

Written Submission on

ELECTIONS AND ENFORCED DISAPPEARANCES IN TÜRKİYE

By
Journalists and Writers Foundation

Call for contributions for a thematic study by the
Working Group on Enforced or Involuntary Disappearances on
“Elections and Enforced Disappearances”



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ELECTIONS AND ENFORCED DISAPPEARANCES IN TÜRKIYE

Background

Elections in Türkiye are held for the election of the following functions of government:

- Presidential elections at the national level;
- Parliamentary elections at the national level;
- Municipality mayors at the local level;
- District mayors at the local level;
- Provincial or municipal council members and muhtars at local levels.

In addition to elections for the above bodies, referendums are also provided for in the constitution. The most recent held in April 2017 transformed Türkiye from a parliamentary to a presidential system, altering the Turkish Constitution to grant the Head of State almost unlimited powers. Subsequent President Erdoğan's re-election cemented his executive control across Türkiye. In essence, this means that he has currently full capacity to issue decrees, appoint legislative and judicial officials based on his choosing, and administer full-scale investigations into any and all civil workers.¹

Elections held in Türkiye since 2016

2017	2018	2019	2023
Constitutional referendum	General parliamentary and presidential elections	Local elections	General parliamentary and presidential elections

Transitional repression efforts abroad

Following the attempted coup of July 15, 2016, the Government of Türkiye embarked on an ongoing global campaign against those it held responsible of the attempted coup, mainly real or alleged members or sympathizers of the Hizmet Movement. Emboldened and empowered by the 2017 referendum success and his electoral successes of 2018 and 2023, President Erdoğan continues to aggressively pursue Hizmet Movement participants, real or not, around the globe. Once illegally transferred to Türkiye, they all risk torture, ill-treatment, death and lack of due process. Most of them have been subjected to different methods of torture in Türkiye and sometimes also in the country of residence. At times they were even tortured *en route* to Türkiye.

The statistics vary depending on the source, but at least 37 individuals,² mostly with alleged links to Hizmet, have been subject to enforced disappearance in broad daylight throughout Türkiye. Many remain unaccounted for, while those released have consistently testified horrific

¹ <https://www.nytimes.com/2018/06/25/world/europe/erdogan-turkey-election.html>

² See for more details: <https://stockholmcf.org/enforced-disappearances-in-turkey-2/>. In addition to the enforced disappearances in the list, on February 18, 2021, three students went missing in Ankara and were later released. On March 1, 2023, a Turkish businessman of Kurdish descent was abducted in Istanbul.

torture in the hands of intelligence services. In addition, Türkiye's government has been able to abduct and illegally transfer to Türkiye 144 individuals from at least 33 countries.

WGEID Questionnaire

1. Do enforced disappearances in the context of elections follow a pattern? If so, please describe.

Yes. The enforced disappearances abroad at the behest and on behalf of the Turkish government in the context of elections generally follow the following patterns:

- (i) Victims are mostly subject to red or other notices from Interpol and prior extradition requests;
- (ii) Almost all of them are refugees or asylum seekers;
- (iii) The victims are abducted by local law enforcement agencies and held in detention for a short period before being secretly transferred to Turkish custody;
- (iv) They are then immediately taken to Türkiye on Turkish aircraft, including private jets, charter flights or commercial flights;
- (v) The victims are targeted for their alleged links to the Hizmet Movement;
- (vi) With few exceptions the victims are all kept in secret detention facilities (as in the instant case) operated by the Turkish Intelligence. This is also the most difficult and dangerous period for the lives of the victims, where they are also subject to different forms of torture for prolonged periods of time.

Enforced disappearances in Türkiye in the aftermath of the attempted coup seem to generally follow similar patterns sharing the following features:

- (i) With few exceptions, victims are all men and members of dissident groups stigmatized as terrorists or traitors.
- (ii) Almost all the victims were purged from their positions following the July 2016 attempted coup, on alleged links to the Hizmet Movement.
- (iii) The authorities are reluctant or refuse to investigate into security forces, intelligence services and other public officials, alleged to have unlawfully subjected victims to enforced disappearance and tortured them.
- (iv) CCTV camera footage show that a black Volkswagen Transporter van is used by perpetrators in most of cases. In few cases perpetrators have however used a white van.³
- (v) Disappearances have taken place in major urban centers in Türkiye, including Ankara, Izmir and Istanbul.
- (vi) Many victims have subsequently "reappeared" after weeks or months, in front of police stations and taken into custody by police.
- (vii) Experts point out to a unit within the security services likely to be behind all the enforced disappearances.
- (viii) While the victims were probably subjected to enforced disappearance to extract forced confessions or to coerce them incriminate others, it is unclear why they would have

³ See for example the enforced disappearance of O.K., on February 15, 2019.

been singled out - among more than half a million individuals investigated, detained or arrested in the post-attempted coup crackdown.

2. Who are the victims of enforced disappearances in the context of elections? If possible, provide examples.

In the aftermath of the attempted coup of July 2016, with very few exceptions (see the examples below) victims of enforced disappearances, inside and outside Türkiye are overwhelmingly alleged members of the Hizmet Movement, classified by the Turkish government as a terrorist organization under the assigned names Gülenist Terror Organization (Fethullahçı Terör Örgütü FETÖ) or Parallel State Organization (Paralel Devlet Yapılanması, PDY).

A.Ö., who was illegally transferred to Türkiye from Lebanon on March 13, 2018, is a Turkish national of Syrian descent with no links to the Hizmet Movement. She was accused of membership to the Revolutionary People's Liberation Party/Front (DHKP-C). After being illegally transferred to Türkiye, A.Ö. was subjected to torture and ill-treatment at a secret detention center in Ankara,⁴ before being handed over to the Ankara Anti-Terror office, on August 28, 2018. A.Ö. was released pending trial on September 18, 2018, but re-arrested because of another case against her in Ankara.

G.G. went missing on January 20, 2021, in İstanbul's Başakşehir district, where he worked as an electrician. He was released on January 26, 2021, at around 6:00 a.m., and left blindfolded in the same area he was abducted in İstanbul. He was brought in the area in a vehicle with four individuals, with one known as "the Chief", who made sure to seize his mobile phone SIM card before leaving. With bruises on his face and hands, in the afternoon hours of January 2021, G.G. held a press conference at the İstanbul branch of the Human Rights Association (İHD), informing on the physical and psychological torture he went through during the days he was missing. He described being held in a coffin-like box that they called "*the grave*." The building he was held was "*a torture center*," where he was alternately dazzled by lights and then kept in darkness, unable to see or identify the perpetrators. He further stated that, "*I could not move my hands. I was kept blindfolded for hours. They tortured me from time to time. This included electric shocks, beatings and pouring ice-cold water over me. They did this to me either while I was naked or wearing only my underwear. They also threatened me with rape.*" His torturers also asked him to cooperate by serving as an informant. G.G. added, "*They asked me whether I knew who they were. When I told them, they were probably from [Turkish] intelligence, they remained silent. Sometimes they told me they were the invisibles.*"

U.B., S.B. and A.B.A., three university students from the Ankara Students Solidarity group went missing in Ankara on February 18, 2021. On March 1, 2023, another individual with no apparent links to the Hizmet Movement, Turkish businessman of Kurdish descent Z.O., was abducted in Istanbul.

⁴ Individuals who were subject to enforced disappearance because of their links to the Hizmet Movement have testified that other individuals of Syrian Kurdish descent were tortured at the secret detention facility in Ankara.

3. What is the rationale for committing enforced disappearances in the context of elections?

Since 2016, the Turkish authorities have made no secret of their intentions for continuing, but also tolerating the practice of enforced disappearances.

The report of the Working Group to the Human Rights Council contained in document A/HRC/48/57, focuses in particular on the issue of enforced disappearances in the context of transnational transfers,⁵ which encompass extraterritorial abductions and forced returns, including expulsions, often undertaken in undercover operations in cooperation between two or more States, on the pretext of combating terrorism and protecting national security.

The report of the Working Group states among other that, “In response to the allegations, the authorities have either denied that the operations took place or maintained that they were necessary, legal and proportionate to the need to neutralize an imminent threat to national security. On July 5, 2021, for example, President Erdoğan delivered a public statement in which he commended the Turkish intelligence services for having ensured the forcible repatriation of more than 100 individuals from multiple States.”⁶

In addition, Türkiye’s Vice President during a speech before the parliament in November 2022 (ahead of the upcoming presidential and parliamentary elections of 2023) that more than 100 individuals with alleged links to the faith-based Gülen movement, have been forcibly returned to Türkiye by the country’s National Intelligence Organization (MİT) thanks to what he described as “intelligence diplomacy.”⁷

The Hizmet Movement has never expressed any political intentions or goals and its members and sympathizers therefore could not directly impact electoral processes threatening the political power, success, or failure in elections of either the ruling or opposition parties. In this context, it can be concluded that enforced disappearances inside or outside Türkiye have had and continue to have other objectives.

The stated intentions by the Turkish government for resorting to enforced disappearances can be summarized as follows:

- (i) use of enforced disappearances as a strategy for political gain;
- (ii) spread terror among the dissidents and their close relatives, the communities, and the society as a whole; and

⁵ Chapter 6, page 14 of the report.

⁶ <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=35335> in response to AL TUR 5/2020. See www.rferl.org/a/kyrgyzstan-turkey-inandi-disappearance/31347063.html and www.trthaber.com/haber/gundem/cumhurbaskani-erdogan-aciklama-yapiyor-593498.html?_n_pid=3147 (in Turkish).

⁷ <https://turkishminute.com/2022/11/25/ore-than-100-people-abducted-thanks-to-intelligence-diplomacy-turkeys-vice-president/>

- (iii) enforced disappearances also aim at extracting forced confessions or coercing detainees to incriminate others, from individuals placed outside the protection of the law.

In the context of elections and political gains, **First**, enforced disappearances are used to mobilize electoral support, either for the ruling parties or opposition. **Second**, elections in Türkiye and their outcome are used to bolster the campaign of enforced disappearances, through renewed efforts by newly elected officials.

Calls and the debate to reinstate the death penalty in Türkiye for example, along with calls for more abductions and were renewed in the first half of 2017, ahead of the referendum for a constitutional package, aimed at vesting extraordinary powers with the Turkish President Recep Tayyip Erdoğan. During the referendum campaign President Erdoğan clearly stated that, *“After April 16 [2018], with God’s permission, a bill will be brought to Parliament. If it is passed by the legislature, I will approve it.”* He also noted that, *“To reinstate the death penalty there needs to be a constitutional amendment, but in the event Parliament does not approve that, I am saying it now, we will appeal to the public with a referendum just like we did for April 16. Let the public decide.”*

Calls for a “true fight” against members of the Hizmet Movement, including presumably through enforced disappearances, have been repeatedly stated by the opposition leader ahead of every single election since 2016, including those held in 2018 and 2023. Ahead of the 2023 Presidential elections for example, the pro-Kurdish Party of Greens and the Left Future (YSP) and the Peoples' Democratic Party (HDP) reaffirmed their support for Kemal Kilicdaroglu, the joint presidential candidate of the opposition, in the run-off elections held on May 28, 2023. According to the agreement signed on May 24, 2023, the fight against terrorist organizations, such as the Fethullah Terror Organization (Feto), the Islamic State group (IS) and the Kurdistan Workers' Party (PKK), would continue.⁸

In addition, the outcome of the elections sometimes also bolsters the campaign of enforced disappearances. Immediately following the formation of the new government constituted after the May 2023 elections, the former Head (2015-2023) of Türkiye’s National Intelligence Organization (MIT), was appointed as Foreign Minister. With his appointment as the new Foreign Minister, in within the second semester of 2023 there were two enforced disappearances and illegal transfers from Tajikistan, two other renditions from Algeria, and possibly another illegal transfer from the United Arab Emirates.

- 4. What are the consequences of electoral violence? More specifically, how does the occurrence of electoral violence - including enforced disappearance – impact peoples’ perception of the electoral process and their willingness to participate in future elections?**

⁸ <https://www.middleeasteye.net/news/turkey-elections-kilicdaroglu-dilemma-keeping-support-ultranationalists-kurds>

In absence of a more detailed analysis about the effect of the enforced disappearances on elections, it is not immediately clear how they impact peoples' perception of the electoral process and their willingness to participate in future elections in Türkiye.

The fact however that both, the ruling party, and the opposition have referred to the fight against Hizmet Movement, including through enforced disappearances, as a strategy for political gain – this unambiguously suggests that political parties in Türkiye believe that enforced disappearances would have an impact on electorate's perception of the electoral process and their willingness to participate in future elections.

5. Is there any particular phase of the electoral cycle when enforced disappearances are more likely to occur? Do enforced disappearances committed prior, during or after the elections have different purposes?

The most important electoral processes in the recent Turkish history took place in April 2017 and June 2018, namely the referendum for constitutional changes and the General parliamentary and presidential elections respectively.

The April 2017 referendum transformed Türkiye from a parliamentary to a presidential system, altering the Turkish Constitution to grant the Head of State almost unlimited powers. The early elections of June 2018 solidified President Erdoğan's new powers under the new constitution, shaping for the foreseeable future the political landscape of Türkiye. Under the new constitutional amendments, he could directly appoint top public officials, including ministers and vice-presidents, would have the power to intervene in the country's legal system, and the power to impose a state of emergency.

The analysis of hundreds of cases of enforced disappearance (duly transmitted for the attention of the Working Group) unmistakably suggests that both, the number of abductions in Türkiye and abroad, as well as illegal transfers from abroad significantly increased in the period between April 2017 and June 2018. The timeline of enforced disappearances further suggests that the sheer number of enforced disappearances committed prior to the Presidential and Parliamentary elections of June 2018 has served the purpose of mobilizing electoral support for the ruling AKP party and President Erdogan for his re-election in the critical elections of June 2018.

While enforced disappearances ahead of elections have clearly electoral purposes in mobilizing support, the same cannot be stated for the campaigns of enforced disappearances experienced after the elections.

The latest general parliamentary and presidential elections in Türkiye took place in May 2023, confirming President Erdoğan and his ruling AKP party for another term in office. The former head (2015-2023) of Türkiye's National Intelligence Organization (MİT), was appointed as Foreign Minister following the May 2023 elections. Immediately following his appointment, in the period between July and December 2023 there were four (4) abductions and illegal transfers from Tajikistan and Algeria to Türkiye and possibly another illegal transfer from the United Arab

Emirates. These abductions appear to be more related to the need for the new foreign minister to assert his position within the ruling party and the new political landscape of Türkiye, rather than mobilize support for any upcoming electoral process.

6. Provide any example of legislation that has been adopted with the view of hindering the access to justice and redress to victims of human rights violations, including enforced disappearances in the context of elections.

The administration of justice and judicial independence in Türkiye have been long-standing concerns for the United Nations and regional human rights systems. The situation in Türkiye however deteriorated significantly in particular in the aftermath of the state of emergency effective from July 2016 to July 2018. In addition to the erosion of constitutional and structural guarantees to uphold the independence of judges, and measures which have directly impacted this independence, such as summary dismissals and recruitments, evidence points out to an increased partiality of the judiciary to political interests, as recognized in recent judgments of the European Court of Human Rights.⁹

According to the Turkish government, “The purpose of the State of Emergency [was] to take required measures in the most speedy and effective manner in the fight against FETÖ/PDY¹⁰ terrorist organization.”¹¹ Thirty-two (32) arbitrary emergency decrees with a sweeping nature were issued during the two-year period of the state of emergency, targeting members of the Hizmet Movement and severely curtailing human rights and liberties.

These legislative measures have not only hindered access to justice and redress to victims of human rights violations, including enforced disappearances, but they have also facilitated the practice of enforced disappearance in the context of elections.

7. What has been the role of the judiciary in safeguarding the rights of victims of enforced disappearances in the context of elections? Provide any examples of lack of judicial independence as well as attacks to judicial actors as a consequence of their work in this specific context.

In its report of the Working Group to the Human Rights Council contained in document A/HRC/48/57, focuses in particular on the issue of enforced disappearances in the context of transnational transfers.¹² In its report the Working Group accurately captures also the current situation in Türkiye as follows: “As illustrated by the responses of some Governments with respect to the allegations of arbitrary arrest, detention and enforced disappearance, it appears that, in most cases no effective investigation has been conducted and no one has been held accountable for the

⁹ See also the *Country report following the visit of the Commissioner for Human Rights of the Council of Europe Dunja Mijatović to Turkey, from 1 to 5 July 2019*, page 4.

¹⁰ FETÖ (Fethullahçı Terör Örgütü) or Gülenist Terror Organization is a derogatory term used by President Recep Tayyip Erdoğan and his political associates to refer to the Hizmet Movement.

¹¹ Committee against Torture, Concluding observations on the fourth periodic report of Turkey, Addendum Information received from Turkey on follow-up to the concluding observations (CAT/C/TUR/CO/4/Add.1), November 8, 2016, para 70.

¹² Chapter 6, page 14 of the report.

reported human rights violations.”¹³ Not a single individual has been prosecuted in Türkiye for hundreds of enforced disappearances in Türkiye and abroad, committed at the behest and on behalf of the Government of Türkiye.

8. How can impunity for enforced disappearances committed in the context of elections be addressed more effectively?

- i. The crime of enforced disappearance should be made an offence punishable in the Turkish Criminal Code.
- ii. The crime of enforced disappearance should not be subject to the statute of limitations.
- iii. Turkish authorities should conduct effective, independent, and prompt criminal investigations to bring perpetrators of enforced disappearances to justice, in particular in cases involving public officials.
- iv. Ensure that prosecutors act ex-officio in cases of enforced disappearances.
- v. Türkiye should accede to the International Convention for the Protection of All Persons from Enforced Disappearance.

9. What measures could be put in place to prevent or reduce the risks as well as address the practice of enforced disappearances, including so-called “short-term” enforced disappearances in the electoral context?

Under the anti-terror legislation adopted by the Turkish Parliament on July 26, 2018, the government may detain without charge a suspect for 48 hours for “individual” offenses and 96 hours for “collective” offenses. These periods may be extended twice with the approval of a judge, amounting to six days for “individual” and 12 days for “collective” offenses. In addition, while the law generally provides detainees the right to immediate access to an attorney at any time, it allows prosecutors to deny such access for up to 24 hours.

In order for the Government of Türkiye to prevent or reduce the risks as well as address the practice of enforced disappearances, it should necessarily amend legislation that prevents specific categories of detainees from contacting defense counsel in the first 24 hours of detention.

¹³ For example, A/HRC/45/13/Add.4, para 17 and p. 37. “The Working Group further observes that the entrenched culture of impunity for human rights violations perpetrated by state agents continues to be a main obstacle to holding officials accountable in Turkey. While there are various factors that foster a culture of impunity in the criminal justice system, the lack of judicial independence and impartiality are reported to have been most critical ones. In addition, the recent tendency to incriminate actual or perceived supporters of the Hizmet/Gülen movement by the country’s leadership is presumed to have curtailed independent and effective investigations into enforced disappearances. Dismally low prosecution and conviction rates appear to be a further testament to these systemic deficiencies.”