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TURKEY, TURN WORDS INTO ACTIONS

DUTY-BOUND TO END VIOLENCE AGAINST WOMEN

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Cover photo: Demonstrators gathered in the Kadikoy district of Istanbul, Turkey, on 20 March 2021, to protest the decision of Turkish President Recep Tayyip Erdogan earlier in the day to leave the Istanbul Convention, a European treaty designed to prevent violence against women. Protesters chanted feminist slogans and held up signs denouncing the government

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METHODOLOGY

This briefing analyzes the current situation of violence against women in Turkey, and provides a summary of the obligations of the State to respect, protect and fulfil women's right to be free from violence. , and gives an overview of Turkey's ongoing obligations to protect women's human rights based on a review of Turkish legislation, the recommendations by UN treaty bodies, the Council of Europe, and other relevant international organizations, as well as consultations with women's rights organizations in Turkey.

It also looks at the key failures of the state to address and eliminate violence against women in Turkey and lists the urgent measures Turkey must take to bridge the yawning gap between its words and its actions as regards preventing and ending violence against women and girls. Research for this briefing was conducted between July and December 2021. It is mainly the result of desk research, with interviews conducted online with nine experts in the field of violence against women in Turkey.

Amnesty International is grateful to all the experts who so generously shared their views and knowledge with us.

1. INTRODUCTION: ZERO TOLERANCE?

“We are with you at every moment you need, with an understanding of zero tolerance toward violence against women.

Süleyman Soyulu, Minister of Interior, Twitter, 23 March 2021¹

In the early hours of 20 March 2021, the President of Turkey² published Turkey’s decision to leave the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention) in the Official Gazette.³ Less than 10 years earlier, in 2012, Turkey had been the first country to ratify the Convention – widely recognized as establishing a gold standard in terms of state action to prevent violence against women and ensure survivors’ access to justice – and it had done so without reservations and with the unanimous support of parliament.

Turkey’s ratification of the Istanbul Convention led to positive legislative changes, most prominently the adoption in March 2012 of the Law on Protection of Family and Prevention of Violence against Women (Law No. 6284).⁴ Four separate action plans to end violence against women were introduced, the latest of which was announced on the day Turkey left the Istanbul Convention.⁵

A legal expert, Fehmiye Ceren Akçabay, shared the following views on Fourth National Action Plan with Amnesty International:

“There is no mention of gender equality. No mention of previous plans. It is as if they are speaking from a place which ignores history, including their own past actions. It is prepared as if the Istanbul Convention was never signed, GREVIO didn’t write any report, there were no other plans in that period. It’s been told stated we have Law No. 6284 at hand even if we withdrew from the Istanbul Convention but there is not much reference to this either. Violence against women is addressed purely as a technical problem. The National Action Plan has a clear subtext of preserving the family as its main aim and makes it seem as if it were fine if [violence is] avoided.”⁶

1 From a tweet shared by Süleyman Soyulu, Minister of Interior, 23 March 2021,

<https://twitter.com/suleymansoylu/status/1374267557843177475>, (accessed on 14 December 2021)

2 Turkey, Presidential Decree No. 3718, 20 March 2021, <https://www.resmigazete.gov.tr/eskiler/2021/03/20210320-49.pdf>

3 Council of Europe, Treaty Office Details of Treaty No.210, <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210?module=treaty-detail&treaty-num=210> (accessed on 26 August 2021).

4 Turkey, Law on Protection of Family and Prevention of Violence against Women No. 6284, 20 March 2012.

5 Turkey, Ministry of Family and Social Services, Fourth National Action Plan for Combatting Violence against Women 2021-2025.

6 Interview conducted by Amnesty International with Fehmiye Ceren Akçabay, 16 November 2021

Women's rights organizations have criticized the government for allowing the legislative changes to remain paper promises and failing to implement their commitments and to enforce the measures contained in Law No. 6284.⁷ As a result, despite these steps, women and girls in Turkey continue to face high levels of violence and abuse and significant barriers in accessing their rights on an equal footing with men.⁸

The Istanbul Convention expressly provides a legal framework "to protect women against all forms of violence, and prevent, prosecute and eliminate violence against women and domestic violence".⁹ Whatever the shortcomings of implementation of various initiatives to prevent violence against women and girls, Turkey's withdrawal from the Istanbul Convention is a significant backward step. The government sought to justify this harmful attack on women's rights by martalling another retrogressive narrative against LGBTI+ people and used the pretext that the Istanbul Convention had been instrumentalized "to normalize homosexuality" and claiming that this was incompatible with Turkish "social and family values".¹⁰ This claim was deployed amid increasing instances of physical violence against LGBTI+ people,¹¹ encouraged by the total impunity enjoyed by those making inflammatory discriminatory statements.¹²

The reaction to Turkey's withdrawal from the Istanbul Convention highlighted the wider implications for human rights. For example, in April, the Parliamentary Assembly of the Council of Europe passed a resolution noting "with concern that the unilateral decision by the President of Turkey to withdraw from an international treaty without any consultation with parliament or society has triggered speculative debates about possible withdrawal from other international treaties, including the European Convention on Human Rights. This could affect the country's legal stability and predictability."¹³

Meanwhile, in Turkey thousands of people took to the streets in many parts of the country to protest the decision to withdraw from the Istanbul Convention.¹⁴ Two days of action to protest against Turkey's decision were held in almost every major city in Turkey including Istanbul and Izmir on 11 May¹⁵ and 1 July¹⁶ – to coincide with the 10th anniversary of the Convention and the date Turkey's withdrawal came into effect. The protests were dispersed by police using tear gas.

In Ankara, a press statement outside of the Council of State building by the Women's Platform for Equality was prevented from going ahead by police on 24 June.¹⁷ Banners hanging from political party buildings

7 See, for example, Federation of Women Associations of Turkey (TKDF), Communication in accordance with Rule 9.2. of the Rules of the Committee of Ministers regarding the supervision of the execution of judgments and of terms of friendly settlements in the case of H46-32 Opuz group v. Turkey (Application No. 33401/02), 21 October 2020; ERA, KAOS GL, Pink Life, and SPoD, Joint submission for Pre-Sessional Working Group for the 81st session of CEDAW, July 2021, https://tbiinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCEDAW%2fCO%2fTUR%2f45137&Lang=en

8 European Commission, Turkey Report 2021, 19 October 2021, https://ec.europa.eu/neighbourhood-enlargement/turkey-report-2021_en in October 2021, page 38

9 Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), Article 1(a).

10 Turkey, Directorate of Communications, Presidency of the Republic of Turkey, Statement regarding Turkey's Withdrawal from the Istanbul Convention, 22 March 2021, <https://www.iletisim.gov.tr/english/haberler/detay/statement-regarding-turkeys-withdrawal-from-the-istanbul-convention>

11 Social Policy, Gender Identity and Sexual Orientation Studies Association, Pandemi Raporu Covid-19'un üç ayında LGBTİ+'lar, June 2020, <https://spod.org.tr/wp-content/uploads/2021/05/Pandemi-Raporu.pdf>, page 11

12 See, for example, Amnesty International, Turkey: Government must take steps to combat rising homophobia and transphobia, 13 May 2020, <https://www.amnesty.org/en/documents/eur44/2300/2020/en/>; T24, Kızılhaç Komitesi, LGBTİ'lileri hedef alan Kızılay Başkanı için "kınıyoruz" dedi; Fahrettin Altun, Kerem Kınık'a destek Verdi, 29 June 2020, <https://t24.com.tr/haber/kizilhac-komitesi-lgbti-lileri-hedef-alan-kizilay-baskani-icin-kiniyoruz-dedi-fahrettin-altun-kerem-kinik-a-destek-verdi.887503>; Kaos GL, Kronoloji: Adında insan hakları ve eşitlik olan bir kurumun LGBTİ+ hakları karşıtlığı, 15 February 2021, <https://kaosgl.org/haber/kronoloji-adinda-insan-haklari-ve-esitlik-olan-bir-kurumun-lgbti-haklari-karsitligi>; Yeşil Gazete, Onur Haftası'nın ardından LGBTİ+'lar hedefte, 30 June 2020, <https://yesilgazete.org/onur-haftasinin-ardindan-lgbtler-hedefte/>; Kaos GL, "Eşcinselliğe yönelik dini literatürün hukuki referans kullanılması laiklik ilkesi ile bağdaştırılmaz", 31 August 2021, <https://kaosgl.org/haber/escinsellige-yonelik-dini-literaturun-hukuki-referans-kullanilmasi-laiklik-ilkesi-ile-bagdashirilamaz>; Kaos GL, Adalet Bakanlığı'ndan kopyala yapıştır homofobi: "Haram olan eşcinsellik", 18 August 2021, <https://kaosgl.org/haber/adalet-bakanligi-ndan-kopyala-yapistir-homofobi-haram-olan-escinsellik>; Kaos GL, İçişleri Bakanı LGBTİ+ toplumunu hedef göstermeye devam ediyor!, 8 July 2020, <https://kaosgl.org/haber/icisleri-bakani-lgbti-toplumunu-hedef-gostermeye-devam-ediyor>

13 Parliamentary Assembly of the Council of Europe, Resolution 2376, <https://pace.coe.int/en/files/29189/html>. PACE requested that the Venice Commission produce a study on ratification and withdrawal from Council of Europe conventions, expected in December 2021.

14 Scores of protests were organized in at least 35 provinces between 20 March and 1 July.

15 Human Rights Foundation of Turkey Documentation Center, Günlük İnsan Hakları Raporu, 12 May 2021, <https://tihv.org.tr/gunluk-ih-raporlari/12-mayis-2021-gunluk-insan-haklari-raporu/>

16 Human Rights Foundation of Turkey Documentation Center, Günlük İnsan Hakları Raporu, 2 July 2021, <https://tihv.org.tr/gunluk-ih-raporlari/2-temmuz-2021-gunluk-insan-haklari-raporu/>

17 Human Rights Foundation of Turkey Documentation Center, Günlük İnsan Hakları Raporu, 25 June 2021, <https://tihv.org.tr/gunluk-ih-raporlari/25-haziran-2021-gunluk-insan-haklari-raporu/>

promoting the Istanbul Convention were taken down by police on the orders of provincial and district governors in Artvin and its Hopa district,¹⁸ Edirne, the Sultangazi district of Istanbul¹⁹, Van²⁰ and Adana.²¹



☺↑ A woman holding a placard which reads “We do not give up from our rights and lives” at Kadıköy district of Istanbul Turkey on 20 March 2021. ©Amnesty International Turkey

A number of people detained during the protests or for their social media posts reportedly faced criminal investigations and prosecutions. Scores of assemblies organized by women’s rights organizations were subjected to arbitrary restrictions and excessive use of force by police. Participants were detained and some alleged they were ill-treated and threatened with rape. While these repressive measures were not unique to this issue, they are nonetheless indicative of the state’s attitude towards women seeking to defend their rights and of how the decision to leave the Convention and other actions by the Turkish Government pose serious concerns for a range of human rights including the rights to freedom of assembly, expression and the right to be free from torture and other ill-treatment.

As Selime Büyükgöze, a feminist activist described to Amnesty International:

“Now it's normal to see lots of police when a protest is to take place. It has become so normalized that most of the time we forget that this is a problem.”²²

Another woman human rights defender, Şehnaz Kıymaz Bahçeci told Amnesty International that:

“The right to protest is a right that is gradually being eroded in Turkey. This does not take away from the enthusiasm of women, but it takes away a lot from the visibility of the women's movement. It also

18 Human Rights Foundation of Turkey Documentation Center, Günlük İnsan Hakları Raporu, 9 April 2021, <https://tihv.org.tr/gunluk-ih-raporlari/9-nisan-2021-gunluk-insan-haklari-raporu/>

19 Human Rights Foundation of Turkey Documentation Center, Günlük İnsan Hakları Raporu, 19 April 2021, <https://tihv.org.tr/gunluk-ih-raporlari/17-19-nisan-2021-gunluk-insan-haklari-raporu/>

20 Human Rights Foundation of Turkey Documentation Center, Günlük İnsan Hakları Raporu, 30 June 2021, <https://tihv.org.tr/gunluk-ih-raporlari/30-haziran-2021-gunluk-insan-haklari-raporu/>. For the images of the removed billboards, see Van Kadın Platformu, Twitter post, 29 June 2021, https://twitter.com/platformu_van/status/1409924375395155980?s=20

“Bugün Van Valisi kararı ile bilboardlarımız söküldü. #ÖdünüzKopuyor kadınlardan, kadınların örgütlenmesinden.”

21 Human Rights Foundation of Turkey Documentation Center, Günlük İnsan Hakları Raporu, 21 April 2021, <https://tihv.org.tr/gunluk-ih-raporlari/21-nisan-2021-gunluk-insan-haklari-raporu/>

22 Interview conducted by Amnesty International with Selime Büyükgöze, 15 November 2021

exposes women's human rights activists to violence. In various marches many of our friends were injured and detained by police.”²³

Many experts asserted that the decision announcing Turkey's withdrawal from the Istanbul Convention was unconstitutional.²⁴ More than 200 women's rights organizations, various bar associations and professional organizations as well as opposition parties challenged the decision before the Council of State, the highest administrative court in Turkey, on the grounds that the decision will cause irreparable harm. However, on 28 June, the Council of State refused a request for an interim measure to suspend the execution of the decree, pending a final decision.²⁵

And on 1 July 2021, when the three-month notification period expired,²⁶ Turkey became the only Council of Europe member ever to withdraw from a human rights treaty.

23 Interview conducted by Amnesty International with Şehnaz Kıymaz Bahçeci, 17 November 2021

24 Başak Çalı, Withdrawal from the Istanbul Convention by Turkey: A Testing Problem for the Council of Europe, 22 March 2021, EJIL: Talk!, <https://www.ejiltalk.org/withdrawal-from-the-istanbul-convention-by-turkey-a-testing-problem-for-the-council-of-europe/>

25 Danıştay, 10. Daire, Esas No: 2021/1747, 28 June 2021.

26 Istanbul Convention, Article 80.

2. VIOLENCE AGAINST WOMEN IN TURKEY

“The government says that no matter if Turkey is a party to the Istanbul Convention, they are against violence against women. They say that they are going to take every precaution to prevent it and implement an effective policy regardless of whether there are contractual obligations following from the Convention or not. So the first question is, if the entire content of the treaty is to be fulfilled, why would they be troubled with the Convention?”²⁷

Prof. Dr. Feride Acar, An Expert on Violence Against Women, 22 November 2021

The situation of women and girls in Turkey contrasts starkly with the promises contained in the laws and programmes ostensibly designed to promote their human rights. For example, according to the World Economic Forum, Turkey ranks 133th out of 156 countries that were assessed for women’s economic participation, 118th for girls’ enrolment in primary education and 114th for women’s political empowerment.²⁸ The most acute manifestation of discrimination based on gender is seen in the level of violence against women and girls in Turkey.

According to the Minister of Family and Social Services, 336 women were killed in 2019 as a result of gender-based violence; 267 were killed in 2020; and 95 in the first four months of 2021.²⁹ Other organizations believe the true figures to be higher. For example, according to Bianet’s “men’s violence tally”, which is based on media reports of violence against women, between January and December 2021 men killed at least 290 women and 30 children.³⁰ These numbers represent only the tip of the iceberg as many incidents of violence against women and children are not reported in the media.

27 Interview conducted by Amnesty International Turkey with Prof. Dr Feride Acar, 22 November 2021

28 World Economic Forum, Global Gender Gap Report 2021, 31 March 2021, <https://www.weforum.org/reports/global-gender-gap-report-2021/in-full/economy-profiles#economy-profiles> (accessed on 5 November 2021)

29 From the presentation the Minister Derya Yanık gave at the 3rd meeting of the Parliamentary Commission to investigate the causes of and solutions to violence against women on 20 May 2021. The transcript of the meeting is available at https://www.tbmm.gov.tr/develop/owa/komisyon_tutanaklari.goruntule?pTutanakId=2727 (accessible in Turkey), page 10

30 Bianet, Erkek Şiddeti Çetelesi <https://bianet.org/kadin/bianet/133354-bianet-siddet-taciz-tecavuz-cetelesi-tutuyor> (accessed on 7 December 2021). Numbers concern only cases where the perpetrator is confirmed as male and do not include suspicious deaths.

Women's NGOs in Turkey report that, in addition to recorded femicides, there is a large number of suspicious deaths and suicides of women and girls. For example, the Human Rights Association reports that there were 178 incidents of suspicious deaths and 41 suspicious suicides or attempted suicides in addition to the 316 femicides it recorded in 2020.³¹ NGOs report that the authorities are unwilling to carry out thorough investigations despite valid suspicions that these deaths may have been killings disguised to appear as accidents or suicides.³²

Another expression of this discrimination is high level of child, early and forced marriages, including many among the refugee populations living in Turkey.

Detailed information on the scale and nature of violence against women is crucial in order to devise effective strategies to prevent and address the violence different groups of women face. However, detailed, disaggregated data is not collected or made public in Turkey.³³ Furthermore, the last government commissioned research on violence against women in Turkey was conducted in 2014 and focused solely on domestic violence.³⁴ There is an urgent need to update the knowledge base in this area through comprehensive and ongoing research, including the collection of disaggregated statistical data, to be able to devise evidence-based policies and programmes.

While the subordinate and unequal status of women within society exposes all women in Turkey to risk of violence, certain groups find themselves with less access to protection and support when they experience violence due to multiple and intersecting layers of discrimination. Women in rural areas, Kurdish women, Roma women, women sex workers, women with disabilities, those with an irregular migration status as well as refugees and asylum seekers and lesbian and transgender women face compounded difficulties in accessing education, employment, social services, health care, assistance from the police and judicial services and legal aid, which increases their exposure to violence and impunity for their attackers.³⁵

The inadequate state response to these violations further exacerbates the distress and suffering of survivors of violence against women and girls. Large-scale dismissals from the public sector following an attempted coup in July 2016 further restricted the already limited capacity on the ground to protect and support women facing violence.³⁶ During the two-year state of emergency which followed the attempted coup, emergency decrees led to the closure of hundreds of civil society organizations, including at least 10 women's rights organizations.³⁷ The government imposed restrictions on freedom of assembly and association so that those women's rights organizations and NGOs that managed to evade closure faced major obstacles in assisting women. Most recently, the authorities' failure to respond adequately to the rise in domestic violence that accompanied restrictions to curb the spread of COVID-19 pandemic has further exacerbated these problems.³⁸

31 Human Rights Association, 2020 Yılı Kadın Raporu (2020 Women's Report), page 26.

32 interviews conducted by Amnesty International with Women's Human Rights – New Ways (WWHR-New Ways) online on 25 August 2021.

33 Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) Baseline Evaluation Report, Turkey, 15 October 2018, <https://rm.coe.int/eng-grevio-report-turquie/16808e5283>, page 33.

34 Family and Social Policies Ministry and Hacettepe University, 'Research on Domestic Violence against Women in Turkey, 2015, <http://www.openaccess.hacettepe.edu.tr:8080/xmlui/handle/11655/23338>

35 See, for example, Maat for Peace, Development and Human Rights; Submission for the Pre-Sessional Working Group for the 81st session of CEDAW, June 2021,

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCEDAW%2fICO%2fTUR%2f45064&Lang=en; Peace and Justice, Submission for the Pre-Sessional Working Group for the 81st session of CEDAW, June 2021,

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCEDAW%2fICO%2fTUR%2f45065&Lang=en; background papers to UN Women webinar series titled 'A thousand ways to solve our problems: Preventing and responding to violence against women from an intersectional perspective in the Western Balkans and Turkey', 15 October 2020,

<https://eca.unwomen.org/en/news/events/2020/9/series-of-webinars-a-thousand-ways-to-solve-our-problems>. The series included four webinars held between October 2020 and April 2021 on intersectional solutions to end violence against Roma women and girls; against migrant women and girls; women and girls with disabilities and women and girls in rural areas. Also see, for example, Kırmızı Şemsiye Derneği, 'Adaletin Adaletsizliği: Seks İşçilerine Yönelik Devlet Temelli ve Devlet Dışı Şiddet ile Güvenlik ve Çözüm Arayışı, May 2015, <http://kirmizisemsiye.org/wp-content/uploads/2021/07/Adaletin-Adaletsizligi.pdf>; Engelli Kadın Derneği, 'Türkiye'de Engelli Kadına Yönelik Şiddet Raporu 2013-2014, <http://engellikadin.org.tr/wp-content/uploads/2021/03/TURKIYEDE-ENGELLI-KADINA-YONEL-I-CC%87K-S-CC%A7I-CC%87DDET-RAPORU-2013-2014.pdf>; Engelli Kadın Derneği, 'Covid-19 Pandemi Sürecinde Engelli Kadınların İnsan Hakları: İzleme Raporu', 2021, <http://engellikadin.org.tr/wp-content/uploads/2021/03/ENGKAD-COVID-19-IZLEME.pdf>

36 Almost 130,000 public sector workers, including teachers, academics, doctors, police officers, media workers employed by the state broadcaster, members of the armed forces, as well as people working at all levels of local and central government. See, for example, Amnesty International, *Purged Beyond Return? No remedy for Turkey's dismissed public sector workers, 24 October 2018*, (Index: EUR 44/9210/2018), <https://www.amnesty.org/en/documents/eur44/9210/2018/en/>

37 Bianet newsletter, <https://m.bianet.org/bianet/toplumsal-cinsiyet/180798-kadin-dernekleri-kapatildi-hangi-calismalar-yarida-kaldi> (accessed on 5 November 2021); Ekmek ve gül, OHAL kalkıyor peki arkasında neler bıraktı?, 19 July 2018,

<https://ekmekvegul.net/gundem/ohal-kalkiyor-pek-arkasinda-neler-birakti>

38 Deutsche Welle Türkiye, Korona günleri artan şiddete acil önlem gerektiriyor, 5 April 2020, <https://www.dw.com/tr/korona-g%C3%BCnleri-artan-%C5%9Fiddete-acil-%C3%B6nlem-gerektiriyor/a-53023681>

As Şehnaz Kıymaz Bahçeci, an expert on violence against women described to Amnesty International:

“On top of everything, the pandemic has struck the biggest blow. The rise in domestic violence against both women and children during the pandemic has been documented by the UN. We also know this from the reports of women's rights organizations in Turkey. But on the other hand, the number of places for women to seek safety have decreased due to restrictions. We have not recovered yet from the effects of the pandemic.”³⁹

All this is occurring against a backdrop of the promotion of harmful gender stereotypes by politicians who frequently resort to discriminatory narratives. The same misogynistic views that fuel violence against women and girls are also frequently reflected in the law enforcement and judicial response to women seeking protection and justice in Turkey.

In short, the actions and omissions of the state are in effect protecting the perpetrators of violence against women rather than the victims and survivors of that violence. The decision to withdraw from the Istanbul Convention constitutes a significant and stark manifestation of this. It is important to stress, however, that Turkey's obligations do not end with the withdrawal from the Istanbul Convention.

³⁹ Interview conducted by Amnesty International with Şehnaz Kıymaz Bahçeci, 17 November 2021

3. WOMEN'S RIGHT TO A LIFE FREE FROM VIOLENCE IN LAW

“The withdrawal from the Istanbul Convention gave an extremely negative message. Both to those in Turkey and elsewhere”.⁴⁰

Prof. Dr. Feride Acar, An Expert on Violence Against Women, 22 November 2021

While Turkey's withdrawal from the Istanbul Convention is certainly regrettable, women's human rights, including the rights to life and to life free from violence, are guaranteed in other binding treaties and indeed in national law and the Constitution.

Turkey has an obligation to respect, protect and fulfil the human rights of women. This includes upholding women's right to a life free from violence, as well as to remedy their subordinate and unequal status in society. It also encompasses addressing the current context of discrimination and harmful stereotypes about women that underlie gender-based violence and impact the responses of police and judicial officials to women who try to access protection and justice, further entrenching impunity for these crimes.

The following highlights some of the key national and international legal instruments that guarantee women's human rights in Turkey and that the authorities should be upholding.

3.1 THE TURKISH CONSTITUTION

Article 10 of the Turkish Constitution reaffirms that “men and women have equal rights” and that the state “has the obligation to ensure that this equality exists in practice”. It further states that: “Measures taken for this purpose shall not be interpreted as contrary to the principle of equality”.⁴¹

Article 17 protects everyone's right to life, prohibits torture, inhuman or degrading treatment and punishment,⁴² while Article 19 protects the right to liberty and security.⁴³

⁴⁰ Interview conducted by Amnesty International with Prof. Dr Feride Acar, 22 November 2021

⁴¹ Article 10 of the Constitution of the Republic of Turkey, [Last amendment on January 21, 2017; Act No. 6771].

⁴² Article 17 of the Constitution of the Republic of Turkey, [Last amendment on January 21, 2017; Act No. 6771].

⁴³ Article 10 of the Constitution of the Republic of Turkey, [Last amendment on January 21, 2017; Act No. 6771].

Article 41 states that: “Family is the foundation of Turkish society and is based on equality between the spouses”. It also establishes the principle of the best interest of the child and the state’s obligation to protect children from all kinds of abuse and violence.⁴⁴

3.2 INTERNATIONAL HUMAN RIGHTS LAWS AND STANDARDS

The International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), both of which Turkey ratified in 2003, prohibit discrimination based on sex and oblige states parties to ensure men’s and women’s equal rights to the enjoyment of all rights contained in them.⁴⁵

The Human Rights Committee, which monitors states’ compliance with the ICCPR, highlighted in March 2000 how certain practices which fail to protect women from violence would violate the Covenant. These include, for example, lack of access to safe abortion and honour killings (Article 6 right to life); domestic violence (Article 7 prohibition of torture); and allowing women’s private life to influence the outcomes of rape trials (Article 17 right to privacy).⁴⁶

Turkey acceded to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the first legally binding international instrument that comprehensively protects women’s rights, in 1985.

CEDAW prohibits both discriminatory treatment and outcomes, as well as unintended discrimination.⁴⁷ It defines discrimination against women as:

“Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field”.⁴⁸

Despite lacking an explicit provision on violence against women, the CEDAW Committee established that the Convention covers violence against women through this substantive approach to equality.⁴⁹ In 1992, CEDAW General Recommendation No. 19 clarified that: “Gender-based violence is a form of discrimination that seriously inhibits women’s ability to enjoy rights and freedoms on a basis of equality with men.”⁵⁰ In 2017, the Committee affirmed that prohibition of violence against women has become customary international law binding on all states regardless of their ratification of related treaties.⁵¹

In a number of cases concerning domestic violence, for example, the CEDAW Committee clarified that these obligations require states to pursue a “policy of eliminating discrimination against women” (Article 2) and to “modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women” (Article 5(a)).⁵²

In 2017, the CEDAW Committee further clarified that state obligations under the Convention include the duty of the state to exercise due diligence in responding to violence against women. According to the due diligence obligation, states have a duty to “adopt and implement diverse measures to tackle gender-based violence against women committed by non-State actors, including having laws, institutions and a system in

44 Article 41 of the Constitution of the Republic of Turkey, [Last amendment on May 7, 2010; Act No. 5982].

45 International Covenant on Civil and Political Rights (ICCPR) Article 2 and International Covenant on Economic, Social and Cultural Rights (ICESCR) Article 3.

46 UN Human Rights Committee (HRC), CCPR General Comment No. 28: Article 3 (The Equality of Rights Between Men and Women), 29 March 2000, CCPR/C/21/Rev.1/Add.10.

47 Dianne Otto, ‘Women’s Rights’ in Daniel Moeckli and others (eds), *International Human Rights Law* (Oxford University Press 2017) 315.

48 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Article 1.

49 UN Committee for the Elimination of All Forms of Discrimination against Women (CEDAW) General Recommendation 12: Violence against women, 1989, UN Doc A/44/38, para 75 and CEDAW General Recommendation 19: Violence against women, 1 February 1992, UN Doc. A/47/38(SUPP).

50 CEDAW, General Recommendation 19 (previously cited), para 1.

51 CEDAW, General Recommendation 35: Gender-based violence against women, updating general recommendation No. 19, 14 July 2017, UN Doc. CEDAW/C/GC/35, para

52 See, for example, CEDAW, *Goekce v Austria*, 5/2005 (6 August 2007); CEDAW, *Yildirim v Austria*, 6/2005 (6 August 2007); and CEDAW, *A.T. v Hungary*, CEDAW 2/2003 (26 January 2005).

place to address such violence and ensuring that they function effectively in practice and are supported by all State agents and bodies who diligently enforce the laws”.⁵³

Turkey is also a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which entails an obligation to ensure due diligence in protecting women from violence.⁵⁴ The Committee against Torture as well as the UN Special Rapporteur on torture⁵⁵ have both argued for the inclusion of violence against women into the anti-torture framework. In its General Comment No. 3, the Committee against Torture further advised states to ensure their complaints mechanisms and investigations include “specific positive measures, which take into account gender aspects in order to ensure that victims of abuses such as sexual violence and abuse, rape, marital rape, domestic violence, female genital mutilation and trafficking are able to come forward and seek and obtain redress”.⁵⁶

3.3 REGIONAL HUMAN RIGHTS LAWS AND STANDARDS

In 1954, Turkey became a High Contracting party to the European Convention on Human Rights (“the Convention”). Article 2 of the Convention protects everyone’s right to life and its Article 3 the right to freedom from torture and other inhuman or degrading treatment or punishment.⁵⁷ The European Court of Human Rights (“the Court”) has frequently ruled on states’ positive obligations under these articles to protect those within their jurisdiction from violence against women and domestic violence and adequately investigate such crimes.⁵⁸

For example, in *Talpis v. Italy*, the Court found a violation of Article 2 due to the authorities’ failure to protect the Applicant and her son from murder and attempted murder, respectively, by the husband/father. By failing to act promptly following a complaint against the man brought to them by the Applicant, the Italian authorities “deprived the complaint of any effectiveness, creating a situation of impunity conducive to the recurrence of A.T.’s acts of violence against his wife and family.”⁵⁹ In its judgment, the Court reiterated that “the obligation on the High Contracting Parties under Article 1 of the Convention to secure to everyone within their jurisdiction the rights and freedoms defined in the Convention, taken together with Article 3, requires States to take measures designed to ensure that individuals within their jurisdiction are not subjected to torture or inhuman or degrading treatment or punishment, even administered by private individuals”.⁶⁰ The Court established that the Applicant and her children “had been living in a climate of violence”, which amounted to ill-treatment, and found a violation of Article 3 as well, on account of the Italian authorities’ failure to provide the Applicant with protection.⁶¹

Further, in cases such as, for example *Opuz v. Turkey* and *Durmaz v. Turkey*, the Court observed that “domestic violence affected mainly women and that *the general and discriminatory judicial passivity in Turkey* created a climate that was conducive to domestic violence [Emphasis added].”, finding violations of the country’s positive obligations under Articles 2 in both cases, as well as Articles 3 and 14 (read in conjunction with 2 and 3) in *Opuz*.⁶²

Selime Büyükgöze, a feminist activist, told Amnesty International that:

“There is a huge gap between laws and practice, and this gap is getting deeper day by day. Also, there is an entrenched problem of impunity. It is not new for Turkey. When we look at the *Opuz v. Turkey* case, which has established a precedent in cases of violence against women, Turkey was convicted again due to this policy. Impunity for violence against women has become the norm. You are not punished for beating or trying to kill someone.”⁶³

53 CEDAW, General Recommendation 35 (previously cited) para 24.

54 UN Committee Against Torture, (CAT), General Comment2: Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: Implementation of Article 2 by States Parties, 24 January 2008 UN Doc CAT/C/GC/2 para 18.

55 UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Report, 5 January 2016, UN Doc. A/HRC/31/57.

56 UN Committee Against Torture, (CAT), General Comment 3: Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: implementation of article 14 by States parties, 13 December 2012, UN Doc. CAT/C/GC/3, para 33.

57 European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), Articles 2 and 3.

58 See, for instance, European Court of Human Rights (ECtHR), *Opuz v. Turkey*, Application 33401/02, 9 September 2009; *R.R. and Others v. Hungary*, Application 19400/11, 29 April 2013; ECtHR *Makuchyan and Minasyan v. Azerbaijan and Hungary*, Application 17247/13, 12 October 2020; *Talpis v. Italy*, Application 41237/14, 18 September 2017.

59 ECtHR, *Talpis v. Italy*, Application 41237/14, 18 September 2017, para. 117.

60 ECtHR, *Talpis v. Italy*, para. 102.

61 ECtHR, *Talpis v. Italy*, paras 126-131.

62 ECtHR, *Opuz v. Turkey*, para. 198; ECtHR, *Durmaz v. Turkey*, Application 3621/07, 13 February 2015.

63 Interview conducted by Amnesty International with Selime Büyükgöze, 15 November 2021

4. PAPER PROMISES - PREVAILING GAPS

“Until the day comes when not a single woman is subjected to violence, we are going to carry on this struggle in cooperation with institutions, non-governmental organizations, media and all segments of society .”

Recep Tayyip Erdoğan, President, Ankara, 2 March 2021. ⁶⁴

A lack of political will to realize gender equality is one of the main barriers to ending violence against women in Turkey. The government has repeatedly made verbal commitments to protecting women from gender-based violence, but then taken actions that belie their words, such as withdrawing from the Istanbul Convention. Nevertheless, the Turkish authorities have undertaken obligations towards the women and girls and passed laws to realize those obligations. This chapter looks at the gaps between those obligations and what happens in practice.

4.1 WOMEN’S RIGHT TO PROTECTION FROM VIOLENCE

“There is a disbelief like if I go [to the authorities], will my voice be heard and the process reach to a conclusion?”

Rümeysa Çamdereli, A Feminist activist, 15 November 2021 ⁶⁵

⁶⁴ President Erdogan, Speech at the introductory meeting of the Human Rights Action Plan in Ankara, 2 March 2021; <https://www.indyturk.com/node/323981/haber/cumhurbas%C5%9Fkan%C4%B1-erdo%C4%9Fan-%CC%87nsan-haklar%C4%B1-eylem-plan%C4%B1n%C4%B1-a%C3%A7%C4%B1klad%C4%B1-9-ama%C3%A7-50-hedef-ve-393>

⁶⁵ Interview conducted by Amnesty International with Rümeysa Çamdereli, 15 November 2021



©↑ Demonstrators holding a banner which reads “We do not give up from Istanbul Convention, It’s not over for us” at Beyoğlu district of Istanbul, Turkey on July 1st, 2021. ©Kurtuluş Arı

CHILD, EARLY AND FORCED MARRIAGE

Child marriage is a human rights violation both because of the sexual, physical, emotional, and economical abuse the practice inflicts on children and also because it serves as an obstacle to gender equality and the empowerment of women and girls, depriving girls of their right to education and of opportunities for social and economic independence.

Under the Turkish Civil Code, 17-year-olds can get married with the permission of their parents or guardians, and judges can authorize the marriage of 16-year-olds in exceptional circumstances.⁶⁶ However, the UN Population Fund (UNFPA) reports that around 15% of women aged 20 to 24 in Turkey were married before the age of 18.⁶⁷ A 2014 study commissioned by the Turkish government showed that more than 26% of women reported having been married before the age of 18 and almost 20% of those who were married as a child reported that they were compelled to do so and had not consented.⁶⁸

The difficulties and uncertainties caused by war and other crises dramatically increase the number of child marriages. For example, the prevalence of child marriages among Syrian refugees seeking protection in Turkey is thought to be well above the national average in Turkey.⁶⁹ NGOs assisting refugees report that many families feel compelled to marry off girls at a young age because they believe this might be a way to protect them from sexual harassment or violence, or to reduce their household expenses.⁷⁰

66 Turkey, Civil Code No. 4721, 22 November 2001, Articles 124 and 126.

67 This includes both official marriages as well as religious ones that are not officially registered. UNFPA, State of World Population 2021: My Body is My Own, https://www.unfpa.org/sites/default/files/pub-pdf/SoWP2021_Report_-_EN_web.3.21_0.pdf, page 140

68 Family and Social Policies Ministry and Hacettepe University, ‘Research on Domestic Violence against Women in Turkey, 2015, , <http://www.openaccess.hacettepe.edu.tr:8080/xmlui/handle/11655/23338> page 14.

69 United Nations Population Fund (UNFPA) Türkiye, Çocuk yaşta yapılan evlilikler, hamileliklerin gizli kalmasına neden oluyor. 26 July 2018, <https://turkey.unfpa.org/tr/news/%C3%A7ocuk-ya%C5%9Fta-yap%C4%B1lan-evlilikler-hamileliklerin-gizli-kalmas%C4%B1na-neden-oluyor>; Duvar, Pandemiye çocuk evlilikleri: Mülteci kız çocukları risk altında, 7 July 2021, <https://www.gazeteduvar.com.tr/pandemide-cocuk-evlilikleri-egitimden-uzak-kalan-multeci-kiz-cocuklari-risk-altinda-haber-1527775>

70 Red Umbrella Sexual Health and Human Rights Association. “Syrians Under “Temporary Protection” in Turkey and Sex Work”, 2017, <https://www.sexworkeurope.org/sites/default/files/userfiles/files/syrians%20under%20temporary.pdf>; See also, Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) Baseline Evaluation Report, Turkey, 15 October 2018, <https://rm.coe.int/eng-grevio-report-turquie/16808e5283>, para 239.

In addition, in 2015, religious marriages not accompanied by an official marriage were decriminalized.⁷¹ This risked exacerbating the problem of child marriage as research carried out in 2014 found that 62.7% of underage marriages were religious marriages.⁷²

The government's insistence on bringing to Parliament various proposals to delay or even withdraw sanctions entirely if the perpetrator marries the child victim of sexual abuse demonstrates not only an unwillingness to firmly combat this human rights issue, but actually actively proposing policies and laws that are harmful to children.⁷³ Although the Fourth National Action Plan lists a number of educational and awareness raising activities, including information on the negative impacts of early marriages, these do not include any reference to health care personnel, despite the fact they can play an important role in identifying child marriages when girls seek and receive pregnancy care.⁷⁴

Furthermore, the 4+4+4 compulsory education system, introduced in 2012, allows children to receive home schooling after the first four years of primary education. NGOs in Turkey have observed that many girls drop out of school after the first four years and are at risk of unofficial religious marriages.⁷⁵

In addition, there is currently no provision for sexuality education in the national curriculum.⁷⁶

EMERGENCY PREVENTION AND PROTECTION MEASURES

“The protection order itself is very valuable. It is one of the most important things that the Law No. 6284 and the Istanbul Convention brought to us. [The protection] order can be issued on the basis of [the women’s] statement. However, data comes from the colleagues working in the field that the controversy around the Istanbul Convention have negatively affected this as well. This represents a huge danger [for women].” 77

Rümeysa Çamdereli, A Feminist activist, 15 November 2021

Law enforcement agencies, which in Turkey include the police in cities and the gendarmerie in rural areas, are responsible for responding to reports of violence. They are also authorized to issue several protection and preventive measures in situations involving imminent danger regarding violence against women and domestic violence cases.

71 Removal of Article 230(5) from the Criminal Code of Turkey through a decision by the Constitutional Court (Decision E: 2014/36, K: 2015/51 of 27 May 2015)

72 Family and Social Policies Ministry and Hacettepe University, ‘Research on Domestic Violence against Women in Turkey, 2015, <http://www.openaccess.hacettepe.edu.tr:8080/xmlui/handle/11655/23338> page 14.

73 These proposals concerned amending Article 103 of the Criminal Code of Turkey on sexual abuse of children.

74 Several activities are listed under goal 4, Ministry of Family and Social Services, Fourth National Action Plan for Combatting Violence against Women 2021-2025.

75 Istanbul Convention Monitoring Platform, Shadow NGO Report on Turkey’s First Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence for submission to the GREVIO Committee, September 2017, <https://rm.coe.int/turkey-shadow-report-2/16807441a1>, page 46.

76 UNFPA, Country Programme document for Turkey, 30 June 2015, <https://www.unfpa.org/sites/default/files/portal-document/Turkey%20CPD%20-%200DS.pdf> para 7.

77 Interview conducted by Amnesty International with Rümeysa Çamdereli, 15 November 2021



©↑ A woman holding a placard which reads “Women’s fight will win” at the International Day for the Elimination of Violence against Women, Istanbul, Turkey on 25 November 2021. ©Kurtuluş Arı

However, despite numerous trainings and guidelines, the view that violence against women is a private matter remains prevalent among law enforcement officers, leading to interventions being delayed, signs of domestic violence being ignored and claims being dismissed. Victims are often discouraged from reporting offences and investigations into reports of violence against women are often less than diligent.⁷⁸ These attitudes partially explain why many women in Turkey who face violence decide not to report it to law enforcement agencies.⁷⁹

Preventive or restraining orders can be issued to perpetrators of violence against women and domestic violence under the Law on Protection of Family and Prevention of Violence against Women. These cover a wide range of prevention measures including: orders banning perpetrators from making threats and insults against the victim; restraining orders; bans on contact, including with relatives, friends or children of the victim; orders to quit the communal home; changes in the modalities of previous decisions on personal contact with children; orders to hand over firearms; orders not to damage the victim’s belongings; orders not to cause distress to the victim through various means of communication; a ban on consuming alcohol, drugs or other stimulants; and orders to undertake treatment in cases of addiction.⁸⁰

These preventive orders are normally issued by the courts but in some case of imminent danger law enforcement chiefs and administrative chiefs can also issue some of them. Additionally, judges can order interim maintenance payments unless a maintenance is already set.⁸¹

Protection orders in relation to the victim include placing her and her children in a shelter/suitable place; enabling a change of workplace; providing financial aid and psychological and legal counselling; and temporary protection orders, which involve 24-hour protection by law enforcement agencies, or a change of identity in cases of life-threatening situations. Some of these are issued by administrative chiefs, while others

78 Women for Women’s Human Rights-New Ways Association (WWHR), Mor Çatı Women’s Shelter Foundation and Association for Support of Women Candidates (Ka.Der), Joint Press Statement, June 2021, <https://kadinininsanhaklari.org/wp-content/uploads/2021/06/press-statement-24.06.2021-ingBS.pdf>

79 The 2014 research showed that only 8% of women who faced domestic violence decided to report it to the police or gendarmerie.

80 Turkey, Law on Protection of Family and Prevention of Violence against Women No. 6284, 20 March 2012, Article 5(1).

81 Law No. 6284, 20 March 2012, Article 5(4).

require a court decision.⁸² Law enforcement chiefs can also order victims to be placed in a shelter/suitable place or temporary protection.⁸³ No evidence is required for protection orders to be issued.⁸⁴

According to the Minister of Family and Social Services, Derya Yanık, 83,047 protection orders for victims and 289,389 preventive orders against perpetrators were issued during 2020 under Law No. 6284.⁸⁵ Of these 7,293 protection and 244,985 preventive orders were issued by the courts.⁸⁶ While recent, public, scientific and systematic statistics on the numbers of specific measures, including their duration and numbers of renewals are not available, a presentation by the Minister of Justice indicates that the vast majority of the preventive orders concerned light sanctions such as prohibiting the perpetrator from threatening or insulting the victim (Article 5/1/a) or from causing distress to the victim through various means of communication (Article 5/1/f).⁸⁷

Women's rights organizations indicate that in practice, protection and preventive measures are ordered for only short periods of time, undermining their potential effectiveness. Additionally, there are serious delays in notifying perpetrators of preventive orders, further shortening the period they are in effect which leads to ineffective implementation of the decisions.⁸⁸ Contrary to the legislation, the authorities reportedly request evidence to renew protection orders. Violations of preventive orders by perpetrators are punishable by between three and 10 days' preventative detention for the first breach and 15 to 30 days' detention for repeated violations.⁸⁹ Although women's NGOs report that perpetrators frequently breach preventive orders, in only 4,820 such breaches resulted in the perpetrators being detained in 2020.⁹⁰

As Prof. Dr. Feride Acar, an expert in violence against women, told Amnesty International:

“A protection order might be issued but then it is not implemented so that the perpetrator is able to harass the victim again or leading to worse consequences. This means that the system has already failed. Therefore, protection orders must be issued appropriately and carefully and be implemented without failure. For this, law enforcement and judicial officials must thoroughly understand this issue and act in a way that they take it as their duty.”⁹¹

The gaps in the system of protection and preventive orders are most shockingly exposed by the fact that women are being killed despite being the subjects of such orders. According to the Minister of Family and Social Services, of the 336 officially recognized murders of women by men in 2019, 22 were the subject of a preventive or protection order. This was the case for 32 of the 267 victims of femicide in 2020.⁹²

Finally, confidentiality orders can be issued by a judge, when issuing protection or preventive orders, to withhold the addresses of women and their children in all government records. However, NGOs have raised concerns that confidentiality orders are not always communicated to all relevant government units.⁹³ For example, there have been instances where perpetrators have found the location of women at risk through online medical appointment records or children's school registrations.⁹⁴

Another concern over the effectiveness of prevention and protective measures under Law No. 6284 relates to the application of custody and visiting rights. Turkish law grants the custody of children to both the mother and father throughout the marriage. Custody may be granted to one of the parents by the decision of a judge in cases of divorce or separation.⁹⁵ The parent without custody or whose child is otherwise taken away has a

82 Law No. 6284, 20 March 2012, Articles 3 and 4.

83 Law No. 6284, 20 March 2012, Article 3(1)a and ç.

84 Law No. 6284, 20 March 2012, Article 8(3).

85 3rd meeting of the Parliamentary Commission to investigate the causes of and solutions to violence against women, presentation by Minister Derya Yanık, 20 May 2021. The transcript of the meeting is available at <

https://www.tbmm.gov.tr/develop/owa/komisyon_tutanaklari.goruntule?pTutanakId=2727> (accessible in Turkey), page 13

86 8th meeting of the Parliamentary Commission to investigate the causes of and solutions to violence against women, presentation by Minister Abdulhamit Gül, on 8 June 2021. The transcript of the meeting is available at <

https://www.tbmm.gov.tr/develop/owa/komisyon_tutanaklari.goruntule?pTutanakId=2756> (accessible in Turkey) page 15

87 8th meeting of the Parliamentary Commission, presentation by Minister Abdulhamit Gül . (pages 15 and 16)

88 Istanbul Convention Monitoring Platform, Shadow NGO Report , page 56.

89 Article 13.

90 8th meeting of the Parliamentary Commission, presentation by Minister Abdulhamit Gül page 16. Also see Communication from an NGO (Mor Çati Women's Shelter Foundation) (23/10/2020) concerning the case of Opuz v. Turkey (Application No. 33401/02), 2 November 2020, <https://rm.coe.int/0900001680a033e8>

91 Interview conducted by Amnesty International with Prof. Dr Feride Acar, 22 November 2021

92 3rd meeting of the Parliamentary Commission, presentation by Minister Derya Yanık (page 10)

93 Communication from an NGO (Mor Çati Women's Shelter Foundation), 2 November 2020, page 11 and Istanbul Convention Monitoring Platform, Shadow NGO Report on Turkey's First Report on legislative and other measures giving effect to the provisions of the Istanbul Convention for submission to the GREVIO Committee, September 2017, page 56.

94 GREVIO (Baseline) Evaluation Report, Turkey, para 290, Page 12.

95 Turkey, Civil Code, Article 336.

right to request “personal contact” with the child (visiting rights).⁹⁶ However, in certain cases this right can be suspended or declined. These circumstances include if the personal contact is threatening the well-being of the child, hindering their upbringing, if there is serious neglect, or if the personal contact is being used to harm the personal relationship of the child with the other parent.⁹⁷ Law No. 6284 lists measures concerning personal contact among the preventive measures,⁹⁸ and sets out the authority of judges to issue decisions concerning custody, trusteeship, maintenance payments and personal contact.⁹⁹ However, NGOs report that the risk of violence against women is rarely assessed when judges decide on these issues outside the scope of the Law No. 6284.¹⁰⁰

Şehnaz Kıymaz Bahçeci, an expert in violence against women described the situation to Amnesty International as

“[T]he difference between the cases where the protection orders are implemented and those where they are not is crystal clear to women and girls as the difference between life and death is. In a country like Turkey where we sometimes hear of 5 femicides in one day and where we encounter very brutal forms of violence, the effective implementation of protection orders is vital. This includes ensuring that the order is enforced, and the perpetrators are kept in preventive detention when necessary. Stalking and threats to the victim are among the situations that follow protection orders when they are not followed through. When necessary measures are not taken, the perpetrators can bring serious harm to the women and girls either with the support of their own extended families or with the encouragement they find in the inaction by the law enforcement officials; the latter increasing the rage of the perpetrator of violence.”¹⁰¹

4.2 SURVIVORS’ RIGHT TO ESSENTIAL SERVICES

International law and standards require states to provide comprehensive and integrated support services to assist survivors of violence,¹⁰² including adequate equitable access to such services, in particular by urban and rural populations, by establishing, where possible, at least the following minimum standards of availability of support services for complainants/survivors:

- one national women’s phone hotline providing assistance and referrals to other service providers for complainants/survivors of violence accessible around the clock and free of cost;
- one shelter/refuge place for every 10,000 inhabitants, providing safe emergency accommodation, qualified counselling and assistance in finding long-term accommodation;
- one women’s advocacy and counselling centre for every 50,000 women, providing proactive support and crisis intervention for complainants/survivors, including legal advice and support, as well as long-term support for complainants/survivors, and specialized services for particular groups of women such as for example migrants or survivors of trafficking;
- one rape crisis centre for every 200,000 women.¹⁰³

There should be timely and effective access to comprehensive and integrated services for rape survivors, including pregnancy testing, emergency contraception, safe and legal abortion services, treatment for sexually transmitted diseases, treatment for injuries, post-exposure prophylaxis and psycho-social counselling, for complainants/survivors of sexual violence at the expense of the state.¹⁰⁴

Access to such services should not be conditional upon the complainant/survivor reporting the violation to the police.¹⁰⁵

96 Turkey, Civil Code, Article 323.

97 Turkey, Civil Code, Article 324.

98 Law No. 6284, 20 March 2012, Article 5(1)(ç)

99 Law No. 6284, 20 March 2012, Article 5(3)

100 Interviews conducted by Amnesty International with experts working on women human rights in Turkey, online on 24-25 August.

101 Interview conducted by Amnesty International with Şehnaz Kıymaz Bahçeci, 17 November 2021.

102 UN Handbook for Legislation on Violence against Women, 2012, p 29. See also World Health Organization, Guidelines for Medico-Legal Care for Victims of Sexual Violence, Geneva, 2003.

103 UN Handbook for Legislation on Violence against Women, 2012, p 29.

104 UN Handbook for Legislation on Violence against Women, 2012, p 30.

105 UN Handbook for Legislation on Violence against Women, 2012, p 30.

COORDINATION

The Regulation implementing Law No. 6284 calls for Violence Prevention and Monitoring Centres (VPMCs) to be set up in each of Turkey's 81 provinces. These Centres are responsible for coordinating all services related to violence against women, from providing assistance to and referring survivors to relevant services, to monitoring the implementation of protection and prevention measures.¹⁰⁶ Despite a requirement that VPMCs work on a 24/7 basis, at least some, if not the majority, are unable to operate a round-the-clock service because they lack sufficient resources.¹⁰⁷ NGOs report that many VPMCs are not fulfilling their mandate, leaving women survivors of violence with inadequate support and protection.¹⁰⁸ Additionally, NGOs criticize the lack of collaboration with them and limited information available about the centres.

VPMCs are also tasked with coordinating services geared towards the perpetrators of violence against women.¹⁰⁹ The legislation states that services for survivors and perpetrators should be provided in different units, except where this is “unavoidable”.¹¹⁰ There are concerns that this situation could potentially undermine protection for survivors, especially in a context where centres are under-resourced.¹¹¹

SEXUAL AND REPRODUCTIVE HEALTH

Turkey has taken action to reduce maternal and infant mortality as well as to diagnose and treat sexually transmitted infections.¹¹² However, other areas of sexual and reproductive health, such as family planning and contraception have been largely neglected.¹¹³

Family health clinics, which provide primary health services, are also responsible for providing family planning and contraception. However, they lack the staff and the resources to respond to the needs of the population and staff do not have adequate training to provide advice and support on contraception and family planning. NGOs report that unmarried women in particular are not provided with information on contraception or sexually transmitted infections.

Abortion up to 10 weeks is legal in Turkey without any restrictions.¹¹⁴ However, married women need the consent of their spouses while those under the age of 18 need permission from their parents.¹¹⁵ For pregnancies beyond 10 weeks, pregnancy can be ended only if it poses or risks posing a threat to the woman's life, or if there is substantial foetal abnormality.¹¹⁶ The Criminal Code also allows abortion up to 20 weeks in cases where the pregnancy is the result of a crime.¹¹⁷ However, NGOs working in Turkey report that doctors ask women to show or obtain authorisation from justice officials such as the prosecutors or magistrates.¹¹⁸

Abortion remains highly stigmatized in Turkey and, while the right to abortion in certain circumstances is established in law, in practice many public hospitals refuse to provide abortion services, claiming that they are illegal or cannot be carried out in state hospitals. Research conducted by Kadir Has University in 2020

¹⁰⁶ Turkey, Regulation for the operationalization of Law No. 6284, Article 3(1)(o).

¹⁰⁷ Cinsel Şiddet Sonrası Destek Çalışmaları Etki Değerlendirme Raporu, April 2021, <https://cinselsiddetlemucadele.org/wp-content/uploads/2021/06/cs-sonrasi-destek-calismalari-etki-raporu.pdf>

¹⁰⁸ Interviews conducted by Amnesty International with experts working on women human rights in Turkey, online on 24-25 August.

¹⁰⁹ Turkey, Regulation on the Violence Prevention and Monitoring Centres No. 29656, 17 March 2016, Article 26.

¹¹⁰ Turkey, Regulation No. 29656, , Article 26 (1).

¹¹¹ Interviews conducted by Amnesty International with experts working on women human rights in Turkey, online on 24-25 August.

¹¹² NTV, “Türkiye’de anne-bebek ölümleri azaldı” (2018 Türkiye Nüfus ve Sağlık Araştırması sonuçları açıklandı) , 8 November 2019, https://www.ntv.com.tr/saglik/turkiyede-anne-bebek-olumleri-azaldi-2018-turkiye-nufus-ve-saglik-arastirmasi,HPIZ_oP6f02mnHpxH_i0tg

¹¹³ Türkiye Aile Sağlığı ve Planlaması Vakfı, Pandemi Öncesinde ve Sırasında Türkiye’de Cinsel Sağlık ve Üreme Sağlığı Hizmetleri İzleme Raporu September 2020, <https://cisuplatform.org.tr/wp-content/uploads/2020/11/Pandemi-Oncesi-ve-Sirasinda-Turkiyede-CSUS-Hizmetleri-Izleme-Raporu-9.pdf>

¹¹⁴ Turkey, Law on Family Planning No. 2827, 24 May 1983, Article 5 and Criminal Code of Turkey No. 5237, 26 September 2004, Article 99(2).

¹¹⁵ Law No. 2827, , Article 6.

¹¹⁶ Law No. 2827, Article 5.

¹¹⁷ Turkey, Criminal Code No. 5237, 26 September 2004, Article 99(6).

¹¹⁸ See, for example, the Constitutional Court decision in the case of R.G. (Application No. 2017/31619) where the Court states that ‘a permission is required’ for abortions between 10 and 20 weeks, where the pregnancy is the result of a crime the woman was a victim of despite accepting the ambiguity over who can issue such permission (para 91).

showed that only 10 out of the 295 state hospitals that researchers were able to reach¹¹⁹ provided abortion services in line with the legislation, while 185 refuse to perform abortions under any circumstances.¹²⁰

SHELTERS

“The aim is a world without shelters but since we currently do not have it, we need to think of shelters as spaces where women are protected from violence, up until the time when gender equality is firmly established in everyone's minds.”¹²¹

Atty. M. Canan Arın, Women human rights defender, 15 November, 2021

Shelters are crucial to provide women and their children with emergency refuge and protection from violence. In May 2021, the General Directorate on the Status of Women in Turkey's Ministry of Family and Social Services reported that there were 149 shelters spread out across all 81 provinces.¹²² Of these, 112 come under the Family and Social Services Ministry; three, which specifically focus on victims of human trafficking, under the Ministry of the Interior; 33 are run by local municipalities; and one is run by the NGO Mor Çatı (Purple Roof).¹²³

Turkey's shelters have a total capacity of 3,576 beds.¹²⁴ UN Women¹²⁵ and the Council of Europe recommend that there should be shelter space for at least one family per 10,000 inhabitants.¹²⁶ By this standard, Turkey's shelter capacity is less than 50% of the recommended minimum of 8,300 for a country with a population over 83 million.¹²⁷

According to the Law on Municipalities, all metropolitan municipalities and those with 100,000 or more inhabitants should have a shelter for women victims of violence.¹²⁸ However, of the 241 municipalities with

119 Researchers were not able to reach 223 of the 518 state hospitals with a gynaecology department despite many attempts. Dr. Mary Lou O'Neil, Deniz Altuntaş, Alara Şevval Keskin, Legal but not necessarily available: Abortion Services at Public Hospitals in Turkey – 2020, November 2020, <https://gender.khas.edu.tr/sites/gender.khas.edu.tr/files/inline-files/Abortion-Report-2020-ENG-new.pdf>

120 120 Women for Women's Human Rights-New Ways Association (WWHR), Mor Çatı Women's Shelter Foundation and Association for Support of Women Candidates (Ka.Der), Joint Press Statement, June 2021, <https://kadinininsanhaklari.org/wp-content/uploads/2021/06/press-statement-24.06.2021-ingBS.pdf> and IHD Women's commission, Women's report for the year 2020, <https://www.ihd.org.tr/wp-content/uploads/2021/03/1%CC%87HD-2020-Kad%C4%B1n-Raporu.pdf> page 19; The World, Abortion increasingly hard to access in Turkey, 5 October 2020, <https://www.pri.org/stories/2020-10-05/abortion-increasingly-hard-access-turkey>. See also The Independent Türkçe, Kürtaj 37 yıldır yasal hak ancak 295 kamu hastanesinin 102'si arayan hastalara "kürtaj yasak ya da devlet hastanesinde yapılmıyor" yanıtını Verdi, 31 December 2020, <https://www.indyturk.com/node/293276/sa%C4%9Flık/k%C3%BCrtaj-37-y%C4%B1ld%C4%B1r-yasal-hak-ancak-295-kamu-hastanesinin-102si-arayan-hastalara> and Mary Lou O'Neil, Deniz Altuntaş, Alara Şevval Keskin, Türkiye'deki Kamu Hastanelerinde; Eğitim ve Araştırma Hastaneleri Devlet Hastaneleri İlçe Hastaneleri ve Şehir Hastaneleri Kürtaj Hizmetleri Araştırması Raporu – 2020, November 2020, <https://gender.khas.edu.tr/sites/gender.khas.edu.tr/files/docs/2020-12/2020-kurtaj-arastirmasi-raporu.pdf>

121 Interview conducted by Amnesty International with M. Canan Arın, 15 November 2021

122 Last official numbers from September 2021 indicate that there were 149 shelters with a capacity of 3,624. See statement by Ministry of Family and Social Services <https://www.trthaber.com/haber/gundem/bakan-yanik-kadin-konukevi-sayisini-149a-yukselttik-608286.html> See also Turkey, Ministry of Family and Social Services, National Action Plan for Combatting Violence against Women 2021-2025: the total number of shelters are reported as 149 including 33 of them run by municipalities (page 95).

123 Turkey, Ministry of Family and Social Services, National Action Plan for Combatting Violence against Women 2021-2025, page 95.

124 Last official numbers from May 2021 indicate that there were 148 shelters with a capacity of 3,576. Directorate General on the Status of Women, E-Bulletin April-May 2021, page 7, <https://www.aile.gov.tr/media/79562/e-bulten-6-sayi.pdf>

125 UN Women, Handbook for Legislation on Violence Against Women, 2012, <https://www.unwomen.org/en/digital-library/publications/2012/12/handbook-for-legislation-on-violence-against-women>, page 29.

126 Council of Europe Task Force to Combat Violence against Women, including Domestic Violence (EG-TFV (2008)6), Gender Equality and Anti-Trafficking Division Directorate General of Human Rights and Legal Affairs, Final Activity Report, September 2008, https://www.coe.int/t/dg2/equality/domesticviolencecampaign/Source/Final_Activity_Report.pdf, page 51. Family space consists of bed space for a woman and average number of children per family in the country.

127 Türkiye İstatistik Kurumu (Turkey Statistics Institution), Adrese Dayalı Nüfus Kayıt Sistemi Sonuçları, 2020, 4 February 2021, <https://data.tuik.gov.tr/Bulten/Index?p=Adrese-Dayali-Nufus-Kayit-Sistemi-Sonuc-lari-2020-37210>

128 Turkey, Law on Municipalities No. 5393, 3 July 2005, Article 14(1)(a).

over 100,000 residents, only 32 have shelters with a total capacity of 703 beds.¹²⁹

As Selime Büyükgöze, a feminist activist, told Amnesty International:

“Of course, it is not only the Ministry of Family and Social Policies that is responsible for keeping statistics, but also municipalities have such an obligation. Although many municipalities make various statements regarding violence against women today, the number of them fulfilling their obligation to open shelters or women's solidarity centres is very limited. Even less is the number of municipalities that have both”¹³⁰

In addition to the shortage in capacity, the law excludes certain categories of women from accessing protection in these shelters. Among the women excluded are those aged 60 or older, those with physical or mental disabilities, those with children with disabilities and those with sons over the age of 12.¹³¹ While referrals to other types of shelters are provided for in law, women's NGOs report that either this does not happen or the services in the alternative shelters do not have the specialized support services that women survivors of violence need.

The law specifically states that the shelters will host women facing physical, emotional, sexual, economic or verbal abuse or violence, or threats of such violence,¹³² and that women should not need to provide evidence of this to gain access.¹³³ However, NGOs report that some shelters request medical documentation of physical violence before accepting survivors.¹³⁴ Women also report that some shelters impose significant restrictions on their movement and communication¹³⁵ rather than creating opportunities for healing and empowerment.

SEXUAL VIOLENCE CENTRES

Turkey's Third National Action Plan (2016-2020)¹³⁶ calls for the establishment of separate centres for responding specifically to sexual violence. The aim of these centres is to ensure that survivors can receive emergency medical and psychological care as well as forensic examinations from specially trained professionals, all in one place, to reduce the likelihood of further trauma and re-victimization and ensure evidence is collected properly.

However, to date, no centres for adults have been created.¹³⁷

Child Monitoring Centres have been established to respond to child victims of sexual violence. As of 30 December 2020, there were 53 such centres in 50 provinces.¹³⁸ In other words, there are no such centres for children in 31 provinces. In addition, NGOs have raised concerns over whether efforts are made to identify victims of child marriages and over the failure to provide abortions to girls who want them and who are entitled to them under the law that allows abortions up to the 20th week for pregnancies that are the result of a crime.¹³⁹

DEDICATED HELPLINE

In 2016 CEDAW and in 2018 GREVIO, monitoring body of the Istanbul Convention, urged Turkey to establish a hotline operating 24 hours a day, seven days a week, on gender-based violence against women,

129 Ministry of Family and Social Services, Fourth National Action Plan for Combatting Violence against Women 2021-2025, page 96.

130 Interview conducted by Amnesty International with Selime Büyükgöze, 15 November 2021.

131 Turkey, Regulation on the Establishment and Management of Women's Shelters No. 28519, 5 January 2013, Article 13.

132 Regulation No. 28519, 5 January 2013, Article 13(1) read in conjunction with Article 3(1)(i) and 3(1)(n).

133 Regulation No. 28519, 5 January 2013, Article 11(4).

134 Council of Europe, Committee of Ministers 1390th meeting (December 2020) (DH) – Rule 9.2 – Communication from an NGO (Mor Çatı Women's Shelter Foundation) (23/10/2020) concerning the case of OPUZ GROUP v. Turkey (Application No. 33401/02), 2 November 2020, page 9 <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680a033e8>

135 Rule 9.2 – Communication from an NGO (Mor Çatı Women's Shelter Foundation), 2 November 2020, page 12. See also CEDAW, Concluding Observations on the Seventh Periodic Report of Turkey, 25 July 2016, [UN Doc. CEDAW/C/TUR/CO/7](https://www.un.org/doc/UNDoc/CEAW/C/TUR/CO/7), <https://digitallibrary.un.org/record/840825?ln=en>, para 32(d).

136 Turkey, Ministry of Family and Social Services, Third National Action Plan for Combatting Violence against Women 2016-2020, page 72.

137 Cinsel Şiddetle Mücadele Derneği, Cinsel Şiddet Sonrası Destek Çalışmaları Etki Değerlendirme Raporu, April 2021, page 9. Also see, Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) Baseline Evaluation Report, Turkey, 15 October 2018, <https://rm.coe.int/eng-grevio-report-turquie/16808e5283>, page 65-66.

138 General directorate of public hospitals, Health services department, Child Monitoring Center (ÇİM) List, 30 December 2020, <https://khgmsaglikhizmetleridb.saglik.gov.tr/TR-43119/cocuk-izlem-merkezi-cim-listesi.html>

139 Turkey, Criminal Code No. 5237, 26 September 2004, Article 99(6).

with operators who also speak Kurdish and Arabic.¹⁴⁰ As of today, Turkey still lacks a 24/7 operational helpline specifically dedicated to assisting women being threatened with or subjected to violence. Instead, women have to call a general social support helpline (Alo 183).

Alo 183 does respond to calls in Turkish, Arabic and Kurdish. People, who have a hearing impairment, can also seek assistance through this helpline as it receives SMS messages and can respond to video calls, although for a limited number of hours.¹⁴¹ However, as this helpline responds to calls concerning all social needs, it can be very busy and, according to experts working with victims of violence, became even more difficult to access during the COVID-19 pandemic.¹⁴² There also concerns that it is not specialized, and some responders do not have adequate training on how to deal with calls about violence against women.

The Ministry of the Interior also has an emergency notification application for women (KADES), which informs the nearest law enforcement agency if a woman clicks on the integrated alert button. On 25 November 2020, the Minister of the Interior announced that law enforcement agencies had responded to almost 24,000 alerts placed through KADES since it was launched in March 2018, with an average response time of 4 to 5 minutes.¹⁴³

However, the application can only be activated through a Turkish identity number,¹⁴⁴ which excludes unregistered migrant and refugee women as well as transgender women who are not registered with the authorities as women. The application is also not accessible to women who do not have a smart phone. And while a short response time is to be welcomed, women who use such alert buttons cannot be receive adequate protection if responders are not well trained in how to deal with violence against women and provide a victim-centred response.

4.3 SURVIVORS' RIGHT TO JUSTICE AND REPARATION

International law and standards require states to remove all discriminatory evidentiary rules and procedures, "including procedures allowing for women's deprivation of liberty to protect them from violence, practices focused on 'virginity' and legal defences or mitigating factors based on culture, religion or male privilege, such as the so-called 'defence of honour', traditional apologies, pardons from victims/survivors' families or the subsequent marriage of the victim/survivor of sexual assault to the perpetrator, procedures that result in the harshest penalties, including stoning, lashing and death being often reserved to women, as well as judicial practices that disregard a history of gender-based violence to the detriment of women defendants."¹⁴⁵

The Turkish Criminal Code does not define all types of violence against women as crimes, for example, it does not specifically criminalize stalking, forced marriage or psychological violence. Although these may be sanctioned under other criminal provisions, they do not capture all aspects of violence against women. For example, articles of the Criminal Code concerning threats, blackmail, coercion, defamation and ill-treatment can be used to sanction psychological violence. However, these articles deal with "single isolated acts and fail to capture a pattern of repeated and prolonged abuse", which may not individually "reach the threshold of criminalisation".¹⁴⁶

Some aspects of the Criminal Code are progressive; for example, the offence of sexual violence does not stipulate that there must have been use of force¹⁴⁷ and marital rape is explicitly recognized as an offence under Article 102(2), although it is subject to prosecution only if the victim files a complaint.

However, courts do not always hand down sanctions that are proportionate to the seriousness of the offence when the case concerns violence against women. Clauses concerning undue provocation¹⁴⁸ as well as

140 CEDAW, Concluding Observations on Turkey, 25 July 2016, para 33 (f); Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) Baseline Evaluation Report, Turkey, 15 October 2018, <https://rm.coe.int/eng-grevio-report-turquie/16808e5283>, page 64-65.

141 Turkey, Ministry of Family and Social Services, Helpline 183 for social support, <https://www.aile.gov.tr/ss/engelli-ve-yasli-hizmetleri-genel-mudurlugu/alo-183-sosyal-destek/> (accessible in Turkey)

142 Purple Roof Women's Shelter Foundation, Monitoring Report on Violence Against Women During Coronavirus Outbreak, 13 April 2020, <https://bianet.org/system/uploads/1/files/attachments/000/002/973/original/mor.pdf?1586784808>, p.3.

143 Turkey, Directorate General of Security, KADES, 25 November 2020, <https://www.egm.gov.tr/kadin-destek-uygulamasi-kades-merkezicerik> (accessible in Turkey)

144 Turkey, Ministry of Family and Social Services, Fourth National Action Plan for Combatting Violence against Women 2021-2025, page 96.

145 CEDAW General Recommendation 35, para 31(b).

146 GREVIO Baseline Evaluation Report, Turkey, para 215.

147 Turkey, Criminal Code No. 5237, 26 September 2004, Article 102.

148 Criminal Code No. 5237, 26 September 2004, Article 29.

discretionary mitigation – for example based on the behaviour of the perpetrator during the trial or the potential impact of the sanction on the future of the perpetrator¹⁴⁹ – frequently result in reduced sentences.

In Turkish law, “Custom” (töre) cannot be invoked as mitigation and killing in the name of custom/honour is actually meant to be an aggravating factor punishable by life imprisonment.¹⁵⁰ Nevertheless, men committing violence against women continue to refer to “custom” as a mitigating factor in order to have their sentences reduced under Article 29 of the Criminal Code. This practice is not in line with states’ obligations under international law and standards to ensure that the responsible law enforcement agencies respond to all forms of violence promptly and appropriately.¹⁵¹ Indeed, the prerequisite of promptness of the proceedings is considered an aspect of victim protection, in particular in cases of rape or domestic violence, and a requirement of promptness and reasonable expedition is implicit in the context of an effective investigation.¹⁵²

MEDIATION AND CONCILIATION

Articles 253 and 254 of the Code of Criminal Procedure regulate mediation in criminal investigations and prosecutions.

Mediation is banned for crimes including intentional wounding of a perpetrator’s “antecedent, descendent, spouse, divorced spouse, or sibling”¹⁵³ and in crimes against sexual inviolability.¹⁵⁴ However, the ban concerning the relationship between the perpetrator and the victim does not cover partnerships outside marriage. While mediation must be based on the parties’ free consent,¹⁵⁵ inequality between the perpetrator and victim in cases of violence against women can be an obstacle to women’s free consent. Additionally, NGOs report that many victims of violence are not properly informed of the voluntary nature of mediation and believe mediation is compulsory.¹⁵⁶

As Selime Büyükgöze, a feminist activist, explained to Amnesty International:

“When a mediator makes a phone call, women feel they have to meet. They are not given accurate information so they are unaware that their case would not be harmed even if they refuse. In most of the cases, women lack information about these types of situations when they are probably struggling only to stay away from violence. Hence, the request for mediation may in itself become a tool of violence. Therefore, it [mediation] should not be used in cases related to violence.”¹⁵⁷

Reconciliation is a separate voluntary procedure applicable to civil disputes.¹⁵⁸ The legislation states that reconciliation is not appropriate in disputes involving domestic violence.¹⁵⁹ However, there have been attempts by the ruling party to make reconciliation compulsory in domestic disputes.¹⁶⁰ In addition, NGOs working on violence against women report that, some police officers and social workers in VPMCs advise women to reconcile with their abuser,¹⁶¹ in particular when the perpetrator is the husband, putting women at risk of further violence and violating their rights to protection and justice.

Additionally, the Human Rights Action Plan, announced in April 2021, states that “a court-based family mediation system will be created, in consideration of the standards enshrined in international conventions, with a view to preventing in particular the traumatising of women and children over the course of the

149 Criminal Code No. 5237, Article 62.

150 Criminal Code No. 5237, , Article 82(1)k.

151 UN Handbook for Legislation on Violence against Women, 2012, p 34-36

152 ECtHR, *Opuz Group v Turkey* (Application No. [33401/02](#)), para 150

153 Code of Criminal Procedures (No. 5271), 4 December 2004, Article 253(1)(b)1, amended by Article 6 of the Law No. 7331 dated 8/7/2021, which added “divorced spouse”.

154 Code of Criminal Procedures (No. 5271),, Article 253(3).

155 Code of Criminal Procedures (No. 5271), , Article 253(17).

156 GREVIO (Baseline) Evaluation Report, Turkey, para 269. Deutsche Welle ‘Kadına Yönelik Şiddetle Mücadelede Uzlaştırma Komisyonu Engeli’ 12 December 2019, <https://www.dw.com/tr/kad%C4%B1na-y%C3%B6nelik-%C5%9Fiddetle-m%C3%BCadelede-uzla%C5%9Ft%C4%B1rma-komisyonu-engeli/a-51692025> <https://www.dw.com/tr/aile-hukukunda-arabulucu-tart%C4%B1%C5%9Fmalar%C4%B1-kad%C4%B1na-y%C3%B6nelik-ayr%C4%B1mc%C4%B1l%C4%B1%C4%9F%C4%B1-k%C3%B6r%C3%BCkler/a-48071832>; Bianet newlist, Avukatlardan “Aile Arabuluculuğu” İtirazı: Eşitliğin Olmadığı Yerde Uzlaş Olmaz, 24 February 2020, <https://m.bianet.org/bianet/toplumsal-cinsiyet/220497-avukatlardan-aile-arabuluculugu-itarazi-esitligin-olmadigi-yerde-uzlasi-olmaz>

157 Interview conducted by Amnesty International with Selime Büyükgöze, 15 November 2021

158 Law on Reconciliation in Civil Disputes (No. 6325), 7 June 2012, Article 3(1).

159 Law No. 6325, Article 1(2).

160 Istanbul Convention Monitoring Platform, Shadow NGO Report pages 11 and 17.

161 Istanbul Convention Monitoring Platform, Shadow NGO Report page 43.

divorce process”.¹⁶² However, there are expert concerns that this type of mediation puts women and children at greater risks due to the existing inequalities between men and women in society which also affect divorce proceedings.¹⁶³

¹⁶² Human Rights Action Plan, April 2021, <https://rayp.adalet.gov.tr/resimler/1/dosya/insan-haklari-ep-eng02-03-202115-16.pdf>, page.49.
¹⁶³ Women for Women's Human Rights New Ways, Turkey's Human Rights Action Plan Brief Note, <https://kadinininsanhaklari.org/wp-content/uploads/2021/04/HRAP-Brief-Note.pdf>

5. HOLDING TURKEY TO ITS WORD: EUROPEAN COURT OF HUMAN RIGHTS

In numerous binding judgments, the European Court of Human Rights (the Court) has found Turkey in breach of various obligations it has promised to fulfil under the ECHR concerning cases of violence against women and domestic violence.¹⁶⁴ The Committee of Ministers of the Council of Europe, which is charged with overseeing the compliance and full implementation by member states of the judgments of the Court, last considered the status of execution of these judgments, in December 2020. The Committee noted “the failure of the authorities to implement effective protective measures for victims of domestic violence or effective sanctions against perpetrators”.¹⁶⁵

The Committee expressed concern that “the number of domestic violence victims in Turkey remains persistently high” and called for measures to reduce the number of women who were killed. It also requested information about “alternative solutions...offered to women who were unable to stay in shelters; what specific provisions are used to ensure the security of victims in shelters; what are the delays in practice in issuing and serving injunctions; what legislative measures are envisaged to ensure that investigations in less serious offences are initiated even in the absence of a complaint by domestic violence victim; the length of preventive imprisonment decisions ordered in the last three years and the criteria applied by domestic courts in deciding on their length; what type of sentences have been imposed in domestic violence cases in the recent years and to what extent they have been executed”.¹⁶⁶

The Committee further invited the authorities to “work in close cooperation with domestic NGOs and consider conducting a thorough research on the actual femicide victims who lost their lives in the recent years, by collecting data that would allow making detailed assessment of these incidents, including information on the background of the victim and the offender, preventive and protective measures taken or preventive imprisonment ordered if any, criminal proceedings initiated against the offender, the outcome, and execution of the sentence”.¹⁶⁷

¹⁶⁴ For an overview, see ECtHR’s factsheet, *Violence against women*, May 2021, https://www.echr.coe.int/Documents/FS_Violence_Woman_ENG.pdf; and ECtHR factsheet on *domestic violence*, July 2021, https://www.echr.coe.int/Documents/FS_Domestic_violence_ENG.pdf

¹⁶⁵ Council of Europe, Committee of Ministers, 1390th meeting, 1-3 December 2020 (DH) H46-24 *Opuz Group v Turkey* (Application No. 33401/02), Supervision of the execution of the European Court’s judgments, [https://hudoc.exec.coe.int/eng#\(%22EXECIdentifier%22:\[%22004-37222%22\]\)](https://hudoc.exec.coe.int/eng#(%22EXECIdentifier%22:[%22004-37222%22]))

¹⁶⁶ CoE Committee of Ministers, 1390th meeting, *Opuz Group v Turkey*

¹⁶⁷ CoE Committee of Ministers, 1390th meeting, *Opuz Group v Turkey*

The implementation of this important group of judgments is scheduled to be reviewed by the Committee of Ministers in December 2022. Among the cases subject to this review is the 2009 case of *Opuz v. Turkey* where the Court found for the first time found a violation of Article 14 of the ECHR (prohibition of discrimination) in a domestic violence case as well as violations of Articles 2 and 3. Amnesty International has called on the Committee of Ministers to urgently reschedule the review of *Opuz Group v. Turkey* to an earlier date given the need to fully and effectively implement the Court's judgments in light of the withdrawal from the Istanbul Convention.

The following chapter sets out a series of recommendations to address some of the gaps in law and practice that underpin the concerns expressed by the Court, among others.

6. FROM WORDS TO ACTIONS

“The gap [between the governments words and actions] is a proof that there is no political will to fight violence against women. The battle is only possible with political will.”¹⁶⁸

Selime Büyükgöze, A Feminist Activist, 15 November 2021

The situation of violence against women and girls in turkey is deeply concerning. Their right to live free from violence is being violated and they endure the consequences of this in their daily lives, a situation exacerbated by the covid 19 pandemic. Since the state withdrew from the Istanbul convention the pre-existing gap between what the state says and what it does to ensure women and girls live free from violence is all the more exposed for everyone to see.

Amnesty international urges the Turkish state to stop its hollow words and take the actions it needs to and is obliged to take under international law to respect, protect and fulfil women and girls’ human rights to life and to be free from discrimination, violence, torture and other ill-treatment. Amnesty international is not making an exhaustive list of all the measures the authorities must take to comply with its international legal obligations, however we do urge the Turkish authorities to urgently address the following:

Turkish authorities must:

1. Fully implement the recommendations issued by UN expert committees including CEDAW, HRC, CAT, CESC, CRC regarding the right of women and girls in Turkey to a life free from violence.

GUARANTEE WOMEN AND THEIR ALLIES THEIR RIGHT TO PEACEFUL ASSEMBLY

The Ministry of Interior must:

2. Ensure women and LGBTI+ people can exercise their right to peaceful protest, including by protecting them from violent interference by third parties.

¹⁶⁸ Interview conducted by Amnesty International with Selime Büyükgöze, 15 November 2021.

3. Ensure that law enforcement officials do not use unlawful or excessive force against women and LGBTI+ people exercising their right to protest peacefully and prosecute law enforcement officers who have been found to have used excessive force against peaceful assemblies.

The Ministry of Justice must:

4. End criminal investigations and prosecutions of women and LGBTI+ people for exercising their right to peaceful assembly to claim their rights.

GUARANTEE WOMEN'S RIGHT TO PROTECTION AND ESSENTIAL SERVICES

Turkish authorities must:

5. Ensure women and girls can access promptly the protection and support services they need, including those facing multiple and intersecting layers of discrimination by actively reaching out to them, including by supporting and cooperating with NGO's, women's rights groups or other grassroots organizations representing them.
6. Ensure women have access to a 24/7 helpline specifically dedicated and equipped to respond to calls about violence against women, ensuring that responders are adequately trained, and that there are responders and information available in the languages commonly used in Turkey.
7. Increase shelter capacity and ensure adequate geographical distribution of shelters across Turkey. Further, ensure all women facing or risking violence can access shelters regardless of their age, the age of their children, their immigration status, or any disabilities.
8. Devise protective measures and support services which enhance victims' empowerment such as long-term socio-economic support, employment programmes and childcare services and in particular ensure that shelters function in ways that empower survivors.
9. Set up, in sufficient numbers, sexual violence centres providing one-stop emergency support, medical care and forensic examination, as well as longer-term counselling and support for victims of sexual violence, including ensuring the rights of child victims of sexual violence to specialist services.

GUARANTEE WOMEN'S RIGHT TO JUSTICE AND REPARATION

The Ministry of Justice must:

10. Ensure that criminal sanctions for violence against women are effective, proportionate and dissuasive, including by establishing stalking, including its digital forms, psychological violence and forced marriage as separate crimes in the Criminal Code.
11. Diligently respond to non-compliance with preventive measures and approve preventive detention where necessary.
12. Train mediators, lawyers and judges on the obligation to ensure the survivor's free and informed consent to mediation. The government should take action to ban the use of mediation in case of domestic violence, including between unmarried partners or spouses. Ensure that the police and other relevant officials inform women survivors of violence that mediation is not compulsory in criminal proceedings. Finally, train reconciliation mediators to identify women facing violence and to ensure that they are not subjected to reconciliation procedures.
13. Ensure that custody and visiting (personal contact) rights do not jeopardize the rights and safety of domestic violence survivors as well as child witnesses and victims.

The Ministry of Interior must:

14. Ensure that law enforcement agencies comply with their international obligations and internal protocols to protect victims from further harm.

15. Effectively implement protective and preventive measures so and that they are applied in a way that guarantees the right to safety of the victim and accountability for the perpetrator.
16. Law enforcement agencies responsible for taking injunctions, civil administration and judicial authorities must ensure they issue emergency protection and preventive orders based on victims' statements without requiring other evidence and ensure their duration is adequate to the victim's needs and that perpetrators are notified without delay.

The Ministries of Interior and Justice must:

17. Hold to account law enforcement agencies, civil administration and judicial authorities who fail to diligently respond to incidents of violence against women, for example by failing to issue emergency preventive measures or to enforce them.

UPHOLD WOMEN AND GIRLS RIGHT TO BE FREE FROM FORCED MARRIAGE

Turkish authorities must:

18. Require state officials to check prior to registering any marriage that both parties are above the legal age of marriage and have given their full consent and, where this is not the case, to refer the case to the police and social services to investigate and offer protection to anyone of the parties who was to be married without their full and free consent.
19. Establish appropriate penalties under the law for state officials who do not carry out adequate due diligence prior to registering a marriage. Consequently, establish a criminal offence for any person to carry out a marriage, even if it is not legally binding, without checking prior to conducting the marriage that both parties are above the legal age of marriage and have given their full consent.
20. Ensure proper birth registration to prevent girls' ages being concealed.
21. Introduce legislation to nullify forced marriage without undue burden on the victim and support victims to access justice and reparation.

GUARANTEE WOMEN AND GIRLS' RIGHT TO HEALTH

The Ministry of Health must:

22. Ensure women and girls have access to safe and legal abortions, that there are sufficient qualified and trained healthcare providers in place to guarantee service provision in public and private facilities and within a reasonable geographical reach, and that refusals by medical providers to provide lawful abortion services are adequately regulated, so that they don't undermine pregnant women and girls' access to care.
23. Remove the need for third-party (including parental and spousal) consent from legislation concerning abortion and ensure adolescents can access abortion without parental/spousal consent, in line with the principle of the best interests of the child and respect for adolescents' evolving capacity to make decisions about their health and life.
24. Ensure all women and adolescent girls, including those in rural areas, have access to quality and free contraceptives and family planning services, information and counselling about sexual and reproductive health, and access to specially trained health care personnel in Family Health Clinics.

The Ministries of Education and Health must:

25. Ensure that all women and girls have access to comprehensive sexuality education (CSE), both in and outside of education settings, which is evidence-based, age-appropriate, gender-sensitive and grounded in human rights. CSE programmes must promote gender equality and women's rights including their right to live free from gender-based violence and discrimination. CSE programmes must also account for

the evolving capacity of children and adolescents and provide them with the knowledge and skills necessary to make informed and autonomous decisions about their lives and health.

The Committee of Ministers of the Council of Europe must:

26. Urgently reschedule the review of *Opuz Group v. Turkey* to an earlier date given the need to fully and effectively implement the Court's judgments in light of the withdrawal from the Istanbul Convention.

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TURKEY, TURN ACTIONS INTO WORDS

DUTY-BOUND TO END VIOLENCE AGAINST WOMEN

This briefing contains Amnesty International's analyzes the current situation of violence against women in Turkey, as well as provides a summary of the obligations of the State to respect, protect and fulfil women's right to be free from violence. It provides an overview of Turkey's ongoing obligations to protect women's human rights based on a review of Turkish legislation, the recommendations by UN treaty bodies, the Council of Europe, and other relevant international organizations, as well as consultations with women's rights organizations in Turkey. It further looks at the key failures of the state to address and eliminate violence against women in Turkey and lists the urgent measures Turkey must take to bridge the yawning gap between its words and its actions as regards preventing and ending violence against women and girls.