered the applicant to be detained for forty days pending extradition. The decision was based on an arrest warrant issued against the applicant by the Ankara 2nd High Criminal Court. On 15 February 2018, the Baku Court of Appeal rejected the appeal and upheld the decision of the Narimanov District Court of 8 February 2018.

On 12 July 2018, the Baku Court of Serious Crimes rejected the applicant's extradition to Türkiye and ordered his release. The Court ruled that the applicant's extradition to Türkiye was impossible as he had been granted refugee status in Azerbaijan by the UNHCR. From the judgment of 12 July 2018, it is understood that representatives of the Ministry of Justice and the Prosecutor General's Office also stated at the hearing that the applicant should not be extradited to Türkiye on the grounds that he had been granted refugee status by the UNHCR. However, despite this, the applicant was not released and was instead handed over to SMS officers who deported him from Azerbaijan on the same day.

- Ayhan Seferoğlu (Application No. 8147/18)

The applicant, Ayhan Seferoğlu moved to Azerbaijan in 1995, where he first worked as a teacher in private schools affiliated with the Gülen movement and then in different companies affiliated with the Gülen movement. In 2007 the applicant was issued with a permanent residence card.

On 7 October 2017, while travelling to Georgia, the applicant was stopped by Azerbaijani border guards and informed that a travel ban had been imposed on him. On 2 February 2018, the applicant was summoned to the Prosecutor General's Office for questioning as a witness in the criminal case against Gülen Movement. The questioning took place on 5 February 2018. The subsequent process was similar to that of Isa Özdemir and on 19 February 2018 the SMS decided to deport the applicant to Türkiye.

- Erdoğan Taylan (Application No. 8384/18)

The applicant Erdoğan Taylan moved to Azerbaijan in 1993, where he worked first as a teacher in private schools affiliated with the Gülen Movement and then in various companies affiliated with the Gülen Movement. On 3 March 2017, the applicant applied to SMS for an extension of his residence permit. On 11 April 2017, SMS accepted his request and extended his residence permit until 11 April 2018.

While travelling to Georgia on 9 October 2017, the applicant was stopped by Azerbaijani border guards and informed that a travel ban had been imposed. On 2 February 2018, the applicant was summoned to the Prosecutor General's Office for questioning as a witness in the criminal case against FETÖ/PDY. The interrogation took place on 5 February 2018. On 8 February 2018, the applicant was arrested and brought before the Binagadi District Court, which ordered his extradition. On 9 February 2018, the applicant's wife applied for

asylum on his behalf. On 19 February 2018, the SMS rejected the asylum application and cancelled the applicant's residence permit. On the same day, the SMS ordered the applicant's deportation under Article 79.1.1 of the Migration Act.

The ECtHR, evaluating the files together, states that no extradition proceedings were initiated against the first applicant Taci Şentürk (Application No. 41326/17); the second applicant İsa Özdemir (Application No. 8098/18) was deported from Azerbaijan in flagrant violation of the decision of the Baku Serious Crimes Court of 12 July 2018 refusing his extradition. As regards the third applicant, Ayhan Seferoğlu (Application No. 8147/18), and the fourth applicant, Erdoğan Taylan (Application No. 8384/18), the Court finds that they were expelled from Azerbaijan while extradition proceedings were pending, thus depriving them of the opportunity to effectively challenge the lawfulness of their extradition. In conclusion, the Court held on 10 March 2022 that the complaints under Article 3 and Article 5 § 1 of the Convention were admissible, that there had been a violation of their rights and awarded each applicant EUR 9000 in compensation.

3. Pending Applications at the ECtHR

A number of applications to the ECtHR concerning kidnappings carried out by Türkiye are pending examination. Since these applications are directly related to the subject matter, they are included here.

a. Zehra Genç Türkmen v Türkiye (Application No: 54373/19)

The application concerns the alleged abduction and disappearance of the applicant's husband, Gökhan Türkmen, on 7 February 2019 in Antalya. The applicant's husband was accused of having links with the Gülenist Movement. The applicant complained under Articles 2, 3 and 5 of the Convention about the lack of an effective investigation into Mr Türkmen's disappearance.¹⁵⁷ The following questions were addressed to the Government of Türkiye in connection with the application:

1. Has the applicant exhausted all domestic remedies as required by Article 35 § 1 of the Convention? In particular, can the individual application to the Constitutional Court be regarded as an effective remedy within the meaning of Article 35 § 1 of the Convention in respect of the applicant's complaints under Articles 2, 3 and 5 of the Convention?

2. In the present case, has the applicant's wife's right to life guaranteed by Article 2 of the Convention been violated? In particular, was she abducted by State agents on 7 February 2019, as alleged?

¹⁵⁷ Zehra Genç Türkmen v. Türkiye, Application No: 54373/19, [https://hudoc.echr.coe.int/eng#{%22appno%22:\[%2254373/19%22\],%22itemid%22:\[%22001-202966%22\]}](https://hudoc.echr.coe.int/eng#{%22appno%22:[%2254373/19%22],%22itemid%22:[%22001-202966%22]})

3. In accordance with their procedural and positive obligations under Article 2 of the Convention, did the authorities conduct an effective investigation? (see *Salman v. Türkiye* [GC], no. 21986/93, § 104, ECHR 2000-VII and *Osmanoğlu v Türkiye*, no. 48804/99, §§ 77-84, 24 January 2008)

In this context;

3.1. What steps are being taken by the investigating authorities, in particular the relevant prosecutors, to find the husband of the applicant who was allegedly abducted in Antalya?

3.2. Have the records of public and private security cameras around the scene of the incident been collected and analysed? If the answer is in the affirmative, what measures have been taken to follow up on these clues?

4. Has there been a violation of Article 5 of the Convention in respect of the disappearance of the applicant's wife? (*Çiçek v Türkiye*, no. 25704/94, §164, 27 February 2001)

The application is still pending and has not been decided by the Court.

b. Sümeyye Yılmaz and Others v Türkiye

The application concerns the alleged abduction and disappearance of the applicants' relative Mehmet Yılmaz on 19 February 2019.¹⁵⁸ Mehmet Yılmaz was convicted by the Erdoğan regime of being a member of a terrorist organisation designated as FETÖ/PDY by the Erdoğan regime for his alleged membership of the Gülen Movement and sentenced to 6 years and 3 months in prison. The applicant complained, under Articles 2, 3 and 5 of the Convention, about the lack of an effective investigation into Mr Yılmaz's disappearance. The following questions were addressed to the Government of Türkiye in connection with the application:

1. Have the applicants exhausted all domestic remedies as required by Article 35 § 1 of the Convention? In particular, can the individual application to the Constitutional Court be regarded as an effective remedy within the meaning of Article 35 § 1 of the Convention in respect of the applicants' complaints under Articles 2, 3 and 5 of the Convention?

2. In the present case, has the applicants' relative's right to life guaranteed by Article 2 of the Convention been violated? In particular, was he allegedly abducted by State agents on 19 February 2019?

3. In accordance with their procedural and positive obligations under Article 2 of the Convention, did the authorities conduct an effective investigation and take the necessary

¹⁵⁸ ECtHR *Sümeyye Yılmaz and Others v. Türkiye*, Application No: 30957/19, [https://hudoc.echr.coe.int/eng# {%22tabview%22: \[%22document%22\],%22itemid%22:\[%22001-196335%22\]}](https://hudoc.echr.coe.int/eng# {%22tabview%22: [%22document%22],%22itemid%22:[%22001-196335%22]})

measures to find the applicants' relative and protect his life? (see *Salman v. Türkiye* [GC], no. 21986/93, § 104, ECHR 2000 § VII and *Osmanoğlu v Türkiye*, no. 48804/99, §§ 77-84, 24 January 2008)

In this context;

3.1. What steps are being taken by the investigating authorities, in particular the relevant prosecutors, to find the relative of the applicants allegedly abducted in Ankara?

3.2. Have the records of public and private security cameras around the scene of the incident been collected and analysed? If the answer is in the affirmative, what measures have been taken to follow up on these clues?

4. Has there been a violation of Article 5 of the Convention in respect of the disappearance of the applicant's brother? (*Çiçek v. Türkiye*, no. 25704/94, §164, 27 February 2001)

The Court also requested the Government of Türkiye to provide a copy of the investigation file.

C. INTERNATIONAL ORGANISATIONS AND INSTITUTIONS THAT INCLUDE THE CASES AGAINST THE GÜLEN MOVEMENT IN THEIR REPORTS

1. The International Community's Perspective on Incidents

Abductions as a state policy have provoked the reaction of international institutions and organisations, many of which have addressed this issue in their reports, declarations and resolutions. The international community has expressed its concern at every opportunity about the abduction of members of the Gülen Movement by the Turkish Government. Some international organisations and governments have taken action in response to the abduction of members of the Gülen Movement. For example, the United Nations Working Group on Enforced or Involuntary Disappearances has identified cases of enforced disappearances in which victims were abducted from various countries and taken back to Türkiye for alleged links to the Gülen Movement.¹⁵⁹ Furthermore, some countries have refused to extradite members of the Gülen Movement to Türkiye, citing concerns about human rights violations. The international community has expressed concern at every opportunity about Türkiye's practices, which have amounted to a rogue state, and called for respect for human rights and the rule of law.¹⁶⁰

¹⁵⁹ UK Visas and Immigration: Country policy and information note: Gülenist movement, Türkiye, October 2023 (accessible), Updated 26 October 2023

¹⁶⁰ "Türkiye's Transnational Repression: 2023 in Review", January 25, 2024

According to various reports by international institutions and organisations, MIT has been implicated in the abduction of members of the Gülen Movement in Türkiye and abroad.¹⁶¹ The Government of Türkiye has been accused of using cross-border repressive tactics, including the abduction and transfer of alleged members of the Gülen movement without adequate fair trial.¹⁶² The United Nations Working Group on Enforced or Involuntary Disappearances has noted that at least 100 persons suspected of links to the Gülen Movement have been subjected to enforced disappearance.¹⁶³ Although the Government of Türkiye denies the existence of torture and internal abductions, the international community considers international abductions carried out by agents of the Turkish State to be "widespread and systematic".¹⁶⁴ The international community has called for an end to these practices and urged Türkiye to respect human rights and the rule of law. Some countries have also refused to extradite Gülen Movement volunteers to Türkiye, citing concerns about human rights violations.

In the following section, some of the institutions and organisations that include abductions of members of the Gülen Movement in their reports will be presented.

2. Resolutions and Reports of United Nations Affiliated Agencies and Organisations

a. United Nations Human Rights Committee Working Group on Arbitrary Detention

The United Nations Working Group on Arbitrary Detention has found violations in almost all of the appeals of Gülen Movement volunteers who were unlawfully brought to Türkiye by the Erdoğan regime under the guise of kidnapping, unlawful deportation or extradition.

aa. Decision Arif Komiş and Ülkü Komiş

The United Nations Working Group on Arbitrary Detention ruled that the arrest, detention and forced return of Arif Komiş, Ülkü Komiş¹⁶⁵ and their four children to Türkiye

¹⁶¹ "Erdoğan's long arm in Europe", October 7, 2020, <https://www.turkishminute.com/2020/10/07/erdogans-long-arm-in-europe/>

¹⁶² "Türkiye abducts two alleged Gülen followers from Algeria", December 28, [2023](#)

¹⁶³ UK Visas and Immigration: Country policy and information note: Gülenist movement, Türkiye, October 2023 (accessible), Updated 26 October 2023

¹⁶⁴ O'Malley, Brendan: "Torture, prison, dismissal used to silence academia", 25 September 202 <https://www.universityworldnews.com/post.php?story=20210925064430564>

¹⁶⁵ UN Human Rights Council Working Group on Arbitrary Detention, Opinion No. 51/2020 concerning Arif Komiş, Ülkü Komiş and four minors whose names are known to the Working Group (Malaysia and Türkiye), https://www.ohchr.org/sites/default/files/Documents/Issues/Detention/Opinions/Session88/A_HRC_WGAD_2020_51_Advance_Edited_Version.pdf

on 28-29 August 2019 in Malaysia was arbitrary and contrary to international human rights norms and standards.

On 28 August 2019, at approximately 23:30 local time, around 30 police officers raided the house where Arif Komiş and his family were residing in Kuala Lumpur. Plainclothes police officers detained Arif Komiş, his wife and four young children. The Komiş family were told by four police officers that their passports had been cancelled by the Turkish government and that they had five minutes to prepare for deportation to Türkiye. Arif Komiş was placed in handcuffs in a police car and driven for approximately two to three hours. Ülkü Komiş and her four young children were detained at the Putrajaya Immigration Office. The members of the Komiş family were forcibly detained at Putrajaya Immigration without being brought before a court, without any possibility to challenge the unlawfulness of their detention. Arif Komiş was held in Malaysian custody until the following day, when he was transferred directly to the airport and forcibly taken to Türkiye on a plane reportedly belonging to MIT. Mr. Komiş's medical report on admission to prison confirmed that he had been tortured at the police station. Ülkü Komiş and her four young children were also forcibly and illegally taken to Türkiye.

An application was made to the Working Group due to these unlawful practices. The Working Group assessed the application and pointed to the responsibility of the Malaysian government for the arrest, detention and deportation of the Komiş family and concluded that *"the UN Working Group on Detention considers that the Malaysian government is responsible for its own actions and subsequent rights violations in Türkiye"*.

The decision also emphasised that the arrest and deportation of Ülkü Komiş and her four young children violated Article 37 (b) of the Convention on the Rights of the Child, which states that *"States Parties shall [...] ensure that no child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be lawful and shall be used only as a last resort and for the shortest appropriate period of time"*.

The Working Group's decision also stated that Arif Komiş's links to the Gülen Movement, opening an account at Bank Asya and using the ByLock communication application alone would not constitute evidence of "membership of a terrorist organisation"; *"There is no explanation as to how Arif Komiş's alleged use of ByLock constitutes an offence. The government has not provided any evidence that Arif Komiş is indeed a member of a terrorist organisation, either because he has a bank account at Bank Asya or because he lived in a dormitory affiliated with the Gülen movement years ago"*.

Pointing to a significant increase in the number of cases of arbitrary detention in Türkiye in recent years, the UN Working Group noted that widespread and systematic imprisonment and other serious deprivations of liberty in violation of international law may constitute *crimes against humanity*.

bb. Decision for Kaçmaz Family

Mesut Kaçmaz, Meral Kaçmaz and their children, who work as teachers at Pak-Turk schools in Pakistan, had asylum seeker documents preventing their extradition to Türkiye. The Kaçmaz family were forcibly detained by plainclothes Pakistani police who raided their home in the early hours of 27 September 2017 and held incommunicado in a military barracks. The applicants' relatives appealed to the court on 28 September 2017 and the court ruled that the family should not be deported. However, on 14 October 2017, the Kaçmaz family were forcibly deported to Türkiye. Upon arrival in Türkiye, Mr and Mrs Kaçmaz were detained on suspicion of FETÖ/PDY membership and Mr Kaçmaz was taken to a separate location. Their children were taken from the police station by friends of the family. The Government reported that Mr Kaçmaz pleaded guilty and was arrested on 16 October 2017. Mrs Kaçmaz was also arrested. Both applicants were prosecuted.

The Working Group found that the Government of Pakistan violated the Kaçmaz family's right to protection against arbitrary arrest and detention (§ 46).¹⁶⁶ The inability of the Kaçmaz family to challenge their detention in person violated their right to an effective remedy (§ 47). The Working Group concluded that their deprivation of liberty between 27 September 2017 and 14 October 2017 was arbitrary under Category I (§ 49). It was also considered that the Government of Pakistan Committed grave violations of the right to a fair trial when apprehending, detaining and deporting the Kaçmaz family (§ 50). Persons should not be deported to another country where there are substantial grounds for believing that their life or liberty would be endangered or that they would be subjected to torture or ill-treatment (§ 54). Various organs of the United Nations have documented widespread human rights violations in Türkiye, in particular in the aftermath of the attempted coup (§ 55). The Government of Pakistan should have taken this information into account (§ 56).

¹⁶⁶ UN Human Rights Council Working Group on Arbitrary Detention, Opinion No. 11/2018 concerning Mesut Kaçmaz, Meral Kaçmaz and two minors (whose names are known by the Working Group) (Pakistan and Türkiye), A/HRC/WGAD/2018/11, https://www.ohchr.org/sites/default/files/Documents/Issues/Detention/Opinions/Session81/A_HRC_WGAD_2018_11.pdf

The Government of Pakistan also breached its obligation not to deport the Kaçmaz family to another country where there were substantial grounds for believing that they would be in danger of torture or other ill-treatment. The Government of Pakistan also breached their obligation to ensure that aliens lawfully present on their territory were deported only in accordance with a decision lawfully reached and to allow them to have their deportation reviewed and represented before a competent authority (§ 57).

The Working Party concluded that the violations of the right to a fair trial were of such gravity as to render the deprivation of liberty of the Kaçmaz family arbitrary under Category III (§ 60). Furthermore, the Working Group found that the Government of Pakistan, at the request of the Turkish Government, held the Kaçmaz family on the grounds of prohibited discrimination and that the case fell within Category V (§ 61).

On the other hand, the Working Group found that the Turkish Government was jointly responsible with the Government of Pakistan (§ 69). The Working Party considered that the Turkish Government had failed to provide a satisfactory explanation as to how these statements (that Mr Kaçmaz had downloaded an encrypted communication programme and that information about the structure had been shared therefrom), if made of Mr Kaçmaz's free will, could be considered to indicate membership of an armed terrorist organisation or that he had committed a criminal offence, or how criminal charges involving the use of an encrypted programme could be compatible with the right to freedom of expression or association (§ 72).

As the Council of Europe Commissioner for Human Rights has noted, it is generally accepted that it is rare for a person to have no contact or association with the Gülen Movement in one way or another (§ 73). The Commissioner for Human Rights has accordingly pointed to the need to distinguish between those involved in unlawful activities and those who, without being aware of their readiness to engage in violence, sympathise with and support the Movement or are members of organisations with legally established links to the Movement (§ 74).

The Working Group finds that it has not been established that the detention and arrest of Mesut Kaçmaz and Meral Kaçmaz had a legal basis, nor that their rights were recognised. The Working Group concludes that the applicants' detention is arbitrary under Categories I and III. It calls on the Government of Türkiye to release them immediately and unconditionally and to ensure that the right of the Kaçmaz family to leave Türkiye is respected (§ 76).

For reasons similar to those stated in relation to the Government of Pakistan, the Working Group considers that the Government of Türkiye deprived Mr and Mrs Kaçmaz of their liberty on the grounds of their political or other opinion in violation of Category V (§ 77).

As the two minors are not under investigation in Türkiye in connection with any criminal matter, the Working Group finds that there is no legal basis for their short-term

detention and that they have not been afforded any of the fundamental aspects of a fair trial. The Government of Türkiye has breached its obligation to ensure that the detention of the two minors is not unlawful or arbitrary and is a measure of last resort. Their detention therefore falls within Categories I and III (§ 79).¹⁶⁷

cc. Mustafa Ceyhan Decision

On 26 April 2018, the applicant was abducted and held in an unknown place by Azerbaijani officials on 26 April 2018 as he was leaving the courthouse after the hearing in which Türkiye's deportation request was rejected. During the detention, the applicant was subjected to electric shocks and his family was threatened. The applicant was forcibly returned to Türkiye on 27 April 2018 and arrested on the same day on charges of FETÖ/PDY membership based on two previous decisions. His relatives did not receive any information about his whereabouts for several weeks. The Working Group,¹⁶⁸ which considered the application, found that Mustafa Ceyhan had been abducted by Azeri officials without following any legitimate legal procedure and that this constituted a violation of his right to protection from arbitrary arrest and detention (§ 64). Mustafa Ceyhan was also held in a secret place without being allowed to see others. Such detention violated his right to be brought before a court and to challenge the lawfulness of his detention before a court (§ 65).

The Working Group considered that there was no legal basis for Ceyhan's arrest, detention and deportation and that his detention between 26 April 2018 and 27 April 2018 was arbitrary under Category I (§ 67). It also considered that the Government of Azerbaijan had Committed serious violations of Mr Ceyhan's right to a fair trial (§ 68). Firstly, he was placed in a secret place of detention without his whereabouts being made known to his relatives and without his detention being recognised (§ 69). Secondly, Mr Ceyhan's secret capture, detention and deportation did not meet minimum international fair trial standards (§ 71).

According to the working group, several United Nations bodies have documented widespread human rights violations in Türkiye, in particular since the attempted coup d'état of July 2016 (§ 73). The Government of Azerbaijan should have taken this information into account in its decision to arrest, detain and deport Mr Ceyhan (§ 74). The Government of Azerbaijan also breached its obligation not to return Mr Ceyhan to another State where there were substantial grounds for believing that he would be in danger of being subjected to torture

¹⁶⁷ Justice Square: United Nations Resolutions on Rights Violations after 15 July, December 2023, p.7, <https://justicesquare.org/15-temmuz-baglaminda-birlesmis-milletler-tarafindan-verilen-kararlar/>

¹⁶⁸ UN Human Rights Council Working Group on Arbitrary Detention, Opinion No. 10/2019 concerning Mustafa Ceyhan (Azerbaijan and Türkiye), A/HRC/WGAD/2019/10, 26 June 2019, <https://documents.un.org/doc/undoc/gen/g19/190/83/pdf/g1919083.pdf?token=JVFQ4Ns4iLAOKr4m25&fe=true>

or other ill-treatment (§ 75). The Working Group considers that, in addition to its own actions, the Government of Azerbaijan is responsible for subsequent violations of rights in Türkiye (§ 77).

The Working Group considers that these violations of the right to a fair trial are of such gravity as to render Mr Ceyhan's deprivation of liberty arbitrary under Category III (§ 78). The Working Group further finds that Mr Ceyhan was held at the request of the Turkish Government on the basis of prohibited discrimination and that the case falls under Category V (§ 79).

On the other hand, the Working Group considers that the Turkish authorities had knowledge of Ceyhan's clandestine return to Türkiye. The Working Group considers that there are strong grounds to believe that the Turkish Government cooperated with other States in the forcible return of Turkish nationals on terrorism charges, in some cases outside the protection of the law (§ 83). The Working Party therefore finds that the Government of Türkiye, together with the Government of Azerbaijan, were responsible for Mr Ceyhan's abduction and deportation to Türkiye without any legal basis (§ 84).

The arrest warrants against Mustafa Ceyhan had to be executed in accordance with a procedure prescribed by law. However, the abduction, ill-treatment and forcible transfer of a person to Türkiye cannot, under any circumstances, be considered a procedure prescribed by law. The Working Group therefore considers that Ceyhan's detention on 27 April 2018 was carried out in flagrant violation of Article 9.1 of the Convention and falls within Category I (§ 88).

No details of the offences allegedly Committed by Mustafa Ceyhan were provided, nor was any information or evidence provided as to his alleged activities as a member of Gülen Movement (§ 90). The Working Group therefore finds that the Turkish Government failed to establish that there was a legal basis for Ceyhan's detention and arrest. This is a further violation which renders Mr Ceyhan's Category I detention and arrest arbitrary (§ 93). The Working Group also found that Mr Ceyhan was deprived of his right to prepare his defence with the assistance of a lawyer of his own choice and that his detention was therefore arbitrary under Category III (§ 96).

On similar grounds as explained above in relation to the Government of Azerbaijan, the Working Group considered that the Turkish Government deprived Mr Ceyhan of his liberty on the grounds of his political or other opinion in violation of Category V (§ 98).

dd. Kahraman Demirez, Mustafa Erdem, Hasan Hüseyin Günakan, Yusuf Karabina, Osman Karakaya and Cihan Özkan

The applicants, who worked as teachers and doctors in Kosovo, were detained on 29 March 2019 and forcibly taken to Pristina Airport, where they were handed over to the Turkish

authorities. They were subsequently brought to Türkiye and brought before a judge and arrested on 11 April 2019. The applicants were charged with working as teachers in schools affiliated with the Gülen Movement, having accounts in Bank Asya and using the ByLock application. The Kosovo Ombudsman and the investigation commission established in the Kosovo Parliament, which examined the deportation, found that the treatment of the applicants led to various violations of law and rights.¹⁶⁹

According to the Working Group, it was clear that the Turkish authorities could not operate on Kosovo territory without the consent of the Kosovo authorities (§ 75). It was the obligation of the Kosovo authorities to ensure that any deportation followed legal procedures. The Working Group is unable to assess whether deportation procedures were followed in the present case (§ 76). As regards Mr Günakan, it was stated that he had been confused with another person. The Working Group considered that no legal basis could be advanced for Mr Günakan's detention and subsequent forcible removal from Kosovo (§ 79). As these six persons could not challenge their detention, their right to an effective remedy was also violated (§ 80).

The Working Party therefore found that the applicants' detention in Kosovo by agents of the Kosovo Intelligence Service was arbitrary under Category I (§ 81). It is stated, and not denied by the Kosovo authorities, that the six were detained at the request of the Turkish authorities for deportation, taken to Pristina Airport and handed over to the Turkish authorities for deportation. These events cannot be said to constitute a properly conducted deportation procedure. The Kosovo authorities therefore breached their obligations under Article 9 of the Universal Declaration of Human Rights. As these six persons were detained without due regard to established deportation procedures and thus deprived of their right to a fair trial, the Working Group also found that their detention was arbitrary under Category III (§ 82).

In its decision, the Working Group considered that the Kosovo authorities were also responsible for subsequent violations of rights in Türkiye (§ 83). The Working Group emphasised that it was concerned about the manner in which these six persons were removed

¹⁶⁹ UN Human Rights Council Working Group on Arbitrary Detention, Opinion No. 47/2020 concerning Kahraman Demirez, Mustafa Erdem, Hasan Hüseyin Günakan, Yusuf Karabina, Osman Karakaya and Cihan Özkan (Türkiye and Kosovo1) *, A/HRC/WGAD/2020/47, 25 September 2020, https://www.ohchr.org/sites/default/files/Documents/Issues/Detention/Opinions/Session88/A_HRC_WGAD_2020_47_Advance_Edited_Version.pdf

from Kosovo and the fact that their families and lawyers were not informed of their removal to Türkiye (§ 84).

On the other hand, in its assessment of Türkiye, the *Working Group* noted that Türkiye was responsible for the arbitrary detention and detention of these six individuals in Kosovo (§ 90). In the present case, even if any of these six persons had used the ByLock application, it is clear that this should be considered within the scope of freedom of expression. The Working Party regretted that the views expressed in its case-law had not been implemented by the Turkish authorities and that the present case followed the same motive (§ 96). The Working Party concluded that the applicants' detention and detention arose from the exercise of their rights and fell within Category II (§ 97).

As regards the finding that the applicants' deprivation of liberty was arbitrary under Category II, the Working Group emphasises that none of these six persons should have been tried. However, three of them have been convicted and the trial of the other three is ongoing (§ 98). The Government of Türkiye had the opportunity to have them lawfully extradited from Kosovo in accordance with normal procedures; however, it chose not to do so and is therefore responsible for their arbitrary detention in Kosovo. The Working Group found that the detention of these six persons was also arbitrary from the Turkish point of view and fell within Category III (§ 99). Finally, the Working Group found that the Turkish Government held these six persons on unlawful and discriminatory grounds and that the case fell within Category V (§ 100).

In its decision, the Working Group expressed great concern at the pattern revealed by the cases brought before it concerning arbitrary detention in Türkiye and noted that widespread or systematic imprisonment or other severe deprivations of liberty in violation of the rules of international law may, under certain circumstances, constitute crimes against humanity (§ 101).

Taking into account the violations identified, the Working Group resolved that measures be taken without delay to remedy the situation of the applicants and bring it in line with international norms; that the applicants be released immediately, that compensation and other remedies be provided to the applicants and that a full and independent investigation be conducted into the unlawful importation of the applicants from abroad and the arbitrary restriction of their liberty, and that appropriate sanctions be imposed on those responsible.¹⁷⁰

ee. Decision for Osman Karaca

¹⁷⁰ Justice Square: United Nations Resolutions on Rights Violations after 15 July, December 2023, p.47, <https://justicesquare.org/15-temmuz-baglaminda-birlesmis-milletler-tarafindan-verilen-kararlar/>

Osman Karaca, a dual national of Mexico and Türkiye, was detained on 14 October 2019 in Cambodia, where he was travelling on business. He was held in an undisclosed location until 18 October 2019 and, despite the intervention of the Mexican Consulate, was handed over to the Turkish authorities on that date and brought to Türkiye on 19 October 2019. The applicant was arrested on 25 October 2019 by a criminal judge of peace for leading an armed terrorist organisation.¹⁷¹

In the Working Group's view, the Cambodian authorities' failure to inform Osman Karaca promptly of the grounds for his detention and the charges against him violated Article 9 § 2 of the Convention (§ 39). By concealing his whereabouts and fate, the Cambodian authorities excluded him from legal protection in violation of Article 16 of the Convention (§ 40). His right to an effective remedy was also violated, as he was unable to challenge his detention in person or through a lawyer of his choice (§ 41). The Working Group also found that Mr Karaca was denied the right to bring the proceedings before a court (§ 42). The Working Party notes that Mr Karaca was deprived of his right to legal advice and representation in violation of Article 9 § 1 of the Convention (§ 43). For these reasons, the Working Group finds that Osman Karaca's arrest and detention were arbitrary and fall within Category I (§ 44).

According to the Working Group, Osman Karaca's situation in Cambodia was aggravated by the fact that the lawyers contacted did not take up his case for fear of reprisals or damage to their careers (§ 45). The Working Group also notes that the Government failed to respect Karaca's rights, including the right to be informed of embassy assistance (§ 46). Given the limited remedies available to individuals internationally, embassy protection is invaluable for foreign nationals (§ 49).

Mr Karaca's unlawful return to Türkiye, which circumvented the ordinary expulsion procedure, violated the prohibition of refoulement. By returning Mr Karaca to another State where there were substantial grounds for believing that he would be in danger of torture or other ill-treatment or arbitrary detention, the Government of Cambodia violated Articles 9 and 13 of the Convention (§ 55).

In the Working Group's view, Cambodia cannot escape responsibility for assisting Türkiye in violating Mr Karaca's right to a fair trial (§ 56). Having regard to the above findings, the Working Group concludes that the violations of the right to a fair trial and due process of

¹⁷¹ UN Human Rights Council Working Group on Arbitrary Detention, Opinion No. 84/2020 concerning Osman Karaca (Cambodia and Türkiye), A/HRC/WGAD/2020/84, 3 March 2021, https://www.ohchr.org/sites/default/files/Documents/Issues/Detention/Opinions/Session89/A_HRC_WGAD_2020_84.pdf

law are of such gravity as to give Mr Karaca's deprivation of liberty an arbitrary character and fall within Category III (§ 57). The Working Group finds that the Government of Cambodia, at the request of the Government of Türkiye, detained, held and transferred Mr Karaca on the basis of prohibited grounds of discrimination and that the case falls within Category V (§ 58). The Working Group also considers that the Government of Cambodia is responsible for rights violations in Türkiye (§ 59).

Turning to Türkiye, the Working Group concluded that the failure of the Turkish authorities to inform Karaca promptly of the grounds for his detention and the allegations against him violated Article 9 § 2 of the Convention (§ 64). The Working Group reiterates that preventing persons from communicating with others also violates their right to be brought before a court and to challenge the lawfulness of their detention (§ 65). The Working Group observes that Mr Karaca was not brought promptly before a judge within 48 hours of his detention (§ 66). The Working Group further observes that Mr Karaca was denied the right to have his proceedings brought before a court so that it could determine without delay the lawfulness of his detention (§ 67). For these reasons, the Working Group considers that Mr Karaca's deprivation of liberty lacked a legal basis and was arbitrary and falls within category I (§ 68).

According to the Working Group, during and after Mr Karaca's unlawful removal to Türkiye, the Turkish Government failed to respect his right to legal assistance as well as his right to a fair and public trial by a competent, independent and impartial court established by law (§ 69). The Working Group notes the denial of Karaca's right to be visited and contacted by his family and to adequate contact with the outside world (§ 70). It is clear that the two governments deliberately avoided the usual deportation procedures (§ 71).

Taking into account the established responsibility of the Government of Cambodia and the disregard of the deportation procedures, the Working Party finds that Mr Karaca's detention was also arbitrary as regards Türkiye and falls within Category III (§ 72). The Working Group finds that the Government of Türkiye held Mr Karaca on prohibited grounds of discrimination and that the case falls within Category V (§ 75).

The Working Group expresses its great concern at the pattern revealed by the cases before it concerning arbitrary detention in Türkiye and recalls that widespread or systematic imprisonment or other severe deprivations of liberty in violation of international law may, under certain circumstances, constitute crimes against humanity (§ 76).

Taking into account the violations identified, the Working Group decided to take measures without delay to remedy the situation of the applicant and bring it in line with international norms; to release the applicant immediately, to provide the applicant with compensation and other remedies; to conduct a full and independent investigation into the

arbitrary restriction of the applicant's liberty and to impose appropriate sanctions on those responsible.

ff. Decision for İsmet Özçelik and Turgay Karaman

On 12 May 2017, the applicants İsmet Özçelik and Turgay Karaman, who had been living in Malaysia for 13 years and were considered to be members of the Gülen Movement, were detained in Malaysia and forcibly returned to Türkiye without a deportation order. The applicants were held in an unknown location in Türkiye. Furthermore, they were not informed of the charges against them and their families were not informed of their whereabouts. The applicants' detention was extended by the prosecutor's decision until 23 May 2017, when they were arrested by the Criminal Judge of Peace.

Considering the communication submitted in this connection, the Committee ¹⁷² notes that the State party has not provided any information on the effectiveness of the individual application procedure before the Constitutional Court in cases concerning detention under decrees having the force of law. Nor has the State party disputed the allegation that the proceedings before the Constitutional Court have been unduly protracted. The Committee also notes that the ECtHR has expressed concern about the effectiveness of the individual complaint procedure to the Constitutional Court in cases concerning detention, as in two cases where the Constitutional Court found violations, the lower courts did not implement the findings of the Constitutional Court (*Mehmet Hasan Altan v. Türkiye*, No. 13237/17, 20.03.2018, para. 142; *Şahin Alpay v. Türkiye*, No. 16538/17, 20.03.2018, par. 121). In the absence of any information to support the effectiveness of the remedy of complaint to the Constitutional Court, the Committee finds that, in the author's circumstances, the State party has not demonstrated that an individual complaint to the Constitutional Court to challenge the author's detention under the decree-laws would be effective (§ 8.5).

The Committee notes that the State party did not provide any documentation to show that the authors were promptly informed of the grounds for their detention and the charges against them, nor did it provide information on the questions put to them during their interrogation. It further notes that no information was provided as to what evidence justified the detention of Mr Karaman and that the evidence against Mr Özçelik was that he was a ByLock user and had deposited money in Bank Asya. In those circumstances, the applicants' detention violated their rights under Articles 9 § 1 and 2 of the Convention (§ 9.4).

¹⁷² UN Human Rights Committee, Communication No 2980/2017, *İsmet Özçelik and Turgay Karaman v. Türkiye*, UN Doc. CCPR/C/125/D/2980/2017., 23 September 2019, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2F125%2FD%2F2980%2F2017&Lang=en

In the Committee's view, the proper exercise of judicial power is inherent in its exercise by an objective and impartial authority, independent of the issues at stake. A prosecutor cannot therefore be regarded as an authority exercising judicial power. The clear meaning of 'promptly' is that delays should not exceed a few days from the moment of arrest, although this may vary depending on the concrete circumstances. Any delay of more than 48 hours must be strictly exceptional and justified by the circumstances (§ 9.6).

In the present case, it took 11 days for the applicants to be brought before a judge and they were therefore not immediately brought before a judge or judicial officer. Furthermore, they were not brought before a judge for a review of their detention or represented by a lawyer for almost two years from the date of the detention order. Nor did the State party provide information on the periodic review of the authors' detention decisions. The Committee therefore finds a violation of article 9(3) of the Covenant (§ 9.7).¹⁷³

According to the Committee, although the State party argues that the communication should be declared inadmissible on the grounds of non-exhaustion of domestic remedies, since the authors were unable to appeal against the detention orders of the Ankara 5th Criminal Court of Peace, the Committee notes that the parties' request to appeal against their detention to the Ankara 6th Criminal Court of Peace on 22 June 2017 was rejected. In this sense, the Committee finds that the State party has not rebutted the allegations and has not identified any other means of appeal against the detention, and that this remedy has therefore been exhausted. The Committee further noted that it was the State party's responsibility to demonstrate to the European Court of Human Rights that the redress of an individual complaint before the Constitutional Court was effective, both in theory and in practice. In the absence of further information on the case file to support the effectiveness of redressing a complaint before the Constitutional Court, the Committee notes that, in the author's case, the State party has demonstrated that an individual complaint to the Constitutional Court can be effective in pre-trial detention.

The Committee notes that the authors were not informed of the charges against them and the reasons for their detention, that they did not have access to the case files and that no evidence was presented by the State party that could be the basis for a reasonable suspicion that they had committed an offence warranting pre-trial detention. It recalls that if detained persons are remanded in pre-trial detention for the purpose of investigating offences they may have committed or for the purpose of prosecuting them criminally, they should be informed of what they are accused of or what suspicions exist against them. The Committee notes that

¹⁷³ Justice Square: United Nations Resolutions on Rights Violations after 15 July, December 2023, p.24, <https://justicesquare.org/15-temmuz-baglaminda-birlesmis-milletler-tarafindan-verilen-kararlar/>

the State party did not provide the authors with any documents, such as arrest warrants, extradition requests or detention warrants, and that they were thus treated in violation of their rights under the Covenant. The Committee also noted that the State party did not provide any records or information on the questions posed to the authors during the investigation and interrogation, nor did the State party provide any evidence or information to justify the detention of Turgay Karaman. İsmet Özçelik states that the only evidence against him was his use of the ByLock programme and his deposits in Bank Asya. In these circumstances, the Committee finds that the State party has failed to establish that the authors were promptly informed of the charges against them and the reasons for their detention, or that their detention fulfilled the criteria of reasonable necessity. It therefore considered that an exception under article 4 was unreasonable and unnecessary and that the restriction of liberty could not be justified. The Committee therefore found that the applicants' detention constituted a violation of their rights under Article 9 § 1-2 of the Convention.

gg. Decision for Alettin Duman and Tamer Tibik

On 13 October 2016, the applicant Duman, who was working as a director of an organisation in Malaysia and as a teacher and principal at a school, was abducted on 13 October 2016, forcibly taken in a vehicle, held in an undisclosed location, taken to the airport and handed over to the Turkish authorities. On 4 November 2016, the applicant Duman was brought before a criminal judge of peace. The applicant was sentenced to 18 years' imprisonment. The allegations against the applicant were that he used ByLock, had an account in Bank Asya, worked in some schools and voluntary organisations in Uzbekistan and Malaysia and had met with the Deputy Prime Minister of Malaysia.¹⁷⁴

The applicant, Tamer Tibik, is a businessman and the secretary general of an organisation linked to the Gülen Movement. He was abducted on 13 October 2016, held in an undisclosed location and forcibly returned to Türkiye on 14 October 2016. On 15 October 2016, he was brought to Türkiye and held in custody for 18 days. The applicant Tibik was sentenced to 12 years and 6 months' imprisonment. The allegations against the applicant were that he used ByLock, worked for companies linked to the Gülen Movement, supported a certain party and candidate in the elections, tried to increase the number of subscribers to a certain newspaper and staying at a hotel linked to the Gülen Movement. The applicants faced ill-treatment in Malaysia and Türkiye. Alettin Duman's family faced difficulties in finding a lawyer; the lawyer retained for Duman was not accepted by the authorities and a defence lawyer was appointed in his place, but this lawyer did not provide effective legal assistance.

¹⁷⁴ UN Human Rights Council Working Group on Arbitrary Detention, Opinion No. 8/2022, concerning Alettin Duman and Tamer Tibik (Malaysia and Türkiye), A/HRC/WGAD/2022/8, 7 June 2022, <https://www.ohchr.org/sites/default/files/2022-06/A-HRC-WGAD-2022-8-MYS-TUR-AEV.pdf>

The Working Group assesses that the applicants were subjected to enforced disappearance between 13 October 2016 and 14 October 2016 (§ 75). The abduction of the applicants took place entirely outside the legal process (§ 76). The authorities failed to justify their detention on a legal basis (§ 77). The applicants were placed outside the protection of the law in contravention of Article 6 of the Universal Declaration of Human Rights. Since they could not challenge their detention, their right to an effective remedy was also violated. Their deprivation of liberty in Malaysia fell within Category I (§ 78).

According to the Working Group, it appears that Alettin Duman and Tamer Tibik were detained and forcibly transferred to Malaysia at the request of the Government of Türkiye for exercising their freedom of expression through their alleged use of ByLock. Their deprivation of liberty falls within Category II (§ 80). Duman and Tibik were detained by the Malaysian authorities and handed over to Türkiye without a fair and publicised deportation proceeding by an independent and impartial court in Malaysia (§ 83). Persons should not be deported to another country where there are substantial grounds for believing that their lives would be in danger or that they would be in danger of torture or ill-treatment. The Working Group considers that a violation of the principle of non-refoulement has been established. The deprivation of liberty of Messrs Duman and Tibik in Malaysia falls within Category III (§ 84). In the present case, the Government of Malaysia, at the request of the Government of Türkiye, held the applicants on unlawful and discriminatory grounds. Their deprivation of liberty falls within Category V (§ 86).

The Working Group expresses its grave concern at the allegations of acts which may amount to torture and ill-treatment of the applicants following their abduction (§ 87). The Working Group considers that the Government of Malaysia is also responsible for rights violations in Türkiye (§ 88).

On the other hand, the Working Group, which also assessed Türkiye, considered that the applicants brought to Türkiye had provided reasonable information that they had been detained without an arrest warrant. The authorities failed to establish the legal basis for the applicants' detention in Türkiye (§ 94). Mr Duman was not brought before a court until 4 November 2016. His right to be brought promptly before a judge to challenge the lawfulness of his detention was violated. As he was unable to challenge his detention during this period, his right to an effective remedy was also violated. Their detention in Türkiye falls within Category I (§ 95). Even if the applicants had used ByLock, this would only reflect the peaceful exercise of their freedom of opinion and expression. The applicants' detention falls within Category II (§ 100). As their detention was found to fall within Category II, no proceedings should have taken place (§ 101). The Working Group is concerned about the reported reluctance of lawyers to provide legal services for fear of imprisonment. Messrs Duman and Tibik were denied the right to a lawyer of their choice. Furthermore, the lawyer assigned to

Mr Tibik failed to provide effective legal assistance. The applicants were deprived of their right to communicate with a lawyer of their choice and to defend themselves (§ 103).

According to the Working Group, both persons were subjected to physical and psychological torture and ill-treatment (§ 104). Duman stated that he had been tortured during a hearing. He stated that as a result of the torture, he was unable to walk during the interrogation hearing. However, the court did not stay the proceedings or order an independent investigation (§ 105). It is stated that Tibik's name and photograph appeared in a newspaper. A copy of his file was not given to his family. Mr Tibik was reportedly forced to sign a pre-prepared statement and to accept the charges. The Working Group found violations of Mr Tibik's right to a fair trial, the presumption of innocence and the right not to be compelled to admit guilt. The detention of Messrs Duman and Tibik in Türkiye falls within Category III (§ 106). Mr Duman and Mr Tibik were held on the basis of discrimination on the grounds of their alleged political or other opinions. Their detention in Türkiye fell within Category V (§ 107).

The Working Group considers that the Government of Türkiye were responsible for the abduction and detention of the applicants in Malaysia and for their forced return to Türkiye (§ 108). Duman was reportedly held in solitary confinement (§ 109). Solitary confinement is to be used as a last resort in exceptional circumstances, for the shortest possible period, subject to independent supervision and with the authorisation of the competent authority. It appears that these conditions were not met (§ 110).

Taking into account the violations identified, the Working Group decided that measures be taken without delay to remedy the situation of the applicants and bring it in line with international norms; that the applicants be released immediately; that they be provided with compensation and other remedies, including compensation for the impact of their abduction and forcible return to Türkiye on their psychological integrity; that a full and independent investigation be conducted into the arbitrary restriction of the applicants' liberty and that appropriate sanctions be imposed on those responsible.¹⁷⁵

b. Resolutions of the United Nations Committee for the Prevention of Torture

aa. Decision for Mustafa Önder

In June 2017, the applicant, who had sought asylum in Morocco and was a teacher at a private school in that country, was requested to be deported to Türkiye on the grounds that he belonged to the Gülen Movement. In September 2017, the Moroccan Supreme Court issued

¹⁷⁵ Justice Square: United Nations Resolutions on Rights Violations after 15 July, December 2023, pp.60-61, <https://justicesquare.org/15-temmuz-baglaminda-birlesmis-milletler-tarafindan-verilen-kararlar/>

a favourable opinion in favour of the author's deportation. In December 2017, the State party notified the applicant that the applicant's deportation proceedings were suspended pending the decision of the Committee against Torture (the Committee).¹⁷⁶

According to the Committee, there is an obligation of non-refoulement where there are "substantial grounds" for believing that the person concerned would be in danger of torture in a country of deportation, either as an individual or as a member of a group which may be in danger of torture in the country of destination (§ 7.4). The Committee notes that the applicant was the subject of a warrant of arrest for membership of the Gülen Movement, although he does not admit to being a member of it, and notes from the reports on file that it is common for persons in his position to be subjected to torture and ill-treatment during their detention (§ 7.5).

The Committee found that the successive extension of the state of emergency had led to serious human rights violations for thousands of people, including arbitrary deprivation of the right to freedom of work and movement, torture and ill-treatment, arbitrary arrest, and freedom of assembly and expression (§ 7.6). In his report on the mission to Türkiye, the Special Rapporteur of the Committee on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment stated that the practice of torture was widespread in the aftermath of the coup d'état (§ 7.8). As regards the direct impact of the state of emergency, the Committee takes note of the concerns expressed by the UN High Commissioner for Human Rights about the negative impact of the resulting measures on the guarantees against torture and ill-treatment (§ 7.9). In authorising the expulsion, the Moroccan high court did not make any assessment of the risk of torture that the expulsion would pose, in particular to someone like the applicant, who was thought or actually belonged to the Gülen Movement, given the situation in Türkiye since the attempted coup (§ 7.10).

For these reasons, the Committee considers that the applicant's return to Türkiye would constitute a violation of Article 3 (prohibition of deportation to a country where there is a risk of torture) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (§ 8). Taking into account the violations found, the CAT Committee

¹⁷⁶ UN Committee Against Torture, Decision adopted by the Committee under article 22 of the Convention, concerning communication No. 845/2017, CAT/C/66/D/845/2017, 25 June 2019, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FC%2F66%2FD%2F845%2F2017&Lang=en

ordered that the applicant not be extradited to Türkiye, that the applicant be released and that measures be taken to prevent similar violations from occurring in the future.¹⁷⁷

bb. Decision for Elmas Ayden

Mr Ayden, who owned a business in Morocco and had sought asylum in Morocco, was detained in July 2017 on the basis of an arrest warrant issued by Türkiye on the grounds that he belonged to the Gülen Movement. The applicant was requested to be deported to Türkiye. In September 2017, the Moroccan Supreme Court issued a favourable opinion in favour of the author's deportation. Following the Committee's interim measure, the State party reported that the author's deportation proceedings had been suspended pending the Committee's decision.¹⁷⁸ However, the applicant was detained pending deportation.

According to the Committee, there is an obligation of non-refoulement where there are "substantial grounds" for believing that the person concerned would be in danger of torture in a country of deportation, either as an individual or as a member of a group which may be in danger of torture in the country of destination (§ 8.4). The Committee notes that the applicant was the subject of a warrant of arrest for membership of the Gülen Movement, although he does not admit to being a member of it, and that, from the reports on file, the use of torture and ill-treatment against persons in his position was common during his detention (§ 8.5).

The successive extension of the state of emergency has led to serious human rights violations against thousands of individuals, including arbitrary deprivation of the right to freedom of work and movement, torture and ill-treatment, arbitrary detention and the freedoms of assembly and expression (§ 8.6). In his report on the mission to Türkiye, the Special Rapporteur of the Committee on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment stated that the practice of torture was widespread in the aftermath of the coup d'état (§ 8.8). As regards the direct impact of the state of emergency on protection against torture and ill-treatment, the Committee notes that the UN High Commissioner for Human Rights has pointed to restrictions on communication between detainees and their lawyers, the extension of the maximum period of detention, the closure of independent torture prevention mechanisms and the abuse of detention (§ 8.9). In authorising the expulsion, the Moroccan high court did not make any assessment of the risk of torture that the expulsion would pose to persons with some real or presumed links to the Gülen Movement, such as the

¹⁷⁷ Justice Square: United Nations Resolutions on Rights Violations after 15 July, December 2023, p.28, <https://justicesquare.org/15-temmuz-baglaminda-birlesmis-milletler-tarafindan-verilen-kararlar/>

¹⁷⁸ UN Committee against Torture, Decision adopted by the Committee under article 22 of the Convention, concerning communication No. 846/2017, CAT/C/66/D/846/2017, 26 June 2019, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FC%2F66%2FD%2F846%2F2017&Lang=en

applicant, given the situation in Türkiye since the attempted coup. The Committee recalls that the primary purpose of the Convention is to prevent torture and that there is no remedy for torture once it has occurred (§ 8.10).

For these reasons, the Committee considered that the applicant's return to Türkiye would constitute a violation of Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (prohibition of deportation to a country where there is a risk of torture) (§ 9). Taking into account the violations found, the CAT Committee ordered that the applicant not be extradited to Türkiye; that the applicant be released and that measures be taken to prevent similar violations from occurring in the future.¹⁷⁹

cc. Decision for Ferhat Erdoğan

The applicant, a businessman in Morocco, was detained in April 2017 following a deportation request by Türkiye based on an arrest warrant issued on the grounds that he was a member of the Gülen Movement; in May 2017 he applied for asylum. In May 2017, the Moroccan Supreme Court issued a favourable opinion in favour of the author's deportation. Following the Committee's cautionary decision, the State party reported that the author's deportation proceedings were suspended pending a decision.¹⁸⁰ The applicant continued to be held for deportation purposes.

The Committee has an obligation of non-refoulement where there are "substantial grounds" for believing that the person concerned would be at risk of torture in a country of deportation, either as an individual or as a member of a group which may be at risk of torture in the country of destination (§ 9.4). The Committee notes that the applicant was the subject of a warrant of arrest for membership of the Gülen Movement, although he does not admit to being a member of it, and that reports on file indicate that the use of torture and ill-treatment against persons in his position was widespread during his detention (§ 9.5).

¹⁷⁹ Justice Square: United Nations Resolutions on Rights Violations after 15 July, December 2023, pp.29-30, <https://justicesquare.org/15-temmuz-baglaminda-birlesmis-milletler-tarafindan-verilen-kararlar/>

¹⁸⁰ UN Committee against Torture, Decision adopted by the Committee under article 22 of the Convention, concerning communication No. 827/2017, CAT/C/66/D/827/2017, 19 June 2019, <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPpRiCAqhKb7yhs mnLaL1heVxTXwNKiYwX5554GNVI6QzbrprmO3EGdLbojy0Zu%2FGkRHnVgdz1hGp%2FCD mBeQvliU%2FfbiBbUakS2k4HZvyAWFamlfkwJ7jzHMUb412Od54ebQMjKSFy5XM%2BTQ%3D%3D>

The successive extension of the state of emergency by the Government of Türkiye has led to serious human rights violations against thousands of individuals, including arbitrary deprivation of the right to freedom of work and movement, torture and ill-treatment, arbitrary arrest, and the freedoms of assembly and expression (§ 9.6). In his report on the mission to Türkiye, the Special Rapporteur of the Committee on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment stated that the practice of torture was widespread in the aftermath of the coup d'état (§ 9.8). The Committee notes the concerns expressed by the UN High Commissioner for Human Rights about the direct impact of the state of emergency on protection against torture and ill-treatment. It points to restrictions on communication between detainees and their lawyers, the extension of the maximum period of detention, the closure of independent torture prevention mechanisms and the abuse of detention (§ 9.9). - In authorising the deportation, the high court did not make any assessment of the risk of torture that deportation would pose to persons, such as the applicant, with real or presumed affiliation to the Gülen Movement, given the situation in Türkiye since the attempted coup. The Committee also notes that the Turkish authorities have placed the applicant's name on a list of persons whose citizenship they have threatened to revoke. The Committee recalls that the primary purpose of the Convention is the prevention of torture and not the redress of torture after it has occurred (§ 9.10).

For these reasons, the Committee considers that the applicant's return to Türkiye would constitute a violation of Article 3 (prohibition of deportation to a country where there is a risk of torture) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (§ 10). Taking into account the violations found, the Committee for the Prevention of Torture ruled that the applicant should not be extradited to Türkiye; that the applicant should be released and that measures should be taken to prevent similar violations from occurring in the future.¹⁸¹

dd. Decision for İsmet Bakay

The applicant, Mr İsmet Bakay, a Moroccan businessman, was detained in March 2017 following a deportation request lodged by Türkiye. Mr Bakay applied for asylum in May 2017. In May 2017, the Moroccan Supreme Court ruled in favour of the applicant's deportation. The Committee decided not to deport the applicant.¹⁸² The applicant remains in detention pending deportation.

¹⁸¹ Justice Square: United Nations Resolutions on Rights Violations after 15 July, December 2023, p.31, <https://justicesquare.org/15-temmuz-baglaminda-birlesmis-milletler-tarafindan-verilen-kararlar/>

¹⁸² UN Committee against Torture, Decision adopted by the Committee under article 22 of the Convention, concerning communication No. 826/2017, CAT/C/68/D/826/2017, 20 December 2019, <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhss>

In the Committee 's view, the successive extension of the state of emergency has led to serious human rights violations against thousands of individuals, including arbitrary deprivation of the right to freedom of work and movement, torture and ill-treatment, arbitrary arrest and arbitrary detention, as well as freedoms of assembly and expression (§ 7.6).

The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment noted in his report on the mission to Türkiye that the practice of torture was widespread in the aftermath of the coup d'état (§ 7.8). The Committee takes note of the concerns expressed by the UN High Commissioner for Human Rights regarding the direct impact of the state of emergency on protection against torture and ill-treatment. It points to restrictions on communication between detainees and their lawyers, the extension of the maximum period of detention, the closure of independent torture prevention mechanisms and the abuse of detention (§ 7.9).

In authorising the deportation, the high court did not make any assessment of the risk of torture that deportation would pose to persons with real or presumed links to the Gülen Movement, such as the applicant, given the situation in Türkiye since the attempted coup. The Committee recalls that the primary purpose of the Convention is to prevent torture (§ 7.10).

For these reasons, the Committee considered that the applicant's return to Türkiye would constitute a violation of Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (prohibition of deportation to a country where there is a risk of torture) (§ 8). Taking into account the violations found, the Committee for the Prevention of Torture ordered that the applicant not be extradited to Türkiye; that the applicant be released and that measures be taken to prevent similar violations from occurring in the future.¹⁸³

ee. Fifth Periodic Report of the CAT on Azerbaijan (15 April 2024 - 10 May 2024)

The CAT assessed Azerbaijan's compliance with the UN Convention for the Prevention of Torture at the session held in Geneva and made important findings regarding the abduction of members of the Gülen Movement from Azerbaijan to Türkiye in its concluding observation report published on 10 May 2024. The abduction of Taci Şentürk, İsa Özdemir, Ayhan Seferoğlu, Erdoğan Taylan and Mehmet Gelen, teachers in Azerbaijan, and Mustafa Ceyhan, a businessman.

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¹⁸³ Justice Square: United Nations Resolutions on Rights Violations after 15 July, December 2023, p.37, <https://justicesquare.org/15-temmuz-baglaminda-birlesmis-milletler-tarafindan-verilen-kararlar/>

The Committee referred to judgements of the ECtHR, the United Nations Human Rights Committee and the UN Working Group on Wrongful Detention on the risk of torture and ill-treatment in Türkiye and expressed concern about the extradition or surrender of persons despite the existence of these judgements, citing the existence of an ongoing asylum procedure, pending extradition proceedings or the Committee's request for precautionary measures. CAT also recommended that Azerbaijan immediately cease all unlawful extraditions and surrenders, including of persons with suspected or actual links to the Gülen Movement.¹⁸⁴

According to the Committee's assessment under the heading "Principle of non-refoulement", the State party should not expel or return anyone to another State where there are substantial grounds to believe that he or she is in danger of being subjected to torture. According to the Committee, the State Party should in particular;

(a) Prohibit the expulsion, return or surrender of a person where there are substantial grounds to believe that the person would be in danger of being subjected to torture, regardless of whether the person meets the definition of refugee under the Status of Refugees and Forcibly Displaced Persons;

(b) immediately halt all extrajudicial extraditions and surrenders, including of individuals with suspected or actual links to the Gülen Movement;

(c) Ensure that in all cases in which extradition requests are received, the individuals who are the subject of those requests are given the opportunity to legally challenge their extradition and to challenge extradition decisions, and that such challenges have suspensive effect;

(d) Ensure a comprehensive assessment of each case, taking into account both the general situation with regard to torture in the country of extradition or return and the individual risks that the individual may face in the event of return;

(e) Ensure that interim measures and decisions of international human rights mechanisms are implemented in good faith, including in cases such as the Committee's decision in communication No. 905/2018.

c. Reports of the Working Group

The Working Group on Enforced or Involuntary Disappearances is one of the thematic special procedures overseen by the United Nations Human Rights Council. The Working

¹⁸⁴ UN Submission to the Committee Against Torture 79nd Session (15 April 2024- 10 May 2024) For the consideration of the Azerbaijan's fifth periodic report, Prg 15-16, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FCOC%2FAZE%2F58382&Lang=en

Group, whose primary mandate is to assist families in determining the fate or whereabouts of persons reported missing, is the first United Nations human rights mechanism established with a universal mandate. Its main objective is to assist the relatives of disappeared persons in establishing the whereabouts of their disappeared family members. The Working Group liaises with governments on individual cases and requests the state to investigate and inform the Working Group of the results. Acting as a channel of communication between the families of disappeared persons and governments, the Working Group has been able to develop a dialogue with many governments, regardless of whether they have ratified any legal instrument providing for an individual human rights complaints procedure.

In the course of fulfilling its mandate, the Working Group communicates with governments regarding information and complaints received on alleged violations of rights and submits activity reports to the Human Rights Council. In this context, the Working Group issues "**Reports of the Working Group on Enforced or Involuntary Disappearances**" every year. In its reports, the Working Group emphasises that being under the threat of war, being at war, internal political instability or any other emergency situation is not a way to justify enforced disappearances under any circumstances. It is observed that the reports frequently emphasise the cases of abductions and disappearances carried out by Türkiye. In addition to emphasising the concern about the abductions, the reports also specifically mention that these abductions are systematic and that the victims are ultimately subjected to torture and ill-treatment.

The Working Group has consistently expressed concern about the increase and continued legitimisation of abductions and disappearances originating in Türkiye. The Working Group therefore calls on the Government of Türkiye to prevent and end enforced disappearances, as set out in Article 2 of the Declaration on the Protection of All Persons from Enforced Disappearance.

aa. 2019 Report of the Working Group dated 2 December 2019

Under the urgent action procedure, the Working Group referred to the Government a case concerning a Turkish citizen, **Yusuf Bilge Tunç**, who was abducted on 6 August 2019 on his way to a local market in Ankara. They considered that the Government of Türkiye's response of 21 June 2019 was not sufficient to clarify the case. Based on information provided by sources, the Working Group decided to clarify four cases concerning Erkan Irmak, Yasin Ugan, Özgür Kaya and Salim Zeybek.

The Working Group expressed concern at the large number of allegations of enforced disappearances reportedly carried out in Türkiye since the attempted coup d'état in July 2016, in particular of persons allegedly linked to the Gülen Movement, classified by Türkiye as a terrorist organisation under the names "*Fethullahist Terrorist Organisation*" and "*Parallel State*

Structure". According to the Working Group's findings, these individuals were abducted and then forcibly taken to secret places of detention, often using torture and coercion, in order to extract confessions to alleged offences. In this context, the Working Group reiterated its concern at what appears to be a **systematic practice** of abduction and forcible return of Turkish nationals from third countries, in direct contravention of the principle of fair trial and non-refoulement. Equally concerning are the alleged ineffectiveness of the investigations carried out by the Turkish authorities into allegations of abductions and disappearances, as well as the alleged intimidation of family members of the disappeared.¹⁸⁵

bb. 2020 Report of the Working Group dated 28 July 2020

On 5 May 2020, the Working Group, together with other special procedures mechanisms, subMITted a joint letter of allegation regarding systematic practices of state-sponsored extraterritorial abduction and forcible return of Turkish nationals from multiple States to Türkiye. Allegedly, **at least 100 individuals suspected of links to the Gülen Movement have been subjected to arbitrary arrest and detention, enforced disappearances and torture** as part of covert operations reportedly organised or supported by the Government of Türkiye in coordination with authorities in Afghanistan, Albania, Azerbaijan, Cambodia, Gabon, Kazakhstan, Lebanon and Pakistan, as well as Kosovo.

The Working Group regretted that the Government of Türkiye continued to ignore allegations of serious human rights violations in the context of the forced return of Turkish nationals from third countries to Türkiye. Similarly, the Working Group emphasised its concern at the apparent lack of accountability for these violations, which may place people at risk of enforced disappearance in third countries prior to deportation or in transit to Türkiye.¹⁸⁶

cc. 2021 Report of the Working Group dated 04 August 2021

The warnings stated in the 2020 report of the Working Group were not taken into account; on the contrary, on 5 July 2021, President Erdoğan made a public statement in which he praised the Turkish intelligence services for the forced repatriation of more than 100 people from more than one state; as a result of the original and patient work carried out by MIT,

¹⁸⁵ 2019 Report of the Working Group on Enforced or Involuntary Disappearances, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/193/05/PDF/G2019305.pdf?OpenElement>

¹⁸⁶ 2020 Report of the Working Group on Enforced or Involuntary Disappearances <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/193/05/PDF/G2019305.pdf?OpenElement>

Orhan İnandı, allegedly the General Responsible of the Gülen Movement in Central Asia, was brought to Türkiye and brought to justice.¹⁸⁷

3. Reports and Resolutions of the European Commission, the European Parliament and the European Parliamentary Assembly

Due to the cases of kidnapping and disappearance in Türkiye, EU-based institutions and organisations have included these issues in their reports and decisions.

a. European Commission Reports

According to the European Commission's 2023 report on Türkiye, Türkiye is party to most international human rights mechanisms but serious human rights violations continued. Türkiye has not yet signed the International Convention for the Protection of All Persons from Enforced Disappearance. According to the report, there have been insufficient investigations into cases of abductions and enforced disappearances allegedly carried out by security services since the 2016 coup attempt.¹⁸⁸

The Commission's 2022 report on Türkiye also emphasised that the Turkish government had not conducted adequate investigations into cases of abductions and enforced disappearances allegedly carried out by security or intelligence units in several provinces since the coup attempt.¹⁸⁹ Similarly, in its 2021 report on Türkiye, the Commission continued to address the alleged and insufficiently investigated cases of abductions and enforced disappearances allegedly carried out by the Turkish government's security or intelligence units in many provinces since the coup attempt.¹⁹⁰

b. European Parliament Resolutions on Türkiye

In 2021, the European Parliament adopted a resolution strongly condemning the abduction of Turkish citizens residing outside Türkiye as a violation of the rule of law and fundamental human rights.

The Parliament called on the EU Member States to address this practice and to closely monitor such activities, in particular in Africa, the Western Balkans, the Middle East and North

¹⁸⁷ UN Human Rights Council, Report of the Working Group on Enforced or Involuntary Disappearances, A/HRC/48/57, 4 August 2021, p.103, <https://documents.un.org/doc/undoc/gen/g21/215/21/pdf/g2121521.pdf?token=sDUM142YTrKoJd7j9A&fe=true>

¹⁸⁸ European Commission: Türkiye 2023 Report, Brussels, 8.11.2023 SWD (2023) 696 final, https://neighbourhood-enlargement.ec.europa.eu/document/download/eb90aefd-897b-43e9-8373-bf59c239217f_en?filename=SWD_2023_696%20T%C3%BCrkiye%20report.pdf

¹⁸⁹ European Commission: Türkiye 2022 Report, Brussels, 12.10.2022 SWD (2022) 333 final, https://neighbourhood-enlargement.ec.europa.eu/document/download/ccedfba1-0ea4-4220-9f94-ae50c7fd0302_en?filename=T%C3%BCrkiye%20Report%202022.pdf

¹⁹⁰ European Commission: Türkiye 2022 Report, Strasbourg, 19.10.2021 SWD (2021) 290 final/2,

Africa. The Parliament also expressed concern about the Turkish government's attempts to politically influence Turks living abroad.¹⁹¹

c. European Parliamentary Assembly Resolutions on Türkiye

In draft resolution 2509, published on 23 June 2023, the European Parliamentary Assembly expressed concern about Türkiye's use of certain instruments of transnational pressure, in particular following the attempted coup d'état in July 2016, and its consistent policy of pursuing persons allegedly linked to the "Gülen Movement", inter alia referred to by the Turkish authorities as the "Fethullahist Terrorist Organisation" (FETÖ). The Bill noted that Türkiye's campaign of cross-border pressure included the abuse of extradition procedures, the use of Interpol red notices and counter-terrorist financing measures, and co-operation with other States to unlawfully deport or transfer persons. In this context, the European Court of Human Rights referred in its 2018 judgement that the Republic of Moldova unlawfully transferred seven teachers of Turkish nationality to Türkiye, bypassing all safeguards provided by domestic and international law and thus violating their right to liberty guaranteed under Article 5, paragraph 1, of the Convention. The draft resolution also reports that critics of the Turkish Government and journalists living in other Member States have faced threats and intimidation, sometimes to the point of needing police protection, by the authorities of the host State.¹⁹²⁻¹⁹³

In the report of the European Parliamentary Assembly dated 5 July 2023, referring to the report by Freedom House, it was stated that the Government of the Republic of Türkiye tried to extradite dissidents from Council of Europe member states to Türkiye through red notice decisions, while bringing dissidents from non-Council member states such as China and Turkmenistan to Türkiye through bilateral relations.¹⁹⁴

4. Reports Prepared by Several Countries

a. Reports of the United States Department of State

International human rights organisations, as well as the US State Department, have expressed concerns about the Turkish Government's response to the coup attempt, citing

¹⁹¹ European Parliament: 2021 Report on Türkiye European Parliament resolution of 7 June 2022 on the 2021 Commission Report on Türkiye (2021/2250(INI)) (2022/C 493/01)

¹⁹² Parliamentary Assembly: Transnational repression as a growing threat to the rule of law and human rights, Resolution 2509 (2023)

¹⁹³ Parliamentary Assembly: Committee on Legal Affairs and Human Rights, Transnational repression as a growing threat to the rule of law and human rights, AS/Jur (2023) 17

¹⁹⁴ Parliamentary Assembly: Transnational repression as a growing threat to the rule of law and human rights, Report | Doc. 15787 | 05 June 2023

arbitrary detentions, lack of due process and allegations of torture. Allegations of enforced disappearances and abductions were also part of these concerns.

According to the US State Department's 2022 Report on Türkiye,¹⁹⁵ local and international human rights groups reported cases of disappearances which they claimed were politically motivated. HRA reported at least three cases of abduction and one attempted abduction in the first 11 months of the year.

According to the report, no further investigation into the disappearance of Hüseyin Galip Küçükozyiğit and his subsequent reappearance in police custody was shared. Küçükozyiğit, a former legal adviser to the Prime Ministry, was dismissed following the 2016 coup attempt and was first identified as a possible victim of enforced disappearance in February 2021. His relatives believed he had been abducted as they last had contact with him in December 2020. Authorities initially denied that Küçükozyiğit was in official custody, but in September 2021, Küçükozyiğit's daughter announced on social media that she had received a phone call from him and that he was in Sincan Prison in Ankara.

The report states that human rights organisations have called on the authorities to investigate the disappearance of Yusuf Bilge Tunç, one of seven people reported "disappeared" by the government in 2019; six of the seven were detained on terrorism charges in 2019, but Tunç's whereabouts are unknown. The report also emphasised that the government refused to provide information on its efforts to prevent, investigate and punish such acts.

In the 2021 report prepared by the US State Department, it was stated that local and international human rights groups reported cases of disappearances that they claimed were politically motivated.¹⁹⁶

b. Immigration and Refugee Board of

The Immigration and Refugee Board of Canada (IRB) is Canada's largest independent administrative tribunal. It is responsible for making reasoned decisions on immigration and refugee matters in an efficient, fair and lawful manner. Among other responsibilities, the IRB decides who among the thousands of claimants who come to Canada each year is in need of refugee protection. The IRB also reports to Parliament through the Minister of Immigration, Refugees and Citizenship Canada.

In this context, the IRB's decision dated 6 January 2020 and numbered TUR106389.E¹⁹⁷ included cases of kidnapping and disappearance in Türkiye in its assessment of persons

¹⁹⁵ US: 2022 Country Reports on Human Rights Practices: Türkiye, <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/Türkiye/>

¹⁹⁶ US: 2021 Country Reports on Human Rights Practices: Türkiye

¹⁹⁷ Immigration and Refugee Board of Canada: Responses to Information Requests, 6 January 2020, <https://irb.gc.ca/en/country-information/rir/Pages/index.aspx?doc=457985&wbdisable=true>

seeking asylum in Canada fleeing repression in Türkiye. Citing a 2017 report by Human Rights Watch, the judgement stated that there had been "*cases of abductions amounting to enforced disappearances*" by state authorities, "*mostly in Ankara*", and that the abductions were "*part of the persecution launched by Turkish President Erdoğan and his government, primarily against those involved in the Gülen Movement*". It also referred to reports on the website of the **Stockholm Center for Freedom (SCF)**, a non-profit human rights organisation "promoting the rule of law, democracy and fundamental rights and freedoms with a particular focus on Türkiye", which published the names of 28 people abducted by Turkish security forces on suspicion of "*links*" to the Gülen Movement.

c. Netherlands Ministry of Foreign Affairs

In its August 2023 report, the Dutch Ministry of Foreign Affairs referred to its previous reports and included cases of abductions of members of Gülen Movement. The report stated that the two previous official reports had made it clear that the Turkish authorities' fight against the movement was not limited to Turkish territory and that MIT was transferring members of the Gülen Movement from abroad to Türkiye, with or without with foreign intelligence agencies. It is also included in this report that Orhan İnandı, who was mentioned in the previous report, was sentenced to 21 years in prison in June 2023 for being the founder of an armed terrorist.

It also mentioned the kidnappings that took place in 2023. In this context, it is stated that on 14 April 2023, MIT transferred Mehmet Cintosun, allegedly a senior member of the Gülen Movement, from Iraq to Türkiye. It was also stated in the Report that Selahaddin Gülen, who was brought to Türkiye from Kenya and mentioned in previous reports, was sentenced to three years and four months in prison for membership of a terrorist organisation.¹⁹⁸

In the "*General Country of Origin Information Report Türkiye*" for 2021 announced by the Dutch Ministry of Foreign Affairs.¹⁹⁹ it is stated that many people were abducted by MIT from abroad on the allegation that they were members of the Gülen Movement. To give examples of some of these; for example, on 3 May 2021, Selahaddin Gülen, the nephew of the leader of the Gülen Movement, was abducted in Nairobi, the capital of Kenya. It is emphasised in the report that the official news agency of the Turkish State reported that on 31 May 2021, MIT agents detained Selahaddin Gülen abroad and brought him to Türkiye.

With regard to the abduction of Selahaddin Gülen, who had in fact been residing in Kenya since 17 October and was registered as an asylum seeker in Kenya, the report stated that it was unclear whether the Kenyan authorities were cooperating with MIT. Another

¹⁹⁸ Government of the Netherlands: "General Country of Origin Information Report on Türkiye (August 2023)", p.46

¹⁹⁹ Government of the Netherlands: General Country of Origin Information Report Türkiye

person mentioned in the report is Orhan İnandı. İnandı is a person who has been living in Kyrgyzstan since the early 1990s and has both Turkish and Kyrgyz citizenship.²⁰⁰ On 31 May 2021, Orhan İnandı, the director of a prestigious school network in Kyrgyzstan, disappeared. On 5 July 2021, President Erdoğan stated in a televised speech that MIT had brought İnandı from Kyrgyzstan to Türkiye. HRW claimed that the Kyrgyz authorities had co-operated with MIT²⁰¹ but the Kyrgyz authorities denied this and filed a written appeal with the Turkish embassy in Kyrgyzstan. İnandı's hand was severely swollen in photographs released to the press and it was claimed that this was the result of torture.

The report also states that in July 2020, the Turkish Ministry of Justice announced that Türkiye had requested the extradition of 807 Gulenists from 105 countries and that, according to the same ministry, 27 countries had extradited a total of 116 Gülenists to Türkiye.²⁰² The report states that, according to the Turkish Ministry of Justice, a total of 118 people from 28 countries have been extradited to date²⁰³ and that based on these figures, it is concluded that Türkiye made 215 new extradition requests between July 2020 and July 2021.

d. United Kingdom

The United Kingdom, which is one of the countries preparing periodic reports on Türkiye, has also included kidnapping cases originating from Türkiye in its recent reports. In this context, in the section titled "*transnational*" in the report²⁰⁴ 8.7. No. 8.7. of the report announced on 26 October 2023, it is stated that the Parliamentary Assembly of the Council of Europe (PACE) explained the 4 main methods of transnational pressure in a resolution adopted on 23 June 2023. According to this

- Direct attacks in which a State of origin carries out targeted physical attacks against an individual abroad, such as assassinations, assaults, disappearances, physical intimidation and violent forced removals,

²⁰⁰ Government of the Netherlands: "General Country of Origin Information Report Türkiye", March 2022

²⁰¹ HRW: Türkiye/Kyrgyzstan: Rendition of Turkish-Kyrgyz Educator: Risk of Further Arbitrary Detention and Unfair Trial, July 7, [2021](#)

²⁰² Ministry of Foreign Affairs, General country of origin information report for Türkiye, March 2021, p. 42,

²⁰³ "Extradition traffic carried out with 109 countries for fugitive FETÖ members", 14.07.2021 <https://www.trthaber.com/haber/gundem/firari-fetoculer-icin-109-ulkeyle-iade-trafigi-yurutuldu-595700.html>

²⁰⁴ UK Visas and Immigration: "Country Policy and Information Note: Gülenist Movement, Türkiye, October 2023", <https://www.gov.uk/government/publications/Turkiye-country-policy-and-information-notes/country-policy-and-information-note-gulenist-movement-Turkiye-february-2022-accessible-version>

- Coercing other countries to cooperate in taking action against a target through detention, unlawful deportation and other forms of forced removal authorised by ostensible but meaningless legal procedures. This method involves the abuse of Interpol Red Notices, extradition proceedings and other forms of inter-state legal co-operation, such as anti-money laundering and counter-terrorist financing measures,
- Circumstances that impede mobility, prevent the target from travelling or cause detention, such as passport cancellation and refusal of consular services,
- Remote threats, including online intimidation or stalking and coercion by proxy, where a person's family, loved one or business partner is threatened, imprisoned or otherwise targeted.

Recognised as transnational oppression.

The report states that, in the framework of these principles, the Parliamentary Assembly of the Council of Europe (PACE) expresses its concern about Türkiye's systematic persecution of Turkish citizens residing outside Türkiye with alleged links to the Gülen Movement, particularly since the attempted coup d'état in July 2016, and that PACE *"...Türkiye's campaign was based on Interpol Red Bulletins and counter-terrorism financing measures and co-operation with other States in the **unlawful** deportation or transfer of persons, but extradition proceedings **turned out to be abusive**. In this context, the European Court of Human Rights found in 2018 that the Republic of Moldova had unlawfully transferred seven teachers of Turkish nationality to Türkiye, circumventing all safeguards provided by domestic and international law, in violation of their right to liberty guaranteed under Article 5 of the Convention. Paragraph 1 of the Convention. The United Nations Working Group on Arbitrary Detention made similar findings in relation to transfers from other regions, including outside Europe. Critics of the Government of Türkiye and journalists living in other Member States reportedly face threats and intimidation, sometimes requiring police protection by the authorities of the host State."*²⁰⁵

²⁰⁵ UNHRC, "The Turkish campaign has been found to rely on renditions, abuse of extradition proceedings, Interpol Red Notices and anti-terror financing measures, and co-opting other States to deport or transfer persons unlawfully. In this respect, the European Court of Human Rights found that in 2018 the Republic of Moldova had illegally transferred seven teachers of Turkish nationality to Türkiye, circumventing all guarantees offered by domestic and international law and therefore breaching their right to liberty guaranteed by Article 5, paragraph 1, of the Convention. Similar findings have been made by the United Nations Working Group on Arbitrary Detention regarding transfers from other territories, including outside Europe. Turkish Government critics and journalists living in other member States have reportedly faced threats and intimidation, sometimes requiring police protection by the authorities of the host State. **(Parliamentary Assembly, Transnational Repression As a Growing Threat To The Rule Of Law And Human Rights, Resolution 2509 (2023),** <https://pace.coe.int/en/files/32999/html>

The report also places particular emphasis on the reports of international institutions and organisations in order to draw attention to the cases of kidnapping and disappearance in Türkiye. In this context:

- In August 2020, the UN Working Group on Enforced or Involuntary Disappearances noted that "To date, at least 100 persons suspected of links to the Gülen/Services movement have reportedly been subjected to arbitrary arrest and detention, enforced disappearance and torture as part of covert operations reportedly organised or supported by the Government of Türkiye in coordination with the authorities of various states."²⁰⁶
- Citing a July 2020 report by Anadolu Agency, Freedom House stated that the Turkish Government had returned 116 people from 27 countries to Türkiye (in connection with the coup).²⁰⁷ Citing the 2022 annual report of Türkiye's National Intelligence Organisation (MIT), sources stated that more than 100 people allegedly linked to the Gülen movement were forcibly returned to Türkiye from abroad by MIT.²⁰⁸⁻²⁰⁹
- The European Commission's 2022 Report on Türkiye stated that: "Türkiye '... continued to demand action against the presence in the [Western Balkan] region of alleged members of the Gülen movement and demanded their extradition and the closure of all schools linked to this movement'. This has caused tensions with some countries".²¹⁰
- On 1 March 2023, The Guardian newspaper reported on a dossier submitted to the International Criminal Court (ICC) by a panel of European legal experts which identified "... 17 cases of enforced disappearances in which victims were abducted from Kenya, Cambodia, Gabon, Albania, Bulgaria, Moldova, Mongolia and

²⁰⁶ Follow-up to the recommendations made by the Working Group on Enforced or Involuntary Disappearances in its report on its visit to Türkiye from 14 to 18 March 2016 (A/HRC/33/51/Add.1); Report of the Working Group on Enforced or Involuntary Disappearances [A/HRC/45/13/Add.4], Pr.8, <https://www.ecoi.net/en/document/2036889.html>

²⁰⁷ Freedom House, "Türkiye: Transnational Repression Origin Country Case Study", Special Report 2021: <https://www.freedomhouse.org/reports/transnational-repression-origin-country-case-study>

²⁰⁸ Turkish Minute, "PACE expresses concern over Türkiye's pursuit of anyone related to 'Gülen movement,' condemns transnational repression", 23 June 2023, <https://www.turkishminute.com/2023/06/23/pace-express-concern-over-turkiye-pursuit-anyone-related-to-gulen-movement-condemns-transnational-repression/>

²⁰⁹ SCF, "Türkiye's intelligence agency confirms abduction of more than 100 people with alleged links to Gülen movement", 6 March 2023, <https://stockholmcf.org/turkey-intelligence-agency-confirms-abduction-of-more-than-100-people-with-alleged-links-to-gulen-movement/>

²¹⁰ European Commission, Türkiye Report 2022, Page 80, https://neighbourhood-enlargement.ec.europa.eu/turkiye-report-2022_en

Switzerland and taken back to Türkiye...” for alleged links to the Gülen Movement.²¹¹

- Türkiye has requested the extradition of 1,271 members of the Gülen Movement from 112 countries, including 256 from the United States and 483 from European Union member states, and 126 suspects have been handed over to Turkish authorities as of 13 July 2023, Justice Minister Yılmaz Tunç told Anadolu Agency.²¹²

D. REPORTS PREPARED BY OTHER ORGANISATIONS AND INSTITUTIONS

1. Human Rights Watch (HRW)

HRW is an international non-governmental human rights research and advocacy organisation based in New York. HRW is one of the leading human rights organisations that closely monitors rights violations in Türkiye and prepares reports on this issue.

According to HRW reports, there have been numerous cases of alleged abductions and enforced disappearances of people accused of being Gülenists in Türkiye. Reports indicate that the Turkish authorities have not effectively investigated any of these cases and some families have appealed to the European Court of Human Rights for justice. The whereabouts and fate of some victims remain unknown. Human Rights Watch has investigated numerous cases of abductions that may amount to enforced disappearances and has provided details of five separate cases of abductions by state authorities that may amount to enforced disappearances since March 2017. Reports also indicate that the Turkish government continues to pursue suspected Gülenists inside Türkiye and abroad, and that agents of Türkiye's National Intelligence Organisation have carried out numerous abductions in places such as Kosovo,

²¹¹ The Guardian, “ICC asked to investigate Turkish government over persecution of opponents around the world”, 1 March 2023, <https://www.theguardian.com/world/2023/mar/01/icc-asked-to-investigate-turkish-government-over-persecution-of-opponents-around-the-world>,

²¹² Daily Sabah, “Fight against FETÖ prevails 7 years after coup attempt in Türkiye”, 13 July 2023, <https://www.dailysabah.com/politics/fight-against-feto-prevails-7-years-after-coup-attempt-in-turkiye/news>

with the full complicity of the authorities.²¹³⁻²¹⁴ abducting Turkish citizens accused of links to the Gülen Movement in broad daylight.

HRW's most recent report, **"We Will Find You": A Global Look at How Governments Repress Nationals Abroad**, the report assesses the situation in the world in general and includes detailed coverage of kidnappings and disappearances in Türkiye.²¹⁵ HRW has published a new report on 'transnational repression' of dissidents abroad by governments. The report focussed on abductions from abroad, particularly Orhan İnandı and Selahaddin Gülen in Türkiye. In its new report, HRW draws attention to the fact that repression by authoritarian regimes knows no borders.

While the report underlines that more than 20 countries have used transnational methods of repression, the unlawful acts of the Government of Türkiye are analysed in the section on *"abductions and enforced disappearances"*. The report notes that more than 80 people have been abducted from abroad and brought to Türkiye, and that this unlawful act is regularly reported as a success by the Turkish Government and Türkiye's official news agency, Anadolu Agency. To illustrate this, HRW briefly mentioned the cases of Ayten Öztürk, Selahaddin Gülen and Orhan İnandı. HRW notes that after the May 2023 elections, the regime continued to cooperate with countries where there is no rule of law and continued to carry out abductions. Finally, Emsal Koç and Koray Vural were unlawfully brought to Türkiye from Tajikistan.

²¹³ HRW: Türkiye: Enforced Disappearances, Torture, April 29, 2020, <https://www.hrw.org/news/2020/04/29/Türkiye-enforced-disappearances-torture> ; HRW: In Custody: Police Torture and Abductions in Türkiye, October 12, 2017, <https://www.hrw.org/report/2017/10/12/custody/police-torture-and-abductions-Türkiye> ; HRW: Lawyers on Trial: Abusive Prosecutions and Erosion of Fair Trial Rights in Türkiye April 10, 2019, <https://www.hrw.org/report/2019/04/10/lawyers-trial/abusive-prosecutions-and-erosion-fair-trial-rights-Türkiye> ; HRW: Türkiye Events of 2021, March 20, 2021, <https://www.hrw.org/world-report/2022/country-chapters/Türkiye>

²¹⁴ "Alleged Gulenists main target of forced disappearances in Türkiye", April 29, 2020, <https://www.al-monitor.com/originals/2020/04/report-torture-disappearance-Türkiye.html#ixzz8XvtKWC9g>

"US Rights Group Calls on Türkiye for Action on Abductions", August 08, 2017, <https://www.voanews.com/a/rights-group-calls-Türkiye-action-abductions/3977441.html> ;

School of Theology : Undaunted Voices of Türkiye: Stories of Women Who Resist, <https://sites.bu.edu/storiesofwomen/more-reading/human-rights-organizations/>

"Suspicious abductions in Türkiye raise fears of state role", SEPTEMBER 19, 2017, <https://www.politico.eu/article/Türkiye-erdogan-suspicious-abductions-raise-fears-of-state-role/>

²¹⁵ Human Rights Watch, "We Will Find You": A Global Look at How Governments Repress Nationals Abroad", 22 February 2024, <https://www.hrw.org/report/2024/02/22/we-will-find-you/global-look-how-governments-repress-nationals-abroad>

As the report is 46 pages long, it does not address the full range of lawlessness involving transnational instruments of pressure or governments. For example, in the section on the abuse of Interpol, Türkiye, one of the countries that has abused the organisation the most, is not mentioned. HRW acknowledges these shortcomings in its report and points out that the incidents do not cover the full range of illegalities. The aim of the report is to encourage international organisations and governments to offer greater protection to dissidents at risk.

2. Correctiv.org

A dossier published by Correctiv.org, a German non-profit organisation whose aim is to expose the unlawful practices of governments that abuse their power, contains serious allegations against the Turkish government in cases of kidnapping and disappearance.

*Correctiv.org's 'Black Sites Türkiye'*²¹⁶ describes how the Erdoğan regime forcibly abducted members of the Gülen Movement from abroad or within the country, held them in secret locations and tortured them.

According to the website, abductions are not limited to Türkiye but are also seen abroad. These scenes are frequently seen on security cameras, especially in public places. These scenes clearly show that many victims are forced into black minibuses. In addition, those abroad are taken to Türkiye by private jets belonging to the Turkish secret service MIT, or by scheduled flights of the state airline Turkish Airlines, or by chartered planes. They are extradited to Türkiye through methods that are far removed from the normal legal process, especially after secret negotiations with local authorities in some countries, which may involve money or threats. However, when it comes to the Gülen Movement, the State of the Republic of Türkiye can recklessly resort to all possible unlawful means.

Working in partnership with media organisations such as the German ZDF, Spanish El Pais, French Le Monde, Israeli Haaretz, Italian Il Fatto Quotidiano, Austrian Addendum, Danish Monday Morning and Swedish TT news agency, Germany-based Correctiv.org's dossier also shares information about the background of the striking allegations. The dossier, prepared by 13 journalists from 9 different media organisations in a total of 8 countries and compiled by cross-referencing sources, presents the real names or pseudonyms of individuals who once supported the Gülen Movement. The dossier also states that all allegations have been impartially investigated. While some of the allegations are accompanied by concrete video footage and consistent information and testimonies about the development of the incident, Correctiv.org stated that it is not possible to verify every detail of the stories, but that multiple independent, cross- and collective questioning by journalists concluded that the stories and sources were reliable.

²¹⁶ Correctiv: 'Black Sites Türkiye', 11. December 2018,

According to the allegations in the dossier, similar abductions have taken place in Kosovo, Gabon, Sudan, Moldova, Azerbaijan, Ukraine, Malaysia, Switzerland, Mongolia and many other countries.

3. Solidarity with OTHERS

According to recent reports by Solidarity with OTHERS, an organisation known for its work on recent unlawful practices in Türkiye, between 10 August 2016 and 15 February 2021, a total of 100 people associated with the Gülen Movement were abducted or unlawfully returned to Türkiye in 53 incidents from 30 countries. In this context, a report on abductions” **Enforced isappearances: Türkiye's Open Secret**”, which details the cases in detail, is available at.²¹⁷

4. Stockholm Centre for Freedom

The Stockholm Center for Freedom (SCF), another organisation that has reported on cases of kidnapping and disappearance in Türkiye, has also examined in detail the unlawful operations carried out in many different countries.

The SCF published its first comprehensive report on the cases of abducted persons on 22 June 2017.²¹⁸ Subsequently, two more reports were prepared in 2021. The first study included a detailed list of abducted persons as of 11 January 2021.²¹⁹ The other study detailed how the Erdoğan regime used extrajudicial and illegal methods to forcibly return citizens abroad to Türkiye.²²⁰

In addition, the Stockholm Centre for Freedom published a report in early 2024 which revealed that Türkiye was behind 132 incidents of direct and physical international violence and repression between 2014 and early 2023, and identified Türkiye as the world's second most prolific perpetrator in this field.²²¹ In other words, it is understood that Türkiye ranked second in the world in the field of kidnapping and disappearance, which is a rogue state practice. In

²¹⁷ Solidarity with OTHERS, “Enforced Disappearances: Türkiye's Open Secret”, August 2021, https://b2923f8b-dcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_7d4a63ba24e94698baeea31f3e2af67e.pdf

²¹⁸ SCF: Enforced Disappearances In Türkiye, June, 2017, https://stockholmcf.org/wp-content/uploads/2017/06/Enforced-Dissappearances-in-Türkiye_22_June_2017.pdf

²¹⁹ SCF: Enforced Disappearances in Türkiye, January 11, 2021, <https://stockholmcf.org/enforced-disappearances-in-Türkiye-2/>

²²⁰ SCF: “Türkiye's Transnational Repression: Abduction, Rendition and Forcible Return of Erdoğan Critics”, October 21, 2021

²²¹ SCF: Human Rights In Türkiye: 2023 in Review, March 2024, <https://stockholmcf.org/wp-content/uploads/2024/03/Human-Rights-in-Türkiye-2023-in-Review.pdf>

addition to these reports, the SCF also prepared special reports directly on the countries where Türkiye kidnapped people abroad.²²²

5. Advocates of Silenced Türkiye

Advocates of Silenced Türkiye (AST), a US-based non-governmental organisation established to address all human rights violations of a civil, political, economic, social and cultural nature enshrined in fundamental human rights instruments in Türkiye and beyond, regularly prepares reports to draw attention to human rights violations in Türkiye. In this context, the report named **"Beyond Türkiye's Borders: Unveiling Global Purge, Transnational Repression, Abductions"**,²²³ which was released on 26 May 2023, describes how the Erdoğan regime has expanded its operations against supporters of the Gülen Movement around the world and all known cases worldwide. The report also discusses the so-called "Black Transporter" cases of forced abductions in Türkiye.

The report draws attention to domestic and international kidnappings targeting the Gülen Movement; a systematic, global pattern of unlawful practices; and state-sponsored enforced disappearances and abductions targeting the Gülen Movement by the Erdoğan regime.

In the study, it is stated that the Erdoğan regime has adopted a multifaceted approach by applying repressive tactics both domestically and internationally. It is emphasised that these practices of the Erdoğan regime include enforced disappearances, abductions, torture, forced confessions, unlawful detentions and extrajudicial executions and that these are crimes against humanity.

According to the AST report;

- Exploiting the coup attempt, which the Gülen Movement has consistently denied and repudiated from the outset, Erdoğan has taken advantage of the state of emergency to completely disregard existing laws, including international standards such as the Universal Declaration of Human Rights, and launched an unprecedented and frenzied witch-hunt against members of the Movement,
- Within the scope of the witch-hunt launched against the Gülen Movement; as of 2022, approximately 1.6 million people were subjected to investigations accusing them of being members of an armed terrorist organisation; more than 300,000 people were detained; more than 100,000 people were arrested; 234,419

²²² SCF: [Reports](#)

²²³ Advocates of Silenced Türkiye (AST): "Beyond Türkiye's Borders: Unveiling Global Purge, Transnational Repression, Abductions", 26 May 2023

people had their passports cancelled and their freedom of movement restricted; more than 152,000 public officials were dismissed without being given the opportunity to defend themselves; enforced disappearances, which were widespread in Türkiye in the 1990s, were back on the agenda after the failed pseudo-coup in July 2016,

- Documented at least 30 cases of enforced disappearances, defined as "Black Transporter" cases, in which people were taken away in black Transporter-type vehicles, mostly in Ankara,
- Some victims, who were later handed over to law enforcement authorities, reported that they had been tortured during their abduction,
- The Turkish authorities systematically carried out state-sponsored extraterritorial abductions and forcibly returned more than 100 Turkish nationals to Türkiye from various countries,
- These issues were also confirmed in the 2022 annual report of the MIT,
- The Erdoğan regime has pressurised other countries to arrest and deport members of the Gülen Movement,
- Abductions from outside the country violate international law and the sovereignty of the countries from which they are abducted,
- It has been explained in detail that members of the Gülen movement have been subjected to "genocide" due to unlawful practices such as repression, kidnappings, disappearances, prosecutions, detentions, arrests and dismissals by the Erdoğan regime at home and abroad.

In its 2021 report **"Global Purge': 144 Abductions Conducted By The Turkish Government In Türkiye And Abroad"**²²⁴, it was emphasised that the Erdoğan regime cooperated with local intelligence agencies in some countries to capture members or supporters of the Gülen Movement, while in other countries MIT directly conducted operations. Albania, Angola, Azerbaijan, Bahrain, Bulgaria, Bosnia, Cyprus, Gabon, Georgia, Indonesia, Iraq, Kazakhstan, Kenya, Kosovo, Lebanon, Malaysia, Mexico, Moldova, Mongolia, Montenegro, Morocco, Myanmar, Pakistan, Qatar, Saudi Arabia, Sudan, Turkmenistan, Ukraine are some of these countries.

In the 2021 Report, although it is not easy to determine the exact number of abducted persons, the names, occupation, date of disappearance, place of disappearance, current situation of the persons and details of the events of 144 abducted persons are included in order

²²⁴ Advocates of Silenced Türkiye (AST), **"Global Purge': 144 Abductions Conducted By The Turkish Government in Türkiye and Abroad"**, 23 June 2021

to ensure a comprehensive discussion of abductions and enforced disappearances within the framework of international law.

In its 2020 report “**Erdogan's Long Arms: Abductions In Türkiye And Abroad**”²²⁵ provides a comprehensive assessment of the Erdoğan regime's abductions and enforced disappearances of members of the Gülen Movement under international law. The report also analyses how the Erdoğan regime has expanded its operations against the Gülen Movement and includes cases of abductions and disappearances of members of the movement around the world.

SECTION IV:

ACTUAL CASES FROM TÜRKİYE

Under the state of emergency declared after the 15 July 2016 coup attempt in Türkiye, the Erdoğan regime has dismissed and then arrested hundreds of thousands of housewives, mothers, children, teachers, NGO workers, academics, judges, prosecutors, journalists and countless other victims. Many others have been abducted in broad daylight in black Transporters and subjected to torture and ill-treatment in MIT torture centres. The abductions took place both at home and abroad.

On the other hand, although it is not possible to determine the final number and the unlawful acts of kidnapping and disappearance that the Erdoğan regime has initiated against

²²⁵ Advocates of Silenced Türkiye (AST), “Erdogan's Long Arms: Abductions In Türkiye And Abroad”, September 2020, <https://silencedTürkiye.org/wp-content/uploads/2020/09/Abductions-Report-September-7-1.pdf>

the Gülen Movement, the cases identified through written, visual and social media and other open sources will be included below.²²⁶

In the first part of this section, we will look at those who were abducted by the Erdoğan regime's intelligence and law enforcement agencies and have not been heard from for years; In the second part, current information will be provided on those who were abducted in black Transporters, which have become a symbol, and handed over to law enforcement agencies after months of being subjected to torture and ill-treatment in MIT torture centres, and in the last part, on those who were abducted by MIT from abroad and brought to Türkiye, where they were similarly subjected to torture and ill-treatment in MIT torture centres and handed over to judicial authorities.

A. CASES OF FORCED DISAPPEARANCE IN TÜRKİYE WHICH STILL CANNOT BE CONTACTED

Kidnappings and disappearances, which have also occurred in Türkiye in the past but intensified again with the 15 July process, have turned into a state policy. Under the name of the anti-terrorism concept, people are abducted by MIT with the participation of Turkish law enforcement forces from or abroad without legal detention and arrest warrants. When people are out for any reason, they are abducted in pre-arranged vehicles in front of the public and taken to torture centres. After a long period of time, most of the abducted persons are handed over to law enforcement officers after their statements are taken by force in torture centres without any legal protection. Some of the abducted persons are executed at the stage of enforced disappearance, as described in the following section. Complaints to administrative and judicial authorities about abducted persons are either not processed or the complaint files are closed without any investigation.

In cases of abductions and disappearances, the fact that the same type of vehicle is usually seen in many cases, that the pursuit and abduction is carried out in a professional manner, the reluctance of the police to collect evidence, the reluctance of the judicial authorities to accept or ignore the applications, the fact that the abducted persons are the subject of investigations against the Gülen Movement, and the fact that the abductions are carried out by the MIT, law enforcement forces or affiliated persons, when evaluated as a whole, it is understood that these actions are carried out systematically within a policy framework.

²²⁶ Solidarity with OTHERS: "Enforced Disappearances: Türkiye's Open Secret", https://b2923f8b-dcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf; AST: "Global Purge" : 144 Abductions Conducted By The Turkish Government In Türkiye And Abroad, June 23, 2021, <https://silencedTürkiye.org/global-purge-1-144-abductions-conducted-by-the-turkish-goverment-in-Türkiye-and-abroad>

The following are some of the cases in Türkiye where people were abducted in a very reckless manner, mostly in broad daylight, in black Transporters and were never heard from again.

1. Sunay Elmas (27 January 2016-Ankara)

The first victim of the abductions and disappearances of Gülen Movement volunteers by the MIT in Türkiye was educator Sunay Elmas. The abduction cases known to the public as "Black Transporter" started with Sunay Elmas. Sunay Elmas was abducted on 27 January 2016 at around 11:00 a.m. from the CEPA Shopping Centre in Ankara by forcibly getting into a black Transporter. On the morning of 27 January 2016, he had dropped his children off in Sincan, Ankara, and on his way back, he was seen alone in his car on all MOBESE cameras. The cameras of the CEPA Shopping Centre and the shops in front of it captured the moment of her abduction. The footage of him getting out of his car at CEPA Shopping Centre, being intercepted and forced into a black Transporter was submitted to the Ankara Security Directorate by his family with an official report. After persistent written requests by Sunay's family and lawyers, the Ankara Provincial Security Directorate took the footage from the CEPA Shopping Centre. The officially obtained footage also confirmed the abduction.

The police and the prosecutor's office did not carry out any work on the abduction of Sunay Elmas, despite the fact that the descriptions of the kidnappers are quite clear in the footage and the identities of those who carried out the abduction can be easily identified due to the high quality of the footage.²²⁷ Some sources have also stated that Elmas was taken to the torture farm belonging to the MIT, where he was interrogated by Hakan Fidan, the head of the MIT at the time. No news has been received from Elmas since the day he was abducted.²²⁸

2. Ayhan Oran (1 November 2016-Ankara)

Ayhan Oran, an intelligence specialist at MIT, was recalled and dismissed from Greece after 15 July. Ayhan Oran, who was investigated for membership to the Gülen Movement and accused of using a secret phone line from MIT, was detained and released with judicial control. According to the CCTV footage of his residence, Ayhan Oran was last seen on 1 November 2016 at 12.38 pm and was not heard from again. His wife claimed that her husband was abducted and applied to the police and then to the prosecutor's office. Ankara Western Chief

²²⁷ "3rd anniversary of the abduction of Sunay Elmas, the first black Transporter victim", 29 January 2019, <https://boldmedya.com/2019/01/27/ilk-siyah-transporter-kurbani-sunay-elmasin-kacirilisinin-ucuncu-yili/>

²²⁸ "New information about Sunay Elmas, whom Hakan Fidan personally interrogated", 27 January 2019, <https://www.samanyoluhaber.com/hakan-fidanin-bizzat-sorgusuna-girdigi-sunay-elmasla-ilgili-yeni-bilgiler-haberi/1318446/>

Public Prosecutor's Office determined that Ayhan Oran's phone was signalled first in Eskişehir and then in Afyonkarahisar.²²⁹

Despite the request of the prosecutor's office, the police did not send the MOBESE records in the Ankara-Afyonkarahisar direction, where Ayhan Oran's phone was last signalled. Ayhan Oran's wife submitted a new petition to the prosecutor's office, stating that in the "will" her husband had left to her before he disappeared, he had held the MIT, the organisation he worked for, responsible if anything happened to him. Upon this, the Ankara Western Chief Public Prosecutor's Office issued a decision of non-authorisation, stating that the location of the MIT does not fall within its jurisdiction.

The Ankara Chief Public Prosecutor's Office, which took over the case, asked the Police Department for the MOBESE footage that was signalled for the last time in Afyonkarahisar. Meanwhile, VKA, a defendant on trial in the Gülen Movement membership case, claimed that he had been tortured at TEM and that he had been shown footage of Ayhan Oran's interrogation in custody. However, the prosecutor's office did not take his statement despite the request of Ayhan Oran's wife.

The vehicle used by Ayhan Oran was found abandoned on a street in Çankaya two years later. Meanwhile, the prosecutor's office, which was conducting an investigation against Ayhan Oran for his alleged membership in the Gülen Movement and espionage, issued a warrant for his arrest in 2020. However, despite the 8 years that have passed, there has been no news about Ayhan Oran's fate.

Upon the individual application to the Constitutional Court due to the disappearance of Ayhan Oran and the failure of the judicial authorities to conduct an effective investigation, the Court ruled that the obligation to protect life and the obligation to conduct an effective investigation guaranteed by the Constitution were violated. A copy of the judgement was sent to the Ankara Chief Public Prosecutor's Office to take necessary actions to eliminate the consequences of the violation. The court also ordered the payment of 90.000 TL in non-pecuniary damages to the brother of missing Ayhan Oran. In the justification of the decision, it was stated that an effective investigation had not been conducted to find Ayhan Oran and to punish those responsible. In the decision, it was stated that the prosecutor's office did not take the statements of VKA and MG, who made allegations about Ayhan Oran, and that the police did not check the MOBESE and EDS records, and that the prosecutor's office did not make any effort to remedy these deficiencies.²³⁰

²²⁹ "Dark deeds in Marşandiz: Journey to the torture centre of the gang [ERDOĞAN'S DIRTY TÜRKİYE -4] ", 18 February 2018, <https://www.tr724.com/MIT-yoneticileri-itiraf-etti-cetenin-iskence-merkezine-yolculuk/>

²³⁰ Constitutional Court Ayla Oran Özgün Decision, B. No: 2019/6676, 14/9/2022, <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2019/6676>

On the other hand, Erhan Pekçetin, who was one of the senior officers of MIT, and another MIT officer Aydın Günel, who were detained by the PKK in a counter-operation on 4 August 2017 while they were preparing for an operation to assassinate some members of the PKK senior management in Northern Iraq, were given detailed information that Ayhan Oran was brought to the Special Activities Directorate compound called 'Çiftlik' by MIT 3-4 km behind Beştepe Palace after he was abducted, and this information was shared in video and written form through internet channels close to the PKK. Erhan Pekçetin, who was interrogated by the PKK: *"We also used the Special Activities Interrogation Compound as the GIB (Security Intelligence Directorate). One day later, the FETÖ department brought a male person. It is already a small place. It has three or four cells. There is also a protection centre. After he arrived, the head of the Revenue Administration telephoned and said, 'Don't make a sound, don't raise your voice. And switch off the cameras'. There are cameras showing the cells. I guessed that it was a member of the organisation. I said, 'It's someone who shouldn't hear our voices and shouldn't see us.' The cameras were switched off so that we wouldn't see him. But I saw him, because it was Ayhan Oran who organised the Paris massacre with Uğur Kaan Ayık and Oğuz Yüret. Because Ayhan Oran's legs are crooked and open outwards because he plays football. Then it was already in the press, 'Where is Ayhan Oran?*

As can be seen, the 'White Taurus', which in the past symbolised the persecution of the illegal organisation JITEM, has been replaced by black Transporters belonging to MIT. MIT, which has become the intelligence and torture centre of the Erdoğan regime, has come to the point of throwing innocent teachers, civil servants, police officers and even its own colleagues into torture cells and eventually losing them.

3. Turgut Çapan (31 March 2017-Ankara)

On 31 March 2017, Friday, Turgut Çapan, an employee of Turgut Özal University, which was closed down by the State of Emergency Decree Law issued during the State of Emergency declared after the 15 July coup attempt, left his house in Şentepe neighbourhood of Yenimahalle district of Ankara and was never heard from again.²³¹ His family suspected that Turgut Çapan had been abducted and contacted the police and judicial authorities, but no results were obtained. So far, the authorities have not taken any interest in the matter and have not taken the family's complaint seriously.²³²

Önder Asan, who informed his wife Ülkü Çapan of Turgut Çapan's abduction, was also abducted a day later.²³³ Önder Asan, who was abducted one day after Turgut Çapan's abduction, was handed over to the police after 42 days and in his statement he said that they

²³¹ Solidarity with Others, Enforced Disappearances: Türkiye's Open Secret, May 2020, p. 10

²³² Rights Initiative: "Review and Research Report on Allegations of Illegal Detention by Public Officials after 2016," 19 June 2019, p. 9

²³³ "Forced Abductions in Türkiye", <https://trdekacirilma.wordpress.com/turgut-capan/>

had tortured Turgut Çapan under torture and that Turgut Çapan had already told them everything. From this information it is clear that Turgut Çapan's abductors were the same organisation as Önder Asan's abductors.

Turgut Çapan's family raised the issue with Advocates of Silenced Türkiye, an international human rights organisation. AST lodged an application at the United Nations about the abducted Turgut Çapan.²³⁴ Turgut Çapan has not been heard from since his abduction.

4. Fatih Kılıç (14 May 2017-Ankara)

Fatih Kılıç, a former teacher who was dismissed from his job with the Decree Law issued during the state of emergency, came to Dikimevi by Ankaray on 14 May 2017 after sending his wife and children to their hometowns from Ankara AŞTİ (Bus Terminal). No news was received from Fatih Kılıç after this date. Although the Ankaray administration requested the subway footage, the authorities delayed the family's request for a week on the grounds that there was no prosecutor's decision. As a result of the images obtained later, it was seen that Fatih Kılıç was abducted by some people, but despite this, the investigation prosecutor appointed on 21 June 2017 closed the file on 3 July 2017 with a decision of non-prosecution.²³⁵

Human Rights Watch contacted Human Rights Watch, which found that security camera footage showed that Fatih Kılıç left the bus station by metro, got off at the Dikimevi stop, and was never seen again.²³⁶ There is still no news about Fatih Kılıç, despite the passage of nearly 7 years.

5. Murat Okumuş (16 June 2017-İzmir)

Murat Okumuş, an accountant at İzmir Şifa Hospital, which was closed down by a state of emergency decree, was abducted by a group of 5-6 people on 16 June 2017 in Bornova, İzmir. According to witnesses, people claiming to be police officers abducted Murat from two cars one after the other by forcing him into one of the cars. Witness statements about the incident

²³⁴ "21 days ago abducted Turgut Çapan is on the UN agenda! ", 22 April 2017, <https://aktifhaber.com/gundem/21-gun-once-kacirilan-turgut-capan-bm-gundeminde-h95243.html>

²³⁵ "There is still no news from Fatih Kılıç and Mustafa Özben who were abducted in the heart of Ankara!", 13 June 2017, <https://www.tr724.com/ohalde-ankarada-kacirilan-fatih-kilic-mustafa-ozbenden-hala-haber-yok/>; "Four of them were given, a new person was abducted", 09 August 2019

²³⁶ Solidarity with Others, Enforced Disappearances: Türkiye's Open Secret, May 2020, p. 13, https://b2923f8bdcd2-4bd5-81cd-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>); Rights Initiative, "Review and Research Report on Allegations of Illegal Detention by Public Officials after 2016," 19 June 2019, p.10

were also delivered to the police. In addition, the licence plates of the vehicles can be seen very clearly in the videos of the abduction that his family accessed by their own means.²³⁷

Murat Okumuş's father Ahmet Okumuş made the following statement to Human Rights Watch:²³⁸ "I spoke to one of the witnesses. He owns a freezer repair service. He told me what he saw as it happened. He shouted, 'My son, let me go,' and was forced into a car by 5 or 6 men. The men told the surprised onlookers that they were police officers. Those who saw the incident called the police on 155 and when those police officers looked at the security camera footage, they apparently said that the men who took my son were from the anti-terror branch and that they could not intervene. The witness, a deep freezer service, gave a statement to the police. He was impartial and said he would tell the police what he saw.

...We also went to the prosecutor's office, where we were able to watch the security camera footage. It showed the kidnapping. Everything was very clear. You could see the faces of my son's kidnappers. If the authorities want, they can identify who those men were from those recordings. The prosecutor told us that he would give us a copy of the recordings after two days, but when we went two days later, the same prosecutor told us that the file had been taken away from him and given to another prosecutor. They didn't even show us a seat. We learnt that there is a confidentiality order on the investigation. We can't learn anything anymore; we can't get the security camera recordings of the abduction.

...All my wife and I want is to know where our son is, to know that he is in the hands of the state, which we believe he is. This job has exhausted us. May God protect everyone from this."

The family members, who accessed the CCTV footage and filed a criminal complaint to the prosecutor's office, later learnt that the prosecutor was removed from the case and a confidentiality order was imposed on the investigation.²³⁹ No news has been received from Murat Okumuş since his abduction.

6. Fahri Mert (12 August 2018-İzmir)

Fahri Mert was abducted from his house at around 03:00 on 12 August 2018 by people claiming to be police officers and saying 'We will take you to the Security Directorate'.²⁴⁰ No

²³⁷ "ERDOĞAN REGIME CONTINUES TO ABduct MAN! Murat Okumuş was abducted in İzmir...", 22 June 2017

²³⁸ Human Right Watch, IN DETENTION: Police Torture and Human Abduction in Türkiye, 2017, p. 43

²³⁹ Solidarity with Others, Enforced Disappearances: Türkiye's Open Secret, May 2020, p. 10, https://b2923f8bdcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf

²⁴⁰ "No news from Fahri Mert abducted in İzmir for 2 weeks" 25 August 2018, <https://www.tr724.com/izmirde-kacirilan-fahri-mertten-2-haftadir-haber-alinamiyor/>

effective investigation has been initiated despite the applications on Fahri Mert's abduction and enforced disappearance. There has been no information on the whereabouts of Fahri Mert since the incident.²⁴¹

7. Yusuf Bilge Tunç (6 August 2019-Ankara)

Yusuf Bilge Tunç, who was dismissed from his job at the Undersecretariat for Defence Industries with a decree law after 15 July, started selling paper, cups and packaging to support his family. He bought from a wholesaler in Ankara GİMAT and sold to retailers. Tunç, who was trying to make a living in this way, was abducted on 6 August 2019 in a black Transporter-type vehicle in the centre of Ankara. The vehicle belonging to Yusuf Bilge Tunç, which he used to trade after being dismissed from his public sector job, was found by his family abandoned on the side of the road in GİMAT, Ankara, 48 hours after he went "missing". Yusuf Bilge Tunç's family left no stone unturned in Türkiye to find him, but to no avail.²⁴²

In an application to the ECtHR against Türkiye for failing to conduct an effective investigation into the abduction and enforced disappearance of Yusuf Bilge Tunç, the Court unfortunately rejected the application on the grounds that the Turkish authorities had made the necessary efforts to find Tunç and had conducted an effective investigation.²⁴³ However, although the ECtHR states that adequate measures were taken to find Tunç, from the first moment onwards the judicial authorities created all kinds of difficulties and any progress in the investigation was achieved through the efforts of the family. Even the car Tunç was driving was found by his family and the authorities had no input in this. There was no direct discovery or identification of evidence (fingerprints, etc.) on the vehicle; no verbal or written instruction was given by the prosecutor's office to the law enforcement units to carry out these procedures, and the examinations that the ECHR said were carried out at the scene of the incident were carried out exactly 5.5 months after the incident. Also within the scope of the file;

- Apart from the MOBESE footage provided by the family, no detailed MOBESE analysis was carried out;
- Only Tunç's mobile phone call records were checked, not his location records;

²⁴¹ Heymans, Johan: Abduction In Türkiye Today, Türkiye Tribunal, July 2021, p.75, https://Türkiyetrybunal.org/wp-content/uploads/2021/11/AbductionsinTürkiye_Türkiye-Tribunal-Report_FINAL.pdf

²⁴² "4 years ago he was kidnapped in the centre of Ankara! His tearful family asks; Where is Yusuf Bilge Tunç? ", 6 August 2023, <https://www.tr724.com/4-yil-once-ankaranin-gobeginde-kacirilmisti-gozu-yasli-ailesi-soruyor-yusuf-bilge-tunc-nerede/>

²⁴³ ECtHR Nuray TUNÇ and Mustafa TUNÇ v. Türkiye, Application no: 45801/19, K.T: 17/03/2022, [https://hudoc.echr.coe.int/eng# {%22fulltext%22: \[%22Nuray%20TUN%C3%87%22\], %22itemid%22: \[%22001-200276%22\]}](https://hudoc.echr.coe.int/eng# {%22fulltext%22: [%22Nuray%20TUN%C3%87%22], %22itemid%22: [%22001-200276%22]})

- Although the court claims that witnesses were heard, neither in the investigation file nor in the government's response is there a witness heard. The only issue related to witnesses is a token letter written by the prosecutor's office 5 months after the incident regarding the taking of witness statements;
- Although the decision states that private and public organisations were given access to Tunç's personal files in order to find him, this information was also found and given to the investigation authorities by his family, and camera footage started to be collected one month after the location was found;
- The disappearance file on Tunç was merged with the file on the organisation for which a confidentiality order was issued, and the request of the lawyers of the relatives of the victims to obtain documents from the file was rejected on the grounds of the restriction order. Therefore, Tunç's relatives were prevented from accessing the file.²⁴⁴

Amnesty International featured the enforced disappearance of Yusuf Bilge Tunç in its 2021/22 annual report assessing the state of human rights around the world. The report noted that following the enforced disappearance of individuals dismissed for alleged links to the Gülen movement, authorities denied that they were held in official custody, but the fate and whereabouts of Yusuf Bilge Tunç, who has been missing since August 2019, are still unknown.²⁴⁵

B. KIDNAPPING CASES IN TÜRKİYE

1. Yunus Akyol (21 July 2016-Ankara)

On 21 July 2016, at around 17.30, Yunus Akyol was in traffic on his way to his father's house in Güneşevler and stopped in front of a shop to buy something when he was forced out of the car by three or four armed men getting out of another car and forced into their own car.

Akyol could not see anyone during the abduction because of the cloth over his head, and when he asked "*who are you, what do you want?*" he was forcibly silenced by being told "*The State!*". After he was abducted, he was locked in a windowless place with a floor and all the walls covered with sponge and carpeting, and his hands and eyes were kept tied and blindfolded. He was told by his abductors that there was no other way to talk to him, either by force or by kindness, because no one knew whether he was alive or where he was, and he was subjected to violence to make him tell them who he was. During the torture, the torturers

²⁴⁴ Güneş, Gökhan: *Evaluation of the ECtHR's Yusuf Bilge Tunç Judgement*, <https://www.drgokhangunes.com/makale/aihmin-yusuf-bilge-tunc-kararina-iliskindegerlendirme/>

²⁴⁵ <https://amnesty.org.tr/public/uploads/files/Türkiye'de%20Human%20Hakları-2019.pdf>

crushed his fingers and toes with their shoes, punched him in the back and face, kicked him in the back, he suffered injuries on his back and shoulders due to the blows and compression, the ligaments in his knee were torn, he could not bend his head for two weeks due to a hard blow to his ear, and he lost his hearing for a long time. The person who questioned him tried to create the impression that he was a soldier or a former police officer.

He was not brought before the official interrogation authorities for approximately two weeks, after which time he was told to put on his clothes, to put on the two masks given to him, a knotted cloth was tied over his mouth, and after making sure that he could not speak, he was taken out of the building where he had been locked up in the evening. When he got into the vehicle, the plastic handcuffs used to bind his hands behind his back were tightened tightly, his feet were also tied, and when the vehicle stopped, he was carried by his feet and arms and made to sit down somewhere; he was told not to make any noise, not to try to go anywhere, that someone would come and get him. After the vehicle drove away, he removed the gag by moving his teeth and jaw, shouted, and when he managed to remove the masks, he realised that he was sitting in a large pipe-like thing. He tried to move forward by jumping with his hands and feet tied and called for help from his surroundings by shouting "*help!*". People who heard his call for help started to gather; he introduced himself to them and told them that he had been kidnapped. After about half an hour, a team from the nearest police station arrived, untied his hands and feet and took him to the police station in a squad car. During the detention process, he was slapped repeatedly, made to sit on his knees and his hands were tied behind his back with plastic handcuffs. He was repeatedly punched, kicked and kneed on his face, back and chest; at the same time, he was jumped on the plastic handcuffs from behind, the handcuffs cut his wrists and he fainted from the pain. Each time he was revived, the same actions were applied.²⁴⁶

Akyol was arrested by Ankara 4th Criminal Judgeship of Peace on 5 October 2016 on charges of membership in an armed terrorist organisation following his statement taken on 5 October 2016 in connection with the investigation against him on charges of membership in Gülen Movement.

Akyol filed a criminal complaint to the Chief Public Prosecutor's Office on 9 March 2018 for his abduction and torture. On 13 September 2018, the Public Prosecutor's Office Civil Servant Crimes Investigation Bureau issued a decision of non-prosecution against the "relevant police officers" for the crimes of torture and insult; and on 13 September 2018, the Public Prosecutor's Office issued a permanent search warrant against the unidentified suspects

²⁴⁶ Constitutional Court Yunus Akyol Decision, Application No: 2018/36395, K.T:20/9/2023, §. 6, <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2018/36395>

for the crime of deprivation of liberty in relation to the allegation of abduction and release of the applicant between 21 July 2016 and 10 September 2016.²⁴⁷

2. Mustafa Özgür Gültekin (21 December 2016-Ankara)

Mustafa Özgür Gültekin, an employee of the Turkish Competition Authority, was abducted by a group of four men in a black VW Transporter car on 21 December 2016 at around 18:15 in front of a supermarket close to his workplace in Beştepe, Ankara, while he was getting into his car.²⁴⁸ CCTV footage of Gültekin's abduction was found. Although the description of the kidnappers and the licence plates of the car are clearly visible in the recordings, the law enforcement authorities did not carry out an investigation into who kidnapped Gültekin.²⁴⁹

Mustafa Özgür Gültekin was detained in Ankara on 21 April 2017, 121 days after his abduction. In a letter sent to his lawyers as well as the judges and prosecutors handling his case, Gültekin stated that he was abducted by MIT officers, subjected to brutal extrajudicial interrogations by them, and forced to sign incriminating statements in front of the camera.²⁵⁰ It has been established that this interrogation was carried out by the Ankara Anti-Terror Branch Directorate for 13 days. After being subjected to torture and threats, Gültekin was released. Gültekin fled abroad for fear of being abducted and tortured again.²⁵¹

3. Hüseyin Kötüce (28 February 2017-Ankara)

Hüseyin Kötüce, IT personnel at the ICTA, was abducted after work on 28 February 2017 in Yenimahalle Hippodrom area by 4-5 unidentified men wearing police vests, who introduced themselves as police officers, and put him in a black Transporter car with a black sack over his head, under the pretence of a police check. After the abduction, according to his own statement, he was kept under severe torture for 3 months. According to his own statement, his torturers constantly pressurised him to take responsibility for the assassination

²⁴⁷ Constitutional Court Yunus Akyol Decision, Application No: 2018/36395, K.T:20/9/2023, §. 20-21, <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2018/36395>

²⁴⁸ "What happened to the 7 people abducted in Ankara? ", 25 April Tuesday 2017, <https://www.gazeteduvar.com.tr/gundem/2017/04/25/ankarada-kacirilan-7-kisiye-ne-oldu>;

²⁴⁹ "Shock images about Özgür Gültekin abducted in Ankara! ", <https://www.youtube.com/watch?v=E-VIRbKmel4>(<https://tenkilmemorial.org/tenkil-veritabani/mustafa-ozgur-gultekin/>)

²⁵⁰ Rights Initiative: "Investigation and Research Report on Allegations of Illegal Detention by Public Officials after 2016, "19 June 2019, p. 7, <https://hakinisiyatifi.org/wp-content/uploads/2019/06/Hak%C4%B0nisiyatifi.2019A1%C4%B1konulma%C4%B0ddialar%C4%B1Raporu.pdf>

²⁵¹ Solidarity with Others, Enforced Disappearances: Türkiye's Open Secret, May 2020, p. 8, https://b2923f8bdcd2-4bd5-81cd-b69a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf

of Karlov. He was brought before the court 3 months after his abduction.²⁵² Later, during his trial at Ankara 2nd High Criminal Court, Kötüce stated that he was abducted by MIT *"How did I get into this case? On 28 February 2017, on my way home from work, my car was intercepted. I was handcuffed behind my back, a sack was put over my face and I was put in a black minibus. They forced me to sign the statements they took under torture. When the interrogation was over, they left me on a roadside"*. Despite this, he was held responsible for the murder of Karlov and put in prison and is still in prison for the offence he says is based on his confession under torture.²⁵³

4. Mesut Geçer (18 March 2017-Ankara)

According to his own statement, Mesut Geçer, an MIT officer, was abducted on 18 March 2017 when he was travelling in the direction of Sincan Lale Square with his vehicle and the driver of a grey Doblo vehicle following him stopped him and abducted him by putting a sack over his head and putting him in the vehicle.

Mesut Geçer was abducted by unknown persons and was tortured severely at the first place where he was taken and his condition worsened and he was transferred to another place where he was kept under torture until 20 June 2018. On this date, Mesut Geçer was handcuffed and a sack was put on his head and he was handed over to people who are believed to be Arabs with Kalashnikovs and he was taken to Syria by car and started to be kept there. Until 14 July 2018, Mesut Geçer was kept in the hands of these people and then he was brought to Türkiye with a sack over his head and taken to Kumlu District Gendarmerie Station and then he was brought to Ankara Security Directorate Anti-Terror Branch. He was arrested by the court.^{254_255}

Defendant Geçer, who appeared before the judge at Ankara 34th High Criminal Court on 3 December 2019 on the charge of being a member of Gülenist Movement, briefly described the abduction incident as follows in his statement *"...On 18 March 2017, while I was travelling in the direction of Sincan Lale Square with my vehicle, I felt that I was being followed. I knew the following vehicles and their drivers. They stopped the vehicle with a police control mask. A 58-plate grey Doblo vehicle pulled up. After I was put in the Doblo vehicle, they put a sack over my head and we started the*

²⁵² Advocates of Silenced Türkiye (AST): "Erdogan's Long Arms: Abductions In Türkiye And Abroad", September 2020, p.81, <https://silencedTürkiye.org/wp-content/uploads/2020/09/Abductions-Report-September-7-1.pdf>

²⁵³ Critical name of Karlov assassination: I was kidnapped, MIT tortured me, 25 March 2019, <https://www.cumhuriyet.com.tr/haber/karlov-suikastinin-kritik-ismi-kacirildim-MIT-iskence-yapti-1313080>; <https://twitter.com/kybdlnhayatlar/status/1616868163471433728>;

²⁵⁴ "Striking statements from a FETO detainee", 02 January 2020, <https://www.cumhuriyet.com.tr/haber/feto-tutuklusundan-carpici-ifadeler-1712065>

²⁵⁵ Advocates of Silenced Türkiye (AST): "Erdogan's Long Arms: Abductions In Türkiye And Abroad", September 2020, p.82, <https://silencedTürkiye.org/wp-content/uploads/2020/09/Abductions-Report-September-7-1.pdf>

journey. I was put in a cell. On Monday 20 March 2017, my first interrogation started. They started by handcuffing me behind my back and hitting my head against the wall with the sack on my head. This was followed by beatings and other abuses that I cannot describe. I recognised the voices of most of the people who spoke during this time. I still have a chance to identify their voices. Afterwards, my health deteriorated. That Wednesday I started to bleed. When my health condition deteriorated, they transferred me to another place I knew, at night. On the night between 20 June 2018 and 21 June 2018, I was transferred again in a vehicle. I did not know where I was going. Later I realised that this was Syria. I travelled with plastic handcuffs on my hands and a sack on my head. I had earphones in my ears and a blindfold over my eyes. Armed people came near me. Arabic speaking people with Kalashnikovs in their hands. I was in their hands until 14 July 2018. When you add this period (detention) for 17 months to the 16 months I have been missing, I have been away from my wife, children and life for about 33 months. Due to the ill-treatment and conditions of detention at that time, I have damage to my left foot and knee, I have difficulty using it. There is a problem with my colon system... ".²⁵⁶

5. Önder Asan (1 April 2017-Ankara)

Önder Asan was abducted by unidentified persons on 1 April 2017 around 13.30 at Şentepe bus stop in Yenimahalle, Ankara. Despite all efforts, no news was received from Önder Asan, a philosophy teacher. 42 days later, on 12 May 2017, his family was informed that he was in custody at Ankara Police Headquarters.²⁵⁷

Asan was detained between 12 May 2017 and 16 May 2017. After his defence was taken by the Ankara Chief Public Prosecutor's Office on 16 May 2017, he was arrested by the Ankara 7th Criminal Judge of Peace following his interrogation and sent to Sincan Closed Prison.

Asan stated at the Chief Prosecutor's Office and during his interrogation that he did not accept the accusations against him and that he was abducted by persons he did not recognise and detained for more than forty days. In his statements at the stages, Asan stated that he was travelling in a taxi in the city centre on 1 April 2017 when two vehicles stopped the taxi he was travelling in by squeezing it. The people getting out of a black Transporter type vehicle introduced themselves as police officers and forced him out of the taxi, handcuffed his hands, tied his feet, put a sack over his head and forced him into the Transporter type vehicle. He was then taken to a cell, where he was kept for forty-two days, and for the first twenty days - in some of his statements he says it was twenty-five - he was beaten with sticks in a room he called the torture room, he was subjected to electric shocks, sexual and psychological violence,

²⁵⁶ "Mesut Geçer, who was abducted in a black Transporter, told about 16 months of torture in court", 02 January 2020, <https://boldmedya.com/2020/01/02/16-ay-boyunca-alikonulan-MIT-mensubu-mahkemede-konustu-iskencecileri-teshis-edebilirim/>

²⁵⁷ "People whose relatives were abducted in Ankara tell their stories", 29 June 2017, <https://www.bbc.com/turkce/haberler-turkiye-40372013>

threats against his family and insults. In his statement, Asan stated that he was not subjected to medical examination during this period, that he heard screams from the neighbouring rooms, that he was pressurised to give his name, that he was not subjected to ill-treatment after the first twenty-five days, and that he was waited for the injury marks to heal.

Asan stated that on 12 May 2017 he was taken out of the place where he was detained and put in a car, that his phone was returned to him while he was in the car and that he was asked to call the Ankara Security Directorate, that he was handed over to law enforcement officers who came to the place where he was detained and that he was detained by these law enforcement officers.

Önder Asan explained the 42-day process to his family as follows - in summary-: "On 1 April, I took a taxi in Şentepe because the wheels of my car had been cut off. However, on the way, on Vatan Street, the taxi was suddenly surrounded by 4 vehicles. People who introduced themselves as police officers let me off and put me into a black Transporter-type vehicle. They blindfolded me and took me to an unknown place. They beat and insulted me along the way. Then they handcuffed me and put me in a cell. On 12 May, they put me in a minibus again blindfolded. They took me out of the vehicle and opened my eyes. It was near Lake Eymir. They called the Ankara Police. They made me say, 'I am Önder Asan, a member of the Fethullahist Terrorist Organisation, I want to surrender, please come and take me in. They also made me sign a paper saying that I wanted to benefit from effective remorse. Then the police came and took me'.²⁵⁸

During the abduction process, Asan, with a sack over his head, his hands handcuffed behind his back, his feet bound, even his shirt and trousers removed, was insulted, punched and kicked by the people in the vehicle until they reached their destination. He was then taken to a black carpeted cell where he was handcuffed behind his back and blindfolded, where he remained for days. Later, Asan was taken out of the cell and taken to the torture room. Asan was subjected to torture for 25 days in this torture room. The main acts of torture were beatings, beatings with a stick, electric shock, shock harassment and torture, being insulted with a hard object, insults, psychological torture, cursing his family.

During his stay in the cell, his eyes were opened only twice. On those occasions he could see the camera and the black carpeting in the corner of the cell. He was given food every 12 hours; a little cheese and a piece of bread in the morning, a little soup and sometimes rice in the evening. He had to go to the toilet with the person on cell watch. Although the torturers

²⁵⁸ "Kayıp Önder Asan, found after 42 days: 'I was tortured, I need psychological treatment'", 15 May 2017, <https://www.tr724.com/kayip-onder-asan-42-gun-sonra-bulundu-iskenceden-gectim-psikolojik-tedaviye-ihitiyacim-var/>

had to stop because of the bleeding in his body due to being lured with a hard object, which is the most disgusting form of physical torture, they continued their torture in order to take Asan's name and make him a confessor. In the end, he was kept on his knees for 42 days in a 1.5 square metre cell without a blanket, with his hands and feet tied most of the time.

After long days of torture, Asan was handed over to police officers at the edge of Lake Eymir. His lawyer noted that in the custody of the Ankara Police Department's Anti-Organised Crime Branch, his hands were shaking and he could only walk by holding on to a wall. Asan told his lawyer all the details of the torture. After these days of torture, he was taken to court exhausted and arrested.

Önder Asan's experiences were reported in the press as well as in international reports. The HRW report describes the case as follows: *"Asan's case is particularly significant because he was discovered in custody after he was reported missing. Asan alleges that he was abducted on 31 March 2017 and held in a secret detention centre for 42 days, where he was tortured by unknown persons suspected to be police officers. He was then forced to surrender by calling the regular police. His family and lawyers were only able to see him after he was transferred to regular police custody, but he believes it was a police unit that unlawfully detained him for 42 days."* In August 2017, Human Rights Watch wrote an open letter to Türkiye's Ministry of Justice about the five cases, but received no response.²⁵⁹ In several cases documented in reports, families of victims have appealed to the European Court of Human Rights complaining of a lack of effective investigations into the disappearances. According to the HRW's report, domestic law has not yielded any results.

After the abduction, Asan's applications to the police and prosecutor's office from 1 April to 11 April did not receive a single response. The prosecutors repeatedly referred the victims to another prosecutor and the investigation was delayed. Due to the reluctance of the police to collect CCTV footage from the neighbourhood, the families were able to collect some of the footage by their own means. Meanwhile, Fatma Asan found her abducted husband's car with a slashed tyre in Şentepe, 300 metres from the abduction site. When the incident was reported in the press and started to be questioned by the public and brought to the agenda of the Grand National Assembly of Türkiye, Fatma Asan's house was searched on 23 April 2017.

After being detained and arrested, Asan, through his attorney, sent a petition to the Ankara Chief Public Prosecutor's Office on 30 June 2017, claiming that he was detained and subjected to physical and verbal violence by public officials and that law enforcement officers acted slowly and carelessly in the investigation of the incident. However, the investigation initiated upon the complaint was carried out carelessly as in similar cases. On 1 August 2017,

²⁵⁹ HRW: Türkiye: Enforced Disappearances, Torture, April 29, 2020, <https://www.hrw.org/news/2020/04/29/Turkiye-enforced-disappearances-torture>

the file on the *unknown suspect* was placed under permanent search for the offence of 'deprivation of personal liberty'.

In the application to the Constitutional Court regarding the 42-day torture process, the court ruled that the allegations of torture were 'admissible' by confirming the statements made by Önder Asan with witness statements and other evidence. In the application made with the allegation that the prohibition of ill-treatment was violated due to the lack of effective investigation of the complaint of detention and physical violence by public officials, and the right to a fair trial was violated due to the fact that the officials were not punished despite their negligence in the investigation of this complaint, the court stated: *"It is understood that the relevant investigations are still open in the form of a permanent search and that no action has been taken after being placed under permanent search. The fact that the perpetrators of the allegation of forcible detention while travelling in a taxi during daylight hours in the centre of Ankara could not be identified despite the investigation that has been ongoing for nearly six years as of the date of examination of the application is incompatible with the principle of conducting an investigation with reasonable speed and diligence."* and ruled a violation of rights.²⁶⁰

6. Cengiz Usta (04 April 2017-Ankara)

Cengiz Usta, who worked as a teacher in Torbalı, İzmir for a long time, was dismissed from his job with the State of Emergency Decree Law issued after 15 July. Usta left his home in Ankara on 4 April 2017 and was not heard from again. According to the statement of Cengiz Usta's older brother Selim Usta, an eyewitness stated that two people abducted Cengiz Usta by forcing him into a car. Önder Asan, who was held in a 1.5 square metre cell in Ankara for 42 days after his abduction and tortured, stated in the reports of human rights organisations and in the complaint files of the prosecutor's office that he heard the name "Cengiz" in the torture room opposite Asan's cell. Despite all the official applications made by his family since his abduction, Cengiz Usta has not been heard from and after 87 days he was found to be at the police station.²⁶¹ Şenal Sarıhan a MP from CHP brought to the Parliament the allegations that 11 people, including Cengiz Usta, were abducted and disappeared.²⁶²

7. Mustafa Özben (9 May 2017-Ankara)

Mustafa Özben was working as a lecturer at Turgut Özal University when the university was closed down by the State of Emergency Decree Law as a result of the events

²⁶⁰ Constitutional Court Önder Asan Decision, Application No: 2018/18685, K.T:16/3/2023, Prg. 72,

²⁶¹ Solidarity with Others: Enforced Disappearances: Türkiye's Open Secret, May 2020, p. 11, https://b2923f8bdcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf

²⁶² "Are dismissed MIT employees and police officers being abducted by force? ", 29 May 2017, <https://www.politikyol.com/ihrac-edilen-MIT-calisanlari-ve-polisler-zorla-kaciriliyor-mu/>

following the 15 July coup attempt. Mustafa Özben was abducted on 9 May 2017 at around noon by at least 3 MIT members who forced him into a black or dark-coloured minibus while he was returning to his car after withdrawing money from the bank.²⁶³ He was put in a black Transporter-type vehicle with a sack over his head and taken to a hangar. There, he was tortured by binding his hands and feet with plastic handcuffs, given electric shocks and constantly threatened.

On 8 August 2017, 92 days after his abduction, Özben appeared in a place close to Karşıyaka Cemetery in Yenimahalle. For 92 days, Özben was kept in a cell monitored 24 hours a day, starved, dropped from 80 kg to 60 kg and suffered severe physical-psychological damage.²⁶⁴

It is stated that the tortures inflicted on Mustafa Özben were carried out on behalf of the state and with the use of public power. Despite the efforts of his family, no institution investigated the case and the Ankara Public Prosecutor's Office closed the application for disappearance with a decision of "no prosecution".

Özben's abductors believed that they would not find the answers they were looking for by torturing him and threatened to follow him and his family after his release. Özben was forced to leave Türkiye under the threat of death and sought asylum in a European country and tried to build a new life.

The Constitutional Court accepted the individual application of Mustafa Özben, who was abducted and tortured within the scope of the Gülen Movement investigation, and ruled on 24 February 2021 that the right to life was violated, ordered the Ankara Chief Public Prosecutor's Office to re-investigate and ordered compensation to be paid to Özben. The Court made the following findings in its violation judgement²⁶⁵ : "...At the end of the evaluation on the merits, it was concluded that the necessary steps were not taken to find the relatives of the applicants, that there were deficiencies in the collection of all evidence that could shed light on the incident and that the investigation subject to the application lacked the care required by Article 17 of the Constitution. The aforementioned lack of diligence was also experienced in the examination of the individual application; despite the letters written to the Chief Public Prosecutor's Office, the response letters of the Chief Public Prosecutor's Office to the letters dated 15/6/2017, 21/7/2017, 30/10/2017 and 10/1/2018 could not be obtained.

²⁶³ Heymans, Johan: Abductions in Türkiye Today, July 2021, Türkiye Tribunal, p.147, https://Türkiyetribunal.org/wp-content/uploads/2021/11/AbductionsinTürkiye_Türkiye-Tribunal-Report_FINAL.pdf,

²⁶⁴ 92 Days in the Dark: Mustafa Özben | Documentary, <https://www.youtube.com/watch?v=K4PBRZ1m02M>

²⁶⁵ Constitutional Court Ayşe Rana Özben and others, Application No: 2017/28717, K.T: 24/2/2021, <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2017/28717>

In the application claiming that the right to life was violated due to the abduction of the relatives of the applicants for political reasons, the failure of the public authorities to take the necessary measures urgently to find them and the failure to carry out an effective criminal investigation on the subject, the majority of our court concluded that the necessary steps were not taken to find the relatives of the applicants, that there were deficiencies in the collection of all evidence that could shed light on the incident and that the investigation subject to the application lacked due diligence and concluded that the applicants' right to life guaranteed under Article 17 of the Constitution was violated."

Mustafa Özben also talked about his experiences at the Türkiye Tribunal held in Geneva on 21 September 2021.²⁶⁶ Özben stated the following in his statement: *"There were three interrogation rooms where torture was carried out. One was painted completely black and the other completely white. When they opened my eyes, I tried to look around. In one of the interrogation rooms there was a lectern, a table, behind it was a photograph of Mustafa Kemal Atatürk. There was a Turkish flag in the corner. It was like a court bench. In the cell where I was interrogated, there were 2 rings to handcuff people to the wall. I saw sticks and blood.*

I would like to tell you about the torture methods that I am ashamed to talk about, but I know I owe them a debt: They constantly gave me electro-shocks, they beat me roughly, they brought a sex instrument. They bent me down and said, 'Now we will put this into you. Talk to me, tell me about it'. They tried everything I might be sensitive to. They said, 'We will bring your wife and children here, your children will watch from behind the glass', my tooth was broken during the punching. They are trying to make me lose my mind and go crazy. In order not to lose my memory, I hid a napkin and wrote down the days.

On 15 July 2017, on the anniversary of the coup attempt, they made me listen to things like marches and music for 24 hours. They exposed me to a sound like a radio frequency to make me lose my mind. At 5 o'clock on the day they were going to release me, they gave me everything back."

In a hearing held in the Turkish Tribunal by 6 impartial, experienced and multinational judges, it was ruled that serious unlawful acts, deprivation of liberty and torture had been Committed against Mustafa Özben. In this process, he is trying to reveal the responsibility of the torturers by applying to international authorities.²⁶⁷

8. Durmuş Ali Çetin (17 May 2017-Kahramanmaraş)

Police officer Durmuş Ali Çetin, who was dismissed from his job with a decree law, was abducted on 17 May 2017. Father of 3 children, Durmuş Ali Çetin left his home in Arıtaş

²⁶⁶ Mustafa Özben, <https://Türkiyetrybunal.org/tr/taniklar/mustafa-ozben-2/>

²⁶⁷ "Attorney Mustafa Özben", <https://weltanwaelte.com/blog/av-mustafa-ozben/>

neighbourhood of Afşin district of Kahramanmaraş in the morning and never returned. Despite all efforts of his family, law enforcement officers did not carry out any investigation.²⁶⁸

He returned to his home in Kahramanmaraş while the family was searching for him. Durmuş Ali Çetin, who was not heard from again on 14 August 2017 after returning home, was found to have Committed suicide on 19 August 2017 in Istanbul.²⁶⁹

9. Cemil Koçak (17 June 2017-Ankara)

Cemil Koçak, who was dismissed by a state of emergency decree while working as an agricultural engineer in Ankara, was abducted near his house in Altındağ, Ankara, in front of his 8-year-old son in a 34-plate Transporter car. According to the CCTV footage; on 17 June 2017, at around 17.20, Cemil Koçak was travelling in his car when a black Ford Focus car hit him from behind to make it look like an accident and after Cemil Koçak got out of the car, he was forced into a Transporter-type car by several people. Although there is CCTV footage of the abduction in the centre of Ankara, the judicial appeals made by Cemil Koçak's relatives did not yield any results, as in other similar cases.²⁷⁰

Following the failure to find the perpetrators, MP Şenal Sarıhan and Istanbul MP Sezgin Tanrikulu requested a parliamentary inquiry into the alleged abduction of Cemil Koçak in Ankara on 15 June, including allegations of abductions previously linked to the 15 July coup attempt.²⁷¹ After a long period of disappearance, Human Rights Watch (HRW) received information that Koçak had been released from a secret detention centre where he had been held for over three months by people who told him they worked for the state.²⁷²

10. ÜMIT Horzum (6 December 2017-Ankara)

ÜMIT Horzum, who was dismissed from his job as an Assistant Expert at the Turkish Accreditation Agency due to his links to the Gülen Movement, was abducted on 6 December 2017 in Ankara in a black Transporter car.

²⁶⁸ "Deciphered the black transporters: MIT kidnapped, illegally interrogated", 29 July 2017, <https://www.tr724.com/siyah-transporterlari-desifre-etti-MIT-kacirdi-illegal-sorguladi/>

²⁶⁹ "Those abducted by state officials after 15 July have been reported: Their fate is uncertain", 19 June 2019, <https://ahvalnews.com/tr/hak-ihlalleri/15-temmuz-sonrasi-devlet-gorevlileri-tarafindan-kacirilanlar-raporlandi-akibetleri>

²⁷⁰ "The torture centre adjacent to Beştepe Palace [ERDOĞAN'S DIRTY TÜRKİYE -3] "16 February 2018, <https://www.tr724.com/bestepe-sarayina-komsu-iskence-merkezi-erdoganin-kirli-turkiyesi-3/>

²⁷¹ "Ankara abductees on parliamentary agenda", 30 June 2017, <https://www.gazeteduvar.com.tr/gundem/2017/06/30/ankarada-kacirilanlar-meclis-gundeminde>,

²⁷² Solidarity with Others, Enforced Disappearances: Türkiye's Open Secret, May 2020, p. 13, https://b2923f8bdcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf

Horzum was found to be in Ankara Police Headquarters 132 days after his abduction. After being held there for 11 days, he was released by the court.²⁷³ In the period after his abduction, many people were investigated and arrested because of the statement reports he signed. However, later on, when he was brought to court as a witness, he described the tortures he was subjected to and stated that he was forced to sign the names of about 100 people.

Horzum's experiences during the 132 days he was abducted, albeit in a summarised form, were stated as follows in the hearing at Ankara 32nd High Criminal Court as a witness due to a statement he had given about another person under torture "... I do not know the defendant, on 06/12/2017 I was travelling in my car when a car cut me off in Etlik, a few people got out of the car and took me away, they put a sack over my head and took me away, on 16/04/2018 I was handed over by these people to the personnel at the Ankara Security Directorate, I was tortured before. Since I was subjected to psychological torture at the police station, things I did not say were written down as if I had said them and I was made to sign an identification report even though I did not identify myself. I would also like to say that this statement was delivered to the police station ready with me..."²⁷⁴

Horzum was allegedly caught while he was about to leave the country and was arrested and sent to prison. As a result of the trial held at Ankara 25th High Criminal Court, he was sentenced to 28 years and 6 months in total and his detention was decided to continue. In fact, Horzum, who had previously been released, was first arrested and then sentenced to the harshest prison sentence because he had recanted his statements he had given under torture and had told the court about the tortures he had been subjected to.

11. Orçun Şenyücel (21 April 2018- Ankara)

Orçun Şenyücel, who was suspended from his job by the State of Emergency Decree Law issued in 2016 while working as an expert at the Turkish Competition Authority, was abducted in a black VW Transporter car in Türkönüt, Ankara on 21 April 2018 when he left his house to go grocery shopping. The family obtained the security camera recordings of the supermarket by their own means, but did not get any results from their applications.²⁷⁵ Although Sezgin Tanrıkulu, a member of parliament from the main opposition party,

²⁷³ Advocates of Silenced Türkiye (AST): "Erdogan's Long Arms: Abductions In Türkiye And Abroad", September 2020, p.94, <https://silencedTürkiye.org/wp-content/uploads/2020/09/Abductions-Report-September-7-1.pdf>

²⁷⁴ "ÜMIT Horzum spoke in court: I was kidnapped and tortured", 21 February 2020, <https://boldmedya.com/2020/02/21/uMIT-horzum-mahkemede-konustu-kacirildim-iskence-gordum/>

²⁷⁵ "No news for 23 days from Orçun Senyücel who was abducted in front of cameras in Ankara", 13 May 2018, <https://www.tr724.com/ankarada-kameralarin-onunde-kacirilan-orcun-senyucelden-23-gundur-haber-yok/>

submitted a parliamentary question about Orçun Şenyücel, the state authority remained silent.²⁷⁶

Family members complained about the lack of an effective investigation despite CCTV footage on social media clearly showing the licence plates of the cars involved in the abduction. The Rights Initiative cited unconfirmed allegations that he was released three months after his disappearance and that he was subjected to torture during his disappearance.²⁷⁷ Şenyücel, who was also named as a witness in the case of Mesut Geçer, another abductee, reappeared in July 2018, 3 months after his abduction.²⁷⁸

12. Hasan Kala (20 July 2018-Ankara)

Academician Hasan Kala, who was dismissed by a state of emergency decree due to his alleged links to the Gülen Movement, was working at Kırıkkale University as Assoc. Prof. Dr. He was working with the title of Assoc.

Hasan Kala was abducted on 20 July 2018 at around 23.30 by unidentified persons who forced him into a black VW Transporter-type vehicle in Batıkent, Ankara.²⁷⁹ The complaints of the family members were left unanswered by the authorities. Hasan Kala was released in a weak and exhausted state exactly 224 days after his abduction.²⁸⁰

13. Ahmet Ertürk (16 November 2018-Ankara)

Ahmet Ertürk, a teacher at an institution closed down by a state of emergency decree, disappeared on 16 November 2018 following a police search at his house. It is reported that Ertürk's parents were also raided and detained at the same time.²⁸¹ Despite all efforts of his family, no news was received from Ertürk. People who called Ertürk's wife on 8 January 2019 stated that Ahmet Ertürk had been under custody at Ankara Police Headquarters for 4 days.²⁸² As in other cases, there has been no investigation into the disappearance of Ahmet Ertürk for nearly two months and the perpetrators have not been identified.

²⁷⁶ "Questions from Tanrıkulu to the Prime Minister about Şenyücel, who was allegedly abducted by the state of emergency decree, 27 April 2018,

²⁷⁷ "Review and Research Report on Allegations of Illegal Detention by Public Officials after 2016," Rights Initiative, June 19, [2019](#)

²⁷⁸ Heymans, Johan: Abductions in Contemporary Türkiye, July 2021, Türkiye Tribunal,

²⁷⁹ "Black transporters are back in Ankara: Academician dismissed by state of emergency decree was kidnapped", 22 July 2018

²⁸⁰ Rights Initiative, "Review and Research Report on Allegations of Illegal Detention by Public Officials after 2016," 19 June 2019, p.10

²⁸¹ Ahmet Ertürk, a teacher abducted in Ankara, was found at the police station, 09 January 2019, <https://www.shaber3.com/ankarada-kacirilan-ogretmen-ahmet-erturk-emniyette-bulundu-haberi/1317511/>

²⁸² <https://x.com/AhmetErturk0625/status/1082665475413368832?s=20>

14. Gökhan Türkmen (7 February 2019-Antalya)

Gökhan Türkmen, who was dismissed by a state of emergency decree while working as a civil servant at Agriculture and Rural Development Support Agency, disappeared on 7 February 2019. His family was informed that he was arrested by the police on 05 December 2019 and that he was in Antalya Security Directorate. Gökhan Türkmen remained missing for 9 months.²⁸³ After about 9 months, on 6 November 2019, Türkmen appeared at Antalya Security Directorate and stated that he was subjected to severe torture and insults during this 9-month period. In this context, at the hearing of the case in which he is being tried in detention at Ankara 2nd High Criminal Court, he described the torture and unlawfulness he experienced during the abduction process as follows *"...They described themselves as police officers. They had police vests. It was a 4-5 hours car trip. It was dark on the way. It was around 5 o'clock. After dark, they took off my clothes in a forested area. They threatened me with a gun. Plastic handcuffs were placed on my hands and feet. I was imprisoned for 271 days. I was subjected to severe torture with hunger and thirst. I was threatened with my family. I was harassed. I will tell many details of these later. After this 9-month period, I was handed over to Antalya TEM Branch Personnel by Antalya Security Directorate personnel in a vehicle with my eyes closed again. I was brought to Ankara. I stayed in TEM for 8 days. Then I was put in jail."*

Human Rights Watch, which brought Gökhan Türkmen's case to the agenda, has stated that there is no effective investigation into alleged abductions in Türkiye and that the number of such complaints is increasing day by day.²⁸⁴

15. Yasin Ugan (13 February 2019-Ankara)

Yasin Ugan was abducted by about 40 people with automatic rifles, who introduced themselves as plain-clothes police officers, by putting a black bag over his head and raiding his house around 15.00 on 13 February 2019 in Ankara. The incident took place in broad daylight and in front of the neighbours.²⁸⁵

Yasin Ugan, who was not heard from for 6 months since his abduction, was taken to Ankara Security Directorate after 6 months and was arrested by the court on duty. Yasin Ugan made a declaration at the 34th High Criminal Court on 23 June 2020 and stated that he was subjected to heavy torture for 6 months and was beaten until he was blue in many parts of his

²⁸³ "Another missing emergency decree holder revealed at the police station", 06.11.2019

²⁸⁴ HRW: Türkiye: Enforced Disappearances, Torture, April 29, 2020, <https://www.hrw.org/news/2020/04/29/Türkiye-enforced-disappearances-torture>

²⁸⁵ Heymans, Johan: Abductions in Türkiye Today, September 2020, https://ccprcentre.org/files/documents/INT_CCPR_ICS_TUR_44931_E.pdf

"Yasin Ugan and Özgür Kaya abducted, no news for 2 days", 02 November 2023, <https://boldmedya.com/2019/02/15/yasin-ugan-ve-ozgur-kaya-kacirildi-2-gundur-haber-alinamiyor/>

body. He also stated in his statement that he was made to bathe only 3 times for 6 months.²⁸⁶ He stated that he was made to sign a 58-page statement without reading it.²⁸⁷ Despite this, he was sentenced to a total of 39 years and 10 months imprisonment on charges of "membership of an armed terrorist organisation" and other offences at Ankara 34th High Criminal Court.

The judicial applications about the abduction and torture of Yasin Ugan and his family have not been investigated and the perpetrators have not been found yet. MP Ömer Faruk Gergerlioğlu from DEM Party called for an investigation into the abduction of Yasin Ugan in his post on the X platform: *"Yasin Ugan was abducted for 6 months and although he declared that he was tortured at the place where he was abducted, this issue is still not being investigated and he is in prison,"*.²⁸⁸

16. Özgür Kaya (13 February 2019-Ankara)

Özgür Kaya was in the same house with Yasin Ugan on 13 February 2019, the date of his abduction. Yasin Ugan was abducted by 40 people with automatic rifles and a black bag over his head. Özgür Kaya and Yasin Ugan, who were not heard from for 6 months, were arrested before the court.²⁸⁹

The Ankara 34th High Criminal Court concealed from everyone in which courtroom the hearing of Özgür Kaya was held and which lawyer would attend the hearing. Sezgin Tanrikulu, CHP Istanbul MP and Deputy Chairperson of the Human Rights Commission of the Grand National Assembly of Türkiye, wanted to attend the hearings, which should have been held in public, but found the courtroom empty at the time of the hearing. Özgür Kaya is currently in pre-trial detention at Ankara 34th High Criminal Court and his family's complaints about the abduction have not been investigated for the past 5 years.²⁹⁰

17. Erkan Irmak (16 February 2019-Ankara)

²⁸⁶ "Yasin Ugan told about the six-month period: I always had a sack on my head, I was severely tortured", 24 June 2020

²⁸⁷ "Yasin Ugan told about torture: No bag came out of my head, I was left blue; I was able to take a bath 3 times in 6 months! ", 24 June 2020, <https://www.tr724.com/yasin-ugan-iskenceyi-anlatti-mosmor-birakildim-6-ayda-3-kere-banyo-ettim/>

²⁸⁸ https://twitter.com/gergerliogluof/status/1275781138527780864?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1275781138527780864%7Ctwgr%5E8c89dabfdb40677403b2fd9dfa5e1b23a58fc1f3%7Ctwcon%5Es1_c10&ref_url=https%3A%2F%2Fahvalnews.com%2Ftr%2Fsilvil-kayiplar%2Fyasin-ugan-alti-aylik-sureci-anlatti-basimda-hep-cuval-var-di-agir-iskenceler-gordum

²⁸⁹ Heymans, Johan: Abductions in Türkiye Today, September 2020, https://ccprcentre.org/files/documents/INT_CCPR_ICS_TUR_44931_E.pdf

²⁹⁰ "BOLD reached the mysterious lawyer of abducted Yasin Ugan and Özgür Kaya", <https://www.boldmedya.com/2019/08/15/kacirilan-yasin-ugan-ve-ozgur-kayanin-gizemli-avukatina-bold-ulasti/>; "The trial of abducted Özgür Kaya and Salim Zeybek was held in an unknown hall in an unknown way", 24 October 201

Erkan Irmak, a teacher, was abducted by civilians on 16 February 2019.²⁹¹ Later, his family was informed that he was captured by the police on 28 July 2019 and was in Ankara Anti-Terror Branch Directorate.²⁹²

Erkan Irmak remained missing for more than 6 months. Although a delegation from the Human Rights Association Ankara Branch wanted to attend the hearing at the 34th High Criminal Court, they were prevented from attending the hearing on the grounds that the hearing would be held in secret. Human Rights Association Ankara Branch, which was prevented from observing the trial, issued a statement on the issue and stated that the prevention of their participation as observers in the trial strengthens the allegations of torture and enforced disappearance. The statement of the Association is as follows:²⁹³

"Today, on 25 October 2019, we wanted to be an observer at the trial of Yasin Ugan, which was held at Ankara 34th High Criminal Court. We were removed from the courtroom with the decision to hold the trial closed. In these days when there are very strong allegations that there are torture centres in Ankara, people who have been missing for months and suddenly appear at the police station, the fact that human rights defenders cannot be observers at the trials strengthens the allegations of torture and enforced disappearance. Revealing the experiences of these people who have been missing for months is a search for truth, a humanitarian duty! Violations of the Prohibition of Torture and Ill-Treatment and the Prohibition of Enforced Disappearance, which are a bleeding wound of this country, must be confronted as soon as possible. Violations of the Prohibition of Torture and Ill-Treatment and the Prohibition of Enforced Disappearance are crimes against humanity! We will continue to follow these abduction allegations! We will not give up our search for truth and justice! Human Rights Association Ankara Branch"

The abduction of Erkan Irmak is similar to the cases of Özgür Kaya and Yasin Ugan in terms of the date of abduction, his appearance at the Ankara Police Headquarters and his trial at the Ankara 34th High Criminal Court.

18. Mustafa Yılmaz (16 February 2019-Ankara)

²⁹¹ "Another abduction: Erkan Irmak abducted from in front of his house in Istanbul", 3 March 2019, <https://www.tr724.com/yeni-bir-kacirilma-daha-erkan-irmak-istanbulda-evinin-onunden-kacirildi/#:~:text=%C5%9Eubat%20ay%C4%B1%20i%C3%A7inde%20ka%C3%A7%C4%B1r%C4%B1lan%20ki%C5%9Fi>,

²⁹² Solidarity with Others, Enforced Disappearances: Türkiye's Open Secret, May 2020, p. 8, https://b2923f8bdcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf

²⁹³ "Human Rights Association Ankara branch was expelled from the courtroom at the trial of Yasin Ugan who was abducted and tortured by MIT", 25 October 2019, <https://iskenceraporu.com/insan-haklari-dernegi-ankara-subesi-MIT-tarafindan-kacirilip-iskence-goren-yasin-uganin-yargilandigi-davada-salondan-cikartildi/>

Mustafa Yılmaz was detained and arrested on 1 October 2018 on the grounds of having an account at Bank Asya and being a Bylock user within the scope of the investigations launched against the Gülen Movement after 15 July. After 100 days of detention, he was sentenced to 6 years and 6 months in prison and released on 8 January 2019 to await the Court of Cassation process without remand. 42 days after his release, he was kidnapped on the morning of 19 February 2019.²⁹⁴

Mustafa Yılmaz, a physiotherapist, left his home at around 07.30 in the morning on 19 February 2019 to discuss a new job offer he had just received and there was no news about him. Therefore, his wife Sümeyye Yılmaz reported to the prosecutor's office on suspicion that he was abducted. On 9 March 2019, the Ankara Chief Public Prosecutor's Office issued a decision of non-prosecution despite inconsistencies in CCTV footage and signal information after Mustafa Yılmaz's wife filed a complaint about the abduction. Approximately 8 months later, on 22 October 2019, his family was informed by the police that Yılmaz was being held at Ankara Karapürçek Police Station.²⁹⁵ Accordingly, Mustafa Yılmaz has been missing for more than 8 months.²⁹⁶ When Ömer Faruk Gergerlioğlu wanted to make a statement at the demonstration in Ankara with his wife Sümeyye Yılmaz, a police chief accused the abducted Mustafa Yılmaz as follows: *"He is a traitor and fled abroad"*.²⁹⁷

19. Salim Zeybek (20 February 2019)

On 21 February 2019, Fatma Betül Zeybek reported that her husband Salim Zeybek was abducted by armed civilians claiming to be police officers. On 28 July 2019, she stated that she was informed that her husband was detained at Ankara Anti-Terror Branch Directorate. Salim Zeybek has been missing for more than 5 months.²⁹⁸

²⁹⁴ Solidarity with Others, Enforced Disappearances: Türkiye's Open Secret, May 2020, p. 8, https://b2923f8bdcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf; "New development on 6 abducted people: They are gathered in the same file", 2 November 2023, <https://boldmedya.com/2019/04/03/kacirilan-6-kisiyle-ilgili-yeni-gelisme-ayni-dosyada-toplaniyorlar/>

²⁹⁵ Advocates of Silenced Türkiye (AST): "Erdogan's Long Arms: Abductions In Türkiye And Abroad", September 2020, p.82, <https://silencedTürkiye.org/wp-content/uploads/2020/09/Abductions-Report-September-7-1.pdf>

²⁹⁶ "Mustafa Yılmaz, missing for 9 months, found in TEM", 22 October 2019, <https://www.evrensel.net/haber/389320/9-aydir-kayip-olan-mustafa-yilmaz-temde-bulundu>

²⁹⁷ "Mustafa Yılmaz, abducted 8 months ago, appeared at the police station", 22 October 2019, <https://kronos36.news/tr/8-ay-once-kacirilan-mustafa-yilmaz-karapurcek-karakolunda-bulundu/>

²⁹⁸ "Abducted Salim Zeybek, Yasin Ugan, Erkan Irmak and Özgür Kaya in custody at Ankara Police Headquarters", 29 July 2019, <https://aktifhaber.com/15-temmuz/kacirilan-salim-zeybek-yasin-ugan-erkan-irmak-ve-ozgur-kaya-ankara-emniyetinde-gozaltinda-h135492.html>

Abductions related to the Gülen Movement, especially since the beginning of 2019, have been quite different. Gökhan Türkmen, Yasin Ugan, Özgür Kaya, Erkan Irmak, Salim Zeybek and Mustafa Yılmaz, who were abducted in the post-SoE period, were abducted one after the other at short intervals. The first sentences that the 6 abductees said to their families after they emerged months later were the same as if they had been memorised. These were that they did not want a lawyer, that the applications for disappearance and torture to international courts and organisations should be withdrawn, that the complaints in Turkish courts should be abandoned and that the tweeting should stop. In addition, none of the 6 persons were allowed to meet alone with their spouses or lawyers in the first stages. Despite being against the law, the meetings were conducted in the presence of the police at the police station and in the presence of several police officers and prison guards in prison, and were recorded on camera. They were also not allowed to meet with their own lawyers or the lawyers sent by the Ankara Bar Association.²⁹⁹ Their statements were taken secretly in the presence of pre-arranged lawyers known for their nationalist identities.³⁰⁰ The victims of these six abduction cases were tried in the same court, Ankara 34th High Criminal Court, on charges of membership in an illegal organisation.³⁰¹

While these measures were not applied in previous cases, a different path was followed in the last 6 people. The main reason for all these unlawful measures is to prevent the victims from providing information about this rogue state practice, which has become public before international institutions and organisations, and to cover up the incidents.³⁰²

20. Hüseyin Galip Küçüközyiğit (29 December 2020-Ankara)

Hüseyin Galip Küçüközyiğit, a former prime ministerial rapporteur, was dismissed from his position by the decree-law issued after the coup attempt in 2016 and, like other members of the decree-law, he was left to die a civilian death. Not content with this, Hüseyin Galip Küçüközyiğit was also made a victim of enforced abduction and disappearance.

²⁹⁹ "Ankara Bar Association's report and criminal complaint on those abducted in Black Transporter", 14 February 2020, <https://www.boldmedya.com/2020/02/14/ankara-barosundan-siyah-transporterla-kacirilanlara-iliskin-rapor-ve-suc-duyurusu/>

³⁰⁰ "Kidnapped Özgür Kaya and Salim Zeybek face pirate trial under MIT surveillance" <https://aktifhaber.com/gundem/kacirilan-ozgur-kaya-ve-salim-zeybeke-MIT-gozetiminde-korsan-durusma.html>

³⁰¹ Advocates of Silenced Türkiye (AST): "Erdogan's Long Arms: Abductions In Türkiye And Abroad", September 2020, p.82, <https://silencedTürkiye.org/wp-content/uploads/2020/09/Abductions-Report-September-7-1.pdf>

³⁰² "6 special prisoners of the Erdoğan regime", <https://www.boldmedya.com/2019/11/12/erdogan-rejiminin-6-ozel-esiri/>

Küçüközyiğit, who is also a lawyer, was not heard from after leaving his office in Maltepe, Ankara on 29 December 2020.³⁰³

According to CCTV footage obtained by his daughter Nursena Küçüközyiğit, Küçüközyiğit was followed by three people before he disappeared, but no positive or negative news was received about him. Küçüközyiğit's family then applied to the police and CIMER, but to no avail.³⁰⁴

Similar to other cases of abduction and disappearance, Küçüközyiğit disappeared and then all search and investigation requests of his family were left unanswered. His family has been intensively trying to make their voices heard all over the world through social media and the international community. Amnesty International, which has taken this issue on its agenda, has started a petition campaign to find Küçüközyiğit.³⁰⁵ The issue has also been raised in many media organisations in Europe.³⁰⁶

Nursena Küçüközyiğit was able to contact her father 9 months after his abduction. It was announced that Hüseyin Galip is being held in pre-trial detention in Sincan L Type Closed Prison.³⁰⁷

Kocaeli Public Prosecutor's Office made a declaration on this issue and stated that Küçüközyiğit was arrested in Kahramankazan district of Ankara on September 13, 2021; and since he was sentenced to 6 years and 3 months on the charge of being a member of an armed terrorist organisation, he was delivered to Sincan L Type Closed Penal Institution No.3 with the decision number 2021/1-5889 of Ankara Heavy Penal Execution Table.³⁰⁸

C. KIDNAPPINGS ABROAD THROUGH MIT OPERATION

³⁰³ HRW: Türkiye Events of 2021, March 20, 2021, <https://www.hrw.org/world-report/2022/country-chapters/Türkiye>

³⁰⁴ "No news from Küçüközyiğit, a lawyer with a state of emergency decree, 21 January 2021, <https://www.dw.com/tr/khkl%C4%B1-hukuk%C3%A7u-h%C3%BCseyin-galip-k%C3%BC%C3%A7%C3%BCk%C3%B6zyi%C4%9Fitten-haber-al%C4%B1nam%C4%B1yor/video-56297634>

³⁰⁵ "Verdacht Auf Entführung Untersuchen! ", <https://www.amnesty.de/MITmachen/urgent-action/tuerkei-verdacht-auf-entfuehrung-untersuchen-2021-02-02>

³⁰⁶ "Aufschrei der Tochter: Ex-Beamter seit 2 Wochen in Ankara verschwunden", 13 January 2021, <https://de.euronews.com/2021/01/13/aufschrei-der-tochter-ex-beamter-seit-2-wochen-in-ankara-verschwunden>

³⁰⁷ Hüseyin Galip Küçüközyiğit, who had been missing since 29 December, was found: In prison", 14 September Tuesday 2021, <https://www.gazeteduvar.com.tr/29-araliktan-beri-kayip-olan-khkli-huseyin-galip-kucukozyigit-bulundu-cezaevinde-haber-1534943>

³⁰⁸ "His daughter was saying "He was tortured". Turns out she was sentenced for FETÖ! ", 22 Sep 2021, <https://www.enkocaeli.com/haber/7825965/kizi-iskence-gordu-diyordu-meger-fetoden-ceza-almis>

In its "witch hunt" against the Gülen Movement, the Erdoğan regime has not contented itself with what has been done within the country and has also included foreign countries in its actions. MIT, the official intelligence organisation of the state, has turned into a party and regime intelligence organisation. Through MIT, the Erdoğan regime has kidnapped hundreds of members of the Gülen Movement, brought them to Türkiye and imprisoned them in prisons through bribery in some countries and threatening methods using bilateral relations in others. Unfortunately, in some countries, local intelligence organisations cooperated with MIT to capture Gülen Movement volunteers, while in other countries they allowed MIT to carry out operations without even asking for permission. In this context, countries such as Albania, Angola, Azerbaijan, Bahrain, Bulgaria, Bosnia, Cyprus, Gabon, Georgia, Indonesia, Iraq, Kazakhstan, Kenya, Kosovo, Lebanon, Malaysia, Mexico, Moldova, Mongolia, Montenegro, Morocco, Myanmar, Pakistan, Qatar, Saudi Arabia, Sudan, Turkmenistan, Ukraine have unfortunately been complicit in kidnapping, which is a crime against humanity.

This issue is clearly stated in the reports of many international organisations and has also been the subject of violation decisions before the ECtHR. In this context, the ECtHR convicted these countries in the *Özdil and Others v Moldova* decision³⁰⁹ dated 11 June 2019 as well as in the *Şentürk and Others v Azerbaijan* decision.³¹⁰

As can be seen from the findings in the ECtHR applications, although it is claimed that in cases of abduction abroad, MIT executes the so-called extradition procedure before the operation and that the host country carries out a procedure within the framework of this extradition request and delivers the relevant persons to MIT, this does not correspond to the material reality. As emphasised in the violation judgments of the ECtHR, it is seen that no substantive extradition procedure was carried out by MIT or Türkiye within the framework of international law, that the victims were not even granted the right to object to the so-called extradition procedures, that the victims were handed over to the MIT by the intelligence or security forces of the host country within a very short period of time, and that MIT brought the victims to Türkiye on the same day with private planes that were kept ready in advance.

In this section, cases of alleged Gülen Movement volunteers abducted by MIT in violation of international law and universal principles of law will be analysed.

³⁰⁹ *Özdil and Others vs. Moldova*, Application No. 42305/18, K.T: 11/06/2019, [https://hudoc.echr.coe.int/eng#{%22fulltext%22:\[%22%C3%96zdil%22\],%22itemid%22:\[%22001-187660%22\]}](https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22%C3%96zdil%22],%22itemid%22:[%22001-187660%22]})

³¹⁰ *ECtHR Shenturk and Others v. Azerbaijan*, Application No: 41326/17, K.T: 10/03/2022, [https://hudoc.echr.coe.int/eng#{%22tabview%22:\[%22document%22\],%22itemid%22:\[%22001-216016%22\]}](https://hudoc.echr.coe.int/eng#{%22tabview%22:[%22document%22],%22itemid%22:[%22001-216016%22]})

1. Abdullah BÜYÜK (10 August 2016-Bulgaria)

Turkish businessman Abdullah Büyük was detained in the operation against the Gülen Movement before the coup attempt and released pending trial. Fearing unlawful operations, Büyük crossed into Bulgaria on 1 February 2016 and was subsequently detained for 40 days on 17 February 2016 by a prosecutor's decision of the Sofia City Court, which was confirmed on 19 February 2016. On 29 February 2016, the same court ordered the extension of the detention measure pending a decision on the extradition request submitted by the Istanbul Chief Prosecutor's Office to the Bulgarian authorities from 15 February 2016. By a final judgment of 28 March 2016, the Sofia Court of Appeal upheld the Sofia City Court's decision rejecting the extradition request and Büyük was released.

During this period, on 24 February 2016 and 8 March 2016, Büyük applied for asylum and international protection respectively to the competent Bulgarian authorities, namely the President of the Republic and the State Refugee Agency. In these applications, Büyük expressed fears that he would be subjected to ill-treatment in Türkiye on account of political persecution. By letter dated 29 July 2016, delivered to the applicant on 2 August 2016, the Presidential Administration informed him of the Vice-President's decision to reject his asylum application. On 10 August 2016, Büyük was detained by the police, who found that he did not have valid identity documents and a residence permit in Bulgaria, and handed over to the authorities of the Migration Department of the Ministry of the Interior. The authorities of the Migration Department of the Ministry of Interior took Büyük to the Turkish border crossing at Kapitan Andreevo and handed him over to Turkish intelligence officers.³¹¹

"Such a humiliating bow of the Bulgarian leadership is sickening for the country and for every free citizen," Bulgarian Justice Minister Hristo Ivanov said on his Facebook page, reacting to the extradition. In fact, despite the Sofia Court of Appeal's judgement definitively rejecting the extradition request, Büyük was extradited by an administrative act of the executive authorities.³¹²

2. Alettin Duman (13 October 2016-Malaysia)

Gülen Movement volunteers Alettin Duman and Tamer Tıbık, who were in Malaysia, were kidnapped by a joint operation of MIT and Malaysian authorities.

³¹¹ "The deportation of Abdullah Büyük is being politicised", 12.08.2016, https://bnr.bg/tr/post/100725976?page_1_4=1

³¹² "Abdullah Buyuk's extradition to Türkiye has stirred up Bulgaria", 12 August 2016, <https://www.sozcu.com.tr/abdullah-buyukun-turkiyeye-iadesi-bulgaristani-karistirdi-wp1349501>

On 13 October 2016, Alettin Duman was abducted by a van that cut him off while he was walking approximately 500 metres to his home in Kuala Lumpur. In order to neutralise Alettin Duman's reaction and efforts, one of the perpetrators pointed a gun at him and administered an anaesthetic which caused him to lose consciousness. Duman was held in a secret location in the forest for approximately 29-30 hours before being handed over to the Turkish authorities. Handcuffed hand and foot with thick chains, gagged and blindfolded, Duman was subjected to repeated torture. The perpetrators threatened to kill him with a gun and also to throw him from the second floor. They gave him neither food nor water (apart from two biscuits), while he was always bound with thick chains. After his abduction and transfer to Türkiye, Alettin Duman was kept mostly in isolation³¹³, sent to the headquarters of the anti-terror police in Ankara. There he was subjected to torture and death threats until he fainted. He was even threatened that he would be thrown out of a window and told that he was trying to escape. In April 2017, Alettin Duman was sentenced to 18 years in prison for allegedly being the leader of an armed terrorist organisation. He is currently serving his sentence in solitary confinement in Kırıkkale Keskin Prison, southeast of Ankara.³¹⁴

3. Tamer Tıbık (13 October 2016 - Malaysia)

Tamer Tıbık, another businessman kidnapped from Malaysia, was abducted on 13 October 2016 at around 12:30 pm from the car park of the building where he was attending an English course in Kuala Lumpur.³¹⁵

Tamer Tıbık was forced into a minibus by four men as he was leaving the classroom where he had taken the course and taken to a two-storey detached and abandoned building in the forest. There, Tamer Tıbık, who was wearing eye patches and goggles, was tied to a wall with a dog chain between his neck, hands and ankles. He was chained most of the time, except during prayer breaks, and his eating and drinking needs were met while he was chained. The next day Tamer Tıbık was taken to the airport with his eyes and mouth taped shut and his hands handcuffed. After being kept waiting at the airport for a while, Tamer Tıbık was taken on a plane to Türkiye on the evening of 14 October 2016.³¹⁶ Following his transfer to Türkiye,

³¹³ "The Story of 2 Turks Kidnapped in Malaysia: They kidnapped them with a minibus and tortured them in the forest", 14 May 2017, <https://zamanaustralia.com/2017/05/malezyada-kacirilan-2-turkun-hikayesi-minibusle-kacirdilar-ormanda-iskence-ettiler/>

³¹⁴ Advocates of Silenced Türkiye (AST): "Erdogan's Long Arms: Abductions In Türkiye And Abroad", September 2020, p.64, <https://silencedTürkiye.org/wp-content/uploads/2020/09/Abductions-Report-September-7-1.pdf>

³¹⁵ Advocates of Silenced Türkiye (AST): "Global Purge: 144 Abductions Conducted By The Turkish Government In Türkiye And Abroad", June 23, 2021, <https://silencedTürkiye.org/global-purge-1-144-abductions-conducted-by-the-turkish-government-in-türkiye-and-abroad>

³¹⁶ Advocates of Silenced Türkiye (AST): "Erdogan's Long Arms: Abductions In Türkiye And Abroad", September 2020, p.64, <https://silencedTürkiye.org/wp-content/uploads/2020/09/Abductions-Report-September-7-1.pdf>

Tamer Tibik was taken to the Ankara TEM gymnasium on 15 October 2016, where he lay on the floor for 18 days and was given very little food and water. The decision on his arrest was announced two weeks later. Officers interrogated him every day at 16.00 hours after his medical examination and subjected him to psychological torture. Tamer Tibik was sentenced to a total of 12.5 years in prison for alleged membership of a terrorist organisation.³¹⁷

Regarding the abduction of teacher Alettin Duman and businessman Tamer Tibik from Malaysia,³¹⁸ their arrest and subsequent conviction for membership of a terrorist organisation with alleged links to the Gülen Movement, the UN working group also called for the unconditional release of the victims and for appropriate compensation, including for the impact of the abduction on their psychological integrity.³¹⁹

4. Mustafa Ceyhan (20 April 2017- Azerbaijan)

Mustafa Ceyhan, a businessman who has a business in Georgia, was detained on 20 April 2017 while crossing the border in Azerbaijan on the allegation of "*forgery of documents*" and was subsequently arrested. Ceyhan was arrested on the grounds that his passport was forged, despite the fact that his passport was not forged, he had been travelling in and out of Azerbaijan with the same passport for 8 years and had even travelled to Umrah from Türkiye.³²⁰ On the day of his release after a year in prison in Azerbaijan, while he was standing between his own lawyer and the UN lawyer appointed for his case, he was kidnapped by Turkish intelligence agents. Seven or eight people from two vehicles arriving at the courthouse took Ceyhan from between the two lawyers and abducted him by forcing him into the vehicle. Ceyhan was then brought to Türkiye on a scheduled THY flight. Ceyhan was arrested in Türkiye and sentenced to 9 years in prison by the court.³²¹

5. Turgay Karaman/İhsan Aslan/İsmet Özçelik (2-4 May 2017-Malaysia)

³¹⁷ "Torture included in UN resolutions, Türkiye found 'guilty'; crime against humanity is being committed", 26 August 2022, <https://www.tr724.com/iskence-bm-kararlarina-girdi-turkiye-suc-lu-bulundu-insanlik-sucu-isleniyor/>

³¹⁸ Human Rights Council Working Group on Arbitrary Detention Opinions adopted by the Working Group on Arbitrary Detention at its ninety-third session, 30 March– 8 April 2022, Opinion No. 8/2022, concerning Alettin Duman and Tamer Tibik (Malaysia and Türkiye), <https://www.ohchr.org/sites/default/files/2022-06/A-HRC-WGAD-2022-8-MYS-TUR-AEV.pdf>

³¹⁹ "UN working group finds detention of Turkish citizens abducted from Malaysia due to alleged Gülen links arbitrary, requests investigation", August 31, 2022, <https://stockholmcf.org/un-working-group-finds-detention-of-turkish-citizens-abducted-from-malaysia-due-to-alleged-gulen-links-arbitrary-requests-investigation/>

³²⁰ "They kidnapped me in front of judges and prosecutors", 1 August 2019, <https://www.tr724.com/beni-hakimlerin-savcilarin-onunde-kacirdilar/>

³²¹ Advocates of Silenced Türkiye (AST): "Global Purge: 144 Abductions Conducted By The Turkish Government In Türkiye And Abroad", 23 June 2021

Turgay Karaman, the director of the international school in Ipoh, Malaysia, and businessman İhsan Aslan were detained by **unknown persons** on 2 May 2017. This unlawful detention became known to the whole world when the CCTV footage was revealed. On 4 May 2017, İsmet Özçelik, a university administrator in Malaysia, was detained. Turgay Karaman and İsmet Özçelik had both been living in Malaysia for 13 years. Turgay Karaman was the director of the Time International School, a school inspired by the ideas of Fethullah Gülen. Closed circuit security camera footage revealed that he was forced into a car by five unidentified men in an underground car park.³²²

Gülen Movement volunteers, who were kidnapped and detained, were sent to Türkiye on a scheduled flight from Malaysia accompanied by two Turkish intelligence officers. İsmet Özçelik, an educator who was illegally kidnapped from Malaysia and brought to Türkiye, was sentenced to 9 years and 11 months in prison in the case he was tried within the scope of Gülen Movement investigations.³²³

In its Özçelik and Karaman judgement, the UN Human Rights Committee concluded that the detention in Türkiye of two Turkish citizens abducted from Malaysia by Turkish intelligence did not meet the criteria of reasonableness and necessity and violated their right to liberty and security under Article 9(1-3) of the UN Covenant on Civil and Political Rights.³²⁴

6. Muhammet Furkan Sökmen (24 May 2017 - Myanmar)

Muhammet Furkan Sökmen, an administrator at Horizon International Schools in Myanmar's capital Yangon and a partner of Myanmar-based Mediterranean International Education Services Co. Ltd. was detained at Yangon Airport on 24 May 2017 and deported to Thailand, from where he was deported to Türkiye.³²⁵ Sökmen was taken to Istanbul on a Turkish Airlines flight by Turkish intelligence officers.³²⁶

³²² Heymans, Johan: Abductions in Türkiye Today, July 2021, Türkiye Tribunal, p.120, https://Türkiyetribunal.org/wp-content/uploads/2021/11/AbductionsinTürkiye_Türkiye-Tribunal-Report_FINAL.pdf, p.147

³²³ Advocates of Silenced Türkiye (AST): "Global Purge: 144 Abductions Conducted By The Turkish Government In Türkiye And Abroad", June 23, 2021, <https://silencedTürkiye.org/global-purge-1-144-abductions-conducted-by-the-turkish-government-in-türkiye-and-abroad>

³²⁴ UN Human Rights Committee, Communication No 2980/2017, İsmet Özçelik and Turgay Karaman v. Türkiye, UN Doc. CCPR/C/125/D/2980/2017., 23 September 2019, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2F125%2FD%2F2980%2F2017&Lang=en

³²⁵ Advocates of Silenced Türkiye (AST): "Erdogan's Long Arms: Abductions In Türkiye And Abroad", September 2020, p.42, <https://silencedTürkiye.org/wp-content/uploads/2020/09/Abductions-Report-September-7-1.pdf>

³²⁶ "Teacher detained in Türkiye after forced return from Myanmar", May 28, 2017, <https://www.turkishminute.com/2017/05/28/teacher-detained-in-türkiye-after-forced-return-from-myanmar/>

"UN Human Rights in Southeast Asia expressed serious concern about the deportation of Turkish national Muhammet Furkan Sökmen by Myanmar - via Thailand - and strongly urged the authorities not to deport persons considered to be at risk upon their return to Türkiye. We reiterate our call on all governments, including the governments of Thailand and Myanmar, to establish an effective system of vetting prior to deportation"³²⁷

Burmese authorities returned Turkish asylum seeker Muhammet Furkan Sökmen via Thailand, exposing him to serious human rights violations, HRW said in a statement.³²⁸

7. Mustafa Emre Çabuk (25 May 2017- Georgia)

Mustafa Emre Çabuk, who works as a teacher at the Private Demirel College in Georgia, has a valid residence permit and has been living in this country for 15 years, was detained by Georgian security forces and arrested by the Georgian court upon the request of the Turkish Government.³²⁹

The fact that the detention of Mustafa Emre Çabuk took place immediately after the visit of then former Prime Minister Binali Yıldırım to Georgia gives the impression that the intelligence of the two countries acted jointly to carry out this action.³³⁰

This incident caused a great outrage in the country and drew the reaction of international human rights organisations.³³¹ In this context, German MP Rebecca Harms took action against the possibility of Çabuk being sent to Türkiye and both wrote an official letter to the Georgian Prime Minister and personally visited the educator in prison. As a result of the reactions, he was released after 9 months.³³²

8. 17 People Brought from Saudi Arabia (5 June 2017- Saudi Arabia)

On 5 June 2017, Saudi Arabia detained 17 people at the official request of the Turkish authorities for alleged links to the Gülen Movement. The detainees were working as haj

³²⁷ "U.N. expresses grave concern over Myanmar, Thai deportation of Turkish national", May 27, 2017, <https://www.reuters.com/article/idUSKBN18N0HW/>

³²⁸ "Burma/Thailand: Deported Turkish Man at Risk", June 1, 2017, <https://www.hrw.org/news/2017/06/01/burma/thailand-deported-turkish-man-risk>

³²⁹ Advocates of Silenced Türkiye (AST): "Global Purge: 144 Abductions Conducted By The Turkish Government In Türkiye And Abroad", June 23, 2021, <https://silencedTürkiye.org/global-purge-1-144-abductions-conducted-by-the-turkish-government-in-türkiye-and-abroad>

³³⁰ "Unlawful detention of educator Mustafa Emre Çabuk in Georgia", 25 May 2017, <https://zamanaustralia.com/2017/05/gurcistanda-egitimci-mustafa-emre-cabuka-hukuksuz-gozalti/>

³³¹ Tolerance and Diversity Institute: "Non-governmental organisations' appeal to the Government of Georgia regarding possible extradition of Mustafa Chabuk to Türkiye", 04 June 2017

³³² "German MP Harms announces: Mustafa Emre Çabuk released after 9 months", 19 February 2018, <https://www.tr724.com/mustafa-emre-cabuk-9-ay-sonra-serbest/>

organisers in Saudi Arabia and were accused of spending the proceeds of their work on Gülen Movement activities. Türkiye's National Intelligence Organisation played an active role in their arrest. They were sent to Türkiye accompanied by MIT officers, despite their protestations that they would be tortured, ill-treated and unjustly detained if sent to Türkiye. They were subsequently detained in Türkiye by the Ankara Security Directorate Anti-Terror Branch teams and put in prison. The court ruled for the arrest of 4 of them, while 13 others were released. The names of these persons have not been disclosed.³³³

9. Enver Kılıç (16 September 2017-Kazakhstan)

Enver Kılıç, who lives in Kyrgyzstan, was detained by local authorities on 16 September 2017 with another victim, Zabit Kişi, as they were boarding a flight from Almaty airport in Kazakhstan to Kyrgyzstan. Through their own efforts, their families were informed that both of them were ordered by the court to be deported to Bishkek city. On 30 September 2017, after boarding the 18:00 Bishkek flight of Airastana Airlines Flight KG109 to Bishkek for the implementation of the deportation order, they were immediately taken off the plane and handed over to Turkish intelligence officers. In the document sent by the Kazakhstan Intelligence Directorate, it was stated that Enver Kılıç and Zabit Kişi travelled to Türkiye on 30 September 2017 on Turkish Airlines flight TT-4010, flight 23.32 Almaty-Ankara.³³⁴ Kılıç, who was abducted and brought to Türkiye, was not heard from for a long time, despite all the efforts of his family. However, 193 days after his abduction, Kılıç was found to be in prison.³³⁵

10. Minutes Person (16 September 2017-Kazakhstan)

One of the people who shared the same fate as Enver Kılıç mentioned above is Zabit Kişi. Zabit Kişi was taken from Kazakhstan and brought to Türkiye on 30 October 2017 as part of investigations into the Gülen Movement and held in unregistered detention for 108 days. His family and lawyers were not provided with any information during this period. Despite all appeals, the State did not recognise that it was in possession of Zabit Kişi. Upon the family's initiative in Kazakhstan, the Kazakhstan Intelligence Directorate issued an official document stating that Zabit Kişi was handed over to MIT officers and sent to Türkiye on 30 September 2017 on Turkish Airlines flight TT-4010 from Almaty to Ankara at 23.32. Thus, it has been confirmed that Zabit Kişi is in the hands of the official authorities of the Republic of Türkiye.

³³³ Advocates of Silenced Türkiye (AST): "Global Purge: 144 Abductions Conducted By The Turkish Government In Türkiye And Abroad", June 23, 2021, <https://silencedTürkiye.org/global-purge-1-144-abductions-conducted-by-the-turkish-government-in-türkiye-and-abroad>

³³⁴ "It was revealed that Enver Kılıç and Zabit Kişi were also abducted by MIT", 17 December 2017, <https://www.tr724.com/enver-kilic-zabit-kisinin-de-MIT-tarafindan-kacirildigi-ortaya-cikti/>

³³⁵ Advocates of Silenced Türkiye (AST): "Erdogan's Long Arms: Abductions In Türkiye And Abroad", September 2020, p.82, <https://silencedTürkiye.org/wp-content/uploads/2020/09/Abductions-Report-September-7-1.pdf>

108 days after his abduction, Zabit Kişi appeared at the Ankara Courthouse, having lost 30 kilograms and with torture marks on his body. Zabit Kişi, who was arrested and put in prison, sent a petition describing the tortures he had experienced to the court where he was on trial.³³⁶

Zabit Kişi stated in court that he was afraid of being killed and requested to be arrested. Zabit Kişi stated that prison conditions were preferable to torture and that he tried to recover after his arrest by using many medications, but there was no investigation into torture. Zabit Kişi was sentenced to 13 years and 6 months in prison and sent to Kandıra prison.³³⁷

Zabit Kişi filed a criminal complaint with a detailed petition due to the abduction process he experienced since Kazakhstan, but the torturers and the evidence were not taken into consideration. Zabit Kişi stated that he was kept in a container for 108 days in a place 6 minutes by car from the airport in Ankara, where he was landed, and that he was stripped naked, electrocuted, dehydrated for days, subjected to sexual abuse, beaten continuously, watched while defecating, and when he was about to die, he was injected with drugs he did not know and tortured again.³³⁸

Zabit Kişi's account coincides with the accounts of others who were abducted in a Black Transporter and tortured. The torture details include gross human rights violations such as dehydration, electrocution and sexual abuse. Although the Intelligence Directorate of Kazakhstan announced with an official document that Zabit Kişi was handed over to MIT personnel and sent to Türkiye on 30 September 2017 on Turkish Airlines flight TT-4010 from Almaty to Ankara at 23.32, he was detained and tortured for 108 unrecorded days. This case example reveals how recklessly the practice of kidnapping and disappearance is carried out in Türkiye.

11. The Inescapable Family (27 September 2017-Pakistan)

Meral Kaçmaz and Mesut Kaçmaz worked as teachers in Biology, Mathematics, English and Science in different countries from 1999 onwards, and then worked in institutions affiliated with the Gülen Movement in Pakistan between 2007 and 2016. While he was continuing his PhD education in Pakistan, after the shady coup attempt on 15 July 2016, due to the change in the Pakistani Government's view of the institutions affiliated with the Gülen Movement with the influence of Türkiye, the work visas of all persons affiliated with the

³³⁶ "Zabit Kişi told about 108 days of torture: I don't find suicides strange anymore", 2 November 2023

³³⁷ Heymans, Johan: Abductions in Türkiye Today, July 2021, Türkiye Tribunal, p. 103, https://Türkiyetribunal.org/wp-content/uploads/2021/11/AbductionsinTürkiye_Türkiye-Tribunal-Report_FINAL.pdf

³³⁸ Advocates of Silenced Türkiye (AST): "Erdogan's Long Arms: Abductions In Türkiye And Abroad", September 2020, p.32, <https://silencedTürkiye.org/wp-content/uploads/2020/09/Abductions-Report-September-7-1.pdf>

Movement were cancelled and the Kaçmaz Family was given 72 hours to leave the country. The family applied to the United Nations High Commissioner for Refugees against this decision and was given a letter from the UN stating that they could stay in Pakistan for 1 year and after the parents of students in 5 cities of Pakistan filed a lawsuit in Pakistani courts to allow the Kaçmaz family and other teachers to stay in the country, the courts ruled for a stay of execution regarding the procedures of the Ministry of Interior and that they could not be deported from the country for 1 year.³³⁹

Nevertheless, four members of the Kaçmaz family, two of whom were girls under the age of 18, were abducted by Pakistani intelligence officials during a raid on their home at night (between 00.45 and 02.00) on 27 September 2017 and held arbitrarily in an unknown location for 17 days. As a result of 17 days of unjustified detention, the Kaçmaz family was handed over to Turkish intelligence and security units in violation of the applicable law and contract provisions and sent to Türkiye in this way.

Mesut Kaçmaz has been subjected to ill-treatment, including actual torture, verbal threats, insults and abusive language, both in the vehicle and on the plane, particularly after he was taken in by the Turkish authorities. He was kicked and punched extensively all over his body, particularly in the abdomen, and was severely injured as a result. Two MIT officers, identifying themselves as "Cemal" and "Ziya", threatened Kemal Kaçmaz through his wife and daughters, saying *"Stay calm, your wife and daughters are here. Be a man. Otherwise we will rape your wife and daughters here. They are already our property. Do not tell anyone about this kidnapping. If you do, we will harm your family, siblings, parents and relatives. Be smart. You have 33 days to live anyway"*.³⁴⁰

Mesut and Meral Kaçmaz, who were abducted from Pakistan in this way, were subjected to procedural procedures after they landed at Atatürk Airport and were arrested after investigative procedures were carried out against them. In order to disguise the abduction of persons within the scope of the execution of a crime against humanity as a legal investigation, after Meral Kaçmaz was brought to Türkiye through the investigation numbered 2017/165248 of the Ankara Chief Public Prosecutor's Office, the first procedure was carried out on 13 October 2017, and a report was made as if the family entered the country of their own will and volition.

Members of the intelligence, security and judiciary, who systematically endeavoured to cover up the crime of abduction, caused the victims to be unjustly arrested and deprived of

³³⁹ Türkiye Tribünal, Meral & Mesut Kaçmaz,

³⁴⁰ "The former director of Pak-Turk Schools and his family kidnapped! ", 27 September 2017, <https://www.samanyoluhaber.com/pak-turk-okullarinin-eski-muduru-ve-ailesi-kacirildi-haberi/1290897/>

their liberty in the ongoing process. In the case of the victim Meral Kaçmaz, after she was brought to Türkiye, a "wanted record" was requested to be created with a document titled "CONFIDENTIAL" but without letterhead, issuing organisation and signature, with an annotation at the bottom stating that it was of an intelligence nature, and an arrest warrant was issued for Meral Kaçmaz with this information note.³⁴¹

The unlawful transfer and detention of the Kaçmaz family to Türkiye was found to be a violation of rights by the United Nations Working Group on Arbitrary Detention in its resolution A/HRC/WGAD/2018/11 dated 28 May 2018.³⁴² The United Nations Working Group on Arbitrary Detention has made an ultimatum call to the Erdoğan regime, which has exacerbated the grave human rights violations it has inflicted with the State of Emergency. The group issued a declaration calling for the immediate and unconditional release of Mesut Kaçmaz, an educator abducted from Pakistan, and his family. The Working Group found that the Government of Türkiye, as well as the Government of Pakistan, was jointly responsible for the unlawful arrest, detention and deportation of the Kaçmaz family to Türkiye. The declaration also recognised that both governments had violated Human Rights. It was pointed out that they acted arbitrarily and contrary to the Universal Declaration and Convention.³⁴³

The kidnapping incident had a great repercussion in the world. The Washington Post, one of the leading newspapers of the USA, covered the incident and gave wide coverage to the abduction of Mesut Kaçmaz and his family in Pakistan. In the article titled '*Eyes turn to intelligence organisations in kidnapping of Turkish family in Pakistan*', the Washington Post stated: '*The police do not care about the kidnapping of Mesut Bey, so who did it?*'.³⁴⁴

Meral and Mesut Kaçmaz, who were unlawfully arrested at the direction of MIT despite the lack of any legal evidence to charge them with a criminal offence, were released after a period of detention. Meral and Mesut Kaçmaz left their country and settled in Canada due to the impact of the trauma they experienced and the fear of experiencing the same fate again, and they shared their experiences through social media.³⁴⁵

³⁴¹ Advocates of Silenced Türkiye (AST): "Erdogan's Long Arms: Abductions In Türkiye And Abroad", September 2020, p.35, <https://silencedTürkiye.org/wp-content/uploads/2020/09/Abductions-Report-September-7-1.pdf>

³⁴² Human Rights Council Working Group on Arbitrary Detention, Opinion No. 11/2018 concerning Mesut Kaçmaz, Meral Kaçmaz and two minors (whose names are known by the Working Group) (Pakistan and Türkiye), A/HRC/WGAD/2018/11, 25 May 2018,

³⁴³ "U.N. ultimatum to AKP government: 'Release the Kaçmaz family immediately and unconditionally!'", 12 June 2023, <https://silencedTürkiye.org/bm-den-akp-iktidarina-ultimatom>

³⁴⁴ "A Turkish family has disappeared in Pakistan, and suspicion turns to intelligence agencies.", 11 October 2017

³⁴⁵ "Kaçmaz family, abducted from Pakistan in the middle of the night, told their experiences for the first time", 23 September 2020

Especially in many countries where there is no rule of law, there have been hundreds of incidents similar to what the Kaçmaz family experienced, and volunteers of the Gülen Movement have been subjected to inhumane treatment, abducted by MIT officers using the negligence and abuses of the intelligence and security units of the countries where they are located, disappeared for a long time, kept under torture, forced to sign statements against their will under the name of confession, and have been victims of abduction, false arrest and persecution, which are elements of crimes against humanity.

12. Hakan Islamoglu (19 October 2017-Indonesia)

Hakan Islamoğlu, a businessman in Indonesia, was captured in Indonesia in an operation conducted by MIT and deported to Türkiye.³⁴⁶ Islamoğlu, who was brought to Türkiye, was released on the grounds that he had benefited from effective remorse by providing information on members of the Gülen Movement in Indonesia and some other countries.³⁴⁷

Islamoglu was brought to Türkiye by Anadolu Agency following bilateral talks between Türkiye and Indonesia, he was taken into custody in a joint operation by MIT and police units.³⁴⁸

13. Memduh Çıkmaz (27 November 2017 - Sudan)

Memduh Çıkmaz was a successful businessman who had been engaged in production and trade in Türkiye and Sudan for many years. Upon Türkiye's request, he was detained in Sudan for 81 days. Afterwards, he was taken from Sudanese authorities through MIT and brought to Türkiye by plane. After 15 July 2016, the Government of Türkiye sent letters to the Government of Sudan requesting the deportation of Memduh Çıkmaz. Memduh Çıkmaz was detained in the morning hours of 6 September 2017 at his home and interrogated by the National Intelligence Service. His lawyer and family appealed to the local authorities not to deport him on the grounds that he might face persecution in Türkiye. However, there was no positive response to the appeals; Memduh Çıkmaz was brought to Türkiye from Sudan on 27 November 2017 by a joint operation of the intelligence agencies of the two countries.³⁴⁹

³⁴⁶ Advocates of Silenced Türkiye (AST): "Erdogan's Long Arms: Abductions In Türkiye And Abroad", September 2020, p.118, <https://silencedTürkiye.org/wp-content/uploads/2020/09/Abductions-Report-September-7-1.pdf>

³⁴⁷ "FETÖ's Indonesia chief released after confessing", 25 October 2017, <https://t24.com.tr/haber/fetonun-endonezya-sorumlusu-itirafci-olunca-serbest-birakildi,473989>,

³⁴⁸ "FETÖ's Indonesia chief brought to courthouse", 25 October 2017, <https://www.aa.com.tr/tr/turkiye/fetonun-endonezya-sorumlusu-adliyeye-getirildi/947198>

³⁴⁹ Heymans, Johan: Abductions in Türkiye Today, July 2021, Türkiye Tribunal, p.97, https://Türkiyetribunal.org/wp-content/uploads/2021/11/AbductionsinTürkiye_Türkiye-Tribunal-Report_FINAL.pdf

Sudanese security forces were also involved in the arrest and repatriation of Çıkmaz. He was brought to Türkiye and arrested by the court on the same day.³⁵⁰ After being brought to Türkiye and arrested, Çıkmaz was sentenced to 10 years in prison in May 2018. The businessman, who had been trading in Sudan for years, owned factories and was a tax record holder, was handcuffed and photographed in handcuffs by the Erdoğan regime's media organs for propaganda purposes, claiming that he was a money vault.³⁵¹

14. Mustafa Kenel (16 December 2017- Indonesia)

Mustafa Kenel, who travelled to Indonesia in 1992 to study at university and has been living in Indonesia since then, and who owns a parquet factory and a coal mine in the country, was detained by Indonesian authorities along with 4 other Turkish citizens following a list of 10 Turkish citizens provided by the Erdoğan regime to the Indonesian government.

While 4 of the detainees were later released, Kenel was deported to Türkiye.³⁵² Kenel was brought to Türkiye, arrested and sentenced to 10 years in prison by the court.³⁵³

15. Aslan Celik (19 January 2018- Iraq)

Arslan Çelik, an inspector at Ronaki Selahaddin Eyyubi Colleges, was kidnapped by an armed group on Kürşat Street in Sulaimaniyah, Northern Iraq on 19 January 2018 on his way to school. Çelik who was wanted to be brought to Türkiye by MIT was rescued with the intervention of Talabani, the wife of Jalal Talabani, then President of Iraq.

Çelik then travelled under the protection of Hero Talabani to Dubai and from there to the United States of America.³⁵⁴

16. Yusuf Inan (15 July 2018-Ukraine)

³⁵⁰ Human Rights Foundation of Türkiye Documentation Centre: "25-28 November 2017 Daily Human Rights Report", <https://tihv.org.tr/gunluk-ih-raporlari/25-28-kasim-2017-gunluk-insan-haklari-raporu/>

³⁵¹ "FETÖ's 'money vault' brought to Türkiye with MIT operation", 27.11.2017, <https://www.aa.com.tr/tr/15-temmuz-darbe-girisimi/fetonun-para-kasasi-MIT-operasyonu-la-turkiyeye-getirildi/980736>

³⁵² "Indonesia deports Turkish businessman to Türkiye over Erdoğan regime's request", December 19, 2017, <https://stockholmcf.org/indonesia-deports-turkish-businessman-to-turkiye-over-erdogan-regimes-request/>

³⁵³ Heymans, Johan: Abductions in Türkiye Today, July 2021, Türkiye Tribunal, p.103, https://turkiyetribunal.org/wp-content/uploads/2021/11/AbductionsinTürkiye_Türkiye-Tribunal-Report_FINAL.pdf

³⁵⁴ Advocates of Silenced Türkiye (AST): "Global Purge: 144 Abductions Conducted By The Turkish Government In Türkiye And Abroad", June 23, 2021, <https://silencedturkiye.org/global-purge-1-144-abductions-conducted-by-the-turkish-government-in-turkiye-and-abroad>

Yusuf Inan had been residing in Ukraine with a legal permit after his marriage in 2015. The couple used to breed sheep on their farm to earn a living. Mr Inan was also a journalist. He was abducted by Turkish and Ukrainian agents on 15 July 2017 while working on his farm with his wife. He was sent to Türkiye and arrested on charges of being a member of the Gülen Movement.³⁵⁵

Anadolu Agency, which has been transformed into the propaganda agency of the Erdoğan regime, that the operation was carried out directly by MIT and that *"MIT brought Yusuf Inan, one of FETÖ's social media experts who fled abroad after the coup attempt, from Ukraine to Türkiye"*.³⁵⁶

17. Isa Özdemir (12 July 2018-Azerbaijan)

Isa Özdemir moved to Azerbaijan in 1992, where he first worked as a teacher in private schools affiliated with the Gülen Movement and later worked in different companies affiliated with the Gülen Movement.

Özdemir was travelling to Georgia on 9 October 2017 when he was stopped by Azerbaijani border guards and informed that a travel ban had been imposed. In December 2017, Özdemir applied to the State Migration Service (SMS) for an extension of his residence visa. On 24 January 2018, the SMS rejected the request and cancelled his residence permit. By 2 February 2018, he was ordered to leave the country. On 2 February 2018, Mr. Özdemir applied for asylum to the United Nations High Commissioner in Azerbaijan (UNHCR), which issued him a letter of protection as a person of concern.

Özdemir was summoned to the Chief Public Prosecutor's Office on 2 February 2018 to be questioned as a witness in the criminal case against Gülen Movement. The questioning took place on 5 February 2018. Özdemir was arrested by the police on 8 February 2018 and taken to the Narimanov District Court. On the same date, the court ordered Özdemir to be held in pre-trial detention for forty days pending his extradition. The decision was based on an arrest warrant issued by the Ankara 2nd High Criminal Court. On 15 February 2018, the Baku Court of Appeal rejected the appeal and upheld the decision of the Narimanov District Court of 8 February 2018. On 12 July 2018, the Baku Court of Serious Crimes rejected the extradition of Özdemir to Türkiye and ordered his release. The Court ruled that Mr Özdemir's extradition to Türkiye was impossible as he had been granted refugee status in Azerbaijan by the UNHCR.

³⁵⁵ Advocates of Silenced Türkiye (AST): "Global Purge: 144 Abductions Conducted By The Turkish Government In Türkiye And Abroad", June 23, 2021, <https://silencedTürkiye.org/global-purge-1-144-abductions-conducted-by-the-turkish-government-in-türkiye-and-abroad>

³⁵⁶ "FETÖ's social media expert caught in Ukraine!", 15 July 2018, <https://www.qha.com.tr/guvenlik/feto-nun-sosyal-medya-uzmani-ukrayna-da-yakalandi-172349>

From the judgment of 12 July 2018, it is understood that representatives of the Ministry of Justice and the Prosecutor General's Office also stated at the hearing that the applicant should not be extradited to Türkiye on the grounds that he had been granted refugee status by the UNHCR. However, despite this, the applicant was not released and was instead handed over to MIT officers by the SMS officers who deported him from Azerbaijan on the same day.

İsa Özdemir, a legal resident of Azerbaijan for more than 20 years, was abducted on 12 July 2018 and detained in Türkiye (Ankara) 8 days later on 20 July 2018. Özdemir, who was unlawfully handed over to the Turkish MIT by the Azerbaijani authorities,³⁵⁷ and abducted.³⁵⁸ Subsequently, MIT, which carried out the action, announced the arrest of İsa Özdemir within the scope of the investigation against the Gülen Movement.³⁵⁹

As a result of this unlawful detention and extradition to Türkiye, the Court found that İsa Özdemir (Application No. 8098/18) was deported from Azerbaijan in flagrant violation of the decision of the Baku Serious Crimes Court of 12 July 2018 refusing extradition. In conclusion, the Court held on 10 March 2022 that the complaints under Article 3 and Article 5(1) of the Convention were admissible, that there had been a violation of those Articles and awarded EUR 9000 in compensation.³⁶⁰

18. Ayhan Seferoğlu (19 February 2018 - Azerbaijan)

Ayhan Seferoğlu, an educator, moved to Azerbaijan in 1995, where he first worked as a teacher in private schools affiliated with the Gülen Movement and then in different companies affiliated with the Gülen Movement. He was granted a permanent residence card in 2007. Although he was granted refugee status by the UNHCR, Seferoğlu was decided to be deported to Türkiye on 19 February 2018 and was handed over to MIT members and sent to Türkiye.³⁶¹

While travelling to Georgia on 7 October 2017, Seferoğlu was stopped by Azerbaijani border guards and informed that a travel ban had been imposed. Seferoğlu was summoned to the Prosecutor General's Office for questioning as a witness in the criminal case against Gülen Movement on 2 February 2018 and the questioning took place on 5 February 2018. Seferoğlu was arrested by the police in February 2018 and taken to the Narimanov District Court. On the

³⁵⁷ "National Intelligence Organisation again kidnapped a man from abroad: Two people brought to Türkiye", 12 July 2018

³⁵⁸ "Turk released by Baku Court kidnapped and taken to Türkiye", 13 July 2018, <https://www.turan.az/ext/news/2018/7/free/politics%20news/tr/73570.htm>

³⁵⁹ Anadolu Agency AA), "FETÖ's" 'Azerbaijan cashier' arrested, 20 July 2018,

³⁶⁰ ECtHR Shenturk and Others v. Azerbaijan, Application No: 41326/17, K.T: 10/03/2022, <https://hudoc.echr.coe.int/eng#%7B%22tabview%22%3A%22document%22%2C%22itemid%22%3A%22001-216016%22%7D>

³⁶¹ U.S. Department of State: "2018 Country Reports on Human Rights Practices: Azerbaijan"

same date, the court ordered the applicant to be held in pre-trial detention pending extradition for forty days. The decision was based on an arrest warrant issued against the applicant by the Ankara 2nd High Criminal Court. On 15 February 2018, the Baku Court of Appeal dismissed the appeal and upheld the decision of the Narimanov District Court of 8 February 2018. On 12 July 2018, the Baku Serious Crimes Court rejected the applicant's extradition to Türkiye and ordered his release. The Court held that Seferoğlu's extradition to Türkiye was impossible as he had been granted refugee status in Azerbaijan by the UNHCR. From the judgment dated 12 July 2018, it is understood that representatives of the Ministry of Justice and the Prosecutor General's Office also stated at the hearing that the applicant should not be extradited to Türkiye on the grounds that he had been granted refugee status by the UNHCR.³⁶²

While Ayhan Seferoğlu's relatives were waiting outside to greet him on the occasion of the court's favourable decision, he was not released, but was instead abducted from the back door of the courthouse by SMS officers who deported him from Azerbaijan on the same day. On 19 February 2018, the SMS decided to deport the applicant to Türkiye. Seferoğlu's wife appealed to the Azeri authorities for help in finding her husband. Despite all efforts, Seferoğlu was brought to Ankara and arrested on charges of being a member of a terrorist organisation.

As a result of this unlawful detention and extradition to Türkiye, the Court found that, in the case of Ayhan Seferoğlu (Application No. 8147/18), he had been deported from Azerbaijan while extradition proceedings were pending, thus depriving him of the opportunity to effectively challenge the lawfulness of his extradition. In conclusion, the Court held on 10 March 2022 that the complaints under Article 3 and Article 5 § 1 of the Convention were admissible and that there had been a violation and awarded EUR 9000 in compensation.³⁶³

19. Erdoğan Taylan (9 February 2018 - Azerbaijan)

Erdoğan Taylan moved to Azerbaijan in 1993, where he worked first as a teacher in private schools affiliated with the Gülen movement and later in various companies affiliated with the Gülen movement. On 3 March 2017, Taylan applied to SMS for an extension of his residence permit. On 11 April 2017, SMS accepted his request and extended his residence permit until 11 April 2018. On 9 October 2017, while travelling to Georgia, Taylan was stopped by Azerbaijani border guards and informed that a travel ban had been imposed on him. On 2 February 2018, Taylan was summoned to the Chief Public Prosecutor's Office for questioning

³⁶² Advocates of Silenced Türkiye (AST): "Erdoğan's Long Arms: Abductions In Türkiye And Abroad", September 2020, p.120, <https://silencedturkiye.org/wp-content/uploads/2020/09/Abductions-Report-September-7-1.pdf>

³⁶³ ECtHR Shenturk and Others v. Azerbaijan, Application No: 41326/17, K.T: 10/03/2022, [https://hudoc.echr.coe.int/eng#{%22tabview%22:\[%22document%22\],\[%22itemid%22:\[%22001-216016%22\]\]](https://hudoc.echr.coe.int/eng#{%22tabview%22:[%22document%22],[%22itemid%22:[%22001-216016%22]])

as a witness in the criminal case against him in Türkiye for membership of Gülen Movement. The interrogation took place on 5 February 2018. On 8 February 2018, the applicant was arrested and brought before the Binagadi District Court, which ordered his detention pending extradition. Ultimately, the court refused to extradite Taylan to Türkiye and ordered his release.

On 9 February 2018, the applicant's spouse applied for asylum on his behalf. On 19 February 2018, the SMS rejected the asylum application and cancelled the applicant's residence permit. On the same day, the SMS ordered the applicant's deportation under Article 79.1.1 of the Migration Act.

Due to the favourable decision of the court, Ayhan Seferoğlu and his relatives were waiting to be released and reunited with their relatives when they were kidnapped from the back door of the courthouse by SMS officers who had deported them from Azerbaijan. The victims were then handed over to MIT officers, brought to Ankara and arrested on charges of being members of a terrorist organisation.³⁶⁴

Following an application to the ECtHR concerning this unlawful detention and extradition to Türkiye, the Court found that, in the case of Erdoğan Taylan (Application No. 8384/18), he had been deported from Azerbaijan while extradition proceedings were pending, thus depriving him of the opportunity to effectively challenge the lawfulness of his extradition. Consequently, the Court held on 10 March 2022 that the complaints under Article 3 and Article 5 § 1 of the Convention were admissible and that there had been a violation of those Articles and awarded EUR 9000 in damages.³⁶⁵

20. Tacî Şentürk (8 June 2017- Azerbaijan)

Tacî Şentürk, who works in private schools in Azerbaijan known to be close to the Gülen Movement, was granted a temporary residence permit by Azerbaijan, which was regularly extended. On 9 March 2017, the temporary residence permit was again extended until 9 September 2017. On 3 June 2017, the Turkish authorities informed their Azerbaijani counterparts through Interpol that Mr Şentürk's passport had been cancelled and therefore requested the Azerbaijani authorities to arrest and deport Mr Şentürk to Türkiye. On 8 June 2017, the Azerbaijani Ministry of Interior received a letter from the Turkish Embassy in Baku stating that Şentürk should be arrested as a suspect for participation in an armed terrorist

³⁶⁴ Heymans, Johan: Abductions in Türkiye Today, July 2021, Türkiye Tribunal, p.93, https://Türkiyetribunal.org/wp-content/uploads/2021/11/AbductionsinTürkiye_Türkiye-Tribunal-Report_FINAL.pdf,

³⁶⁵ ECtHR Shenturk and Others v. Azerbaijan, Application No: 41326/17, K.T: 10/03/2022, <https://hudoc.echr.coe.int/eng#{%22tabview%22:%22document%22,%22itemid%22:%22001-216016%22}}>

organisation based on the decision of the Konya Criminal Court No. 2. Şentürk was arrested at around 14.00 on 7 June 2017 and brought to the temporary detention centre of the Organised Crime Department (OCD) of the Ministry of Interior, where he was informed that he would be taken to Heydar Aliyev International Airport in Baku and deported to Türkiye at 20.30 on the same day. Mr Şentürk informed officials at the OCD of his intention to seek asylum in Azerbaijan on the grounds that he would be persecuted in Türkiye and repeatedly asked them not to deport him. However, his requests were ignored and Şentürk was handed over to MIT officers and deported to Türkiye on 8 June 2017. On 23 June 2017, the State Border Service informed Şentürk's wife that her husband had been deported to Türkiye on 8 June 2017.³⁶⁶

As a result of the application to the ECtHR on the basis of this unlawful detention and extradition to Türkiye, the ECtHR, which considered similar cases together with Şentürk's case, found that the first applicant, Taci Şentürk (Application No. 41326/17), had been deported from Azerbaijan without any extradition proceedings being instituted against him, thus depriving him of the opportunity to effectively challenge the lawfulness of his extradition. In conclusion, the Court held on 10 March 2022 that the complaints under Article 3 and Article 5 § 1 of the Convention were admissible, that there had been a violation and awarded EUR 9000 in damages.³⁶⁷

The violations of the rights of Şentürk and other victims identified by the ECtHR judgement³⁶⁸ condemned not only the Erdoğan regime but also the host countries, such as Azerbaijan, which mediated this rogue state practice.

21. Faik Semih Basoglu (19 February 2018 - Azerbaijan)

The case of unlawful extradition and handing over to MIT in Azerbaijan concerns Faik Semih Başoğlu. Mr Başoğlu was unlawfully handed over to MIT by the Azerbaijani authorities. The European Court of Human Rights requested from the Azerbaijani authorities the reasons for his transfer, despite concerns that he might be subjected to torture in Türkiye. Before being handed over to the prosecutor's office, Başoğlu was interrogated and then arrested by MIT.³⁶⁹

22. Unidentified Businessman (15 March 2018-Switzerland)

³⁶⁶ Heymans, Johan: Abductions in Türkiye Today, July 2021, Türkiye Tribunal, pp.94-95,

³⁶⁷ ECtHR Shenturk and Others v. Azerbaijan, Application No: 41326/17, K.T: 10/03/2022, [https://hudoc.echr.coe.int/eng#{%22tabview%22:\[%22document%22\],%22itemid%22:\[%22001-216016%22\]}](https://hudoc.echr.coe.int/eng#{%22tabview%22:[%22document%22],%22itemid%22:[%22001-216016%22]})

³⁶⁸ ECtHR Shenturk and Others v. Azerbaijan, Application No: 41326/17, K.T: 10/03/2022, [https://hudoc.echr.coe.int/eng#{%22tabview%22:\[%22document%22\],%22itemid%22:\[%22001-216016%22\]}](https://hudoc.echr.coe.int/eng#{%22tabview%22:[%22document%22],%22itemid%22:[%22001-216016%22]})

³⁶⁹ Advocates of Silenced Türkiye (AST): "Global Purge: 144 Abductions Conducted By The Turkish Government In Türkiye And Abroad", June 23, 2021, <https://silencedTürkiye.org/global-purge-1-144-abductions-conducted-by-the-turkish-government-in-Türkiye-and-abroad>

A case of attempted kidnapping in Switzerland remained at the attempted stage. According to the findings, MIT agents and Turkish diplomats met three times at a cemetery with (E), a businessman's colleague, to plan the kidnapping of businessman (A). MIT agents promised E, who owed a large sum of money and a comfortable life in Türkiye, a large sum of money and a comfortable life in Türkiye, in return for E's mixing a tranquilliser into A.'s food or drink. The conversations regarding the attempted kidnapping were monitored and recorded by the Swiss Intelligence Service.

The audio recording and photographs evidencing the meeting gave the Swiss Federal Council, which does not usually get involved in intelligence work, the opportunity to step in. The Swiss government asked the Ministry of Interior to initiate an investigation, upon which the Swiss Ministry of Interior started an investigation against two diplomats working at the Bern Embassy and an unknown third party. The diplomats subject to the investigation, H.M.G., the press attaché and the number 2 of the Bern Embassy, and H.K.Y., the second clerk, were recalled to Türkiye upon the revelation of the incident. The identity of the third person is unknown. The target of the abduction attempt was taken under police protection. The Swiss Federal Council requested Türkiye to lift the diplomatic immunity of the staff of the Bern Embassy.³⁷⁰

On 15 March 2018, deputies of the Swiss Parliament demanded a strong reaction from the Swiss government in response to the active preparations by two Turkish diplomats to kidnap and hand over to Türkiye a dual citizen and Swiss-based businessman allegedly active in the Gülen movement. The existence of the conspiracy was confirmed by the Swiss Attorney General's Office on the basis of *"suspicion of political intelligence gathering and prohibited acts for a foreign state"*.³⁷¹

23. Abduction of 3 Educators in Gabon (15 March 2018 - Gabon)

Gabonese authorities detained Osman Özpınar, Director of Ecole la Lumière School, İbrahim Akbaş, Director of Pedagogy, his wife Fikriye Akbaş, an accountant at the same school, and Adnan Demirönel, an educator, on 15 March 2018. Although the reason for the detention of the educators was forgery, this turned out to be untrue. Gabonese authorities

³⁷⁰ "In Switzerland, Turkish diplomats tried to kidnap a man with MIT", <https://humanrights-ev.com/tr/isvicrede-turk-diplomatlar-MIT-ile-birlikte-adam-kacirmak-istedi/>

³⁷¹ Advocates of Silenced Türkiye (AST): Report: Erdogan's long arms abroad and recommendations to governments, July 2018 (https://silencedTürkiye.org/wp-content/uploads/2018/07/AST_7-28-18_REPORT10_Erdogans-long-armsabroad.pdf), p. 14; "Swiss investigate alleged Turkish attempt to kidnap businessman", https://www.aol.com/news/swiss-investigate-alleged-turkish-attempt-kidnap-businessman-185724386.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&

detained them again, this time on the grounds that they posed a threat to national security. After the educators were detained, their spouses were also detained in a house raid.³⁷²

The educators, who were detained by Gabonese authorities on terrorism charges and on the grounds that they posed a threat to national security, were deported to Türkiye after nearly three weeks in detention. After the deportation decision, the educators were handed over to MIT together with their families before they had the opportunity to appeal the decision. The teachers, their spouses and children, 13 people in total, were brought to Türkiye by MIT on a private plane. While the spouses and children of the educators were released in Istanbul, Osman Özpınar, İbrahim Akbaş and Adnan Demirönel were arrested by the court.³⁷³

24. Abduction of Six Educators in Kosovo (31 March 2018-Kosovo)

Mustafa Erdem, Yusuf Karabina, Kahraman Demirez, Cihan Özkan, Hasan Hüseyin Günakan, Hasan Hüseyin Günakan and Osman Karakaya, who worked at Mehmet Akif Colleges belonging to the Gülen Movement in Kosovo, were abducted and forcibly taken to Türkiye on 31 March 2018 by MIT officers with the support of employees of the Kosovo Ministry of Interior and all of them were arrested.³⁷⁴

This kidnapping, which took place in the heart of Europe, was very serious in the international arena and attracted the reaction of many countries. In response, Kosovo Prime Minister Ramush Haradinaj visited the wives of the teachers who were illegally abducted to Türkiye in front of the school and conveyed his regrets. *"We will not allow a similar situation to occur again,"* he said. Subsequently, he dismissed the Minister of the Interior and the Chief of Intelligence for openly unlawful co-operation with the Turkish intelligence services, and launched an investigation³⁷⁵ against all those responsible for the incident. In the ongoing process, the Kosovo Special Prosecutor's Office investigated and issued an indictment against Kosovo public officials who assisted and facilitated the unlawful abduction of the Gülen

³⁷² "3 Turks linked to Gülen organisation in Gabon, a Central African country, were brought to Türkiye", 10 April 2018, <https://tr.euronews.com/2018/04/10/aa-gabon-da-gozalt-na-al-nan-3-turk-turkiye-ye-getirildi>

³⁷³ Advocates of Silenced Türkiye (AST): "Erdogan's Long Arms: Abductions In Türkiye And Abroad", September 2020, p.72-73 <https://silencedTürkiye.org/wp-content/uploads/2020/09/Abductions-Report-September-7-1.pdf>; "Turkish teachers are targeted in Gabon after Kosovo", 7 April 2018, <https://www.tr724.com/kosovadan-sonra-gabonda-da-turk-ogretmenler-hedefte/>

³⁷⁴ Heymans, Johan: Abductions in Türkiye Today, july 2021, Türkiye Tribunal, p.109, https://Türkiyetribunal.org/wp-content/uploads/2021/11/AbductionsinTürkiye_Türkiye-Tribunal-Report_FINAL.pdf; "AA: Six Turks detained in Kosovo brought to Türkiye", 29 March 2018, <https://tr.euronews.com/2018/03/29/kosova-basbakani-turklerin-kacirilmalari-bilgisi-bana-verilmedi>

³⁷⁵ "Kosovo abducted educators illegally returned to Türkiye", 1 April 2018, <https://www.tr724.com/kosovada-kacirilan-egitimciler-yasadisi-yollarla-turkiyeye-iade-edildi/>

Movement volunteer educators and the doctor to Türkiye.³⁷⁶ According to the indictment issued by the Kosovo Special Prosecutor's Office, Driton Gashi, the former head of the Kosovo Intelligence Agency (KIA), and two other officials were charged with "official misconduct" and "unlawful deprivation of liberty".³⁷⁷ In the case in Kosovo regarding the kidnapping of 6 Turkish citizens volunteers of the Gülen Movement and their return to Türkiye with the operation of MIT, the former head of the KIA was found guilty of 'abuse of his office and position' and sentenced to 4 years and 8 months in prison.³⁷⁸

The United Nations Working Group on Arbitrary Detention, with its resolution A/HRC/WGAD/2020/47 dated 28 September 2020, justified the application of Mustafa Erdem, Yusuf Karabina, Kahraman Demirez, Cihan Özkan, Hasan Hüseyin Günakan and Osman Karakaya, who were illegally abducted from Kosovo and arrested in Türkiye, and reported that their abduction and subsequent detention were arbitrary.³⁷⁹ This case was also included in HRW's reports³⁸⁰ and correctiv.org's 'Black Sites Türkiye'.³⁸¹

According to the information reflected in the files;

On 29 March 2018, at around 08.00 in the morning in Pirishtina, the capital of Kosovo, two men wearing police uniforms stopped Yusuf Karabina, who was travelling with his family on the motorway, and after forcibly and beating him, they took him out of the vehicle, handcuffed him and abducted him in their vehicle. While Karabina's wife Yasemin was desperately asking for help from passing vehicles, two people took Yusuf Karabina and left the scene. In the news file, it is stated that the incident was recorded moment by moment by a motorway security camera and frames from the footage are shared. According to the dossier, not all of the abducted victims were abducted in the same way. For example, some of them

³⁷⁶ <https://twitter.com/RebHarms/status/1365756878354063367?s=19>

³⁷⁷ Advocates of Silenced Türkiye (AST): "Erdogan's Long Arms: Abductions In Türkiye And Abroad", September 2020, p.16, <https://silencedTürkiye.org/wp-content/uploads/2020/09/Abductions-Report-September-7-1.pdf>

³⁷⁸ "Important decision on kidnappings by National Intelligence Organisation: Jail for Kosovo's former intelligence chief", 19 July 2023, <https://www.samanyoluhaber.com/MITin-adam-kacirmalariyla-ilgili-onemli-karar-kosova-eski-istihbarat-baskanina-hapis-haberi/1446264/>

³⁷⁹ UN Human Rights Council Working Group on Arbitrary Detention, Opinion No. 47/2020 concerning Kahraman Demirez, Mustafa Erdem, Hasan Hüseyin Günakan, Yusuf Karabina, Osman Karakaya and Cihan Özkan (Türkiye and Kosovo1) *, A/HRC/WGAD/2020/47, 25 September 2020, https://www.ohchr.org/sites/default/files/Documents/Issues/Detention/Opinions/Session88/A_HRC_WGAD_2020_47_Advance_Edited_Version.pdf

³⁸⁰ HRW: Türkiye: Enforced Disappearances, Torture, 29 April 2020, <https://www.hrw.org/news/2020/04/29/Türkiye-enforced-disappearances-torture>; "Alleged Gulenists main target of forced disappearances in Türkiye", April 29, 2020, <https://www.al-monitor.com/originals/2020/04/report-torture-disappearance-Türkiye.html#ixzz8Y4X9CPAV>

³⁸¹ Correctiv, 'Black Sites Türkiye', 11 December 2018

were called to the local police station in their neighbourhood without giving a reason and were detained there.

The teachers, who were abducted and detained in this way, were brought to Ankara at around 10.00 a.m. on the same day with six people from Pirishtina Airport by a 'Bombardier Challenger' private jet with the number TC-KLE. As a result of the investigations of Correctiv.org and ZDF, it is claimed that the private jet numbered TC-KLE mentioned in the news report belongs to the National Intelligence Organisation.³⁸² In the Pirishtina airport records, the owner of the jet is a company called 'Birleşik İnşaat Turizm Ticaret ve Sanayi' and the address is Ahmet Hamdi Sokak, Yenimahalle-Ankara. It has been pointed out that this is a place where houses allocated to MIT officers are located and that the company is one of the front companies of MIT.³⁸³

25. Abduction of Seven Educators in Moldova (06 September 2018-Moldova)

On the morning of 06 September 2018, seven teachers working at Orizont Schools in Moldova, some of whom were at their homes and some of whom were on their way to work, were detained by plainclothesmen and taken to an unknown location.

Later that day, the Moldovan secret service issued several statements as if it had carried out a major counter-terrorism operation in which seven foreigners with suspected links to an Islamic organisation were arrested and removed from Moldova in cooperation with secret services from other countries. On the same day, the Turkish press reported that the Turkish secret service had carried out a successful operation in Moldova in which seven members of the Gülen Movement were captured. The fate of the abducted persons or even whether they were still in Moldova remained unknown to their families for several weeks. The Moldovan authorities refrained from providing any information about them to their families or to the press.³⁸⁴ It later emerged that, on the morning of their capture, the applicants had been taken directly to Chisinau Airport, where a plane chartered for that purpose was waiting for them and which immediately took them to Türkiye.³⁸⁵ Abducted;

- Yasin Özdil was the public relations officer of Orizont High School. At 08.42 a.m., he sent a message to his social media network about the abduction and

³⁸² "İşte MIT's front aviation company used to kidnap Erdoğan opponents", 27 September 2020, <https://www.tr724.com/MIT-erdogan-muhaliflerini-kacirmak-icin-paravan-havacilik-sirketi-kurmus/>

³⁸³ Correctiv, 'Black Sites Türkiye', 11. December 2018, <https://correctiv.org/en/top-stories/2018/12/06/black-sites/>

³⁸⁴ Amnesty International: "Moldova: Seven People Deported to Türkiye despite Major Human Rights Concerns." Moldova Seven People Deported to Türkiye despite Major Human Rights Concerns | Amnesty International, 6 Sept. 2018, www.amnesty.org/en/latest/news/2018/09/moldova-seven-peopledeported-to-turkiye-despite-major-human-rights-concerns/.

³⁸⁵ "7 Turkish educators abducted in Moldova sent to Türkiye", 8 September 2018

tried to make his voice heard. He was deported to Türkiye. Özdil was brought to Türkiye, arrested and later sentenced to 12 years in prison.

- Ahmet Bilgi was one of six Turkish nationals arrested by Moldovan authorities in 2018. Like the others, he was deported to Türkiye and arrested after the first hearing.
- Hasan Karacaoğlu had been in Moldova for more than 20 years when he was abducted in 2018. Karacaoğlu was the deputy director of Orizont schools in Moldova, and during his time there, he was helping Moldovan youth prepare for life. He was brought to Türkiye, where he was first arrested and later sentenced to 8 years and 3 months in prison.
- Reza Dogan had built a life in Moldova for more than 20 years. He had married there and his two daughters were born there. He also ran his own company and paid taxes. Doğan, who was brought to Türkiye, was first arrested and then sentenced to 7.5 years in prison on 19 July 2019.
- Hüseyin Bayraktar was abducted by MIT from in front of the school where he worked. Hüseyin Bayraktar had taught Turkish in Moldova for only three years.
- Feridun Tufekci was the principal of the Orizont school in Ceadâr-Lunga. Tüfekçi, who came to the country at the age of 17 to study, became a permanent resident after marrying Galina a Moldovan teacher. Tüfekçi, who also worked as a journalist for a while, represented a Turkish television channel in Moldova.
- Müjdat Çelebi had been living in Moldova for five years. He was the financial director of the company managing Orizont high schools in Moldova.³⁸⁶

The head of Moldovan intelligence, who was complicit in this abduction carried out by Turkish intelligence in violation of international law, has been sentenced to 6 years in prison. The Chief Prosecutor apologised to the Turkish teachers and their families in front of the cameras.³⁸⁷

These people, who were abducted from Moldova, have filed a violation of rights application to the ECtHR. In its decision dated 11 June 2019 ECtHR, Özdil and Others v Moldova³⁸⁸ ruled on 11 June 2019 that there was a violation of human rights in the application

³⁸⁶ Advocates of Silenced Türkiye (AST): "Global Purge: 144 Abductions Conducted By The Turkish Government In Türkiye And Abroad", June 23, 2021, <https://silencedTürkiye.org/global-purge-1-144-abductions-conducted-by-the-turkish-government-in-türkiye-and-abroad>

³⁸⁷ "The Attorney General apologised in 'Turkish' in front of the cameras for the teachers kidnapped fromMoldova", 6 February 2020

³⁸⁸ Özdil and Others vs. Moldova, Application No. 42305/18, K.T: 11/06/2019, [https://hudoc.echr.coe.int/eng#{%22fulltext%22:\[%22%C3%96zdil%22\],%22itemid%22:\[%22001-187660%22\]}](https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22%C3%96zdil%22],%22itemid%22:[%22001-187660%22]})

made by 5 people who were detained in Moldova on charges of "FETÖ membership" and sent to Türkiye in a joint operation involving the secret service of this country and MIT.

As stated above, all of the abducted persons are teachers in a private school in Moldova, some of them have been living in this country since 1993, some of them have Moldovan spouses and their children are Moldovan citizens. These educators, who had been living in Moldova for a long time and who were no longer in contact with Türkiye, were accused of plotting a coup against the government and were abducted from Moldova.

In its reasoned judgement, the Court noted that the applicants who had been abducted from Moldova were well-adjusted members of society with families and that their deportation had radically disrupted their private lives and violated the ECHR principle of respect for family and private life.

In the Court's view, this amounted to a deprivation of the applicants' liberty, a circumvention of all the guarantees afforded to them by international law and an unlawful transfer from the territory of the respondent State to Türkiye. There had therefore been a violation of Article 5 § 1 of the Convention.

26. Veysel Akçay (27 July 2018- Mongolia)

Veysel Akçay, the General Director of Empaty Schools, which is close to the Gülen Movement in Mongolia, was abducted by MIT in the morning hours of 27 July 2018 in front of his house in Ulaanbaatar.

After 24 years of service in Mongolia, Akçay's relatives informed the authorities and Veysel Akçay, who was wanted to be kidnapped from Ulaanbaatar, was not allowed to be taken to Türkiye thanks to the Mongolian authorities.³⁸⁹

Akçay, who was wanted to be taken to Türkiye by a private jet plane from Ulan Bator Airport, was released after an intervention, but no arrests were made in connection with the abduction allegations and Türkiye announced that it did not accept any responsibility in the incident.

The abduction was reported as breaking news by important media organs of the Erdoğan regime. Many media organs close to the government, especially Sabah and CNN Türk, reported the news with the headlines "*MIT's Mongolia operation; F... 's c... Veysel Akçay captured, being brought to Türkiye*" and Sabah Newspaper's website reported the operation with the headline "*Another cross-border shock to F...*". However, these media organs deleted their

³⁸⁹ Heymans, Johan: Abductions in Türkiye Today, July 2021, Türkiye Tribunal, p.112, https://Türkiyetribunal.org/wp-content/uploads/2021/11/AbductionsinTürkiye_Türkiye-Tribunal-Report_FINAL.pdf

news when the unlawful abduction was prevented by Mongolian state authorities and police in the following hours.³⁹⁰

27. Salih Zeki Yiğit (12 July 2018-Ukraine)

Salih Zeki Yiğit, a businessman, went to Ukraine after the 15 July 2016 coup attempt due to an investigation launched in Mersin against him for allegedly being the imam of the Gülen Movement. However, he was detained and brought to Türkiye after an operation carried out by MIT in Ukraine.³⁹¹ Salih Zeki Yiğit, one of the volunteers of the Gülen Movement, was brought to Istanbul on the same plane as İsa Özdemir, who was abducted from Azerbaijan with the same unlawful methods.³⁹²

28. Mehmet Gelen (30 December 2018-Azerbaijan)

Mehmet Gelen, a Turkish teacher in Azerbaijan, was released after being questioned by an Azerbaijani prosecutor over allegations of links to the Gülen Movement. However, Mehmet Gelen was kidnapped before he could leave the building. Although Gelen's wife desperately cried for help in front of the court, asking "Which car is the one that kidnapped my husband?", Mehmet Gelen could not be found. It was realised that he had been kidnapped by Turkish intelligence agents and was taken to Türkiye within a few hours.³⁹³ Anadolu Agency immediately reported that Gelen was found in Ankara Anti-Terror Branch Directorate. After the news report served by AA was published in the media known to be close to the AKP, it was determined that Mehmet Gelen was brought to Türkiye. Gelen, who was apparently brought to Türkiye by MIT on 29 December 2018, was arrested after his interrogation in court and sent to prison.³⁹⁴

29. Ibrahim Eker (January 2019-Azerbaijan)

³⁹⁰ "Pool Media Deleted the News When MIT's Kidnapping Operation in Mongolia was Blocked", 27 July 2018

³⁹¹ Advocates of Silenced Türkiye (AST): "Erdogan's Long Arms: Abductions In Türkiye And Abroad", September 2020, p.82, <https://silencedTürkiye.org/wp-content/uploads/2020/09/Abductions-Report-September-7-1.pdf>

³⁹² MIT again kidnapped a man from abroad: Two people brought to Türkiye, 12 July 2018

³⁹³ "Teacher Released by Prosecutor in Azerbaijan Kidnapped from Courthouse", 30 December 2018, <https://romanyahaber.com/2018/12/30/azerbaycanda-savcinin-serbest-biraktigi-ogretmen-adliyeden-kacirildi/>

³⁹⁴ "FETO member captured in Azerbaijan by a National Intelligence Organisation operation arrested", 4 January 2019 <https://www.aa.com.tr/tr/turkiye/MIT-operasyonu-azerbaycanda-yakalanan-fetocu-tutuklandi/1356013>

İbrahim Eker, the owner of Zaman Newspaper's printing house in Azerbaijan, was first tracked and identified by MIT in Azerbaijan in January 2019. Finally, he was detained in a joint MIT-Azerbaijan secret services operation and brought to Türkiye without any action.³⁹⁵

30. Arif Komiş (30 August 2019-Malaysia)

At around 23.30 local time on 28 August 2019, around 30 police officers from the Malaysian Immigration Department raided the Kuala Lumpur home of Arif Komiş, a teacher and principal of Hibiscus International School in Malaysia, where he lives with his wife and four children. The police officers told the Komiş family that their passports had been cancelled by the Turkish government and that they should prepare to be deported to Türkiye within five minutes. Arif Komiş was put in handcuffs in a police car and driven for about two to three hours. Ülkü Komiş and her four young children were detained at the Putrajaya Immigration Office. The members of the Komiş family were forcibly detained at the Putrajaya Immigration Office without being brought before a court, without any possibility to challenge the unlawfulness of their detention. Arif Komiş was held in Malaysian custody until the following day, after which he was transferred directly to the airport and forcibly taken to Türkiye on a plane reportedly belonging to MIT.

Although Mr Komiş, an educator, had previously applied for asylum and was under UN protection,³⁹⁶ Malaysia, ignoring international and domestic outcry, handed Turkish citizen Arif Komiş, together with his wife and four children, to Turkish intelligence officers.³⁹⁷ Mr Komiş's medical report on admission to prison confirmed that he had been tortured at the police station. Ülkü Komiş and her four young children were also forcibly and illegally taken to Türkiye.

The United Nations Working Group on Arbitrary Detention ruled that the arrest, detention and forced return of Arif Komiş, Ülkü Komiş³⁹⁸ and their four young children to

³⁹⁵ Heymans, Johan: Abductions in Türkiye Today, July 2021, Türkiye Tribunal, p.147, https://Türkiyetrybunal.org/wp-content/uploads/2021/11/AbductionsinTürkiye_Türkiye-Tribunal-Report_FINAL.pdf, ; Solidarity With Others: Illegal Deportation Procedures and decisions of refusal of extradition

³⁹⁶ "Malaysia extradites Gülen sect member teacher to Türkiye with his wife and children", 30 August 2018, <https://tr.euronews.com/2019/08/30/malezya-gulen-cemaati-mensubu-ogretmeni-esi-ve-cocuklariyla-turkiyeye-iade-etti>

³⁹⁷ Advocates of Silenced Türkiye (AST): "Global Purge: 144 Abductions Conducted By The Turkish Government In Türkiye And Abroad", June 23, 2021, <https://silencedTürkiye.org/global-purge-1-144-abductions-conducted-by-the-turkish-government-in-türkiye-and-abroad>

³⁹⁸ UN Human Rights Council Working Group on Arbitrary Detention, Opinion No. 51/2020 concerning Arif Komiş, Ülkü Komiş and four minors whose names are known to the Working Group (Malaysia and Türkiye), https://www.ohchr.org/sites/default/files/Documents/Issues/Detention/Opinions/Session88/A_HRC_WGAD_2020_51_Advance_Edited_Version.pdf

Türkiye on 28-29 August 2019 in Malaysia was arbitrary and contrary to international human rights norms and standards.

31. Osman Karaca (19 October 2019-Mexico)

Osman Karaca, who worked as a teacher and administrator at Zaman International School in Cambodia for almost 9 years between 2002 and 2011 and who also holds Turkish and Mexican citizenship, was detained and arrested by 8 police officers on 14 October 2019 while he was at a bank in Phnom Penh, the capital of Cambodia. It turned out that the Turkish Embassy had filed a false report to the Cambodian authorities, accusing Karaca of obtaining a fake Mexican passport. However, the Mexican Embassy intervened and informed the Cambodian authorities that Karaca was a Mexican citizen and his passport was valid. Despite the efforts of the Mexican Embassy, which wanted to release Osman Karaca and prevent an unlawful extradition attempt, it was understood that Karaca was handed over to Turkish intelligence officers and sent to Turkey.³⁹⁹ Osman Karaca, who was abducted abroad and brought to Türkiye by MIT, was sentenced to 7 years and 6 months in prison by the Istanbul 29th High Criminal Court on the charge of "*membership of an armed terrorist organisation*".⁴⁰⁰

Amnesty International made a statement on this abduction case which drew the reaction of human rights organisations and described Karaca's case as an enforced disappearance. "*Cambodia has a shameful history of colluding with other governments to extradite wanted persons without due process. The Cambodian authorities must immediately confirm the fate and whereabouts of Osman Karaca, who was last seen being taken away in a police vehicle. If forcibly returned to Türkiye, he risks ill-treatment and further human rights violations. Cambodia has an obligation to protect her from persecution, not to be complicit in her abuse*" It was also emphasised that this disappearance occurred as part of the Erdoğan government's campaign of international political reprisals against Turkish citizens living abroad.⁴⁰¹

In a submission to the United Nations Human Rights Council Working Group on Enforced or Involuntary Disappearances on this international kidnapping case, the Working Group found that in this and all similar cases against the Gülen Movement, the detention of the persons concerned was arbitrary. The Working Group notes that persons allegedly linked

³⁹⁹ "Mexican citizen Osman Karaca kidnapped, Mexican Foreign Affairs on the case", 18 October 2019, <https://www.tr724.com/meksika-vatandasi-osman-karaca-kacirildi-meksika-disisleri-devrede/>

⁴⁰⁰ Advocates of Silenced Türkiye (AST): "Erdogan's Long Arms: Abductions In Türkiye And Abroad", September 2020, p.127, <https://silencedTürkiye.org/wp-content/uploads/2020/09/Abductions-Report-September-7-1.pdf>

⁴⁰¹ HRW: Cambodia: Confirm whereabouts of forcibly disappeared Turkish-Mexican national, October 18, 2019, <https://www.amnesty.org/en/latest/press-release/2019/10/cambodia-confirm-whereabouts-forcibly-disappeared-turkish-mexican-national/>

to the Gülen Movement have been discriminatorily targeted on the basis of their political or other views. Accordingly The Working Group found that the Government of Türkiye detained Osman Karaca on the basis of prohibited discrimination.⁴⁰²

32. Orhan İnandı (01 June 2021- Kyrgyzstan)

Orhan İnandı, an educator and Chairman of the Board of Sapat Schools in Kyrgyzstan, left his home in Bishkek at around 18.00 on 31 May and was not heard from afterwards. His car was found at 04.20 on 1 June at midnight on a street near his house. İnandı, who was also a citizen of Kyrgyzstan, was last contacted by a friend at around 21.00 in the evening, and attempts by his family to contact him were unsuccessful. Upon hearing of the incident, hundreds of people gathered in front of the Turkish Embassy in Kyrgyzstan where İnandı was allegedly being held. *"Where is Orhan İnandı? Let Orhan İnandı be found!"* The crowd chanted slogans and waited for an explanation from the authorities, but not even a single line of explanation has been made from Türkiye until today.

After his abduction, Orhan İnandı was not heard from for 37 days. Erdoğan stated on 8 June that he did not know Orhan İnandı and did not know anything about him. Days later, he himself admitted that İnandı had been kidnapped from Bishkek by MIT. Erdoğan not only said that İnandı was kidnapped, but also declared him a 'terrorist' without even a trial. In this context, on 5 July 2021, President Erdoğan made a public statement in which he praised the Turkish intelligence services for the forced repatriation of more than 100 people from more than one state and stated as a result of the unique and patient work carried out by MIT, Orhan İnandı was brought to Türkiye and brought to justice.⁴⁰³

On 01 June 2021, Orhan İnandı was abducted and tortured for 37 days; his arm was broken in 3 different places. After President Erdoğan's statements, the photograph of İnandı with a broken arm was shared by Anadolu Agency).⁴⁰⁴ The fact that the pictures of the abducted people, showing the torture they were subjected to, were shared with the public by

⁴⁰² UN Human Rights Council Working Group on Arbitrary Detention Opinions adopted by the Working Group on Arbitrary Detention at its eighty-ninth session, 23-27 November 2020 Opinion No. 84/2020 concerning Osman Karaca (Cambodia and Türkiye), A/HRC/WGAD/2020/84, https://www.ohchr.org/sites/default/files/Documents/Issues/Detention/Opinions/Session89/A_HRC_WGAD_2020_84.pdf

⁴⁰³ "Erdoğan announced that Orhan İnandı was brought to Türkiye from Kyrgyzstan", 06/07/2021, <https://tr.euronews.com/2021/07/06/erdogan-orhan-inand-n-n-k-rg-zistan-dan-turkiye-ye-getirildigini-ac-klad>

⁴⁰⁴ "FETÖ's Central Asia General Responsible Orhan İnandı brought to Türkiye", 05.07.2021, <https://www.aa.com.tr/tr/vg/video-galeri/fetonun-orta-asya-genel-sorumlusu-orhan-inandi-turkiyeye-getirildi/1#>

the official agency of the state itself shows that the abduction was carried out within the framework of a plan.⁴⁰⁵

According to the statement made by Reyhan İnandı, İnandı's wife, İnandı was supposed to have an operation due to fractures caused by torture. However, he could not undergo surgery because the fractures had fused. Then his arm was put in plaster again. Reyhan İnandı stated that Orhan İnandı could not use his right arm for two months.⁴⁰⁶

Orhan İnandı, an educator who was abducted from Kyrgyzstan by an MIT operation and brought to Türkiye and was severely tortured in detention for weeks, was sentenced to 21 years in prison by Ankara 23rd High Criminal Court.⁴⁰⁷

"The abduction, enforced disappearance and extrajudicial transfer of Orhan İnandı to Türkiye is the latest example of Ankara's brutal disregard for the rule of law," said HRW Europe and Central Asia Director Hugh Williamson, who has been following the abduction from the beginning. HRW recalled that the United Nations Working Group on Arbitrary Detention had concluded that Türkiye had carried out arbitrary detentions and arrests in cases in other countries.⁴⁰⁸

Following the reactions, Erbol Sultanbayev, the spokesman of Kyrgyz President Sadyr Japarov, stated that the Kyrgyz administration had no role in the capture of Orhan İnandı by MIT and his transfer to Türkiye. Spokesman Sultanbayev stated that Kyrgyzstan had sent questions to Türkiye regarding the disappearance of İnandı and that the Kyrgyz Foreign Ministry had sent a note of protest to the Turkish Ambassador to Kyrgyzstan, but no official statement has been received from Türkiye so far.⁴⁰⁹

33. Saladin Gulen (3 May 2021-Kenya)

⁴⁰⁵ "Abducted and tortured, educator İnandı gives details of his ordeal at first hearing of his trial, 25 November 2021

<https://www.turkishminute.com/2021/11/25/ucted-and-tortured-educator-inandi-gives-details-of-his-ordeal-at-first-hearing-of-his-trial/>

⁴⁰⁶ "Torturers broke Orhan İnandı's right arm in 3 places", 7 August 2021, <https://www.tr724.com/iskenceciler-orhan-inandinin-sag-kolunu-3-yerden-kirmis/>

⁴⁰⁷ Educator Orhan İnandı gave a law lesson to the court: Sentenced to 21 years in prison, 16 June 2023, <https://www.tr724.com/egitimci-orhan-inandi-mahkemeye-hukuk-dersi-verdi-21-yil-hapis-cezasina-carptirildi/>

⁴⁰⁸ HRW: "Türkiye/Kyrgyzstan: Rendition of Turkish-Kyrgyz Educator Risk of Further Arbitrary Detention and Unfair Trial", July 7, 2021, <https://www.hrw.org/news/2021/07/07/Türkiye/kyrgyzstan-rendition-turkish-kyrgyz-educator> ; "HRW: Orhan İnandı abducted by Turkish and Kyrgyz states", 7 July 2021, <https://www.tr724.com/hrw-orhan-inandi-turk-ve-kirgiz-devletleri-tarafindan-kacirildi/>

⁴⁰⁹ Orhan İnandı: Who is İnandı, who was taken to Türkiye from Kyrgyzstan by MIT operation? ", 8 June 2021, <https://www.bbc.com/turkce/haberler-dunya-57404967>

On 3 May 2021, Selahaddin Gülen, the nephew of Gülen Movement leader Fethullah Gülen, was abducted in Nairobi, the capital of Kenya. It is recorded that the official news agency of the Republic of Türkiye reported that on 31 May 2021, MIT agents detained Selahaddin Gülen abroad and brought him to Türkiye.⁴¹⁰

It is assessed that Kenyan authorities cooperated with MIT in the kidnapping of Selahaddin Gülen, who has indefinite residency in the USA, has been residing in Kenya since 17 October and is registered as an asylum seeker in Kenya.

HRW reports that the Kenyan High Court rejected Türkiye's extradition request for Selahaddin Gülen. In its most recent report released on 22 February 2024 **"We Will Find You': A Global Look at How Governments Repress Nationals Abroad"**, the report evaluates the situation in the world in general and includes in detail the cases of kidnapping and disappearance in Türkiye.⁴¹¹ In the report, the cases of abductions from abroad, particularly Orhan İnandı and Selahaddin Gülen, are emphasised in relation to Türkiye.

In the *"General Country of Origin Information Report Türkiye"* for 2021 announced by the Dutch Ministry of Foreign Affairs,⁴¹² it is stated that many people were abducted by MIT from abroad on the allegation that they were members of the Gülen Movement, and in this context, Selahaddin Gülen was abducted from Nairobi, the capital of Kenya, on 3 May 2021. It is emphasised in the report that the official news agency of the Republic of Türkiye reported that on 31 May 2021, MIT agents detained Selahaddin Gülen abroad and brought him to Türkiye.

The 3rd Criminal Chamber of the Court of Cassation upheld the 3 year and 4 month prison sentence given by the Ankara 27th High Criminal Court to Selahaddin Gülen, who was brought to Türkiye through a MIT operation.⁴¹³

34. Koray Vural (16 September 2023-Tajikistan)

Since 1994, Koray Vural, a businessman who has been working as a teacher and administrator in schools close to the Gülen Movement in Tajikistan and has been engaged in commerce for a long time, was abducted by unidentified masked men in the capital Dushanbe on 16 September 2023 at around 9.30 in the morning on his way to his workplace. Koray Vural

⁴¹⁰ "FETO member Selahaddin Gülen was captured by an MIT operation abroad and brought to Türkiye, 31.05.2021, <https://www.aa.com.tr/tr/fetonun-firarileri/feto-uyesi-selahaddin-gulen-yurt-disinda-MIT-operasyonu-yakalanarak-turkiyeye-getirildi-/2259115>

⁴¹¹ Human Rights Watch, "We Will Find You": A Global Look at How Governments Repress Nationals Abroad, 22 February 2024, <https://www.hrw.org/report/2024/02/22/we-will-find-you/global-look-how-governments-repress-nationals-abroad>

⁴¹² Government of the Netherlands: General Country of Origin Information Report Türkiye,

⁴¹³ "The Court of Cassation upholds the sentence given to Selahaddin Gülen for FETÖ membership", 03 November 2022, <https://www.aa.com.tr/tr/gundem/yargitay-selahaddin-gulene-feto-uyeliginden-verilen-cezayi-onadi/2728647>

appeared 20 days after his abduction at the Ankara Police Headquarters with a photograph of him handcuffed and surrounded by Turkish flags.⁴¹⁴

The fact that Koray Vural was seen to be quite thin in the photograph and that he appeared in Ankara brought to the agenda the allegations that the incident was carried out by MIT officers and that he was subjected to torture. Koray Vural, whose unlawful abduction by the MIT and bringing him to the country is also stated on the MIT's own website,⁴¹⁵ is currently being tried in pre-trial detention by the Bursa 10th High Criminal Court.

35. Mehmet Cintosun (14 April 2023-Iraq)

Mehmet Cintosun, who worked as a senior executive in Gülen Movement-affiliated institutions in Azerbaijan between 1995 and 2014, returned to Türkiye in 2014 and left the country again after the 15 July coup attempt. Mehmet Cintosun, who has been living abroad for a long time, was kidnapped from Iraq and brought to Türkiye with an operation carried out by the National Intelligence Organisation.

Cintosun, who had a warrant for his arrest on the grounds that he had provided material aid to the people living through the 15 July process, was brought to Elazığ by the teams of the Anti-Smuggling and Organised Crime Branch of the Security Directorate upon the request of the Elazığ Chief Public Prosecutor's Office, where he was arrested by the judge.⁴¹⁶ As in other cases, the process of bringing him to Türkiye was again reported as a great success by the official and private media organs of the Erdoğan regime.⁴¹⁷

36. Emsal Koç (2 July 2023 - Tajikistan)

On Sunday 2 July 2023, Emsal Koç, who had been living in Tajikistan since 1994 and had been a teacher at the Tajik-Turkish High School there for 11 years, was abducted on Sunday 2 July 2023 after work at a cold storage facility. Koç, who was brought to Türkiye by police officers at Dushanbe airport, was a permanent resident of Tajikistan and her husband was a Tajik citizen. Koç's wife, Firuza Khudoidodova, identified the moment of his abduction

⁴¹⁴ Koray Vural, kidnapped by the National Intelligence Organisation in Tajikistan, was found in Ankara 20 days later! "; 5 October 2023, <https://www.tr724.com/MITin-tacikistanda-kacirdigi-koray-vural-20-gun-sonra-ankarada-ortaya-cikarildi/>

⁴¹⁵ "Fetö Member Fugitive Koray Vural Caught in Tajikistan by MIT Operation", 05.10.2023,

⁴¹⁶ "He was brought to Türkiye: FETÖ member Mehmet Cintosun arrested", 18. April 2023, https://www.cumhuriyet.com.tr/turkiye/turkiyeye-getirilmisti-feto-uyesi-mehmet-cintosun-tutuklandi-2072928#google_vignette

⁴¹⁷ "FETÖ member Cintosun, brought to Türkiye by National Intelligence Service, arrested in Elâzığ", 18 April 2024

with eyewitnesses and subMITTED the relevant evidence to the UN and the relevant authorities.⁴¹⁸

It is understood that Koç was handed over to security officials in his hometown of Erzurum after he was unlawfully brought to Türkiye in the company of police officers. Erzurum Police called his relatives and delivered the basic necessities requested by Koç.⁴¹⁹ The HRW reported on cases of abduction in its 2023 report on Tajikistan.⁴²⁰

37. Mustafa Tan and Mustafa Bircan (27 December 2023-Algeria)

Mustafa Tan and Mustafa Bircan, who live in Algeria, were abducted from their country of residence on the grounds that they were members of Gülen Movement by a joint operation carried out by MIT and the General Directorate of Security of the Republic of Türkiye and brought to Türkiye on 27 December 2023.⁴²¹ The unlawful operation was presented as an institutional success by TRT, the official news agency of the Erdoğan regime, Anadolu Agency and other pro-regime media.⁴²²

38. Ahmet T. Kuru (10 January 2024 - Malaysia)

Ahmet T. Kuru, a professor at San Diego State University, was arrested on 10 January 2024 at Kuala Lumpur Airport in Malaysia by an MIT operation on charges of being a member of the Gülen Movement and attempted to be taken to Türkiye.⁴²³ However, this operation remained at the attempted stage due to the intervention of senior Malaysian officials who knew Ahmet T. Kuru closely.⁴²⁴

39. 7 Educators Abducted in Kenya (18 October 2024 - Kenya)

⁴¹⁸ "Another unlawful operation; abducted from Tajikistan where he had lived for 29 years and brought to Erzurum", 4 July 2023, <https://www.tr724.com/hukuksuz-bir-operasyon-daha-29-yildir-yasadigi-tacikistandan-kacirilarak-erzuruma-getirildi/>

⁴¹⁹ "Emsal Koç, who has been residing in Tajikistan for 29 years, was abducted and brought to Türkiye.", 04 July 2023, <https://politurco.com/emsal-koc-who-has-been-residing-in-tajikistan-for-29-years-was-abducted-and-brought-to-Turkiye.html>

⁴²⁰ HRW: Tajikistan Events of 2023, 29 September 2023,

⁴²¹ "MIT's illegal kidnapping operation in Algeria", 27 December 2023, <https://www.tr724.com/MITten-cezayirde-yasadisi-adam-kacirma-operasyonu/>

⁴²² "Fugitive FETO members Mustafa Tan and Mustafa Bircan captured", 27 December 2023, <https://www.trthaber.com/haber/gundem/firari-fetocu-mustafa-tan-ve-mustafa-bircan-yakalandi-824164.html>; "2 FETO members captured in Algeria with the joint operation of MIT and police", 27.12.2023, <https://www.aa.com.tr/tr/gundem/feto-mensubu-2-terorist-MIT-ve-emniyetin-ortak-operasyonu-3093493>

⁴²³ "Attempt to kidnap academic Prof. Ahmet T. Kuru in Malaysia", 11 January 2024, <https://www.tr724.com/akademisyen-prof-ahmet-t-kuruyu-malezyada-kacirma-girisimi/>

⁴²⁴ "Academic critical of Erdoğan feared arrest, deportation to Türkiye during Malaysia visit", January 11, 2024, <https://www.turkishminute.com/2024/01/11/academic-critical-erdogan-fear-arrest-deportation-to-Turkiye-during-malaysia-visit/>

As in other abduction cases, seven Turkish nationals, Mustafa Genç, his son Abdullah Genç, Hüseyin Yeşilsu, Necdet Seyitoğlu, Öztürk Uzun, Alparslan Taşçı and his wife Saadet Taşçı, were abducted in Nairobi on 18 October 2024 in an operation supposedly organised by the Turkish Intelligence Service. Despite being asylum seekers in Kenya and protected by the UN, Turkish intelligence collaborated with illegal local elements to abduct these seven individuals. Following the abduction, Abdullah Genç, Necdet Seyitoğlu and Saadet Taşçı were released in different parts of the city. Necdet Seyitoğlu, who lived in the UK for 18 years and moved to Kenya two years ago, was released after showing his alleged abductors a copy of his British passport⁴²⁵. Mustafa Genç, Öztürk Uzun, Alparslan Taşçı and Hüseyin Yeşilsu were handed over to Turkish authorities and sent to Türkiye after being abducted, according to a statement by the Kenyan Foreign Ministry.⁴²⁶ This repatriation is a serious violation of international law. Amnesty International also issued a statement on the abduction of seven Turkish asylum seekers in Kenya, expressing concern and calling on national and international organisations to take action.⁴²⁷

D. DISAPPEARANCES AGAINST OTHER DISSIDENTS

After the 15 July coup attempt, the Gülen Movement was the primary target of the unlawful process, but other individuals and groups opposed to the Erdoğan regime in Türkiye were also subjected to these unlawful practices.

During this period of unlawful arrest, detention, torture, strip search and disappearance, many opposition figures were victimised and their rights were violated.

In this section, a few important cases of kidnapping and disappearance that have come to the public agenda will be analysed.

1. Ayten Öztürk (13 March 2018-Lebanon)

Ayten Öztürk, accused of DHKP-C membership and living in Lebanon, was handed over blindfolded to Turkish authorities by Lebanese officials on 13 March 2018. Ayten Öztürk, who was brought to Türkiye by a private plane, stated that she was held in an unknown official apartment and tortured continuously for 6 months from 13 March 2018 to 28 August 2018. After being brought to Türkiye, Ayten Öztürk described in full detail the severe torture she was subjected to during the 6 months she was missing, at the Istanbul Third High Criminal Court, where she was charged with DHKP-C membership, and shared important information

⁴²⁵ BBC, "British national and several Turkish citizens abducted in Kenya", October 19, 2024, <https://www.bbc.com/news/articles/cz7jxn38lvyo>

⁴²⁶ <https://x.com/SingoeiAKorir/status/1848342001101484252/photo/1>

⁴²⁷ Amnesty International: Statement On The Abduction And Disappearance Of Seven Turkish Asylum Seekers For Immediate Release, October 19, 2024, <https://www.amnestykenya.org/statement-on-the-abduction-and-disappearance-of-seven-turkish-asylum-seekers-for-immediate-release/>

about the secret torture centre in Ankara, which came to the fore with the black Transporter incidents.

Öztürk's 12-page defence statement in the court is very similar to the accounts of people who were abducted by MIT in a black Transporter-type vehicle. In her written statement submitted to the court, Ayten Öztürk stated that she was subjected to severe torture during the 6-month period she was unlawfully detained; that she was kept naked in front of the torturers, that her sexual parts were forced with a baton; that she was subjected to dozens of acts such as drowning with water, force-feeding, burning her fingers, keeping her in a box called coffin, falaka, Palestinian hangers, and that she still bears the traces of torture on her body. Ayten Öztürk also stated that due to the tortures she was subjected to, she weighed as little as 40kg and had nearly 900 scars on her body.⁴²⁸

In her own statement, Ayten Öztürk stated that 6 months later on 28 August 2018, the court did not ask her any questions about this incident, that she was tried for 3.5 years, that she told about the torture she experienced during the trial, but that the prosecutors and judges did not even have an expression of surprise on their faces; usually the judges and prosecutors listened with their heads bowed and said "This is not our subject" and wanted to close the case.⁴²⁹

2. Hıdır Çelik (16 November - Diyarbakır)

Two PKK members were killed and one was captured during a military operation on 16 November in the rural areas of Kırmataş village in Diyarbakır's Hazro district. Diyarbakır Governorate stated that "One terrorist collaborator was captured alive". "A terrorist collaborator was captured alive. The alleged 'collaborator' turned out to be Hıdır Çelik, a married father of two from Hazro's Qubik (Bağyurdu) village, who was engaged in animal husbandry. Çelik, who was allegedly in the village to buy livestock during the clashes, was allegedly shot at by alleged civilians in a Volkswagen Passat car with the licence plate 06 BZ 0990, and Çelik was wounded as a result. Hıdır Çelik's family took action to find out where Hıdır Çelik was.⁴³⁰ They applied to the relevant law enforcement agencies, especially the

⁴²⁸ "Ayten Öztürk, who was tortured for 6 months in the torture centre in Ankara, told everything", 02 September 2023, <https://boldmedya.com/2019/06/14/ankaradaki-iskence-merkezinde-6-ay-iskence-goren-ayten-ozturk-herseyi-anlatti/>

⁴²⁹ Ayten Öztürk, who was kidnapped from Lebanon to Türkiye and tortured for 6 months, spoke to ÖFG TV! ", 19 September 2021, <https://www.welgmedya.com/lubnan-dan-turkiye-ye-kacirilip-6-ay-iskence-goren-ayten-ozturk-ofg-tv-ye-konustu/17815/>

⁴³⁰ "No news from detained Çelik for 29 days", 14 December 2017, <https://artigercek.com/guncel/gozaltina-alinan-celik-ten-29-gundur-haber-alinamiyor-40980h>

gendarmerie, for information, but were unable to obtain any information. There has been no news about Hıdır Çelik since the date of his detention.⁴³¹

CONCLUSION

Given its serious implications for human rights and the rule of law, the issue of missing and disappeared persons is a major problem with national as well as international implications and consequences.

Since it is categorised as a crime against humanity, all states have fundamental obligations regarding this issue. Although kidnappings and disappearances take place with the initiatives of the active perpetrator country, it is a reality that the countries where the acts are carried out also have active and passive contributions and condonations.

Enforced abductions and disappearances, which are defined as crimes against humanity in Article 7 of the Rome Statute, are systematically and widely organised by state authorities in Türkiye within the framework of a specific plan.

Especially enforced disappearances are acts with severe consequences. Enforced disappearance, which was initially introduced into the literature of our country as 'disappearance under custody', is the name given to the practice of depriving a person of

⁴³¹ "Another kidnapping case in Türkiye", 15 December 2017, <https://aktifhaber.com/gundem/turkiyede-bir-adam-kacirma-vakasi-daha-h109133.html>

his/her liberty by state officials, persons or groups acting with the approval, support or connivance of the state, followed by the practice of taking the person out of the protection of the law, which usually results in torture or killing. In this process, the first stage is "abduction", while the next stage is being subjected to severe acts such as torture and ill-treatment. The next stage is the removal of certain individuals. Therefore, at this stage, the acts of abduction and disappearance result in 'unidentified deaths'. These are acts of the same motivation and administrative practice.

On the other hand, it is an integral part of this practice that the alleged perpetrators of kidnappings and enforced disappearances deny their actions and do not provide information on the fate of the missing person. In the practice of enforced disappearance, individuals are excluded from the protection of the law, while the perpetrators are protected by the judiciary within the state system. Unfortunately, this situation has become a part of Türkiye's counter-terrorism concept that can be considered a shame on humanity.

The Erdoğan regime, which controls the state, implements its counter-terrorism concept by organising terrorist operations against those who oppose it, detaining, arresting, confiscating their property, kidnapping and disappearing them. Especially kidnapping from abroad is considered as a success in the fight against terrorism. It is observed that a similar line has been followed in cases of kidnapping and disappearance from past to present.

In Türkiye, this practice has been applied in the past against Kurdish citizens in the eastern and south-eastern provinces as part of a counter-terrorism concept; more recently, it has targeted members of the Gülen Movement. These actions are organised by the National Intelligence Organisation with the participation of Turkish judicial law enforcement agencies. Victims are abducted in public in pre-arranged vehicles (usually black Transporters) while they are out for any reason and taken to torture centres. Although the abductees later complain of torture and ill-treatment before courts and prosecutors' offices, these issues are not investigated. On the contrary, the victims of abductions are sentenced to the harshest penalties based on the statements they give under torture. It is observed that some abducted persons are disappeared in a manner similar to the incidents in the 90's and are still not heard from despite the passage of time. In seven cases of abductions linked to the Gülen Movement, the victims have not been heard from in nearly eight years.

Forced abductions are carried out not only in Türkiye but also in some foreign countries by political power and intelligence units using various illegal methods. People are abducted and brought to Türkiye in violation of international law. No sanctions are imposed against Türkiye for acting in violation of the requirements of international law.

As it can be understood from the findings made in the ECtHR files, it is seen that the Republic of Türkiye did not take any substantive action regarding the extradition procedure

within the framework of international law, that the victims were not even granted the right to appeal against the so-called extradition procedures, that the victims were handed over to MIT by the intelligence or security forces of the host country within a very short period of time, and that they were brought to Türkiye on the same day by private planes that MIT had ready in advance.

It is accepted that the abductions and disappearances and related acts of torture, rape, threats, insults, insult, injury and ill-treatment, which have taken place and continue to take place in Türkiye and abroad, as a whole, constitute crimes against humanity under customary international law.

When the cases discussed in this study are examined, it is seen that abductions and disappearances, as well as torture and similar acts Committed during the commission of these acts, are carried out in a systematic and organised manner. It is seen that professional law enforcement and intelligence officers are used in the state to carry out abductions, disappearances and torture methods.

Moreover, it is observed that effective investigations are not carried out against these acts, perpetrators are protected and this task is carried out especially by the judiciary. Especially the attitude of the judiciary towards these grave human rights violations causes serious and long-lasting devastation to the victims and their families. In other words, it is seen that the right to liberty and security, the right to life, the prohibition of torture and ill-treatment, and the right to a fair trial have ceased to be a guarantee due to abductions and enforced disappearances in Türkiye.

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