

**NGO SHADOW REPORT
FOR THE PERIODICAL QUESTIONNAIRE
RESPONSE TO BE
SUBMITTED BY TURKEY TO GREVIO**

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**NGO Shadow Report for the Periodical Questionnaire Response to be submitted by
Turkey to GREVIO**

August 2017

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INTRODUCTION

This report was issued by the Women and Democracy Association (KADEM), based on the questionnaire sent by Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) to signatory countries within the framework of the monitoring of the Istanbul Convention.

KADEM was founded in 2013 with the purposes of contributing to the economic, social and political development of contemporary, gifted, entrepreneur and qualified women for the economic, social and political development of Turkey, creating collective consciousness in the society regarding women's human rights and equal opportunities by focusing on gender justice, and furthermore developing and strengthening democracy, the rule of law, and respect towards human rights and fundamental freedoms by protecting women's human rights. Within this perspective, KADEM primarily conducts activities in order to prevent violence against women, which is a violation of women's human rights, undertakes work with the purpose of creating social awareness on the subject, and organises training programmes to teach women their legal rights. In addition, it supports all endeavours both national and international on combating violence against women, while closely following the current developments in Turkey.

During the preparation of this report, KADEM organised a workshop titled "Implementations Regarding the Istanbul Convention and the Grevio Process". The workshop explored the legal and social aspects of the Istanbul Convention, which was brought into effect on 1 August 2014 and of Law No. 6284 on the "Protection of the Family, and the Prevention of Violence Against Women" in combatting violence against women within the framework of the principles set forth by the Grevio Monitoring Committee, together with the expert participants, and representatives of NGOs. The report was prepared based on the conclusions of the workshop that was held following the presentation made by the President of Grevio, Prof. Dr. Feride ACAR and the information provided on the process.

The subjects included in the report are gathered under four headings. The report consists of the chapters Integrated Policies and Data Collection, Prevention, Substantive Law, and Investigation and Prosecution. The last chapter of the report includes recommendations for possible solutions that should be urgently considered with respect to the problems confronted in its implementation.

We thank all parties for their contributions to the report, and wish that this effort will be useful in the prevention of violence against women.

KADEM
Women and Democracy Association

I. INTEGRATED POLICIES AND DATA COLLECTION

Article 7 of the Convention:

GENERAL OUTLOOK:

Below are the explanations on the section in which information is required in Chapter 2 of the GREVIO questionnaire, which concern adopting comprehensive and coordinated policies regarding violence against women, financial resources allocated for the implementation of these policies and supporting efforts made by NGOs, specifically those related to women's associations, other civil society actors, establishing an effective cooperation with these associations, and data collection.

National action plans constitute an important tool in guiding, and forming a basis for the efforts in combating violence against women. Firstly, within this framework, the Prime Ministry Circular No. 2006/17 assigned the duty to prepare the National Action Plan to the Directorate-General on the Status of Women (KSGM). Since the implementation term for the "National Action Plan 2007-2010 for Combatting Domestic Violence Against Women" had expired, the "National Action Plan for Combatting Violence Against Women" (2012-2015) was prepared through the contributions and participation of public corporations and institutions, non-governmental organisations, and women studies centres of various universities together under the coordination of the Directorate-General on the Status of Women, taking into consideration signed international conventions, particularly the Istanbul Convention, provisions of national legislation, related research and study reports, and recent social needs and developments.

Since the Istanbul Convention was opened for signature in 2011 and was brought into effect in 2014, the National Action Plan covering the period 2012-2015 prepared by KSGM is pertinent in that it demonstrates the measures taken in combatting violence against women between 2014-2015 as indicated in the GREVIO Questionnaire.

The National Action Plan covering the period 2012-2015 includes:

- a)** Ensuring the cooperation amongst various agencies in order to prevent all forms of violence against women,
- b)** Monitoring the implementation of existing protocols between agencies, and identifying new targets,
- c)** Creating a database for researching, monitoring and following-up cases of violence against women,
- d)** Preparing educational material and making the necessary curricular changes in order to ensure social awareness and a transformation of mentality for the purpose of ensuring legal regulations regarding social gender equality, violence against women and domestic violence, eliminating shortcomings in implementation, and specifically the prevention of violence against women.

In relation to the aims of the National Action Plan, the PROJECT FOR COMBATTING DOMESTIC VIOLENCE was brought into effect by KSGM. A budget of 2,970,000 Euro was

allocated for the project. In Turkey, 26 provinces were chosen as pilot regions, where efforts were conducted in coordination with non-governmental organisations. Furthermore, periodic meetings attended by NGOs at a national level under the coordination of KSGM were organised, and boards were formed for creating and monitoring Action Plans at provincial levels while NGOs attended meetings coordinated by the Governorships of the provinces in question.

Currently, positive efforts are undertaken in order to comprehend the targets set forth in this action plan based on Article 7 of the Istanbul Convention, which covers the term 2012-2015. However, there are measures that must be initiated to ensure that these national action plans are fully executed and monitored. Accordingly, the following recommendations must be taken into consideration. The implementation of these recommendations will allow a more effective utilisation of the action plans.

RECOMMENDATIONS:

- National Action Plans for Combatting Violence Against Women should be binding and reviewable. Whether the duties assigned to agencies are being carried out should be monitored, and sanctions should be imposed upon agencies that fail to comply.
- The contents of the action plan should be victim-oriented. Therefore, action plans should feature a holistic point of view based on the rights and needs of the victims.
- A more social gender-sensitive budget should be allocated on the subject to allow the development and effective implementation of the national action plan.
- The efforts necessary to statistically evaluate cases of violence against women should be expeditiously completed.

Article 9 of the Convention:

GENERAL OUTLOOK:

In Turkey, non-governmental organisations combatting domestic violence against women also maintain an effective fight within their means. Within this scope, a comprehensive study entitled "Women in the Changing Turkey, the Socio-cultural, Economic and Political Conditions of Women in Turkey" was carried out in order to reveal the profile of women within the social, economic and political fields, to identify attitudes and conducts in the fields in question. The results of these studies were shared with the public in 2016 in a book published by KADEM Publications.

The research data were obtained from a comprehensive questionnaire in the form of face-to-face interviews held in 12 statistical regions in Turkey, specifically in 26 provinces, with a total of 5036 women. According to the data, over 13% of women had been subject to a form of violence within the last year. However, the results can be questioned when considering that a majority of women keep their silence in regards to the violence they suffer, particularly when it involves a form of sexual violence. Thus, the actual incidence rates of violence is greater.

Research on whether education and employment play a role in the victimisation of violence has revealed that while university graduate females are three times more prone to become victims to harassment by telephone, verbal abuse and threats compared to other groups, this ratio is two-fold when compared with unemployed women.

The extent of violence varies from psychological discrimination to harassment, defamation, physical abuse, insult, and deprivation. Based on these data, it can be concluded that violence is a multi-faceted phenomenon with psychological, social, economic and cultural aspects. In order to be successful in combatting violence, it is necessary to develop policies that take into consideration all of these aspects mentioned above.

Currently, there are many women's associations that are able to reach and provide services to women, who have been victims of violence, through consulting centres and independent shelter homes.. These centres provide free psychological, legal and economic counselling to, women who have suffered abuse. Communication and cooperation with women's associations is both a requirement of legal regulations and essential in the prevention of domestic violence against women. In this respect, NGOs have always acted as the primary source and driving force in the development of public policies and services.

However, it is an unfortunate fact that certain NGOs with links to the opposition parties, believe that combatting violence against women is their own monopoly, consequently, leading to the deflection of the subject from its main targets. While the real aim is to combat all kinds of violence against women, certain NGOs use an accusatory and polarising language against certain sections of the community. Part of the community is pushed outside the struggle through the use of a polarising and discriminatory language based on the ethnic origins, and political and religious affiliations rather than the actions of the perpetrators. So much so that, members of KADEM, who were following up on a murder case involving a female victim that had large repercussions throughout the country, had suffered verbal and physical abuse from other women's NGOs, which claimed to combat violence.

Combatting violence against women is the joint responsibility of all sectors of the community, and all sectors must act in unity for a real solution. In this regard, the most important actors are without doubt the NGOs.

RECOMMENDATIONS:

- A more active and widespread participation of the NGOs ought to be ensured during the preparation stages of all steps and laws in combatting violence against women.
- Cooperation should be strengthened to assign greater responsibilities to women NGOs rather than having them attend only as guests to task groups formed at ministry level. For instance, a fund may be created for NGOs to encourage them for opening women's guest houses.

Article 10 of the Convention:

In the response provided to Article 7 of the Convention, it was indicated that the unit formed for Combatting Violence Against Women was the Directorate-General on the Status of Women, and recommendations for solutions were provided to ensure the more effective implementation of the action plans prepared by KSGM. This section briefly

provides information in relation to the services provided by the Directorate-General on the Status of Women by taking into consideration the Istanbul Convention.

- The duty to organise studies, projects, campaigns, meetings, conferences and seminars based on cooperation, as well as legal efforts, in order to prevent and eliminate all kinds of violence, harassment and abuse against women belongs to KSGM. KSGM also conducts and coordinates protective, preventive, educational, developmental, guiding and rehabilitating social service activities addressing women, and contributes to the efforts carried out by other agencies and institutions.
- At the KSGM province and district directorates under the Ministry of Family and Social Policies (ASPB), free counselling and guidance services are provided by social workers in line with the needs of women who have suffered violence, who are then referred to the concerned agencies and institutions.

II. PREVENTION

Articles 12, 13, 14 of the Convention:

GENERAL OUTLOOK:

Since 2010, Turkey has signed conventions adopted at international levels to ensure social gender equality, while also conducting an in-depth review of its own legislation. Norms that are detrimental to women were removed from a wide range of legislation from the labour law to the criminal law, which were then replaced with principles supporting social gender equality. Part of the measures taken and legal arrangements made have been indicated below.

- Indeed, the most important step for Turkey was the fact that it hosted the *Council of Europe Convention on Preventing and Combating Violence Against Women And Domestic Violence*, which was adopted by the Council of Europe in April 2011 in Istanbul, and that it was the first country to sign this Convention. Turkey signed the Convention, which is also known as the *Istanbul Convention*, and which extends the definition of violence in May 2011.
- The phrase “and is based on the equality between spouses” was added following the phrase of “Family constitutes the bases of Turkish society” in Article 41 of the Constitution. This change was undertaken with the purpose of eliminating the inequality between woman and man, which stems from social judgments, customs and usage, and is a crucial step in creating social awareness.
- In 2010, amendments were made in the Constitution that allowed individual applications to be made possible to the Constitutional Court. Citizens who believe that their rights have been infringed can apply to the Constitutional Court before applying to the European Court of Human Rights. In cases where women are subjected to gender discrimination, whether it be in their social life or in their professional life, women may make individual applications to the Constitutional Court.

- The Human Rights and Equality Agency of Turkey was founded in April 2016. The articles of incorporation of the agency prohibits all kinds of discrimination, particularly "gender" discrimination, ensuring that the burden of proof lies with the "defendent" who must prove that discrimination did not take place.
- Another agency that maintains action against discrimination is the Public Auditing Agency (Ombudsman), which was established in 2012. Complaints against gender-based discrimination and abuses of rights may also be placed with this agency. Following the complaint, the agency communicates its opinion to the public agency in question, notifying its decision in the form of a recommendation.
- An important step was taken to prevent cases of violence against women with the passing of Law No. 6284 on "The Protection of the Family and the Prevention of Violence Against Women" in March 2012. With this Act, which was prepared while taking the provisions of the Istanbul Convention into consideration, the interpretation of violence was redefined while extending its scope. In this regard, it is intended that victims of "economic and psychological violence" be also protected along with victims of "physical violence".
- Revisions to prevent discrimination were undertaken in Labour Law No. 4857, and was accepted that no discrimination may be made among employees based on *"language, race, gender, disability, political conviction, philosophical belief, faith, denomination and pregnancy,"* and that *"lower wages may not be paid due to gender."* The same law also prohibited *"all kinds of sexual harassment against employees."*
- A modification made in the Criminal Law in March 2014 provided sanctions of imprisonment from one to three years in the case of preventing an individual from benefitting from public goods and services or from carrying out an economic activity due to *"hatred stemming from difference in language, race, nationality, colour, gender, disability, political conviction, philosophical belief, faith or denomination."*
- Court rulings enabled divorced women to give their children their own family names. The request of a woman to give her own family name to her child, whose custody she has, following divorce was considered legally appropriate through the Ruling of the Constitutional Law of 25 June 2015.
- Finally, it is necessary to state that units were formed with the purpose to carry out activities in the processes of identifying and implementing policies regarding social gender equality within the body of certain Ministries. The "Unit for Equality Between Women and Men" within the body of the Ministry of Development, the "Directorate of the Branch for Gender Equality" under the Ministry of Labour, and the Social Gender Team under the Turkish Statistics Agency are important agencies that ought to be mentioned within this scope.

Article 13 of the Convention:

Along with these above-mentioned legal arrangements made for combatting all kinds of violence against women, a notable increase was also evident in the number of efforts in

raising social awareness. Together with NGOs, efforts were also made in this field supported by the highest Office of the State, the President Recep Tayyip Erdoğan, and his wife Emine Erdoğan. The aim is to increase social awareness through public service advertisements that are prepared.¹

With the Presidency declaring that it would personally follow the Özge Can murder case that occurred on 11 February 2015, an intensive agenda was created throughout the country. With the Presidency's undivided attention on the case, many NGOs wished to become involved in the action, and a public opinion was created through an activist stance by focusing on cases involving women as victims of murders.²

The Women and Democracy Association (KADEM) conducted many campaigns that came to the fore with titles such as *"Be a Man First," "Overcome Your Anger if You Are a Man," "You Are Not Entitled to Violence," "How Can You Face Those You Love."* For the purposes of preventing violence against women, campaigns to raise public awareness were created to address men, who are the most important perpetrators of violence.

Article 14 of the Convention:

"Guidelines for Standards on Schools Sensitive Towards Gender Equality" was prepared in January 2016 for the purposes of setting a standard in gender education within the educational system.

In Turkey, the Project on Developing Gender Equality in Education (ETCEP) supported by the EU and the Turkish Government, has been implemented as of 2015. Within the scope of this project, gender equality education was conducted on around 500 volunteer teachers and approximately 12 thousand students at 40 schools in 10 pilot provinces between 2015-2016. Within the scope of the project, teachers and students were subjected to education regarding "gender," and then students and parents were given information on breaking the sexist stereotypes of females in relation to the occupational preferences.

III. SUBSTANTIVE LAW:

Article 29-48 of the Convention:

The substantive law section of the GREVIO questionnaire inquires the types of measures taken by signatory states in their legal arrangements with respect to the provisions specified in Article 29 to 48 of the Convention. In this chapter, information is provided on the measures implemented against perpetrators of violence, and especially on the provisions of Law No. 6284 on the *"Protection of Women and the Prevention of Violence Against Women"* prepared by taking the Istanbul Convention into consideration.

¹ <https://www.youtube.com/watch?v=z6WHC7C-wpE> - <http://www.yenisafak.com/hayat/erdogandan-11-dilde-kadinlar-gunu-mesaji-2625226> <http://www.cnnturk.com/turkiye/erdogan-cifti-8-martta-kadinlari-agirlayacak>

² <http://www.cnnturk.com/turkiye/cumhurbaskani-erdogandan-ozgecan-aslan-tweeti7>

GENERAL OUTLOOK:

Efforts Made to Eliminate Legal Loopholes in the Field of Criminal Law

- One of the sections amended in the Turkish Criminal Code in order to Prevent Violence Against Women is the section entitled "Crimes Against Sexual Inviolability" (Articles 102, 103, 104 and 105). Multiple amendments were made to article 102, which regulates the crime of sexual assault. It was provided that an individual violating the corporeal inviolability of another individual with sexual acts would be punished by two to seven years of imprisonment for the crime of sexual assault upon the victim's complaint (Paragraph 102/1). The new arrangement, however, raises the lower limit of this sanction from two to five years, while the upper limit is raised from seven to ten years. Furthermore, an addition was also made stating that, "if left at molestation, the sexual act shall be punishable by two to five years imprisonment." (Paragraph 102/1). With this revision, the maximum limit of the punishment was lowered from seven to five years, since the previous form of the Article made no distinction for molestation within the crime of sexual assault.
- With respect to cases where the crime of sexual assault is committed by penetration of an organ or other object into the body, the previous form of the Article provided for a sanction of seven to twelve years of imprisonment (102/2.).However, following amendments, changes to sanctions were made for "no less than twelve years of imprisonment," raising the minimum sanction for this type of crime to twelve years instead of seven years. **Our law considers marital sexual assault / rape as a crime also.**
- Additions were also made to the circumstances aggravating the crime in which it was stated that the committing of the crime can be extended due to a relationship of custody, by a stepfather, stepmother, step sibling, adopted or foster child, and by taking advantage of the facility provided by the necessity to live as a large group (102/3).
- Another amendment to the Article was the abolishment of the regulation in Paragraph 5 which had stated that "no less than ten years of imprisonment shall be imposed in cases where the victim's physical or psychological health is impaired as a result of the crime." One of the justifications of this change is the tendency to increase the punishments, while another one is to eliminate the processes leading to further victimisation for the victim by having to go to concerned authorities (forensic institutions) for the diagnosis of physical and psychological health and by having to repeatedly experience the violation.
- In addition to these amendments, the failure to inform authorities of a crime committed is also a crime (Turkish Criminal Code (TCK) 278- 279. -280 M). Due to

these arrangements, public officials that detect signs of violence, especially during their duties, must immediately inform the authorities, while those who cause delays in such matter shall face disciplinary and criminal investigations. With these changes public officials have been actively charged with duties with regard to Combatting Violence Against Women.

In addition to these new amendments made in the Turkish Criminal Code, the following changes were made in Law No. 6284 for the purpose of protecting victims of violence and implementing all kinds of measures including restraining and compulsive imprisonment for the perpetrators;

- The law brings salient changes to the definition of violence. In Article 1, the purpose of the law was defined as regulating the procedures and principles regarding the measures to be taken for protecting women, children, family members and victims of stalking, who have been subjected to violence or the risk of violence and preventing violence against such individuals.
- The law protects not only those who have been subjected to violence, but also those who are under the risk of violence. The legislator intends to protect the persons specified in Article 1 before any harm occurs. In fact, an effort was made to prevent any possible harm by taking each request seriously by providing that no evidence or document proving that violence was committed shall be sought for an order in favour of a protective measure.
- First of all, a clear definition of violence should be made in Combatting Violence Against Women. Therefore, the law provides explicit and clear definitions on the subject. The law defines Violence Against Woman as: (Art. 2/ç) "Any act and conduct directed towards women due to the mere fact that they are women, or causing a violation of the human rights of women through gender-based discrimination that affects women, and defined by this Law as violence." Through this definition, "all discrimination based on gender" is prohibited, while it is expressly stated that violence is a "violation of human rights."
- According to the Law, violence is defined as (Art. 2/d) "Any physical, sexual, psychological, verbal or economic act and conduct occurring in social, public or private spheres, including acts resulting, or that is possible to result, in the physical, sexual, psychological or economic suffering of the individual, threats and pressure thereof, or the arbitrary restriction of freedom." This definition indicates that violence cannot only be considered as limited to physical violence, but that all kinds of pressure inflicted on women, in addition to physical violence, such as sexual, psychological, verbal and economic pressure, shall also be considered as "violence."
- The definitions of Violence Against Women and Violence in general as provided in Law No. 6284 have provided an important development for the protection of women's rights in any case of violence brought before the courts and also with regard to divorce

cases. The understanding that solely considers physical violence as violence, which was seen especially in divorce cases, has changed by reason of these definitions. For instance, seizing a working woman's wages or preventing her from working is now also considered violence, which provides for higher indemnities to be ordered in favour of the woman as a result of actions.

- According to the Law, injunctions may be ordered for the purpose of protecting victims of violence. An injunction is defined as the following: (Art. 2/ğ) *"within the scope of this law, precautionary orders that may be issued upon request or ex officio by judges, security officials (police, gendarmerie), civil authorities (Governors in provinces and District Governors in Districts) with respect to victims and perpetrators of violence."*
- The fact that only judges are authorised to hand down injunctions for victims of violence in need of being placed under protection in cases of emergency may cause delays. The law sought to prevent such danger, and granted security forces and civil authorities the power to issue injunctions to ensure that any necessary measure including protection, accommodation, health services, psychological and legal support can be expeditiously taken for women subject to, or at the risk of, violence, as well as for children accompanying them.

RECOMMENDATIONS:

- In accordance with the obligations arising from being party to the Istanbul Convention, making preventive arrangements with regard to sexual crimes as well as protective and supportive arrangements addressing victims, and establishing an adequate number of "sexual violence crisis centres" are amongst our recommendations for possible solutions. It is especially known that women, who are victims of sexual crimes, have difficulty in relating the incident to male officers. Therefore, taking a step to ensure that statements by women, who are victims of sexual violence, are taken by policewomen having received special training is very important to help victims feel more comfortable as well as enabling them to provide the full details.
- In order to prevent the secondary victimisation of women and children subjected to the crime during judgment procedures, measures such as recording a statement that was made once must be included in the Code of Criminal Procedure.
- In spite of the provisions of Law No. 6284, which contain detailed and alternative preventive measures, it is evident in practice that the orders mostly contain similar measures. The most frequently ordered measures are found to be prohibiting words and deeds containing threats of violence, defamation, insult or humiliation, restraining orders, prohibition of proximity, and prohibition of molestation through means of telecommunication. Therefore, the failure to issue orders specific to the case may cause undesirable results in practice. For this reason, it is necessary to identify courts to issue injunctions, which are different from the courts handling other cases relating

to Family Law. Thus, a court authorised to issue injunctions will be capable of conducting the necessary research in order to evaluate each case by its own facts and to order injunctions as required.

- We are of the opinion that, with respect to cases of Violence Against Women, creating Women Monitoring Centres similar to Child Monitoring Centres (ÇİM), providing free legal support ex officio without being requested during the first application, introducing arrangements that would enable the hearing of "Anonymous Witnesses" in cases concerning violence against women and domestic violence in order to protect the witnesses, and to introduce forms of punishment that create an alternative to fines would contribute to combatting violence.

IV. INVESTIGATION-PROSECUTION AND PROCEDURAL LAW, AND PROTECTIVE MEASURES

Articles 49-56 of the Convention

GENERAL OUTLOOK:

Chapter 6 of the GREVIO Questionnaire requires that, based on the provisions of the Istanbul Convention, States provide information on the investigation-prosecution and procedural law against perpetrators of crimes. Law No. 6284, which was prepared following the adoption of the Istanbul Convention, provides very detailed arrangements on the sanctions to be imposed upon individuals committing violence, the protection to be afforded to victims of violence, and the injunctions to be ordered against perpetrators. Along with these amendments, a mechanism for taking rapid and effective action, particularly urgent restraining measures against the perpetrator of violence has been brought into effect. Following the application by the victim of violence, the power to make a ruling was not only granted to courts, but security forces and civil authorities were also invested with the power to issue injunctions for the purpose of protecting the victim. The following information provides details on injunctions, sanctions against the perpetrators of crime, and results thereof, which are provided for in Law No. 6284 and which are implemented.

- In accordance with Law No. 6284, security forces (Police Directorates, Police Stations, the Gendarmerie, the Coastguard) are authorised to order protective and preventive measures in cases that do not allow delay.
- The protective measures that may be ordered by security forces are limited to providing accommodation and temporary shelter for victims of violence. The order must be submitted to the civil authority for approval on the first working day following the date of the order. Orders not approved by the civil authority within 48 hours are automatically annulled.
- The preventive measures that may be ordered by security forces are limited to prohibiting the perpetrator's words and deeds containing threats of violence, defamation, abuse or humiliation against the victim, immediately removing the perpetrator from the joint residence (house of joint domicile) or the premises and assigning the joint residence to the protected person, preventing the perpetrator from approaching the victim, the victim's house, school or workplace, and preventing the

perpetrator from approaching the victim's kin, victims and, except for circumstances regarding personal relationship, their children, even if such persons were not subjected to violence. The order must be submitted for approval to the judge of the Family Court on the first working day following its issue. The order is automatically annulled if the Family Court fails to approve the order within 24 hours.

- Law No. 6284 states that public officials being informed of an act or risk of violence shall carry out without delay their duties under this law, and shall inform the concerned authorities with regard to other measures that are required (Art. 7), that no document or evidence shall be sought for a protective measure order, that the preventive measure order shall be issued without delay, and that the issue of the order shall not be delayed in a manner that compromises the purposes of the law (Art. 8/3). Once more, Law No. 6284 provides that certain protective and preventive measure orders may be issued by the chief of the security force in cases where a delay would be detrimental (art. 3/2, 5/2, Regulation art. 29).

Although arrangements were made in the above-mentioned provisions in order to provide the necessary protection, the law fails to identify the manner by which the "risk assessment" is to be conducted.

- The concept of risk assessment, which is not included in Law No. 6284, is provided in "Regulation on the Implementation of Law No. 6284." The concept is used while defining the "circumstance under which a delay would be detrimental." According to this arrangement, circumstances under which a delay would be detrimental means circumstances which, "as a result of the investigation and risk assessment carried out by the security force, may result in a failure to prevent the violent act, jeopardising the individual's life and rights and liberties, the harming of the protected person, the loss of the signs, marks, indications and evidence of the violent act, the escape of the perpetrator or the failure to identify them unless immediate action is taken, and for which there is not sufficient time to obtain an order from the concerned civil authority or judge" (Art. 3/c). Therefore, while the security forces will carry out the necessary tasks within the framework of general provisions, they will also conduct investigations and risk assessments in connection with the implementation of the measures. They will take the necessary precautions if these assessments reveal the possibility of the matters specified in the Article.
- Another criterion regarding assessment is specified in Article 10 of the Regulation with respect to the measure of temporary protection. Accordingly, it was provided that the civil authority, or the chief of security forces in cases that do not allow delays, may order temporary protection upon the request of the concerned or ex officio, if the life of the victim of violence is in danger considering the characteristics, the complaint, and the information. Therefore, the civil authority or the security forces shall assess the risk in line with the existing statements, and this assessment shall be made in connection with the threat to life.

However, in spite of all these appropriate amendments, there are no clear methods regarding monitoring risk. For this reason, the risk of women facing violence continues even if there is a protection order in place. It is imperative that action on risk assessment and possible measures be taken and implemented as soon as possible.

- According to Law No. 6284, an "Urgent Expulsion Measure Order" may be issued on the same day the victim of violence applies to the Family Court. The order is issued the same day also in the case that an application is filed with the Security Forces or the Civil Authority for obtaining an urgent expulsion order. However, the "Expulsion Order" of a protective nature, issued by the Security Forces, must be submitted to the Civil Authority for approval no later than on the following work day. Injunctions not approved by the Civil Authority within 48 hours shall automatically become void. In cases where a delay would be detrimental, some of the protective measure orders to be issued by the judge (prohibiting approaching the protected person, words and deeds containing threats of violence, defamation, insult or humiliation, immediately removing the perpetrator from the joint residence, and preventing the perpetrator from approaching the children, except for circumstances regarding personal relationship if considered necessary) may also be issued by security forces. However, injunctions issued by security forces must be submitted to the judge for approval no later than the first working day following such issue. Orders not approved by the Family Court within 24 hours shall automatically become void.
- The Urgent Expulsion Measure order may be issued for maximum 6 (six) months at the first instance. However, if the violence or the threat thereof continues, the judge of the Family Court may order the term or form of the injunction to be changed upon request of the concerned, or even without any such request. The Ministry or the security forces may also request the injunction to be sustained.
- The expulsion measure is implemented for all women victims of domestic violence whether or not they are married. In other words, a protection order may be issued for women who are "married" without mutual consent, practiced by the partner, or on religious bases.
- The State also provides support services to women requesting protection. Firstly, the women requesting protection can be provided with an attorney to represent her before court if she does not have the means. Also, in the case that the applicant has no social security, all health services are provided by the State free of charge. The victim's need for accommodation is met through Women's Guesthouses serving under public agencies or non-governmental organisations (STK). Women staying at Women's Guesthouses are provided with guidance and counselling (psychological, professional, legal and social) services. Also, kindergarten services are provided for the children accompanying the woman staying at the Guesthouse for a period of 4 months if the woman is unemployed, and of 2 months if she is employed. The state also provides financial support to women victims of violence. The women victims of violence are provided with examination or treatment at a healthcare facility in the case that they suffer from substance abuse or from mental disorders. Women with physical and psychological disorders who cannot care for themselves are placed in care and rehabilitation centres by the state.
- Restriction and protection orders that may be issued for the forms of violence set forth in the Convention may be issued upon the victim's request, or upon a notification made by the Prosecutor's Office or the security forces. Also, where the victim applies to healthcare facilities, the healthcare personnel are mandated to inform the violence case ex officio. In cases where third persons having knowledge of the victim's suffering from violence apply to the ALO 183 Hotline, the authorities may decide to

implement the measures under the law. The purpose of the law is to ensure the application of a protection measure as fast and effectively as possible in accordance with the Convention.

- The victim of violence wishing to apply for a restriction or protection order must apply to the closest security unit. The security units receiving the application refer the concerned party to the Violence Prevention and Monitoring Centres (ŞÖNİM), which are the first unit of acceptance. Legal support is provided to women whose applications are received by ŞÖNİM. This allows the protection of every woman victim of violence applying to the security forces. Also Protection and Restriction Orders may also be issued in cases where a direct application is made by the victim to the Family Court, or a petition is submitted to the Prosecutor's Office.
- Restriction and Protection Orders apply for all forms of violence under the Convention. The law allows for no exceptions on this matter.
- No fees are charged to the applicant. Also, victims of violence without financial means are provided financial aid by the State.
- The orders become effective on the date they are issued, and the implementation of the injunction against the perpetrator does not require that the order is notified to the perpetrator. This way, a crucial problem that would work in favour of the perpetrator and compromise the victim would be prevented.
- Restriction and Protection Orders may be issued for a maximum of 6 months at the first instance. However, if the violence or the threat thereof continues, the Judge of the Family Court may order the term or form of the injunction to be changed upon request of the concerned party, or even without any such request. The Ministry or the Security Forces may also request the injunction to be sustained.
- All of the orders issued are done so in accordance with Law No. 6284, notwithstanding other laws. If considered necessary, additional measures may be taken pursuant to other legal arrangements. (For instance, the provision of financial aid pursuant to Law No. 6284 does not bar an order in favour of alimony pursuant to the Turkish Civil Code.)
- Restriction and Protection Orders may be issued at any time. (For instance, a protective measure may be ordered during or after a divorce case.)
- In the case of violation, the violator is sentenced to imprisonment from 3 (three) to 10 (ten) days. For each repetition of such violation of the injunction, imprisonment from 15 (fifteen) to 30 (thirty) days may be ordered. However, this period may not exceed 6 (six) months in total. Although, if the violator carries firearms due to their duty, they may have to deliver their firearm to the concerned units or, in the case of persons with possession-only licences, such right may be retracted.
- In order that legal proceedings against the perpetrator of violence may be initiated, the Prosecutor's Office that becomes aware of the violent act (for instance through notifications by third persons or healthcare personnel), may initiate proceedings ex

officio. Also, if considered necessary, the Family Court shall have the power to issue an injunction even if no request was made.

- The criminal action to be initiated against the perpetrator of violence will be sustained on behalf of the Public even if the victim retracts their complaint. This prevents the perpetrator from pressuring the victim into retracting their complaint.
- Under the first paragraph of Article 102, the Turkish Criminal Code has subjected the criminalisation of the violation of corporeal integrity through sexual acts to complaint, while Paragraph 2 likewise subjects sexual assault in certain forms against the spouse to complaint. Again, Article 86, Paragraph 2 of the Turkish Criminal Code necessitates an official complaint. Although the crime being committed against certain family members, against those who cannot defend themselves or by the use of a weapon does not require complaint under the Article (Paragraph 3), it cannot be said that it covers all persons specified by the Convention. Acts specified in our Criminal Code and indicated in the Convention (causing miscarriage and sterilisation) are not dependent on complaints.
- In cases of close kinship between the perpetrator and victim of the violence, a multi-faceted assessment in the implementation of Law 6284 is necessary. As specified above, starting with the use of the house and household goods, the workplace, the condition of the children, if any, the sustenance of the family, the support to be provided to those affected by violence, the work to be carried out with the perpetrator must be considered as a whole. Providing standard measures without a holistic approach will not only prove inadequate in preventing violence, but may also give rise to new problems.
- It is very important that victims of violence are able to receive legal support following the act of violence experienced. This matter was also regulated under Law No. 6284 with a consideration to the provisions of the Convention. Violence victims with inadequate financial means are provided with legal support by the Bar Associations. Also, cases are followed up by attorneys affiliated with the Bar Association, within the scope of "Legal Assistance." Non-governmental Organisations also provide legal support to victims of violence. As KADEM, we have provided verbal legal support to over 1000 victims, enlightening them on the legal paths they can follow in the face of violence.
- KADEM also organises training sessions in which women are informed about their legal rights, which currently has reached out to around 25.000 women to date. Also, as a result of the struggle given by NGOs and Bar Associations in connection with cases concerning violence and murder committed against women, it is perceived that suspects have recently been sentenced without "abatement for good conduct." This way, during the trial of the perpetrators, the victims of violence no longer feel alone thanks to the support provided by the State and the NGOs.
- The fact that the power to issue Preventive Injunction Orders has been granted to Civil Authorities and Security Forces pursuant to Law No. 6284 is an important step. In

fact, this allows the rapid solution of many cases against violence, and ensures that victims are placed under state protection without delay. However, it is clear that the law enforcers are not fully trained about how to act when faced with cases of violence, and also about the legal arrangements. On this subject, the State has been providing an increasing number of Public Personnel with training.

- Along with ensuring full knowledge on the law, it is necessary to render cooperation among agencies as effective as possible. State support services for women victims and their children are provided by units under the Ministry of Family and Social Policies. However, providing only support services or assigning the task to a single Ministry delays the attainment of the ultimate goal. For this reason, it is very important that, along with ASPB, special training should be provided to units under other Ministries on this subject, and the number of the training institutions, if any, should be increased.
- Also, it is seen in practice that the courts issuing the injunction order are not able to examine the facts of the case, and that, therefore the injunction orders are issued as printed forms prepared by a single court. The most important reason for this is the excessive number of files and workload assigned to Family Courts. The same court examines and adjudges divorce, alimony and custody actions as well as injunction requests. Under such circumstances, the court receiving the victim's application issues an injunction without having conducted a detailed examination. "Courts specialised in violence" are needed in order to overcome this problem and in order that injunctions may be issued according to the facts of the case. While separate specialist courts may be established to this end, one of the existing Family Courts within the same courthouse must be empowered with regard to injunction orders to be issued pursuant to Law No. 6284.
- Along with these, placing a "Family Residence Annotation" in land registers through an injunction has prevented the risk of being evicted from their homes for many women. By restricting the perpetrator's right of disposal on the property annotated in this manner, the risk of being evicted from the residence belonging to, or rented by, the perpetrator has been overcome for victims without financial means. However, it is seen in practice that most victims are not aware of this right.
- Another positive step is the resolution made by Family Courts that orders the payment of alimony by the perpetrator to the victim and their accompanying children, if any. Here, the judge may order the payment of alimony according to the facts of the case, without requiring a request by the victim. If the perpetrator, who is obliged to pay alimony, receives a salary, a letter is immediately sent to the agency in question, and alimony is received directly from the perpetrator even if the victim has made no such request.
- An important problem that is encountered in practice is the inadequate numbers of Security Forces, which prevents the monitoring of the orders issued pursuant to Law No. 6284. A separate unit under the Ministry of the Interior, monitoring cases of Violence Against Women, must be established to solve this problem. Problems encountered in practice may be largely solved if this unit is established and if Injunction Orders are monitored by specialised personnel.

V. GENERAL EVALUATION AND SUGGESTIONS:

This shadow report issued by the Women and Democracy Association includes recommendations for solutions with respect to steps taken to Combat Violence Against Women, the legal arrangements carried out following the Convention, and the problems that are encountered. Lastly, recommendations for solution, also containing the joint opinions of NGOs and representatives of concerned agencies attending the workshop entitled "Practices Related to the Istanbul Convention, and the Grevio Process" indicated in this report and organised during the preparation of this report, have been provided below. We believe that a speedy end to all kinds of violence and the elimination of the risk of facing violence will be possible with the actualisation of these recommendations.

- Firstly, the powers and obligations as well as the implementation and monitoring mechanisms specified in applicable legislation must be explicitly and clearly identified in order that adequate and speedy protection may be provided to women victims.
- It is necessary to raise specialists to Combat Violence Against Women. However, the inadequacy of expert personnel in this field and a shortcoming in staff and coordination are still serious problems. It is necessary that persons with adequate experience and expertise should be employed by the concerned agencies as soon as possible.
- It is necessary to create a separate structure in the form of a "Department for Violence" under the Security Forces and Gendarmerie.
- Spreading the 49 ŞÖNİMs to 81 provinces, increasing the numbers of the 130 women's shelters and women's counselling centres, as well as improving the physical conditions of these centres is necessary. In this context, as indicated above, Municipalities and the Ministry of Family and Social Policies must work in cooperation in order to increase the number of Women's Shelters. Also, although the law requires that Municipalities with a population of 100.000 and over open a Women's Guesthouse, it is seen that Municipalities fail to meet this obligation through various excuses. The fact that no sanctions have been provided against the failure to carry out the obligation set forth in the law is an important shortcoming. For this reason, an arrangement regarding Municipalities failing to carry out their obligation to open a Women's Guesthouse must be made as soon as possible.
- Changes must be made in the entire curriculum from primary school to higher education in order to provide all individuals in the community with education on Women's Human Rights and Social Gender.
- It is possible to say that an important problem in the implementation of Law No. 6284 is the ever increasing workload of the Family Courts. The protective measure orders to be issued by the civil authority, as set forth in Article 3 of the Law, are either not implemented, or are implemented inadequately in practice. Although security forces should issue an injunction only in specific and urgent cases, and submit these orders to

the civil authority for approval, civil authorities try to remain uninvolved by leaving the initiative in this matter to security forces. In reality, instead of exercising powers granted to them the security forces, recoil from assuming responsibility and choose to refer the matter to the Public Prosecutor or the Judge, which increases the workload of Public Prosecutors and Judges.

For this reason, considering the Family Courts' workload, we believe that "Specialized Courts" addressing cases of violence against women, which would only examine cases of violence in depth, should be formed. Creating two separate Courts as in Spain, one of which would be charged with civil matters while the other would hear criminal matters, would contribute to the solution of the problem.

- In order to prevent any disturbances in the existing practice, an after-hours duty system should be developed for Family Judges, and the number of specialists such as psychologists and pedagogues at Courts should be increased.
- To reiterate once again, children accompanying those who are party to especially domestic violence or divorce actions should be subjected to special treatment. It is known that in practice children are heard by specialist psychologists - pedagogues, and that custody is arranged according to the report that is issued. However, an important problem appears at this point. The physical spaces where children, who are brought to the courthouses at early ages due to violence or divorce, are heard by specialists who are either inadequate or unsuitable for a child's psychology. It is inappropriate to hear children in specialist rooms that are located on the lowest floor, in spaces where the holding cells are mostly located. For this reason, the Ministry of Justice must carry out arrangements to ensure that interviews held with specialists are conducted under better physical conditions.
- Another problem is that the Injunction Orders issued by the Family Court are not sufficiently monitored. This monitoring is at least as important as issuing the order. Otherwise, the Injunction Orders that are issued cannot be enforced. In order to ensure such enforcement, the Ministry of the Interior must establish a separate unit to monitor perpetrators of violence.
- Furthermore, we believe that control mechanisms aiming at keeping violent language on written and visual media under control must be in place, and that a separate unit such as "Branch Directorate for Preventing and Monitoring Content Involving Violence Against Women" should be established under RTÜK.
- The most important element of combatting violence is no doubt creating social consciousness and awareness. However good legal arrangements are, it is essential that enforcers and the community in general carry out a total struggle against all forms of violence, particularly violence against women. For this reason, the Ministry of National Education must rearrange its curricula from primary school onwards in order to prevent violence and create a new outlook on violence, and must include in

educational materials that any form of discrimination committed against girls and women constitute a violation of human rights.

VI. CONCLUSION

Without doubt, all work carried out in the field of Combatting Violence Against Women is important. Like Turkey, many countries in the world Combat Violence Against Women, but unfortunately this problem has still not been fully solved. It is without doubt that the solution of the problem first of all requires a transformation of mentality. Even if all kinds of measures are taken, it is clear that individuals who are not raised with, and who do not act according to, the awareness that violence is a violation of human rights, cannot play a sufficiently active role in this fight. Also, it is very important that all segments of different beliefs and political identities within the community seek solutions to the problem without marginalising the other party, and act in solidarity. In the efforts to be carried out, it is important to act within this understanding, actualise all of the action plans that are prepared, and accept that combatting violence is also a violation of human rights. It must not be forgotten that support by each individual constituting the community, particularly the NGOs, in efforts made by the State on this subject is important. We hope that this report will be useful, believing that if the problems and our recommendations for solutions indicated in the report are taken into consideration, significant progress will be possible in Combatting Violence Against Women in Turkey.