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Combating Domestic Violence in Turkey

The Deadly Impact of Failure to Protect



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Combatting Domestic Violence in Turkey

The Deadly Impact of Failure to Protect

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Summary

In June 2021, Eşref Akoda shot dead his 38-year-old wife Yemen outside her home in the central Anatolian town of Aksaray. Prior to this lethal assault, courts had on four separate occasions issued preventive orders aimed at keeping Eşref away from Yemen after he harassed her when she filed for divorce. A lawyer for the family said that Eşref Akoda had approached and threatened his wife at least twice, violating the third and fourth preventive orders, but that on those occasions the court had not imposed any of the available disciplinary sanctions on him, such as a short period in detention, due to a “lack of evidence”. The prosecutor also declined to bring criminal charges against him, even though Yemen’s lawyer had filed complaints with the prosecutor’s office.

Ayşe Tuba Arslan died on October 11, 2019, of injuries inflicted by her former husband Yalçın Özalpay using a meat cleaver and a knife. Arslan had lodged 23 complaints with the police and the prosecutor’s office against her former husband between 2018 and 2019, obtaining four preventive orders which he breached repeatedly without consequences. The harshest sanctions he received for repeated assaults and threatening behavior were a form of suspended prison sentence and fines. Özalpay avoided detention for violating the preventive orders because Arslan was allegedly unable to produce proof of the violations.

S.G. was arrested on September 6, 2019, for attacking and stabbing his former wife Merzuka Altunsöğüt, injuring his daughter and attacking his son who was 15 years old at the time. On the same day a court ordered his release despite the fact he was violating the conditions of his parole, having been convicted of a previous knife attack on his ex-wife in 2013. After his daughter highlighted the case on social media decrying the court’s decision, the authorities took steps to have him remanded to pretrial detention. S.G. was convicted of attempted murder and at time of writing was serving a prison sentence. But with the possibility of his early release on parole looming, Altunsöğüt and her lawyer were anticipating the threat he may pose to her once again.

These are among the starkest examples of the Turkish state’s failure to provide effective protection from domestic violence, to assist survivors of domestic violence or to punish perpetrators of attacks on women, even when the perpetrator is a serial abuser. Around four out of ten women in Turkey say they have been subjected to physical and/or sexual

violence by husbands or partners at some time during their lives, according to government studies from 2008 and 2014. Women's rights groups and independent media regularly record hundreds of femicides in Turkey every year. Turkey's Interior Ministry, in a report to a 2020-21 parliamentary commission looking at the causes of violence against women, provided fluctuating numbers of femicides over the past five years, the lowest being 268 femicides in 2020, with the figure for 2021 having risen again to 307.

This report examines the failure of the Turkish authorities to adequately protect women from violence, prevent the recurrence of violence, and hold perpetrators to account. The report comes 11 years after a 2011 Human Rights Watch report which provided a wide-ranging perspective on the problem of family violence in Turkey at that time.

The present report tackles the use of preventive and protective cautionary orders issued by courts and law enforcement officials under Turkey's 2012 Law to Protect the Family and Prevent Violence against Women (Law No. 6284). Law No. 6284 incorporated many aspects of the Council of Europe Convention on Preventing and Combatting Violence against Women and Domestic Violence (known as the Istanbul Convention) into Turkey's domestic law and remains in force despite Turkey's withdrawal from the convention in 2021.

Under Law No. 6284, victims of domestic violence can apply to the police or to the public prosecutor at the courthouse for preventive cautionary orders which can include a range of measures aimed at compelling perpetrators of domestic violence to stop all forms of harassment and abuse, including by barring them from approaching and contacting the victim. Victims are also entitled to apply for protective orders to secure various forms of physical protection, including immediate access to a shelter or short-term accommodation if no shelter is immediately available, the possibility of calling in police protection on demand, and, in some cases, the opportunity to have their identity and whereabouts concealed. Courts issue cautionary orders for a specified duration of up to six months. Victims may apply for them to be renewed. Perpetrators can be sanctioned with short periods of detention (*zorlama hapsi*) or be required to wear an electronic tag if they breach the terms of preventive cautionary orders.

It is crucial that authorities responsible for implementing protective measures for women from violence do so in coordination with social services responsible for women's access to

housing, health care, employment, and education for children. An examination of all these dimensions falls outside the scope of this report.

This report reviews 18 cases of domestic violence during the period 2019 to 2022, with one case from 2017, in which women lodged complaints with the police and prosecutors concerning violence by current or former spouses and partners. It shows that while police and courts are issuing preventive and protective cautionary orders, failure to ensure they are observed leaves dangerous protection gaps for women if not rendering them meaningless. Courts often issue cautionary orders for far too brief periods, and the authorities fail to undertake effective risk assessments or monitor the effectiveness of the orders, leaving survivors of domestic violence at risk of ongoing – and at times deadly – abuse. Some perpetrators breach the terms of preventive cautionary orders without penalty. For those who are subject to criminal prosecution and conviction, it often comes late and the penalties are too little to constitute an effective deterrent. In the most severe cases, six examples of which are included in the report, women have been murdered even though the risk they faced was known to the authorities and perpetrators had been formally served with preventive orders.

The Interior Ministry's own figures presented to a parliamentary commission on violence against women demonstrate that in around 8.5 percent of cases of women killed between 2016 and 2021, the woman had been granted an ongoing protective or preventive order at the time of her murder. In 2021, 38 of the 307 women killed were under protection, the highest number over the previous five-year period for which figures are recorded.

While penalties for men who murder women have risen over the years, there needs to be more focus on the failure of the authorities to prevent these murders. There should be clear processes for investigating and holding to account public authorities in cases where they have not exercised due diligence in preventing and protecting victims of domestic violence.

In this respect, a judgment of Turkey's Constitutional Court published in December 2021 breaks new ground. In the case of T.A. (no. 2017/32972), the court identified a catalogue of state failures amounting to violation of a woman's right to life in substantive and procedural terms. The court determined that public officials, prosecutors, and judges had

failed to take the necessary steps to protect a woman who had lodged multiple complaints with the authorities before she was killed by her former husband.

Some cases documented in this report show that preventive measures can help protect survivors of domestic abuse from further violence, but only if such measures are implemented effectively.

Poor data collection prevents authorities and the public from having a solid grasp on the scale of domestic violence in Turkey or the gaps in implementing protection which contribute to ongoing risks for victims. There are discrepancies in the data on the number of protective and preventive orders issued over the past five years but the available data shows that the number of orders being issued is increasing. The Justice Ministry presented a 2021-22 parliamentary commission with data on the number of individuals for whom courts issued protective and preventive orders as follows:

Year	Number of individuals receiving preventive orders	Number of individuals receiving protective orders
2016	139, 218	1,801
2017	151,715	2,552
2018	181,072	4,648
2019	195,242	5,725
2020	244, 985	7,293
2021	272,870	10,401

Government data does not provide information about implementation.

In cases of domestic violence in Turkey, including those reviewed in the report, women, their daughters, or their lawyers often resort to appeals via social media, and sometimes in print media or television, in an effort to trigger action by the authorities. While successful in some cases, the need to resort to such tactics is an indictment of the authorities' failure to provide protection or to respond adequately to the risks victims face.

Between the publication of Human Rights Watch's 2011 report and this one, Turkey has both ratified and withdrawn from the Council of Europe's Istanbul Convention on

Preventing and Combatting Violence against Women and Domestic Violence, the gold standard for tackling gender-based violence in Council of Europe member states. Turkey was in fact the first country to ratify the convention, which opened for signature on May 11, 2011, in Istanbul. On March 20, 2021, Turkey also became the first country to withdraw from it, rejecting the convention's inclusive approach to sexual orientation and gender identity as evidence that the convention had been "hijacked by a group of people attempting to normalize homosexuality – which is incompatible with Turkey's social and family values," in the words of the president's communications chief. Many lawyers and activists working on women's rights and LGBT rights say that withdrawal from the convention was a major setback, demonstrating lack of political commitment to gender equality, without which there remain huge obstacles to combatting domestic violence in Turkey and addressing its root causes.

While recommending that Turkey rejoin the Istanbul Convention, this report notes that key provisions of the convention are enshrined in Turkey's Law to Protect the Family and Prevent Violence against Women (Law No. 6284). Moreover, Turkey is bound by other international human rights law obliging it to combat violence against women. Notable among these are the UN Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and the European Convention on Human Rights (ECHR). Turkey is obliged to implement European Court of Human Rights judgments, including those relating to the Court's finding of a pattern of state failure to protect women from domestic violence in the case of *Opuz v. Turkey*, and 4 other similar cases.

In January 2020 the Interior Ministry restructured police units that handle cases falling under Law No. 6284 and the Justice Ministry set up dedicated courts to hear such cases. It was therefore especially important to hear the police and judges' view of the challenges of the work in these new frameworks. Their assessments are provided in Chapter 3 of the report. More resources for the police units dealing with domestic violence and increased capacity for judges and prosecutors are needed to support their work.

Unfortunately, the Family and Social Services Minister did not grant permission for Human Rights Watch to meet with representatives of the ministry or the Violence Prevention and Monitoring Centers, bodies charged since 2012 with a coordinating role around the implementation of protective and preventive orders at the provincial level and providing

access to social services for victims of domestic violence. It was therefore not possible to reflect the ministry's views or those of the centers in this report.

Authorities should address gaps in protection for victims of violence, including by sanctioning perpetrators for breaches of preventive orders, such as with short periods of detention. At the same time, the authorities should ensure that the deterrent purpose of preventive orders is reinforced by timely prosecution of perpetrators of domestic violence. The two tracks of prevention and prosecution are necessarily separate and independent of each other but should be well synchronized to secure an effective outcome for victims. In some of the key cases examined in the report this had not happened.

The Family and Social Services Ministry's July 1, 2021 action plan on combatting violence against women contains little new data or findings about the impact of the existing framework for combatting domestic violence or about the work of the Violence Prevention and Monitoring Centers over nine years, and the plan avoids any mention of perceived gaps in protection and ongoing challenges. Omitted too are the specific findings of international bodies that have monitored Turkey's efforts to combat violence against women and Turkey's obligation to implement the European Court of Human Rights' judgements in the Opuz and related cases.

The March 2022 report of the 2021 parliamentary commission examining the causes of violence against women similarly includes few findings and little analysis about the implementation of Turkey's extensive framework to combat domestic violence but acknowledges the gaps in protection by offering many recommendations to improve coordination between agencies, to increase awareness, capacity, resources, monitoring and training, and to standardize data collection.

In order to comply with its obligations to protect victims of domestic violence, the Turkish government needs to ensure better implementation of protective and preventive orders; better collection and publication of data through collaborative efforts by the Justice, Interior and Family and Social Services ministries; greater focus on measuring and evaluating the impact of measures to prevent and respond to domestic violence, and reporting of such evaluations back to the public; and better collaboration with civil society organizations specializing in women's rights and combatting violence against women.

Methodology

This report is based on research by Human Rights Watch researchers who conducted in-person interviews in Ankara, Diyarbakır, and Istanbul as well as phone interviews with persons or non-governmental organizations based in Aksaray, Antalya, Gaziantep, Eskişehir, İzmir, Kırıkkale, Adana, Batman, and Nevşehir throughout 2021.

Researchers undertook a thorough detailed analysis of case histories, availing of access to women's complaints, court decisions, records of trial hearings, and detailed interviews with some survivors of domestic violence, lawyers representing victims or their families, and representatives of non-governmental organizations that work on protecting women's rights and combatting violence against women.

Human Rights Watch interviewed ten women who were survivors of violence, the mother of a woman killed by her husband, and fifteen lawyers who represented the women whose cases are discussed, and analyzed 18 domestic violence case files where the authorities had taken steps to protect the victim.

The researchers interviewed seven judges and a retired judge, six of whom were with Istanbul Family Courts, two prosecutors, and police officers in the unit to deal with cases of domestic violence and violence against women in nine İstanbul districts. Human Rights Watch's request to the Directorate General of Women's Status of the Ministry for Family and Social Services for permission to visit the Istanbul provincial Violence Prevention and Monitoring Center was denied. Further requests to the Family and Social Services Ministry, including to the minister's office, to visit the center received no response.

On April 20, 2022, Human Rights Watch wrote to the ministers of interior, justice, and family and social services, regarding six cases of women killed by spouses. A request was made of each ministry for up-to-date information on whether following the women's deaths the relevant authorities had conducted investigations into the possible failure of state authorities to exercise due diligence in enforcing effective protective measures in response to the women's complaints of ongoing violence and harassment, and the outcome of any such investigations. On May 12, Human Rights Watch received a response from the interior ministry containing information supplied by the General Security

Directorate. The information supplied is included with the case histories in Chapter 2 of this report. The other ministries did not respond to Human Rights Watch's letter by the date of publication of this report.

The researchers interviewed lawyers and activists with twelve nongovernmental organizations (NGOs) and women's rights centers of bar associations in addition to six lawyers and a journalist specializing in domestic violence cases. Some of the cases in the report were identified to Human Rights Watch by lawyers and NGOs, while others were identified by Human Rights Watch via media reports or social media platforms.

The female researchers interviewed all individuals in Turkish in person and via WhatsApp calls. No interviewee received compensation for providing information. Pseudonyms have been used for four and initials for two women who requested their names be withheld for privacy and security reasons. These pseudonyms were chosen randomly, and do not reflect their background or ethnicity.

This report focuses on women and girls as victims and survivors of domestic violence. While men and boys are also victims and survivors of domestic violence, women and girls are overwhelmingly disproportionate victims of this form of abuse in Turkey and globally.

I. Background and Legal Framework

Around four out of ten women in Turkey say they have been subjected to physical and/or sexual violence by husbands or partners at some time in the course of their lives, according to the July 2021 Turkish government action plan on domestic violence, citing the most recent available government data from 2008 and 2014.¹ Women’s rights groups and independent media have regularly recorded hundreds of femicides in Turkey annually.² Turkey’s Ministry of Interior provides fluctuating numbers of femicides over the past five years. The lowest was 268 femicides in 2020 and the figure for 2021 was 307 femicides.³ All these are judged by the Interior Ministry to be murders of women falling within the scope of Turkey’s Law to Protect the Family and Prevent Violence against Women (law 6284), and thus mainly linked to domestic violence.

With respect to the number of incidents of domestic violence recorded by the police and gendarmerie over the past six years, the published figures record a steady rise. In 2016 there were 162,110 recorded incidents and this had risen to 268,817 incidents in 2021.⁴

¹ Figures from 2008 and 2014 official studies surveying women and girls aged 15-59 quoted in the Turkish government’s “Fourth national action plan on combatting violence against women,” issued on July 1, 2021; see <https://www.aile.gov.tr/media/82082/kadina-yonelik-siddetle-mucadele-iv-ulusal-eylem-plani-2021-2025.pdf>, p. 25. For the 2014 study, see Hacettepe University Department of Population Studies, “Research on Domestic Violence against Women in Turkey,” https://fs.hacettepe.edu.tr/hips/dosyalar/Ara%C5%9Ft%C4%B1rmalar-raporlar/Aile-i%C3%A7i-%C5%9Eiddet-Ara%C5%9Ft%C4%B1rmalar%C4%B1/2014_english_main_report_kyais.pdf (accessed March 16, 2022). The reliance on the 2008 and 2014 Hacettepe University studies seem to indicate that no new government reporting has been undertaken or published since 2014 to update information about the incidence.

² Independent news website Bianet tracks murders of women, with figures as follows: 2016: 261; 2017: 290; 2018: 255; 2019: 328; 2020: 284; 2021: 339; see Bianet website link: <https://bianet.org/kadin/bianet/133354-bianet-siddet-taciz-tecavuz-cetelesi-tutuyor> (accessed March 13, 2022). The campaigning group, the We will Stop Femicides Platform (Kadın Cinayetlerini Durduracağız Platformu) offers also collects data; See their website page: <http://kadincinayetleriniurduracagiz.net/kategori/veriler>.

³ The Interior Ministry provided a parliamentary commission with the official numbers as follows: 2016: 303; 2017: 353; 2018: 279; 2019: 336; 2020: 268; 2021: 307. Numbers are cited in the final report by the Parliamentary Enquiry Commission Investigating all aspects of the reasons for violence against women... (TBMM Kadına Yönelik Şiddetin Sebeplerinin Tüm Yönleriyle Araştırılarak Alınması Gereken Tedbirlerin Belirlenmesi Amacıyla Kurulan Meclis Araştırması Komisyonu), March 6, 2022: see <https://www5.tbmm.gov.tr/sirasayi/donem27/yilo1/ss315.pdf> (accessed March 13, 2022), p.219.

⁴ Security General Directorate common crimes department and Gendarmerie General Command common crimes department data reported to the Parliamentary Enquiry Commission Investigating all aspects of the reasons for violence against women... (TBMM Kadına Yönelik Şiddetin Sebeplerinin Tüm Yönleriyle Araştırılarak Alınması Gereken Tedbirlerin Belirlenmesi Amacıyla Kurulan Meclis Araştırması Komisyonu), March 6, 2022: see <https://www5.tbmm.gov.tr/sirasayi/donem27/yilo1/ss315.pdf> (accessed March 13,2022), table 44, p.426.

Demonstrations drawing large numbers of women together with campaigning by the many women’s rights groups in Turkey have raised public awareness of the issues.⁵ This has undoubtedly prompted the government in turn to attempt to demonstrate its commitment to combatting violence against women. In April 2022, a new bill before parliament brought in several measures aimed at increasing penalties for perpetrators of domestic violence and introducing the crime of stalking into the Turkish Penal Code. Stalking will be punishable with a six month to two-year prison sentence. In cases where a perpetrator who engages in stalking is subject to a preventive order barring them from contacting the victim, the penalty increases to between one and three years in prison. The law also punishes the intentional killing of a woman with a prison sentence of aggravated life imprisonment. The law also makes intentional injury of women a “catalogue” offense enabling perpetrators to be placed in pretrial detention; slightly increases penalties for crimes such as murder, intentional injury, torture, torment and threats when perpetrated against women, and requires courts to provide a fully reasoned explanation if granting perpetrators discretionary reductions to sentences for good conduct.⁶

The Interior Ministry in April 2022 also issued a new circular setting out a raft of measures to combat domestic violence. They include establishing local risk management teams to monitor threats to victims of recurrent domestic violence and those at high risk, creating a system of instant notification to the police when convicted perpetrators of domestic violence are released from prison, increasing the use of electronic tags to be worn by perpetrators, providing more training for police, and increasing resources.⁷

⁵ As this report was being finalized in mid-April 2022, one such campaign group, the We Will Stop Femicide Platform, announced that a legal case to dissolve the association had been initiated on the grounds that its activities “violate law and morality,” citing complaints asserting that the association worked under the pretext of women’s rights activism to divide the family structure. See statement in Turkish on the association’s website: “Kadın Cinayetlerini Durduracağız Platformu Derneği Hukuksuz Davalarla Kapatılmaz,” April 13, 2022, <https://kadincinayetleriniidurduracagiz.net/gorseller/3016/kadin-cinayetlerini-durduracagiz-platformu-dernegi-hukuksuz-davalarla-kapatilamaz> (accessed May 18, 2022).

⁶ The measures were passed by parliament on May 12, 2022: see TBMM, “Türk Ceza Kanunu Ve Bazı Kanunlarda Değişiklik Yapılmasına Dair Kanun” (no. 7406) (Law on changes to the Turkish Penal Code and Other Laws, No. 7406), May 12, 2022, <https://www.tbmm.gov.tr/kanunlar/k7406.html> (accessed May 18, 2022).

⁷ See Interior Ministry website, “81 İl Valiliğine Kadına Yönelik Şiddetle Mücadele 2022 Faaliyet Planı Genelgesi Gönderildi,” (Combatting Violence against Women action plan circular sent to 81 provincial governorates), April 1, 2022: see <https://www.icisleri.gov.tr/81-il-valiligine-kadina-yonelik-siddetle-mucadele-2022-faaliyet-plani-genelgesi-gonderildi> (accessed May 18, 2022).

Withdrawal from the Istanbul Convention

Notwithstanding subsequent government moves of this kind to demonstrate a commitment to tackling domestic violence, Turkey's 2021 withdrawal from the Istanbul Convention triggered alarm among domestic women's rights groups and internationally. They see it as indicative of a lack of commitment by Turkish authorities to protecting women from violence and to promoting gender equality.⁸ The main opposition parties in Turkey's parliament have consistently and strongly condemned the withdrawal, lodged appeals against it and been vocal in criticizing Turkey's track record in combatting domestic violence.⁹ In November 2021, Turkey's highest administrative court rejected appeals against the withdrawal, although a final decision of the court on whether the withdrawal had been conducted in an unlawful manner was outstanding at the time of writing.¹⁰

Turkish government statements on the convention have narrowly focused on registering concern that it adopts an inclusive approach to protection. The convention provisions apply to victims "without discrimination on any ground" including sexual orientation and gender identity. Government statements have indicated that the convention's obligation to

⁸ See, for example: "Council of Europe leaders react to Turkey's announced withdrawal from the Istanbul Convention," *Council of Europe*, March 21, 2021, <https://www.coe.int/en/web/portal/-/council-of-europe-leaders-react-to-turkey-s-announced-withdrawal-from-the-istanbul-conventi-1> (accessed May 18, 2022); "Turkey's announced withdrawal from the Istanbul Convention endangers women's rights," *Commissioner for Human Rights*, March 22, 2021, <https://www.coe.int/en/web/commissioner/-/turkey-s-announced-withdrawal-from-the-istanbul-convention-endangers-women-s-rights> (accessed May 18, 2022); "Turkey: Withdrawal from Istanbul Convention is a pushback against women's rights, say human rights experts," *United Nations Human Rights Office of the High Commissioner*, March 23, 2021, <https://www.ohchr.org/en/press-releases/2021/03/turkey-withdrawal-istanbul-convention-pushback-against-womens-rights-say?LangID=E&NewsID=26936> (accessed May 18, 2022); "UN women's rights committee urges Turkey to reconsider withdrawal from Istanbul Convention as decision takes effect," *United Nations Human Rights Office of the High Commissioner*, July 1, 2021, <https://www.ohchr.org/en/press-releases/2021/07/un-womens-rights-committee-urges-turkey-reconsider-withdrawal-istanbul?LangID=E&NewsID=27242> (accessed May 18, 2022); "Turkey: Statement by High Representative/Vice-President Josep Borrell on Turkey's withdrawal of the Istanbul Convention," *European Commission Directorate-General for Neighbourhood and Enlargement Negotiations*, March 20, 2021, https://ec.europa.eu/neighbourhood-enlargement/news/turkey-statement-high-representativevice-president-josep-borrell-turkeys-withdrawal-istanbul-2021-03-20_en (accessed May 18, 2022).

⁹ See, for example: "CHP lambasts gov't over withdrawal from Istanbul Convention," *Hürriyet Daily News*, March 23, 2021, <https://www.hurriyetdailynews.com/chp-lambasts-govt-over-withdrawal-from-istanbul-convention-163378> (accessed May 18, 2022); "İYİ Party Chair Akşener appeals against withdrawal from Istanbul Convention," *bianet*, March 31, 2021, <https://m.bianet.org/english/women/241625-iyi-party-chair-aksener-appeals-against-withdrawal-from-istanbul-convention> (accessed May 18, 2022); "HDP files case against Istanbul Convention exit," *bianet*, April 1, 2021, <https://m.bianet.org/english/women/241757-hdp-files-case-against-istanbul-convention-exit> (accessed May 18, 2022).

¹⁰ See: "Council of State rejects appeals against Turkey's withdrawal from Istanbul Convention," *bianet*, November 18, 2021, <https://m.bianet.org/english/women/253540-council-of-state-rejects-all-appeals-against-turkey-s-withdrawal-from-istanbul-convention> (accessed May 18, 2022); "Council of State to reveal decision on Istanbul Convention withdrawal," *Hürriyet Daily News*, April 30, 2022, <https://www.hurriyetdailynews.com/council-of-state-to-reveal-decision-on-istanbul-convention-withdrawal-173404> (accessed May 18, 2022).

also protect lesbian, gay, bisexual and transgender (LGBT) people justified its withdrawal as a state party. The most unambiguous statement is from March 21, 2021, when the president's communications chief defended the decision saying that the convention had been "hijacked by a group of people attempting to normalize homosexuality – which is incompatible with Turkey's social and family values."¹¹

The Turkish government is responding to, and promoting, a familiar set of misrepresentations about the Istanbul Convention that have been exploited for political purposes in Turkey, and by right-wing governments elsewhere. In 2021, Poland's parliament set in motion a bill calling for withdrawal from the convention,¹² and, in 2020, Hungary declined to ratify it.¹³ The convention has become a target of the anti-gender movement and governments that use the rhetoric of 'traditional values' as a wedge issue to push back against LGBT and women's rights and to reject the convention as a foreign imposition. In the claims of those opposing the Istanbul Convention is a plethora of misinformation including that the convention imposes same-sex marriage, prescriptive sexuality education, excludes men, erases distinctions based on gender, threatens the family, introduces a third gender category, and interferes with migration policies. To counter this, the Council of Europe has published a fact sheet dismantling these myths.¹⁴ In rejecting the convention these governments like to assert they can combat violence against women while ignoring binding international human rights law.

Despite withdrawing from the convention, Turkey still has its Law on the Protection of the Family and to Combat Violence against Women (Law No. 6284) which derives many of its provisions from the convention.¹⁵ Some of the key provisions are those related to issuing protective and preventive orders. Law No. 6284 also established a system of coordination

¹¹ See Presidency of the Republic of Türkiye Directorate of Communications, "Statement regarding Türkiye's withdrawal from the Istanbul Convention," March 22, 2022, <https://www.iletisim.gov.tr/English/Haberler/detay/statement-regarding-turkeys-withdrawal-from-the-istanbul-convention> (accessed May 18, 2022).

¹² See Sandrine Amiel, "Istanbul Convention: Poland moves a step closer to quitting domestic violence treaty," *euronews*, April 1, 2022, <https://www.euronews.com/2021/04/01/istanbul-convention-poland-moves-a-step-closer-to-quitting-domestic-violence-treaty> (accessed May 18, 2022).

¹³ See "Hungary's parliament blocks domestic violence treaty," *The Guardian*, May 5, 2020, <https://www.theguardian.com/world/2020/may/05/hungarys-parliament-blocks-domestic-violence-treaty> (accessed May 18, 2022).

¹⁴ See Council of Europe, "The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence: Questions and Answers," no date, <https://rm.coe.int/istanbul-convention-questions-and-answers/16808f0b80> (accessed March 16, 2022).

¹⁵ See unofficial ILO translation of law 6284: <http://ilo.org/dyn/natlex/docs/SERIAL/91822/106656/F-1918776246/Non-official%20translation%20-%20Law%20to%20protect%20famil.pdf> (accessed May 18, 2022).

between different government agencies and social services combatting violence, notably through establishing Violence Prevention and Monitoring Centers in each province, and enables the provision of temporary financial support and alimony to beneficiaries of protective orders.

Police, prosecutors, and judges to whom Human Rights Watch spoke, all emphasized that Law No. 6284 contains all the legal measures they believe they need to respond to domestic violence allegations robustly, allowing them to target perpetrators and protect victims. They said that they rely entirely on the provisions outlined in this law to do their work. In a political context in which civil servants and members of the judiciary are regrettably not encouraged to offer opinions based on their own professional experience, Human Rights Watch did not attempt to solicit their views on the possible impact of withdrawal from the Istanbul Convention on the wider effort to combat violence against women.¹⁶

The Minister for Family and Social Services has rejected the idea that withdrawal from the convention has implications for combatting domestic violence, commenting to a parliamentary commission examining the causes of violence against women that “it is a huge injustice to say that combatting violence against women or the gains of women rights have been thrown in the bin with Turkey leaving the Istanbul Convention. We withdrew from the Istanbul Convention, but what’s changed in women’s rights and combatting violence? Nothing has changed.”¹⁷

Women’s rights lawyers on the other hand told Human Rights Watch that the withdrawal from the convention is a major setback, demonstrating lack of political commitment to gender equality, without which there exist huge obstacles to combatting domestic violence and addressing its root causes. One lawyer at the Istanbul Bar Association Women’s Rights Center expressed the view that, without the Istanbul Convention, Turkey’s Law No. 6284 is “like a building whose foundations have been removed.”¹⁸

¹⁶ Human Rights Watch interviews with six judges in the Anatolian Courthouse and the Istanbul Çağlayan Courthouse, August 11-12, 2021.

¹⁷ See “TBMM Kadına Yönelik Şiddetin Sebeplerinin Belirlenmesi Araştırma Komisyonu Toplandı,” (Parliamentary Commission to research the causes of violence against women met), *Meclis Haber*, May 26, 2021, https://meclishaber.tbmm.gov.tr/develop/owa/haber_portal.aciklama?p1=151380 (accessed May 18, 2022).

¹⁸ Interview with Istanbul Bar Association women’s rights center lawyers, June 4, 2021.

In withdrawing from the convention, Turkey is no longer subject to the scrutiny of the Group of Experts on Action against Violence against Women (GREVIO), the committee charged with monitoring states' fulfillment of their obligations under the convention. Several women's rights lawyers and the founder of a women's rights organization focused on domestic violence voiced the view that the Presidency's motivation for withdrawing from the convention might also be to escape the scrutiny of GREVIO monitoring.¹⁹ The GREVIO in 2018 issued an important baseline report assessing the state of Turkey's adherence to the convention and offering detailed recommendations. Regarding the implementation of protection orders, GREVIO focused on the state's obligation to protect women and the importance of accountability for failure to protect, urging the authorities to:

- 36.b. exercise due diligence to (1) systematically review and take into account the risk of revictimization by applying effective measures to protect victims from any further violence and harm, and (2) investigate and punish acts of violence;
- c. hold to account state actors who, in failing to fulfil their duties, engage in any act of violence, tolerate or downplay violence, or blame victims;²⁰

GREVIO also advised that in analyzing cases of femicides, to prevent such future killings, the Turkish government should also “[hold] accountable both the perpetrators and the multiple agencies that come into contact with the parties.”²¹

In making these recommendations, GREVIO relied in particular on the findings of the European Court of Human Rights in its judgment in *Opuz v. Turkey*, a case concerning the failure of Turkish authorities to protect a mother and daughter from recurring and escalating violence by the daughter's husband, culminating in the mother's murder. The Court found that despite receiving repeated complaints and having knowledge of the real and imminent risks the women faced, the authorities had failed to protect them and failed to ensure that perpetrator was held accountable. The Court found violations of article 2 (right to life) of the European Convention on Human Rights (ECHR), article 3 (prohibition of

¹⁹ Interviews in June 2021 with Istanbul Bar Association women's rights center and KAMER Foundation.

²⁰ GREVIO, *GREVIO Baseline Evaluation Report Turkey*, October 15, 2018, <https://rm.coe.int/eng-grevio-report-turquie/16808e5283> (accessed May 18, 2022), para. 36b, p. 23.

²¹ *Ibid.*

inhuman or degrading treatment) and article 14 (prohibition of discrimination).²² Since then the Court has made similar findings in at least four other similar domestic violence cases against Turkey and the Committee of Ministers has linked the cases together for the purposes of monitoring implementation.²³

All Council of Europe member states have an obligation under the ECHR to implement individual and general measures ordered by the European Court in its judgments. The Council of Europe's Committee of Ministers supervises states' obligation to execute judgments, periodically reviewing the state of execution and issuing decisions and resolutions urging measures the state should take to address the shortcomings that led to the finding of violations and thereby introducing concrete reforms or other measures to prevent a recurrence of those violations.

Despite withdrawing from the Istanbul Convention, Turkey is still bound by other international instruments requiring resolute measures to combat domestic violence, notably the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the UN Convention against Torture.

The CEDAW Committee, responsible for monitoring states' adherence to and implementation of CEDAW, has leveled robust criticism at the Turkish authorities for failure to implement applicable legislation concerning protection orders and injunctions. In its 2016 concluding observations on Turkey's seventh periodic report under CEDAW, the committee focused on the authorities' failure to protect women who had obtained protection orders, observing that: "...protection orders are rarely implemented and are insufficiently monitored, with such failure often resulting in prolonged gender-based violence against women or the killing of the women concerned."²⁴ The committee went on to recommend that the Turkish authorities: "[v]igorously monitor protection orders and sanction their violation, and investigate and hold law enforcement officials and judiciary personnel accountable for failure to register complaints and issue and enforce protection orders."²⁵

²² See *Opuz v. Turkey*, application 33401/02, June 9, 2009.

²³ See for example, Revised action report (19/12/2016) - Communication from Turkey concerning the Opuz group of cases against Turkey (Application No. 33401/02), DH-DD(2017)16 09/01/2017

²⁴ CEDAW, *Concluding observations on the seventh periodic report of Turkey*, 25 July 2016, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N16/233/44/PDF/N1623344.pdf?OpenElement> (accessed May 18, 2022), para. 32/b.

²⁵ *Ibid*, paragraph 33/c.

As the cases included in Chapter 2 of this report show, the Turkish government still has a long way to go to implement this final recommendation. In this respect, a judgment of Turkey’s Constitutional Court published in December 2021, discussed in Chapter 3, breaks new ground. The judgment finds a catalogue of state failure amounting to violation of a woman’s right to life in substantive and procedural terms. The court determined that public officials, prosecutors, and judges had failed to take the necessary steps to protect a woman who had lodged multiple complaints with the authorities before she was killed by her former husband.²⁶

Turkey’s Latest Action Plan to Combat Violence against Women

On July 1, 2021, the day that Turkey’s withdrawal from the Istanbul Convention became final, President Erdogan announced a new Ministry of Family and Social Services five-year action plan on combatting violence against women.²⁷ As noted by the prominent women’s right group Mor Çatı (Purple Roof), which runs a shelter, the 216-page action plan is significant for making no mention of the Istanbul Convention, the GREVIO baseline report on Turkey from 2018, or the CEDAW Committee’s specific recommendations to Turkey in 2016.²⁸ It also makes no mention of Turkey’s obligations to implement the Opuz and related judgements. Where international legal obligations and guidelines from intergovernmental bodies like the CEDAW Committee are cited at all, they are cited in purely general terms ignoring the mass of analysis and recommendations made over the past few years on the situation in Turkey. This is a disappointing approach for an action plan aimed at combatting Turkey’s widespread and entrenched problem of violence against women. Mor Çatı has noted, too, that omitting the term “gender equality” from the plan is indicative of the government’s ideological stance against promoting equality between men and women.²⁹

²⁶ See “Turkey’s top court finds state at fault for not taking measures to protect murdered woman,” *Duvar online*, December 2, 2021, <https://www.duvarenglish.com/turkeys-top-court-finds-state-at-fault-for-not-taking-measures-to-protect-murdered-woman-news-59723> (accessed May 18, 2022).

²⁷ See Ministry of Family and Social Services, *Fourth national action plan on combatting violence against women*, issued on July 1, 2021, <https://www.aile.gov.tr/media/82082/kadina-yonelik-siddetle-mucadele-iv-ulusal-eylem-plan-2021-2025.pdf> (accessed May 18, 2022).

²⁸ See Mor Çatı Kadın Sığınağı Vakfı, “IV. Kadına Yönelik Şiddetle Mücadele Ulusal Eylem Planı’na (2021-2025) Dair Mor Çatı Bilgi Notu,” September 3, 2021, <https://morcati.org.tr/basin-aciklamalari/iv-kadina-yonelik-siddetle-mucadele-ulusal-eylem-planina-2021-2025-dair-mor-cati-bilgi-notu/> (accessed May 18, 2022).

²⁹ Ibid. Turkey’s President Recep Tayyip Erdoğan is on record for his rejection of the concept of gender equality, with comments such as “You cannot bring women and men into equal positions; that is against nature because their nature is different.”: see, “Turkish President Erdoğan says gender equality ‘against nature’,” *Hürriyet Daily*, November 24, 2014,

The 2021-2025 action plan to combat violence against women is the fourth of such plans, and yet not only is there no discussion of the outcome of previous five-year plans, but the data and evidence base informing the plan is weak and outdated. The plan relies on the most recently conducted research findings from the ministry's reports on "Research on Domestic Violence Against Women in Turkey" conducted in 2008 and 2014 to analyze categories and frequency of violence, and demographics.³⁰ The other statistics that form the basis of the plan include judicial statistics about numbers of court cases concerning complaints about domestic violence which are not sufficiently disaggregated to be informative and numbers of murders of women provided by the Interior Ministry. No data has been provided by the Violence Prevention and Monitoring Centers operating in every province under the Ministry of Family and Social Services despite their coordinating role in combatting domestic violence.

Of relevance to this report are two of the action plan's goals: "capacity enhancement to improve protective and preventive measures" and "collecting data and statistics." Regarding protective and preventive orders, the plan lays out strategies such as "ensuring the risk factors of the cases are determined in advance and that the case is intervened in an effective and timely manner."

The plan proposes a raft of measures including: visits by family social support personnel (aile sosyal destek personeli) to improve risk assessments; the involvement of social services, women's sections at the municipalities, and schools and health institutions in reporting violence to relevant authorities; support for victims of violence from social services; steps to promote socioeconomic empowerment of victims; increased effectiveness of law enforcement practices; better communication; increased capacity of health services for victims; and the maintenance of services during emergencies (such as the covid pandemic).

<https://www.hurriyetdailynews.com/turkish-president-erdogan-says-gender-equality-against-nature-74726> (accessed May 18, 2022).

³⁰ See Ministry of Family and Social Policies and Hacettepe University Institute of Population Studies, *Report on Domestic Violence against Women in Turkey*, 2015, Ankara, http://fs.hacettepe.edu.tr/hips/dosyalar/Ara%C5%9Ft%C4%B1rmalar%20-%20raportlar/Aile%20i%C3%A7i%20%C5%9Eiddet%20Ara%C5%9Ft%C4%B1rmalar%C4%B1/2014_english_main_report_kyais.pdf (accessed May 18, 2022).

These proposals are spelled out in more detail than in previous action plans. However, to be meaningful, the government needs to monitor and measure their implementation and effectiveness and report back transparently to the public, making statistics and findings fully available.

The goal relating to the collection of data and statistics is much needed but its success will depend on the willingness of the government to allow systematic collection of data and in a fully disaggregated form. The data should be presented transparently to the public so as to record the extent to which the authorities' own measures and court decisions succeed or fail to protect victims of violence and prevent its recurrence.

The plan also includes the positive recommendations that “stalking” and “forced marriage” should be separately named as crimes in the Turkish Criminal Code, which could provide additional protections from domestic violence. A new law passed by parliament on May 12, 2022, for the first time introduces the crime of stalking, with a prison sentence of six months to two years. The offense of “disturbing a person’s calm and tranquility” (article 123 of the Turkish Penal Code) which has been used to prosecute stalking cases, had been criticized by women’s rights lawyers as ill-matched to the pattern of persistent harassment and intimidation by multiple means which stalking cases often entail.³¹

In March 2022, a parliamentary commission set up in 2021 to examine the causes of violence against women, issued a lengthy report. Similar to the government’s action plan, the report includes few findings and little analysis about the implementation of Turkey’s extensive framework to combat domestic violence but, as testament to the persistent problem, an 86-page recommendations section which acknowledges the acute gaps in protection. The recommendations are focused on improving coordination between agencies, improving monitoring of measures to combat domestic violence, increasing capacity, resources and training of police, judges and all other public authorities, creating new mechanisms and outreach to women at risk, and standardizing data collection to combat violence against women.³² Throughout the parliamentary commission report, there

³¹ See TBMM, “Türk Ceza Kanunu Ve Bazı Kanunlarda Değişiklik Yapılmasına Dair Kanun,” (no. 7406) (Law on changes to the Turkish Penal Code and Other Laws, No. 7406), May 12, 2022: <https://www.tbmm.gov.tr/kanunlar/k7406>.

³² See the final report by the Parliamentary Enquiry Commission Investigating all aspects of the reasons for violence against women, *TBMM Kadına Yönelik Şiddetin Sebeplerinin Tüm Yönleriyle Araştırılarak Alınması Gereken Tedbirlerin Belirlenmesi Amacıyla Kurulan Meclis Araştırması Komisyonu*, March 6, 2022, <https://www.tbmm.gov.tr/sirasayi/donem27/yilo1/ss315.pdf> (accessed March 13, 2022), recommendations, pp. 598-684.

is much emphasis placed on the rising number of protective and preventive orders issued by courts and police year on year without scrutiny of whether this in practice has meant women are today better protected against domestic violence.

What are Protective and Preventive Orders?

Protective and preventive orders are included in Turkey's Law No. 6284.

The police, the district governor's office and the courts have the power to issue protective orders (articles 3 and 4 of Law No. 6284) which can include a range of measures designed to ensure the victim's safety and are not focused on the perpetrator. Women typically apply first to the police, who can offer the victim and any children a place in a shelter or protection on call. Victims can also secure temporary financial support when issued a protective order by police. Courts mainly assess complaints by victims referred to them by the police, approve or reject measures taken by the police, and issue further protective measures such as ordering a change in the individual's workplace and in life-threatening situations, or ordering that information about the individual's identity and whereabouts in official records be concealed to protect them from being found and contacted by their abuser. In exceptional cases, the court can offer the victim a new identity.

The much more widely used preventive order (article 5 of Law No. 6284), issued by a court, is directed at the perpetrator and may include a variety of different measures in force for a period of time ranging from a week to six months. At the minimum this includes an order to cease all abusive, violent and threatening behavior. It may also include a restraining measure ordering, for example, the perpetrator to stay away from the victim and her home, workplace, and relatives, and not to attempt to communicate with the victim or her relatives. The police can issue a preventive order imposing these measures immediately if they assess an imminent risk to the victim. The order is then submitted to a family court for review on the next working day and the court has 24 hours in which to conduct its review. Additionally, courts may order the perpetrator to refrain from alcohol or drugs in the presence of the victim, to submit to medical treatment, or to hand over a licensed firearm in their possession. The court can impose restrictions on the terms of the perpetrator's contact with children or revoke it and can also award temporary alimony to victims. Such orders are available when a suspected perpetrator is accused of all forms of verbal harassment, threats, physical violence, and stalking.

If perpetrators breach the terms of the order, they can face sanctions including short periods of detention. In some cases, they may be fitted with an electronic tag to alert the authorities if they approach the victim.

Suspected perpetrators may also be subject to criminal investigation and prosecution in a separate but parallel process. However, as our analysis shows, the investigative and protection processes may lag behind and seem to function without sufficient consideration of the trajectory of protective and preventive orders issued by courts.

In late 2019 and January 2020 steps to reorganize the police, prosecutorial and judicial response to combatting domestic violence were introduced and implemented.

The Ministry of Justice issued a December 2019 circular outlining steps to “overcome problems during the implementation of preventive and protective orders.” These included:

- introducing specialist prosecutors to deal with domestic violence and violence against women,
- detailed guidance on applying protective orders and dealing with the police,
- detailed guidance on referral to social services and the Violence Prevention and Monitoring Centers,
- guidance on use of police risk assessment forms and social services’ social research reports to conduct needs assessments for protective orders, and
- measures to protect identity and whereabouts in high-risk cases.³³

The Council of Judges and Prosecutors, the body with oversight of the administration of the judiciary and prosecutorial authorities, followed this with a decision assigning some family courts in each province to deal exclusively with protective and preventive orders.³⁴ With effect from January 1, 2020, judges assigned to these courts no longer rule on other areas covered by the other family courts such as divorces and child custody arrangements. This

³³ Ministry of Justice circular on the implementation of the Law on the Protection of the Family and prevention of violence against women, no 154/1, December 17, 2019, <https://magdur.adalet.gov.tr/Resimler/Dokuman/19102020111414154-1-NOLU-GENELGE.pdf> (accessed May 18, 2022).

³⁴ See December 27, 2019 decision (in Turkish only) of the Council of Judges and Prosecutors, no. 1584, https://www.hsk.gov.tr/Eklentiler/files/27_12_2019%20tarihli%20ve%201584%20Say%C4%B1%C4%B1%20Karar%C4%B1.pdf (accessed May 18, 2022). The decision explains that in places with over 20 family courts, two courts are to be turned over to dealing exclusively with protective and preventive orders, in places with less than 20 family courts one court is to be assigned, and in places with no family courts a civil court of first instance (asliye hukuk mahkemesi) is to be assigned.

is an important measure aimed at speeding up the issuing of preventive and protective orders.

Turkey's General Directorate of Security introduced its own measures in January 2020 to rearrange and increase the number of police units assigned to dealing with domestic violence, including issuing preventive and protective orders.³⁵ Many women officers have been appointed to work in the units and in each of the nine units Human Rights Watch chose to visit, from January 2020, a woman superintendent had been appointed to run the unit.

While judges deal mainly with case files, police officers deal with victims and perpetrators and play the frontline role in efforts to combat domestic violence. Domestic violence police units are composed of officers who undertake different functions, including conducting interviews with victims and perpetrators, preparing reports to the courts and prosecutor's office and since January 2021 completing a 12-page risk assessment, serving perpetrators with protective or preventive orders, monitoring the orders, and following up with victims.

The Violence Prevention and Monitoring Centers (Şiddet Önleme ve İzleme Merkezleri, abbreviated to ŞÖNİM) in each province are another central pillar of the effort to combat domestic violence. Organized under the Ministry of Family and Social Services, the centers are responsible for tracking the implementation of protective and preventive orders, coordinating between the courts, the police, and social services, and for placing victims in shelters, assessing risk, and following up on steps to ensure their protection. The centers provide a one-stop shop aimed at providing victims of domestic violence with coordinated assistance from social services, the health system, and the justice system.³⁶

³⁵ Regarding Ministry of Interior circular dated January 1, 2020, see *81 İle Kadına Yönelik Şiddetle Mücadele Genelgesi*, <https://www.icisleri.gov.tr/81-ile-kadina-yonelik-siddetle-mucadele-genelgesi> (accessed May 18, 2022). https://www.icisleri.gov.tr/kurumlar/icisleri.gov.tr/icerikYonetim/haberler/2020/01/___Kadina-Yonelik-Siddetle-Mucadele.pdf (accessed May 18, 2022).

³⁶ The Violence Prevention and Monitoring Centers (ŞÖNİM) are official bodies in each province set up by the Ministry of Family and Social Services, according to the Law on the protection of the family and the prevention of violence against women (no. 6284). The implementing directive on centers to prevent and monitor violence (Şiddet Önleme ve İzleme Merkezleri Hakkında Yönetmelik), dated March 17, 2016, describes their function as “centers running 24/7, employing sufficient and necessary personnel who are preferably women and offering referral and monitoring services for strengthening and supportive advice and guidance directed at ensuring the effective implementation of protective and preventive cautionary orders to prevent violence” (“Şiddetin önlenmesi ile koruyucu ve önleyici tedbirlerin etkin bir biçimde uygulanmasına yönelik güçlendirici ve destekleyici danışmanlık, rehberlik, yönlendirme ve izleme hizmetlerinin verildiği,

II. Domestic Violence and the Use of Protective and Preventive Orders: Cases

Human Rights Watch analyzed 18 cases of domestic violence, involving a variety of abusive behavior from threats and stalking to physical violence and murder, in which victims had applied for state protection. One case dates from 2022, ten date from 2021, two from 2020, four from 2019, and one from 2017. The cases are organized under different thematic headings and include the facts Human Rights Watch was able to assemble from official documentation, court records and information supplied by lawyers, and where possible from the women survivors of violence themselves or their family members.

The cases demonstrate the uneven success of applying preventive orders under article 5 of Law No. 6284 issued by courts against perpetrators (see appendix for details of the relevant provisions covered in the article), including variations in the specified duration of the measures, apparent lack of monitoring of orders' effectiveness, and inconsistency in imposing or absence of sanctions for breaches of preventive orders. In some cases, women also secured protective orders though, as the statistics discussed in Chapter 3 show, preventive orders are far more widely issued than protective orders in which women opt to move to a shelter or receive an order entitling them to police protection when they call for it. In the case of one woman who is a refugee, the police and court promptly issued a preventive order in response to her complaint of being threatened by her former husband but failed to notify her for ten days, leaving her unaware of the outcome of her complaint. In most cases reviewed, the history of violence had culminated in separation or divorce and preventive orders were employed against former spouses and partners. In several of the cases, after the facts are discussed, recommendations are made about conducting investigations into what went wrong and who should be held responsible.

One of the striking elements in many of the cases is that victims, their family members or their lawyers, felt compelled to turn to social media to demand assistance from the authorities or to object to the release of perpetrators. Police and judges Human Rights

yeterli ve gerekli personelin görev yaptığı ve tercihen kadın personelin istihdam edildiği, çalışmaların yedi gün yirmi dört saat esasına göre yürütüldüğü merkezleri”}; See Başbakanlık Mevzuatı Geliştirme ve Yayın Genel Müdürlüğü, “ŞİDDET ÖNLEME VE İZLEME MERKEZLERİ HAKKINDA YÖNETMELİK,” *Resmî Gazete*, March 17, 2016, <https://www.resmigazete.gov.tr/eskiler/2016/03/20160317-8.htm> (accessed May 18, 2022), article 3.ö.

Watch interviewed confirmed that social media has become a successful means of highlighting cases and triggering a response from authorities where traditional complaint methods have failed. Their views are considered in detail in Chapter 3. It is concerning to see that such direct public appeals from women or their lawyers have become a means of compensating for the authorities' shortfalls in resolute implementation of preventive and protective measures.

The cases below also include details of steps to investigate and prosecute perpetrators for domestic violence. Prosecutors typically pursue charges for threats, insults, disturbing the peace, or intentional injury, but these are all offenses for which the sanction is typically a fine or suspended sentence, or for which courts issue a decision “not to pronounce the verdict” on condition the defendant does not re-offend within five years – a form of suspended sentence. Such penalties may not act as a deterrent, with the perpetrator effectively escaping punishment for domestic violence. Prosecutions also tend to take place a long time after the commission of the offense, and while the trial is ongoing the perpetrator may already have repeatedly reoffended.

Victims Killed Despite Having Been Granted Preventive and Protective Orders

Yemen Akoda

Yemen Akoda, age 38, was the mother of three children and worked at a factory as a tea maker. On June 24, 2021, her husband Eşref Akoda shot her dead outside her home in the central Anatolian town of Aksaray. Prior to her killing courts had on four occasions issued preventive orders to keep Eşref away from Yemen.³⁷

Yemen first received a preventive order in February 2021 after her husband threatened and harassed her to prevent her pursuing a divorce. In a divorce protocol signed in the presence of a lawyer, Eşref had agreed to leave the family home but he later changed his mind and allegedly told his wife he did not want to get divorced. When Yemen insisted on pursuing the divorce, Eşref went to a police station and complained to the police, alleging that his wife had kicked him out of the house. Police officers invited Yemen to come to the station and provide a statement. Yemen obtained the first 30-day preventive order, restricting Eşref from going to the house or to her workplace. When the preventive order

³⁷ Information supplied to Human Rights Watch by lawyer Nurten Altinkaya, Aksaray, June and October 2021

expired, Eşref began to harass Yemen at her house and workplace, on one occasion threatening to kill himself if Yemen proceeded with the divorce. In total, Yemen obtained four preventive orders between February and June 2021, all of which were, according to Yemen's lawyer, for short periods of time, ranging from a week to a month.

Eşref violated two of them by harassing Yemen at her home or workplace while they were in force. Yemen's lawyer filed complaints in regard to these violations at the Aksaray prosecutor's office. The Aksaray courts did not impose any sanctions on Eşref for violating preventive orders. The Aksaray prosecutor ruled not to prosecute him for his harassment, citing lack of evidence.

On June 24, 2021, after shooting Yemen dead outside her home, Eşref fled the scene and was allegedly himself shot by police officers and died of his injuries. The house is close to a police station and officers had been immediately dispatched to the scene in response to the gunshots. Two of the Akoda children were subsequently placed in state care.

Yemen's older daughter wrote on her Twitter account after her mother's death in a tweet subsequently deleted: "My mother asked the prosecutor for protection. "I can't give you protection unless he hurts you," he said. There, he hurt her, now protect my mother."³⁸

On the day of the shootings the prosecutor's office issued a statement announcing a media blackout on the case and a restriction order on the investigation file, limiting access to the evidence in the file on the grounds that its disclosure could jeopardize the investigation. The statement said the media blackout was necessary to ensure the investigation was completed properly and to protect the couple's children but also on grounds of "preventing similar incidents" and "the risk of disturbing the public order, the possibility of further irreparable damage and the importance of the issue."³⁹ On June 25, 2021, the prosecutor's office released another statement announcing a criminal and

³⁸ See Twitter Web Archive, June 24, 2021, <https://web.archive.org/web/20210625040748/https://twitter.com/Gll80202773/status/1408275626524618752> (accessed May 18, 2022).

³⁹ See press statement (Turkish) by the Aksaray Prosecutor's Office, June 24, 2021, https://aksaray.adalet.gov.tr/basin-aciklamasi_47751 (accessed October 23, 2021).

administrative investigation into parties or persons responsible for failure to implement the preventive orders which had been served on Eşref Akoda.⁴⁰

No report or update had been issued regarding the outcome of these investigations at the time of writing. Human Rights Watch wrote to the interior, justice, and family and social services ministries requesting information about the outcome of the administrative and criminal investigations. The interior ministry on May 12, 2022, informed Human Rights Watch that the General Security Directorate had provided the information that there was an ongoing (administrative) investigation into two members of staff. The other ministries did not respond.⁴¹

Recommendations:

- The authorities should conduct a full and transparent investigation to assess whether, on the basis of all the available information about the risk Eşref posed to Yemen Akoda, authorities could have taken further action to prevent her killing.
- In particular, the investigation should examine whether the authorities made every effort and exercised due diligence in assessing the risk Eşref posed to Yemen, whether the preventive orders courts issued were of sufficient length and adequate to addressing the risk, and why both the courts and the prosecutor's office decided not to sanction Eşref for twice violating the terms of the preventive orders. The prosecutor's concern with preventing media coverage of the incident should not become a pretext for the authorities to conceal the full results of an inquiry into whether authorities used all available measures to protect Yemen from her husband and prevent her from being subject to further violence and, ultimately, murder.

Remziye Yoldaş

Veysi Yoldaş, 31, shot dead his wife Remziye Yoldaş, 28, in the center of Diyarbakır on August 28, 2020, in the presence of their 7-year-old daughter and other witnesses. At the time of her death, Remziye had received a 30-day preventive order (under Law No. 6284 article 5/1/a,c,d), forbidding her husband from threatening, insulting, and humiliating her.

⁴⁰ See press statement (Turkish) by the Aksaray Prosecutor's Office, June 25, 2021, https://aksaray.adalet.gov.tr/basin-aciklamasi_47759 (accessed May 18, 2022).

⁴¹ Interior Ministry note dated May 12, 2022 on file with Human Rights Watch.

The order also barred him from contacting her or approaching her residence or workplace and her relatives and children.⁴²

Prior to killing Remziye Yoldaş, Veysi Yoldaş had on August 9, 2020, absconded from a semi-open prison to which he had been transferred in 2020 to serve the remainder of a prison sentence after being convicted on theft and drugs-related charges.⁴³ Remziye’s lawyer told Human Rights Watch that Veysi had called Remziye after absconding from prison and began to threaten her when she refused to join him to start a new life elsewhere evading the authorities. Remziye applied to the police to complain that she felt at great risk. According to Remziye’s lawyer and her sister’s and father’s statements to the court handling her murder case, she had told the local police that Veysi had absconded from prison and feared he would kill her, but she was not taken seriously.

Remziye Yoldaş’s father Ahmet Tura, 61, later testified before the Diyarbakır prosecutor and in court that Veysi Yoldaş, who was living as a fugitive, had come to his shop days before the murder on August 28 and had tried to take away Remziye. He said that Remziye had resisted, that Veysi had put his hands round her neck and choked her, threatening her with the words, “If you don’t come with me, I’ll kill you and your whole family.”⁴⁴ Tura told the court that after Veysi Yoldaş released Remziye and left the shop without her, Remziye, on the same day, had gone to a nearby police station and filed another complaint. The police had issued a preventive order, approved on August 24 by a court for a period of 30 days, banning Veysi Yoldaş from contacting her. On the same day, Remziye had also filed a petition for divorce to a family court, citing Veysi’s threats to her and her family and claiming that they had no security of life. He shot her dead just four days later.

Police apprehended Veysi Yoldaş on September 6, 2020, and he was prosecuted on charges of “intentional and premeditated murder of a spouse.” On February 8, 2022, the Diyarbakır 7th Assize Court convicted him of intentional killing and sentenced him to aggravated life imprisonment as well as an additional sentence of six months for

⁴² Information supplied to Human Rights Watch by representatives of Rosa Kadın Derneği (Rosa Women’s Association), Diyarbakır, and lawyer Diren Vurgun and lawyer Nilda Baltalı from the Women and Children First Association (Önce Çocuklar ve Kadınlar Derneği). Documents on file with Human Rights Watch include indictment of Veysi Yoldaş for the murder of Remziye Yoldaş and autopsy report.

⁴³ See Hatice Kamer, “Remziye Yoldaş cezaevinden firar eden kocası tarafından kızının gözleri önünde öldürüldü,” *BBC Turkish*, August 29, 2020, <https://www.bbc.com/turkce/haberler-turkiye-5395243> (accessed May 18, 2022).

⁴⁴ Testimony of Ahmet Tura included in Diyarbakır prosecutor’s indictment of Veysi Yoldaş for murdering Remziye Yoldaş. On file with Human Rights Watch.

“intentional endangerment of general safety” and one year and a fine for “possession of an unlicensed gun.” Remziye’s lawyers have appealed the verdict seeking conviction on charges of premediated killing as well. The case is at appeal.

Recommendation:

The investigation into the murder of Remziye Yoldaş, should establish why the authorities did not identify the severity of the risk to Remziye’s life, despite her complaint to the police when Veysi Yoldaş absconded from prison and issued threats to her in a phone call, later physically assaulting her; and whether there was any monitoring to see if the 30-day order was being observed or any steps taken to ensure the order would be effective.

Human Rights Watch wrote to the interior, justice and family and social services ministries requesting information about the outcome of any investigations into the authorities for failing to identify the severity of the risk to Remziye Yoldaş. The interior ministry on May 12, 2022 informed Human Rights Watch that the General Security Directorate had provided the information that an (administrative) investigation had been opened against ten members of staff (three of them senior officers) and that nine had received various disciplinary sanctions. No detail was provided about the sanctions. The other ministries did not respond.⁴⁵

Ayşe Tuba Arslan

Ayşe Tuba Arslan, 45, worked in a kindergarten. Her ex-husband Yalçın Özalpay attacked her with a meat cleaver and a knife in Eskişehir on October 11, 2019. She died of her injuries on November 24, 2019. The attack followed a long history of domestic violence which had already led to the couple’s separation in September 2018 and divorce in March 2019 after a 25-year marriage.⁴⁶

The Eskişehir chief prosecutor’s office confirmed after her death that between September 2018 and October 2019, Ayşe Tuba Arslan had made 23 complaints to the police and prosecutor’s office regarding insults, threats and injuries caused by Yalçın Özalpay.⁴⁷ The

⁴⁵ Interior Ministry note dated May 12, 2022 on file with Human Rights Watch.

⁴⁶ All documentation and information about the case supplied to Human Rights Watch by lawyer Heval Yıldız Karasu who provided a detailed unpublished 59-page report on the whole case written by a group of lawyers working on the case, on July 2, 2021.

⁴⁷ Cited in lawyers’ unpublished report.

Eskişehir prosecutor’s office declined to prosecute in ten of her complaints, citing lack of evidence. In eleven cases prosecution was initiated and in three of these prosecutions, one of which consisted of two merged files, Özalpay was acquitted for lack of evidence. On November 3, 2018, Özalpay allegedly threatened to “shoot and kill Arslan,” for which he was prosecuted for making “insults and threats” but received a form of suspended sentence whereby the court does not pronounce a verdict (*hükmün açıklanmasının geri bırakılması*) on condition that the offender does not repeat the offence over a five-year period. In two other cases, he received fines, in one case the court declined to impose a penalty, and in three cases the prosecution was ongoing at the time of Arslan’s murder.

Arslan received four preventive orders from Eskişehir courts (under Law No. 6284 articles 5/1/a,b,c,d) for periods of time ranging from a month to six months. Yalçın Özalpay violated these injunctions multiple times, and Arslan notified the authorities of these violations in eight complaints. However, courts did not impose sanctions such as detention on Özalpay for violating the preventive orders, citing lack of evidence, even though Özalpay himself admitted the violations in court hearings.

In five of Arslan’s 23 criminal complaints, the Eskişehir chief prosecutor’s office referred her to the settlement office, established in December 2016 to reduce the workload of the judiciary by offering parties the option not to proceed with a criminal complaint. Arslan refused such settlements.

An Eskişehir Assize Court sentenced Yalçın Özalpay in July 2020 to aggravated life imprisonment for “premediated brutal intentional killing through torment,” (Turkish Penal Code Article 82/1/b) but on June 25, 2021, the Ankara Regional Appeals Court revoked the sentence on the basis that Arslan’s text messages to another man should be considered as “unjust provocation” and ruled that Özalpay sentence be reduced to 24 years.⁴⁸ Lawyers engaged in the campaign around the case have lodged an appeal at the Court of Cassation.

Lawyers for Arslan’s parents have pursued a case in the administrative courts against the Ministry of Interior and Ministry of Family and Social Services for pecuniary and non-

⁴⁸ There was widespread media coverage of this decision; see Eylem Lodos, “Ayşe Tuba Arslan'ın katili Yalçın Özalpay'a indirimle ödül gibi ceza verildi,” *Evrensel*, June 25, 2021, <https://www.evrensel.net/haber/436449/ayse-tuba-arslanin-katili-yalcin-ozalpaya-indirimle-odul-gibi-ceza-verildi> (accessed May 18, 2022).

pecuniary damages for failure to protect Arslan and being partially liable for her death. On November 24, 2021, the Eskişehir 2nd Administrative Court rejected the case, accepting the argument of the two ministries that there had been no preventive order in place at the time of Arslan’s murder, and therefore they had not failed to implement any measures. The Arslan family lawyers have appealed this decision. They are also pursuing a case against the Ministry of Justice.⁴⁹ A criminal investigation started ex officio by the office of the Eskişehir chief prosecutor into possible negligence by the police, courts, and prosecutors ended in a decision not to prosecute.⁵⁰

Human Rights Watch wrote to the interior, justice and family and social services ministries requesting information on what steps had been taken to investigate whether the authorities had adequately discharged their duty to protect Ayşe Tuba Arslan. The interior ministry on May 12, 2022, informed Human Rights Watch that the General Security Directorate had provided the information that an (administrative) investigation opened against members of staff had ended with a decision to discontinue the investigation (“soruşturma neticesinde işlem den kaldırma karar verildiği”). No explanation for this decision was provided. The other ministries did not respond.⁵¹

Recommendation: A full inquiry into Arslan’s killing should:

- assess repeated decisions not to prosecute Özalpay and court decisions to acquit him or to impose fines or a decision of non-pronouncement of verdict;
- evaluate whether authorities adequately considered Özalpay’s history of abuse in their response to Arslan’s complaints, and whether they took the necessary measures for her protection in light of the pattern of abuse;
- examine how poor coordination between different authorities may have contributed to Arslan’s murder given the absent or limited involvement from Violence Prevention and Monitoring Center officials who are responsible for a key coordinating role among the judiciary, the police force, and all other agencies;
- probe the responsibility of the authorities and be capable of holding to account police, prosecutors, and judges, and other public officials for dereliction of duty, negligence or, if appropriate, more serious offenses.

⁴⁹ Information supplied to Human Rights Watch by Eskişehir lawyer Pınar Çelik Arpacı, March 25, 2022.

⁵⁰ Ibid.

⁵¹ Interior Ministry note dated May 12, 2022 on file with Human Rights Watch.

Güllü Yılmaz

Güllü Yılmaz, 30, mother of three children, died of burns in a Diyarbakır hospital on October 29, 2019, 12 days after Can Yılmaz, her spouse of 14 years, poured gasoline over her and their 12-year-old daughter Dilek Yılmaz and set light to them. The daughter survived with minor injuries. Güllü Yılmaz's death followed two complaints about domestic violence to the police, a preventive order, and a short period in which she stayed in a shelter, the precise timing of which Human Rights Watch has been unable to establish.⁵²

According to documents provided by Güllü Yılmaz's lawyer, she told her husband she wanted a divorce on September 14, 2019, after years of domestic violence. Her husband allegedly responded with threats to kill her children and headbutted her. That day she filed a complaint at an Ergani police station and requested protection. However, later in the day she withdrew her complaint and protection request apparently under pressure from elders in her family. Even so, the authorities initiated a public case against the husband for "causing minor injury," a case that was concluded two months after Güllü's death with Can Yılmaz convicted of "deliberate injury of spouse" and sentenced to one year and three months in prison.

On September 29, 2019, Güllü again went to the police station where she reported that her husband had physically attacked her, held a knife to her neck and threatened to kill her. Her lawyers informed Human Rights Watch that she had also obtained a medical report listing a 1-centimeter laceration in her neck and a bruise on the right side of her upper lip from Ergani State Hospital on September 30, 2019. Medical reports involving injuries resulting from attacks require the immediate notification of a police officer present at the hospital at all times. The police detained Can Yılmaz for a few hours on September 29 but released him on the same day.

On October 1, 2019, Güllü was given a 7-day preventive order in line with Law No. 6284 article 5/1/a, b, c, d. The authorities initiated a criminal probe into Can Yılmaz for "deliberate injury of a spouse," another case which was concluded after Güllü's death with an Ergani court in December 2019 sentencing Can Yılmaz to an additional four years and three months in prison for armed threats and deliberate injury of a spouse.

⁵² All information and documentation supplied to Human Rights Watch by Diyarbakır lawyer Çiğdem Sevimli in June and October 2021.

Legal documents seen by Human Rights Watch do not indicate whether there was any assessment conducted in Güllü’s case by the Violence Prevention and Monitoring Center. On October 17, 2019, Can Yılmaz allegedly poured gasoline on Güllü and their daughter Dilek in their house and set light to it. In the court documents of Can Yılmaz’s trial, police officers testified that when she was brought to the hospital, Güllü told them “My husband burnt me!”

On March 30, 2021, Diyarbakır 7th Assize Court sentenced Can Yılmaz to aggravated life imprisonment on charges of “deliberate murder of a spouse with monstrous sentiments” and “attempted murder of a child and a descendant with monstrous sentiments.” Can Yılmaz’s lawyers have appealed the court ruling.

Human Rights Watch wrote to the interior, justice, and family and social services ministries requesting information on what steps had been taken to investigate whether the authorities had adequately discharged their duty to protect Güllü Yılmaz. The interior ministry on May 12, 2022, informed Human Rights Watch that the General Security Directorate had provided the information that “as a result of the necessary inquiry, it had been established that there was no need for an administrative investigation” into police officers (“yapılan incelemeler neticesinde herhangi bir idari soruşturmaya gerek olmadığı”⁵³). No explanation for this decision was provided. The other ministries did not respond.⁵³

Recommendation: A full review of the case should:

- Determine why a court issued a preventive order of just seven days after the second recorded violent attack by Can Yılmaz, given the level of risk that he posed to Güllü Yılmaz would have seemed high;
- Confirm whether or not Güllü Yılmaz was offered support while in the shelter and whether or not efforts were made to determine if she was threatened into agreeing to reconcile with her husband;
- Inquire whether her decision to abandon her complaint and request for protection on September 14 should have prompted a fuller risk assessment by the authorities;

⁵³ Interior Ministry note dated May 12, 2022 on file with Human Rights Watch.

- Assess whether the prosecutor should have sought pretrial detention for Can Yılmaz on the second instance of “deliberate injury”, given his alleged violent conduct and death threats.

Pelda Karaduman

Pelda Karaduman was born in February 1999 in Ergani, Diyarbakır. Her cousin, Hüseyin Oruç murdered her in 2017. Authorities failed repeatedly to protect her from abduction, rape, and violent assault when she was a child, culminating in her murder at age 18. She had made eight complaints against Hüseyin Oruç and received two protective orders.⁵⁴

Human Rights Watch interviewed Pelda’s mother Leyla Karaduman and lawyers, reviewed police reports, an indictment, criminal complaints, and medical reports relating to Pelda Karaduman’s case. At the age of 12, in January 2012, Pelda Karaduman was abducted from outside her school in Ergani, a district of Diyarbakır, by her cousin Hüseyin Oruç, who was 20 years old at the time. Mehmet Karaduman, Pelda’s father, filed complaints about her disappearance at the Ergani gendarmerie station and at the district prosecutor’s office immediately afterwards. Pelda remained missing for about 11 months. In late December 2012, Mehmet Karaduman got his daughter back after allegedly assuring Hüseyin Oruç that he would withdraw his complaint if he was allowed to spend a few days with her. According to a medical report, Pelda, then 13, was eight weeks pregnant when she was reunited with her family who were at the time living in the southern province of Osmaniye. The Karaduman family said in their criminal complaint at the prosecutor’s office in Osmaniye on December 31, 2012, that they had moved to Osmaniye to escape societal pressure to kill Pelda to save their “honor” because she had been taken away by a man who had “defiled” her. Pelda and her family said in their complaint that Hüseyin Oruç had kidnapped her and raped her repeatedly for a year. Police in Osmaniye proposed a settlement agreement with the perpetrator twice in January 2013 which the Karaduman family refused. Proposing settlements in sexual crimes including rape cases is expressly prohibited under the Turkish criminal procedure code.⁵⁵ While in Osmaniye, the Karaduman family contacted the police and the prosecutor at least six times and requested protection at least four times, citing threats from Hüseyin Oruç and his family

⁵⁴ All information and documentation provided to Human Rights Watch by Diyarbakır lawyer Merva Demircan and Leyla Karaduman in June 2021.

⁵⁵ See Turkey’s Criminal Procedure Law, Article 253/3: <https://www.mevzuat.gov.tr/mevzuatmetin/1.5.5271.pdf>.

who allegedly called and threatened Mehmet Karaduman. Pelda's mother Leyla Karaduman told Human Rights Watch that the Oruç family threatened to kill her other two children if Pelda were not returned to them.

The Diyarbakır prosecutor separately investigated and indicted Oruç for kidnapping and sexual abuse of a child (a charge including rape) in 2013. In December 2014, Hüseyin Oruç stood trial in the Diyarbakır 7th Assize Court on charges of “sexual abuse of a child,” “sexual abuse of a child resulting in bodily and mental harm,” and “depriving a person of their liberty.”⁵⁶ In December 2014, the court acquitted Oruç of “depriving a person of their liberty,”⁵⁷ and ruled that he would face no penalty for rape and sexual abuse.⁵⁸ The court justified this in its reasoned decision by incredulously accepting Oruç's claim that he believed his cousin to be older than 15, and even stating “the victim looked older than 15.” Even if the Court accepted that Oruç believed Pelda was 15, Turkish law provides strict liability for sexual intercourse with someone younger than 15, so that having sex with someone under 15, irrespective of belief or consent is rape under the law.⁵⁹

The Karaduman family told Human Rights Watch that in mid-2013 because Hüseyin Oruç made several death threats against them and their children, they were forced to allow him take Pelda back and decided not to appeal the acquittal. The prosecutor also failed to appeal the case and because Pelda was a child at the time, the lawyer assigned to her could not appeal, as that decision legally belonged to her parents.

After Pelda went back to live with Hüseyin Oruç, she gave birth to two children in state hospitals in Diyarbakır and Osmaniye where one of the children was registered as Leyla Karaduman's child because Pelda herself was a child at the time. The documentation available to Human Rights Watch does not indicate whether medical authorities had reported the case as a child pregnancy to the police or prosecutor's office. By law, medical personnel are obligated to report cases that come to their attention which raise issues of child protection or criminal activity to trigger investigations.⁶⁰

⁵⁶ See Turkey's Penal Code, Articles 103/2 and 103/6 5237, accessible at <https://www.mevzuat.gov.tr/mevzuat?MevzuatNo=5237&MevzuatTur=1&MevzuatTertip=5>.

⁵⁷ See Article 109/3/f of the Turkish Penal Code, accessible at <https://www.mevzuat.gov.tr/mevzuat?MevzuatNo=5237&MevzuatTur=1&MevzuatTertip=5>.

⁵⁸ The court relied on Article 223/3-d of the Criminal Procedure Code.

⁵⁹ See article 103/1/a of the Turkish Penal Code.

⁶⁰ See articles 278, 279 and 280 of the Turkish Penal Code.

On July 23, 2017, at the age of 18, Pelda was found dead at the Diyarbakır home where she lived with Hüseyin Oruç, lying in a pool of blood with a fatal gunshot wound to the heart. Hüseyin Oruç claimed that he and his brother had found Pelda after she had committed suicide. However, on April 30, 2019, Hüseyin Oruç was convicted of killing Pelda. Shockingly, the court reduced Oruç’s sentence because he had alleged Pelda had been unfaithful. The Regional Appeals Court quashed the sentence and on April 19, 2021, ruled Hüseyin Oruç be sentenced to life imprisonment for intentional murder. The case is currently under appeal at the Court of Cassation. The Karaduman family lawyers informed Human Rights Watch that the Karaduman family is receiving threats, and that Pelda’s children remain in the custody of Hüseyin Oruç’s family. The Karaduman family is pursuing a legal case seeking custody of the two children.

Pelda Karaduman’s brutal life and death is attributable at least in part to the repeated and egregious failure over years by the authorities to punish the perpetrator Hüseyin Oruç for abduction and rape of a child, and members of the Oruç family for repeated threats against the Karaduman family and complicity in child abuse, rape, and abduction of Pelda Karaduman. The authorities failed to offer protection to Pelda Karaduman or her family, failed to remove Pelda Karaduman, at the time a child, from the reach of Hüseyin Oruç and his family, and at one stage – in direct contravention of the law – proposed a settlement between the families. Two hospitals apparently failed to report that a child had given birth or to inform the prosecutor, missing another opportunity to investigate the case and prosecute Hüseyin Oruç. There is no mention in the case file of any involvement in the case by the Violence Prevention and Monitoring Center.

Human Rights Watch wrote to the interior, justice, and family and social services ministries requesting information on what steps had been taken to investigate whether the authorities had adequately discharged their duty to protect Pelda Karaduman. The interior ministry on May 12, 2022, informed Human Rights Watch that the General Security Directorate had provided the information that “as a result of the necessary inquiry, it had been established that there was no need for an administrative investigation” into police officers (“yapılan incelemeler neticesinde herhangi bir idari soruşturmaya gerek olmadığı” tespit edildiği”). No explanation for this decision was provided. The other ministries did not respond.⁶¹

⁶¹ Interior Ministry note dated May 12, 2022 on file with Human Rights Watch.

Recommendation: There should be a full inquiry into the failings of state authorities (including the police, the prosecutor’s office, the courts, hospital personnel), identifying each duty of care and statutory duty that was breached, assessing the liability of each entity and the individuals that failed Pelda and her family, and setting out measures to be taken to hold all those responsible to account.

Müzeyyen Boylu

Müzeyyen Boylu was a 43-year-old lawyer from Diyarbakır. Her husband, Mesut Issı, killed her on May 19, 2019, after their child’s graduation ceremony. She had obtained three preventive orders from courts in March-April 2018 and in January and April 2019.⁶²

According to documents provided by lawyers from Diyarbakır Bar Association’s Women’s Rights Center, which represented Boylu, Boylu filed for divorce from Mesut Issı, her husband since 2012, on February 16, 2018, after years of domestic violence. She was granted custody of their children pending conclusion of the divorce. Boylu filed two criminal complaints with the Diyarbakır Prosecutor’s Office on March 9 and 26, 2018, in which she said Issı had made “threats and insults” against her and had “abducted” her children. Two days later, the Diyarbakır prosecutor ordered a preventive order based on article 5/1/a, b, c, d which banned Mesut Issı from contacting Boylu for 15 days. On January 7, 2019, Müzeyyen Boylu filed another complaint against Issı for “threats and insults.” The next day, the court issued a 30-day preventive order forbidding Mesut Issı from contacting her. On April 16, 2019, Boylu filed a third complaint against Issı citing “threats, insults, and bodily harm.” Two days later she was given a 15-day preventive order again forbidding Mesut Issı from contacting her.

On February 11, 2021, a Diyarbakır court acquitted Issı on charges of threats and insults for an incident dating back to April 14, 2019, due to lack of evidence, but issued a decision that it would not pronounce the sentence of five months imprisonment for “intentional injury” on condition he did not reoffend for five years.

On May 19, 2019, Issı shot Boylu eleven times in front of their two children in Diyarbakır after a school graduation ceremony.

⁶² All information and documentation provided to Human Rights Watch by Diyarbakır lawyer Hatice Demir.

On September 29, 2020, a Diyarbakır court convicted Issı to life in aggravated life imprisonment for “deliberate murder of a spouse.” The Regional Appeals Court approved the sentence, and the case is now at the Court of Cassation.

Human Rights Watch wrote to the interior, justice, and family and social services ministries requesting information on what steps had been taken to investigate whether the authorities had adequately discharged their duty to protect Müzeyyen Boylu. The interior ministry on May 12, 2022, informed Human Rights Watch that the General Security Directorate had provided the information that “as a result of the necessary inquiry, it had been established that there was no need for an administrative investigation” into police officers (“yapılan incelemeler neticesinde herhangi bir idari soruşturmaya gerek olmadığı”⁶³). No explanation for this decision was provided. The other ministries did not respond.⁶³

Recommendation: An inquiry should be conducted including to:

- Determine why the length of the preventive orders were both inconsistent and why a preventive order for a shorter period was issued in the face of evidence that his violent behavior was persisting and escalating;
- Assess how the court reached a decision not to pronounce his sentence (a form of suspended sentence) in light of evidence of a pattern of abusive behavior;
- Identify which entities and individuals failed in their duty to protect and recommend appropriate sanctions for those failures.

Repeated Violations of Preventive Orders including Attempted Murder

Nurcan Kaplan

Nurcan Kaplan, 33, and the mother of two children, had lodged repeated complaints that her spouse Tarık Kaplan had committed domestic violence against her during the fifteen years of their marriage and obtained around 12 preventive orders, many of which, she told Human Rights Watch, he had violated. On May 25, 2021, Tarık Kaplan shot Nurcan Kaplan and her mother with a firearm in the centre of Diyarbakır, leaving both seriously injured, as he fled the scene. After public efforts by lawyers to secure effective protection, including by raising the case on social media, Nurcan Kaplan and her mother were offered police

⁶³ Interior Ministry note dated May 12, 2022 on file with Human Rights Watch.

protection at their home until Tarık Kaplan was arrested on July 17, 2021, and placed in pretrial detention.⁶⁴

Nurcan told Human Rights Watch that early in her marriage she would take refuge in her parents' house to escape violence at the hands of Tarık Kaplan. However, she said, her father would beat her and send her back to her husband. Nurcan told Human Rights Watch that whenever she went to police stations to seek help after being beaten by Tarık, the officers would convince her to go back to him despite signs of physical violence.

Since 2013, Tarık Kaplan has been in and out of prison for separate crimes including several relating to violence against Nurcan. Following his release from prison June 2020, Tarık Kaplan violently beat Nurcan. She received protection and was housed in state-run shelters in at least four different cities for about six months beginning in July 2020. Nurcan had to leave her son, who was 13 years old at the time, with her relatives as state-operated shelters do not allow males older than 12 to stay with their parents.⁶⁵

On February 23, 2021, Nurcan and Tarık both attended a hearing at a Diyarbakır court into alleged sexual abuse of their 10-year-old daughter by a third party. The case is unrelated to the history of Tarık's abusive treatment of Nurcan. The lawyers of Diyarbakır Bar Association's Women's Rights Center, who were at the courthouse for separate reasons, said they saw Tarık insult, threaten, and attack Nurcan physically in front of a panel of judges, who had Tarık removed from the court room. A lawyer present reported to Human Rights Watch that the judges, prosecutor, and police officers who saw the incident had not been responsive to the incident and that it had been the lawyers who filed an official complaint against Tarık Kaplan for assaulting Nurcan in the courthouse. Police had briefly detained Tarık Kaplan but released him the same day.

Nurcan told Human Rights Watch that on May 25, 2021, she was shopping at a street vegetable market with her mother when Tarık Kaplan shot them. Both women survived but sustained severe injuries and were treated in a Diyarbakır hospital. Authorities in Diyarbakır took more than two weeks to issue an arrest warrant for Tarık Kaplan and

⁶⁴ All information supplied to Human Rights Watch in interview with Nurcan Kaplan, June 10, 2021, and her lawyers, in June and October 2021. Documentation supplied by lawyers on file with Human Rights Watch.

⁶⁵ It is essentially perceived as a safe-guarding issue not to have males over the age of 12 living in a shelter with unrelated women and their young children who have experienced violence.

protection for Nurcan and her mother after this attack. Nurcan’s lawyers took to social media to demand full police protection for their client. Tarik Kaplan was a fugitive from the day of the armed attack until he was caught on July 17, 2021. Nurcan Kaplan had a police escort as a protection measure during that time. At the time Nurcan said “I would feel better if he was arrested. I want to get divorced and stop having his surname.” Divorce proceedings Nurcan initiated in 2020 were ongoing at the time of writing.

It is unclear if comprehensive risk assessments were undertaken in preparation for Tarik Kaplan’s release from prison in 2020 or later when Nurcan Kaplan left the shelter accommodation.

Merzuka Altunsöğüt

Merzuka Altunsöğüt, 46, divorced her husband S.G., 50, in March 2018 after they had separated seven years earlier. Merzuka told Human Rights Watch that throughout the seven-year separation S.G. had threatened and attacked her multiple times, that she had repeatedly complained and secured preventive orders barring him from approaching her, but that he had breached these with impunity. Merzuka told Human Rights Watch:

I kept getting restraining orders [preventive orders]. In general, he would come at night when it was quiet and there was no one around. We’d call the police. The police would take us to the station, take our statements. We would wait there till morning. They’d give us a piece of paper. “Here you are, we’ve issued a restraining order. He won’t come.” But the following day I’d come home from work and there he was again at the door. He would be sitting on the steps of the building. What kind of barring order? I’d call the police and he’d have gone by the time they came. [They’d say] “Well what can we do? When we arrived he wasn’t around. There’s nothing we can do.”⁶⁶

S.G. also escaped punishment when courts several times issued decisions not to pronounce the verdict (a form of suspended sentence) whereby he would not have a verdict entered against him if he did not re-offend for five years. In 2019, S.G. was convicted in relation to a knife attack on Merzuka, but the verdict was six years after the

⁶⁶ Human Rights Watch interview with Merzuka Altunsöğüt, March 17, 2022.

2013 offense and although S.G. was sentenced to one year and eight months in prison, he served just two weeks before being released on probation.

On September 7, 2019, violating the terms of his parole by leaving his house after 9 p.m., S.G. again attacked and stabbed Merzuka Altunsöğüt and their daughter, then 23, with a knife. The attack took place at a medical center in the Sultangazi district of Istanbul where Altunsöğüt had brought their son who was 15 years old at the time, for treatment of injuries inflicted by S.G. a few hours earlier.⁶⁷

Police detained S.G., but a court released him on bail the next day subject to the condition that he sign in at the police station, and seemingly ignoring the fact that he had flagrantly breached a probation measure imposed on him in connection with a near identical knife attack on his wife years before. Merzuka's daughter raised the case on social media, calling for her father's immediate detention. Following the public attention the case triggered, on September 9, 2019, an Istanbul court reversed the early decision to release him and placed S.G. in pretrial detention.⁶⁸

S.G. was prosecuted for the September 7, 2019 attack on Merzuka and their daughter in the hospital. On November 11, 2020, Istanbul 6th Assize Court convicted him and sentenced him to 12 years imprisonment for the attempted murder of Merzuka and an additional 12 months in prison for intentional injury of his daughter. The top appeal court upheld the convictions in December 2021.

While in prison serving his sentence, S.G. wrote letters to Merzuka, complaining that her complaints against him had prevented him from being transferred to a semi-open prison or benefitting from early release in the context of the Covid-19 pandemic. Merzuka secured from the family court a preventive order running from January to March 2022 which prevented S.G. from contacting her. At the time of writing, Merzuka and her lawyer were anticipating that in the eventuality that S.G. is granted early release, they would seek to have him served with an electronic tag to prevent him approaching his ex-wife.

⁶⁷ All documentation relating to the case provided to Human Rights Watch by lawyer Birsen Baş Topaloğlu on June 28, 2021, and in March 2022.

⁶⁸ After the success of the social media campaign, Merzuka's daughter began a highly successful Change.org campaign under the heading "I don't want my mother to die," <https://www.change.org/p/annemin-%C3%B6lmesini-istemiyorum-verilen-cezalar-uygulans%C4%B1n-adalet-bakanlik-emniyetgm> (accessed May 18, 2022). The campaign calls for further protection and for her father and other men to be issued with electronic tags if released from pretrial detention.

Merzuka Altunsöğüt's case illustrates how courts have failed to take into account the risk posed to victims by defendants when considering a request to place them in pretrial detention even if they have previously violated preventive orders served on them, have prior convictions for domestic violence, or have breached the terms of their probation, as S.G. had.

The court had released S.G. who was facing his second criminal prosecution for domestic violence, subject only to a judicial control order, even though he was alleged to have committed the offence while on probation and in violation of its terms. It took his daughter's appeal on social media for the court to reverse its decision.

Human Rights Watch has no information on the court's efforts to conduct any form of assessment of the risk S.G. posed to Merkuza and whether the Violence Prevention and Monitoring Center was aware of the case before her daughter began her public campaign on social media.

“Saniye”

After starting a relationship in 2005 and becoming pregnant with their daughter, “Saniye,” 36, learned that M.D. had two other wives and ten children.⁶⁹ She lodged her first complaint to the police in 2007 after M.D. and his family allegedly attacked her family members because she tried to leave him.

It was not until March 2019 that Saniye left M.D. permanently. In her petition to a court in Diyarbakır in February 2020, Saniye described how M.D. had beaten and threatened her frequently over 14 years, including trying to burn her. She described attempts to lodge complaints in 2011 and 2012 at a Diyarbakır police station in Bağlar district, but said that the police did not help her or give her information on how she could get help. She said that a prosecutor and gendarmerie officers informed her that nothing could be done since she did not have a legal marriage.⁷⁰ She tried to stay at a shelter but after learning that her

⁶⁹ Human Rights Watch telephone interview with “Saniye”, on July 13, 2021. Name withheld at her own request for reasons of privacy. All information here based on information supplied by her and her lawyer Öykü Çakmak, June 10, 2021. Documentation supplied by lawyer on file with Human Rights Watch.

⁷⁰ The authorities' failure to assist victims of domestic violence who were not legally married used to be commonly reported prior to the introduction of law 6284. See Human Rights Watch, *He Loves You, He Beats You: Family Violence in Turkey and Access to Protection*, May 4, 2011, <https://www.hrw.org/report/2011/05/04/he-loves-you-he-beats-you/family-violence-turkey-and-access-protection>, pp. 16-19.

son, who was older than 12 at the time, would not be allowed to stay with her, she decided to stay with her relatives, where M.D. was able to reach her and continue to make threats.

After leaving M.D. in March 2019, Saniye received help from a lawyer from the Diyarbakir Bar Association Women's Rights Center. She has secured at least five preventive orders against M.D.. Saniye and her lawyer told Human Rights Watch that M.D. violated them by sending threatening messages to her or her relatives. Saniye went to court to sanction the breaches and the courts three times imposed short sentences of detention for seven-, ten- and fifteen-day periods.

Saniye described to Human Rights Watch the difficulties she experienced when she attempted to lodge complaints against M.D. before she was assigned her current lawyer in 2018:

When you go to a police station, you have to explain yourself first to the gatekeeper, then to an officer, then to their superior, then to the supervisor. By the time you reach the person who can help you, you end up being confused, frustrated, and crying. If you don't know your rights, you get passed around. I was once told by a prosecutor's clerk "What do you want from this man? He loves you. We met and had a chat with him. He seems very nice." When you complain too many times, law enforcement stops taking you seriously.⁷¹

Saniye's lawyer told Human Rights Watch that of around ten complaints to the prosecutor, only four prosecutions went ahead. A court merged two of the cases and issued a decision of non-pronouncement of verdict (a form of suspended sentence) on condition that M.D. not reoffend within five years. In another case, M.D. was acquitted of insults, threats, and attempted theft of property. A new prosecution of M.D. for insults and threats against Saniye is underway in another court. Saniye faces an ongoing risk from M.D. and has decided for her own privacy to withhold her real name.

⁷¹ Human Rights Watch interview with "Saniye," on July 13, 2021.

Successful Use of Electronic Tag

V.A.

V.A., 30, works for a law firm in Antalya on Turkey’s southern Mediterranean coast. She married G.Z. in January 2017, but filed for divorce four months later after finding out he had spent their savings gambling. Her lawyer told Human Rights Watch that G.Z. had become physically violent towards V. A. when she told him she wanted to divorce.⁷² Over the next three years, G.Z. stalked and threatened V.A. with death continually, used her photos to create fake prostitution advertisements, and sent threatening messages to her friends and to a boyfriend.

Antalya courts accepted two separate indictments against G.Z. on charges of “threats, insults, violation of privacy, disturbing the peace” and “insults via audio, written, or visual messages.” The indictments concerned threatening and insulting messages from G.Z. in 2020 and 2021. The messages read, “You will pay for betraying me. You have no chance but to be with me. I am an armed private security officer. Nothing is banned for us.” At the time of writing, these two cases had not been concluded.

V.A. secured preventive and protective orders but complained to her lawyer that these orders imprisoned her rather than the perpetrator. One protective order gave her full police protection in which an officer had to escort to do things such as shopping for groceries. She and her now ex-boyfriend filed several complaints against her ex-husband. Her lawyer estimates the number of the preventive and protective orders issued to be around 15, with some based on several merged complaints. The lawyer complained that G.Z. had breached the orders but that adequate sanctions against the abusive ex-husband for these breaches were not imposed. G.Z. was placed in custody just once for three days for violating preventive orders. Eventually, following the lawyer’s public request via the media in January 2021,⁷³ an Antalya court ordered G.Z. to wear an electronic ankle tag. The tag triggers an alarm notifying the authorities if he leaves Istanbul where he is living. V.A. has also been given a monitor that would alert her if he came within a certain distance of her. The use of the electronic tag as a restraining device seems to have been successful in this case. V.A.’s lawyer told Human Rights Watch that G.Z. had requested that V.A. drop the

⁷² V.A.’s name withheld at her lawyer’s request for privacy reasons but known to Human Rights Watch. All information based on media reports, interview with her lawyer Latif Orcun Anlak, and legal documents supplied by Anlak on file with Human Rights Watch.

⁷³ “4 ay evli kaldı 3,5 yıldır kâbusu yaşıyor,” *Sözcü*, January 19, 2021, <https://www.sozcu.com.tr/2021/gundem/4-ay-evli-kaldi-35-yildir-kabusu-yasiyor-6218123/> (accessed May 18, 2022).

complaint so that he could have the device removed. At the time of writing, the electronic tag had been removed but G.Z. was banned from visiting Antalya, where V.A. lives, according to V.A.'s lawyer.

While V.A. was successful in having her persistent ex-husband offender issued with an electronic tag, and it seemed to act as a deterrent, she had to appeal via the media to highlight the case and demand an electronic tag.

Münevver Kızıl

Münevver Kızıl, 35, a worker in the textiles industry, alleges she and her 16-year-old daughter are the victims of persistent stalking and harassment by S.T., a former partner.⁷⁴ She reported to Human Rights Watch:

Since 2013, [S.T.] has held a gun to my head, beat me in my house, threatened to throw acid at my face because I refused to go back to him. Because of his threats, I attempted suicide twice. I filed my first complaint [to police] in April 2013 and have continued filing ever since. In total, I've got 26 preventive orders based on article 5/1/a, c, d, e, f from authorities as well as protective orders and filed at least 56 complaints against him and his actions against me. Most of my complaints did not proceed to prosecution for lack of evidence.

Münevver Kızıl complained that the protective orders consisting of police protection ended up confining her rather than the perpetrator and obliged her to cover the expense of having a police officer protect her. S.T. was prosecuted and convicted for recurring episodes of harassment which violated preventive orders on several occasions, but was slapped with monetary fines. At the time of writing, Kızıl informed Human Rights Watch that she had received two more preventive orders.

Münevver Kızıl is dissatisfied with the court's response and considers the investigations into S.T.'s abuse ineffective. She told Human Rights Watch that on at least one occasion,

⁷⁴ Human Rights Watch telephone interview with Münevver Kızıl, May 25, 2021. Details of case confirmed to Human Rights Watch by Kızıl's lawyers Tuba Torun and Jiyan Tosun. Documentation supplied by Kızıl and her lawyers on file with Human Rights Watch.

S.T.'s "staged" actions against her also caused the court to fine and penalize her for threatening him:

Because of his excessive stalking, I had to move my house five times. He has printed my photos and posted them at my child's school and on my house. He took my identification details from legal documents and used them to create a fake ID for me which he used to get a new phone number to send himself threatening messages to implicate me. Instead of investigating him, the court fined me on the basis of threatening him and sentenced me to a stint of community service.

"Seda"

"Seda," 33, works for an import-export company. "Kaan," her former boyfriend, stalked and harassed her after she separated from him in December 2019.⁷⁵ Seda told Human Rights Watch that Kaan had started sending her private messages on social media platforms and short text messages. She resisted taking legal action at first because she thought Kaan seemed harmless but obsessive, and she feared that legal action could provoke him into becoming physically violent. Seda told Human Rights Watch that she was discouraged by the fact that many murdered women in Turkey had preventive orders when they were killed or had taken legal action prior to their deaths.

To avoid conflict, she closed her social media accounts and ended her presence on platforms where Kaan could contact her. However, after he allegedly opened social media accounts under her name and started following her employer's accounts, Seda sought help from a lawyer. Her lawyer applied in May 2021 for a preventive order in line with article 5/1/a, c, f which would forbid Kaan from making insults or threats and prohibit him from contacting Seda or approaching her workplace or house for three months. An Istanbul Family Court judge accepted the request the next day. Additionally, Seda's lawyer said she made a criminal complaint against Kaan for "sexual harassment." The complaint, at the time of writing, was at the investigation stage. Since then, Kaan has reportedly ceased the harassment.

⁷⁵ Human Rights Watch telephone interviews with "Seda," and lawyer Bilge Sayıcı, November 10, 2021. "Seda's" name withheld at her own request for privacy reasons but known to Human Rights Watch. Documentation supplied by lawyer on file with Human Rights Watch.

When asked about her overall experience, Seda said she was content with her encounter with police officers in Beşiktaş district who she said were “quite informative and helpful.”

Yıldız Sabiha Karaboğa

Yıldız Sabiha Karaboğa, 55, a retired civil servant living in Antalya, separated from A.O., 41, and four months later, in April 2021, sought to cease all communication with him.⁷⁶ Karaboğa blocked A.O. on social media and her phone. However, Karaboğa told Human Rights Watch that A.O. began to stalk her obsessively, following her to the beach and to her house or camping near her apartment. She complained to the authorities at least four times citing stalking, threatening behavior, and insults from A.O., and requested preventive orders. On three occasions, A.O. had insulted her publicly while she was swimming, threatened her because she was talking to men, and suspiciously circled around and camped outside her flat.

Between April and October 2021, authorities in Antalya issued three preventive orders of one month each against A.O. based on article 5/1/a. Karaboğa contacted authorities on two other occasions alleging violations of the orders. In both cases, the prosecutor in Antalya rejected her request for sanctions, in one case on the grounds that police had failed to serve A.O. with one of the orders and in the other case that there was a lack of evidence he had violated it.

Karaboğa expressed her disappointment in the system:

At the violence against women unit [in the police station], the officers make you wait for long periods and they do not inform you of your rights properly. I have lost my faith in them. I haven't been able to see a prosecutor or a judge myself ever since my first encounter with the authorities.

She told Human Rights Watch that police officers would not write down her full statement and would dismiss her insistence to include certain details, telling her: “That’s not important or relevant.”

⁷⁶ Interview with Yıldız Sabiha Karaboğa on December 3, 2021. Documentation on file with Human Rights Watch.

In late 2021, Karaboğa left her house in Antalya for a few months to stay in another city to avoid A.O.. During her time away, A.O. sent Karaboğa an email telling her “not to let anyone into [her life]” and that he’d “show no mercy if betrayed.” Karaboğa shared the email with the authorities but was not notified of any measures taken against A.O.. Karaboğa and two of her neighbors who lived in the same building complained to the police that A.O. was lurking in the apartment complex and was bothering them on December 18, 2021. Two separate Antalya prosecutors took decisions of non-prosecution in January and February 2022. At the time of writing, Karaboğa had received a preventive order in January 2022 because of A.O.’s continued stalking and had been notified of a court hearing scheduled for May 2022.

Although Karaboğa had been granted preventive orders when requested, the orders were not issued following a needs-based assessment involving a detailed analysis of her situation. Karaboğa’s reports of dismissive attitudes by police officers were similar to those reported by other women Human Rights Watch interviewed for this report and demonstrate the need for ongoing training of law enforcement personnel.

“Esra”

After “Esra,” 52, separated from “Ahmet” in 2017, he began to post abusive and threatening messages about her on social media and she blocked him.⁷⁷ Twitter and Facebook also banned him for periods for his abusive messages targeting many different people. In September 2021, he began to harass her once again by sending email messages to which she did not reply and blocked him once more. In one message he stated that he was coming to speak to her. Esra contacted a lawyer.

On September 22 at 10 p.m., Ahmet turned up at Esra’s home in Istanbul. She did not allow him to enter her flat, but he proceeded to verbally harass and curse her, used hateful and discriminatory language to refer to her and her family, and remained outside her door. Esra called the police and her lawyer. Meanwhile, Ahmet continued to write her messages including a message saying, “I will have to kill you if you continue like this.” Police officers

⁷⁷ Human Rights Watch interview with “Esra,” Istanbul, October 22, 2021. “Esra’s” name withheld at her own request for privacy reasons but known to Human Rights Watch. Documentation on file.

arrived and asked Esra if she wanted to complain and said she should come with them to the police station. They also asked Ahmet to come with them.

The two were taken to the station in different cars. Esra told Human Rights Watch

The officers in the domestic violence unit dealing with my case were polite, understanding, and responsive. However, I think they should have taken me to the station in their car. Instead, they took Ahmet away in their car, and I was taken in another regular police patrol car by a unit whose response to me I found terrible. When one officer asked me what had happened, the other interrupted, dismissively and contemptuously, and said, “Yeah, what do you think, what’s she going to say?” I believe the officer had a judgmental and completely inappropriate attitude because I am a single woman living alone in central Istanbul.

At the police station, a woman police officer reassured Esra and urged her not to look at the messages Ahmet continued to send her on Twitter while he was in the police station, where she could see him pacing up and down, muttering hateful curses at her. Esra’s lawyer arrived and they left the station at around 1.30 a.m. after giving a statement. Esra secured a preventive order under article 5/1/a, c, f for two months.⁷⁸ Esra has opted not to reach a settlement with Ahmet and he is likely to face prosecution for threatening behavior and defamation against Esra. Esra reflected on the experience:

Although the whole thing has been traumatic and has made me decide to move house, I have benefitted greatly from having a very experienced lawyer who could inform me of my rights. I find it really important that Ahmet does get prosecuted.

⁷⁸ Court order on file with Human Rights Watch, along with “Esra”’s statements to the police and prosecutor.

Importance of Legal Aid and Information about Access to Justice

“Başak”

“Başak,” a 28-year-old housewife, lives in Istanbul and has been married for six years to “Ferit”. They have a son, 4, and a daughter, 5.⁷⁹ Başak told Human Rights Watch that her relationship with her husband deteriorated because of his unfaithfulness and tensions between her and his family in recent years.

On August 4, 2021, during an argument with her husband over his unfaithfulness, he slapped her and threatened her with a knife. Başak said her sister took her to the nearest police station where police officers told her there was nothing they could do. They advised her to go to the Istanbul Çağlayan courthouse. Başak said the police officers did not inform her of her rights under Law No. 6284, nor her right to legal aid. She said she went to the courthouse and waited in line to submit a petition to the prosecutor detailing her complaint. While in line, another woman also waiting to file a complaint informed her of her right to legal aid from the Istanbul Bar Association, which has a room at the courthouse. The Istanbul Bar Association’s Woman’s Rights Center assigned Başak a lawyer who applied for a preventive order against her husband. An Istanbul family court issued the order in line with article 5/1/a, b, c, d, f for a period of two months. Başak said the police station called her to the station to notify her about the order. When she went in, the officers reportedly informed her about the order and advised her to download the KADES app on her phone, an application allowing women to press a button to call the police when faced with risk of violence.

In October 2021 another Istanbul court heard the criminal case against Ferit for threatening Başak with a knife. Başak and her lawyer told Human Rights Watch that the judge tried to convince Başak to forgive and reunite with Ferit and had been ready to acquit him. The only witness to the incident was Başak’s mother. However, since Ferit openly admitted to the acts alleged by Başak, the court issued a decision not to pronounce the verdict on condition he did not re-offend within five years, effectively suspending a prison sentence

⁷⁹ Human Rights Watch telephone interviews with “Başak” and her lawyer Gözde Gedik who shared the documentation of the case, November 10 and 22. “Başak’s” name withheld at her own request for privacy reasons but known to Human Rights Watch.

of one year and eight months on charges of “injury, threatening her with a knife, insult” but issuing a fine. Başak told Human Rights Watch:

The judge kept telling me: “Look, he loves you. He is the father of your children. He regrets what he had done. Forgive him just this once!” I did not appreciate how the judge behaved.

Reflecting on the case, she said: “Neither the police nor the prosecutor told me what rights I had. I wish we women all knew our rights.”

At the time of writing, Başak had decided to reunite with her husband and not to pursue a divorce.

Perpetrator’s Challenge to Preventive Order

S.A.

S.A., 50, a retired secretary in Ankara, reported that her 52-year-old husband M.A. had become violent towards her over the last two years of their marriage, mainly during the Covid-19 lockdowns.⁸⁰

On September 7, 2021, S.A. applied for and received a preventive order in line with article 5/1/a, b, c, f, g from an Ankara court after her husband, who owned two guns, only one of which was licensed, became aggressive and made death threats against her. M.A. was required to hand over his licensed gun under paragraph 5/1/g of the order. M.A. reportedly appealed against the preventive order, denied the allegations S.A. had made against him and requested the lifting of the preventive order on the grounds that he could not afford separate housing since the preventive order allocated their joint home to S.A.. On September 20, another Ankara court granted M.A.’s appeal and lifted articles of the preventive order except for article 5/1/a which requires the accused not to use slurs or insults against the applicant.

Police notified S.A. of the court decision an hour before informing M.A.. S.A.’s lawyer said M.A. went to the house soon after with his adult son from another marriage and made

⁸⁰ Human Rights Watch telephone interview with lawyer Ceren Kalay Eken, October 15, 2021. Documentation supplied by lawyer on file. S.A.’s name withheld at her lawyer’s request for security reasons but known to Human Rights Watch.

insulting remarks and threats against S.A. who kept the door closed while reporting him to the police through the KADES cell phone application. S.A.'s lawyer told Human Rights Watch that police officers, who arrived at the house after S.A. contacted them, did not take a written record of the insults made in their presence despite the fact these were a direct breach of the preventive order, and told S.A. to let M.A. into the house or go and make a statement at the police station. Police eventually recorded a violation of the remaining preventive order after S.A. and her lawyer insisted, they do so.

To speed up the procedure, S.A.'s lawyer shared the story with a journalist who released an extensive news report about the case on September 21, 2021.⁸¹ According to the lawyer, after the media story not only did S.A. promptly receive a call from a Ministry of Family and Social Services official promising help but was also granted a preventive order listing article 5/1/a, b, c, f, g for three months from an Ankara court. S.A. has since moved out and had her address details hidden for security reasons. A divorce case is ongoing.

F.Ç.

After five years of marriage, F.Ç., 27, divorced her husband M.O. in December 2020 in Gaziantep on the grounds of his alleged ongoing addictions and a history of domestic violence.⁸² The couple has two children aged three and four. A Gaziantep court granted custody to F.Ç.. Since the divorce, M.O. continued his threatening and aggressive behavior, prompting F.Ç. to apply for and secure two 30-day preventive orders against him on May 31 and June 25, 2021, in line with article 5/1/a, c, d, g.

F. Ç. said M.O. violated these orders at least three times by sending her insulting text messages, for which she complained to the prosecutor's office. The prosecutor ruled non-prosecution for lack of evidence. In at least one of the violations, M.O. was taken to the police station but was released shortly afterwards.

F. Ç. told Human Rights Watch that on October 20, 2021, M.O. broke the windows of her car while she was waiting at a red light with her two children in the backseat. Two gendarmerie officers, who F.Ç. said were dressed in civilian clothes and were at the scene

⁸¹ Burcu Yildirim, "Mahkemenin koruma kararını kaldırdığı şiddet faili erkek yine eşinin kapısına dayandı," *evrensel*, September 21, 2021, <https://www.evrensel.net/haber/443201/mahkemenin-koruma-kararini-kaldiridigi-siddet-faili-erkek-yine-esinin-kapisina-dayandi> (accessed May 18, 2022).

⁸² Human Rights Watch telephone interview with F. Ç., October 21, 2021. Documentation on file with Human Rights Watch.

coincidentally, stopped M.O. while F.Ç. waited for police officers to arrive at the crime scene. F.Ç. said M.O. kept making threats such as “I will not let you be! I will make you pay” in front of the gendarmerie and police officers who arrived at the scene about ten to fifteen minutes later. F.Ç. said officers did not write down any of those threats or make any attempts to stop him as he was making them. Both went with the police to the police station. She said M.O. was released from the police station before she finished her statement.

F.Ç. told Human Rights Watch that since her first preventive order, she has not gone before a judge, met with a prosecutor, or been informed of her rights by the police. She said she learned what those rights were on paper when police officers would rush her to sign off on her complaint statement. She said police officers had not written down her full account of the incidents on the occasions when she went to report violations of preventive orders. She felt that the police officers who interviewed her had not been specially trained for handling domestic violence and violence against women.

F.Ç. recounted the latest abusive incident by her ex-husband on her Twitter account and pleaded for support from the public. She told Human Rights Watch,

Police officers scolded me when I asked them to bring in the gendarmes who were witnesses to the last incident. I took matters to social media because the police forced me to [with their inaction]. I will take control of the whole process now.

After her Twitter thread, F.Ç. said the police contacted her to offer more effective help. Since then, a Gaziantep court has ordered M.O. wear an electronic tag which was placed on him in October, 2021.

F.Ç.’s case is another example of a victim resorting to social media to bring attention to a case and trigger a more effective response from the authorities. Victims of domestic violence still feel that the response of the police to their complaints is inadequate unless they publicize their cases and expose the failure of the authorities to offer effective protection.

Challenges to Securing Protection as a Refugee

N.K.

N.K., age 23, told Human Rights Watch that she separated from H.I. at the beginning of 2022. She and H.I. had a religious marriage. The couple escaped the war in Syria, have been in Turkey for six years and live in Ankara. They have a five-year-old daughter and a three-month old girl who was born prematurely and spent the first three months of her life in hospital. N.K. does not speak Turkish. She told Human Rights Watch that she separated from her husband because of his verbal abuse, threats, sporadic physical violence, and affairs with other women. N.K. said that after the birth of their second child, H.I. repeatedly threatened via messages and phone calls to kill N.K. and to take away their baby by tricking the hospital into giving her to him. N.K. had explained to the hospital staff via translators that H.I. was repeatedly threatening her and the baby. They advised her to go to the police for a preventive order.

On February 22, N.K. and her mother went in person to their local police station after contacting an interpreter, with whom Human Rights Watch also spoke. Police from the station brought the two women to the local domestic violence police unit. There, with the help of the interpreter who assisted them by phone, N.K. filed a request for a preventive order prohibiting her husband from contacting her or visiting her or the baby. N.K. told Human Rights Watch that she had not wanted her former husband to be punished for his behavior, but just to be kept away from her and her baby. She said she was concerned that, because he is Syrian, he might face deportation if faced with criminal charges.

The following day, February 23, Ankara Family Court No. 1 issued a 30-day-long preventive order in line with Article 5/1/a, b, c, d, e, f of law 6284.

N.K. told Human Rights Watch that police officers did not notify her of the preventive order until March 5. At that time, they required her to sign off on the order, but did not explain to her its content as they did not have a translator available. N.K.'s brother, who spoke some Turkish, helped N.K. speak to the police, but it was not until she later got help from a Turkish-speaking friend to translate and understand the two-page-long preventive order in full. The police officers who notified N.K. about the order asked her about her former husband's address, which she did not know. N.K. said she does not know whether H.I. has been served with the preventive order. N.K. told Human Rights Watch that the police

officers did not inform her about her rights or what to do in case H.I. breaches the preventive order by attempting to contact her, visit, or threaten her via calls or texts.

The police and courts responded promptly to N.K.'s complaint but it is concerning that it appears to have taken ten days for the police to inform N.K. about the court decision. Human Rights Watch could not confirm whether the police found H.I. and served him with the preventive order. N.K. said, and her interpreter also confirmed, that during her interview at the police station, police officers offered her no information about the types of preventive measures that might be included in an order, the options open to her, or her right to benefit from legal aid. After the family court issued the preventive order, the police unit did not provide a translation of the decision or explain to N.K. what the order contained and N.K. had to rely on a friend to explain it to her. This case illustrates the particular obstacles in access to justice for refugee or migrant survivors of domestic violence, or those who do not speak Turkish. The police and courts require greater resources to support them in providing full information and assistance to victims who do not speak Turkish. They also require greater resources to enable them to serve preventive orders in a timely fashion, and with full information provided, to perpetrators of violence who do not speak or read Turkish or who are unfamiliar with Turkish law.

III. Assessing the Implementation of Protective and Preventive Orders

Many of the cases Human Rights Watch examined in the previous chapter illustrate the authorities' ongoing failure to secure effective protection of women who lodge complaints of violence and abuse by current and former spouses or partners, and in one case a family member. The Ministry of Interior's own figures show that between 2016 and 2021, 8.5 percent of women murdered by men had secured preventive or protective orders, and were thus officially being protected by the authorities at the time of their death.⁸³ According to Ministry of Interior data, the highest recorded number of deaths of women under protection occurred in 2021, when 38 of the 307 women killed were under state protection at the time of their murders.

Over the past few years, law enforcement and family courts in Turkey have issued an increasing number both of preventive orders to restrain perpetrators and of the less common protective orders typically offering the victim residence in a shelter, among other measures. The rise in the use of these orders has largely come since the 2016 CEDAW review and the GREVIO baseline report.

The data provided by the Turkish government to the Council of Europe Committee of Ministers in the context of the Committee's review of the Opuz group of cases records hundreds of thousands of preventive orders and a few thousand protective orders issued every year since 2016 – in total from January 1, 2016 to October 12, 2020, the government stated that “2,457,405 orders in 2,198,546 cases have been issued.”⁸⁴ The number is also shown to have greatly increased year on year, with 604,268 preventive and protective

⁸³ The Interior Ministry provided a parliamentary commission with the official numbers as follows: 2016: 303 (of which 22 under protection); 2017: 353 (17 under protection); 2018: 279 (26 under protection); 2019: 336 (22 under protection); 2020: 268 (32 under protection); 2021: 307 (38 under protection). Numbers are cited in the final report by the Parliamentary Enquiry Commission Investigating all aspects of the reasons for violence against women... (TBMM Kadına Yönelik Şiddetin Sebeplerinin Tüm Yönleriyle Araştırılarak Alınması Gereken Tedbirlerin Belirlenmesi Amacıyla Kurulan Meclis Araştırması Komisyonu), March 6, 2022: see <https://www.tbmm.gov.tr/sirasayi/donem27/yilo1/ss315.pdf> (accessed March 13, 2022), p.219-20.

⁸⁴ Turkish government communication to the Council of Europe Committee of Ministers regarding the action plan to ensure implementation of the Opuz group of cases: see Secretariat of the Committee of Ministers, Action Plan (16/10/2020), October 16, 2020, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680a009cd> (accessed May 18, 2022), p. 6.

orders issued for 497,910 individuals (perpetrators and victims) in the first ten months of 2020.⁸⁵

However, these numbers reflect the sums of the total number of orders issued under each different paragraph of the articles of Law No. 6284 offering protective and preventive measures. In reality, one protective or preventive order usually includes measures under several different paragraphs from articles 3, 4 or 5 of Law No. 6284. The reported total number of orders issued therefore almost certainly reflects double counting, and thus the actual number of orders issued is likely far lower.

In June 2021, the minister of justice presented a different set of figures for the same five-year period at an address to a cross-party parliamentary commission examining the causes of violence against women.⁸⁶ These figures seem to offer a more plausible picture, demonstrating a rising number of protective and preventive orders but a far lower number than in the tables presented to the Committee of Ministers. The final report citing the figures provided by the minister shows the number of individuals for whom courts served preventive and protective orders as follows: in 2016, 139,218 individuals received preventive and 1,801 protective orders; in 2017, 151,715 individuals received preventive and 2,552 protective orders; in 2018, 181,072 individuals received preventive and 4,648 protective orders; in 2019, 195,242 individuals received preventive and 5,725 protective

⁸⁵ This is compared with earlier figures as follows: in 2016, 319,999 orders in 301,413 cases, concerning 278,495 persons (perpetrator and victim); in 2017, 413,573 orders in 374,575 cases concerning 347,750 persons; in 2018: 521,163 orders in 461,827 cases concerning 433,552 persons; in 2019, 598,402 orders in 520,940 cases concerning 492,454 persons see Secretariat of the Committee of Ministers, Action Plan (16/10/2020), October 16, 2020, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680a009cd> (accessed May 18, 2022), pp. 29-34. The vast majority of the orders are preventive orders, with protection orders accounting for up to 1.1 percent of the totals: in 2016, 1902; in 2017, 2856; in 2018, 5302; in 2019, 6813; in 2020 (till October 12), 6846.

⁸⁶ The Parliamentary Inquiry Commission Investigating all aspects of the reasons for violence against women with the aim to identify the measures that need to be taken (TBMM Kadına Yönelik Şiddetin Sebeplerinin Tüm Yönleriyle Araştırılarak Alınması Gereken Tedbirlerin Belirlenmesi Amacıyla Kurulan Meclis Araştırması Komisyonu) was established on March 9, 2021 before Turkey's withdrawal from the Istanbul Convention, and held a first session on April 22. Although a cross-party commission, it was dominated by the government coalition and on June 22 the four members from the main opposition Republican People's Party (CHP) withdrew, followed on June 23 by the member from the Good Party and, on June 30, by the two members from the Peoples' Democratic Party (HDP). The opposition parties criticized the commission for seeking to legitimize the withdrawal from the convention and treating the opposition parties as "extras"; see "CHP, TBMM Kadına Yönelik Şiddetin Sebeplerinin Araştırılması Komisyonu'ndan çekildi," *gazete duvar*, June 22, 2021, <https://www.gazeteduvar.com.tr/chp-tbmm-kadina-yonelik-siddetin-sebeplerinin-arastirilmesi-komisyonundan-cekildi-haber-1526322> (accessed May 18, 2022). The commission was criticized by key commentators in the women's movement from its first session: see Berrin Sönmez, "Komisyon değil kâh komedi kâh trajedi," *gazete duvar*, April 27, 2021, <https://www.gazeteduvar.com.tr/komisyon-degil-kah-komedi-kah-trajedi-makale-1520525> (accessed May 18, 2022).

orders; in 2020, 244,985 individuals received preventive and 7,293 protective orders; and in 2021, 272,870 individuals received preventive and 10,401 protective orders.⁸⁷

Another set of statistics on protective and preventive orders issued by the police and the annual number of femicides were provided to the above-mentioned parliamentary commission by the interior minister,⁸⁸ raising an important question from an opposition Republican People's Party (CHP) member of the commission, Suzan Şahin, regarding the issue of conflicting data from different ministries. Suggesting the problem stemmed from a lack of communication between ministries, she stated: "The problem of missing data and differences in data is a big problem from the perspective of being able to prevent violence and implement effective policies. As well as that, while each institution's data tallies in places, most of the time they produce different data."⁸⁹ The data on preventive and protective orders cited by the parliamentary commission in its final report confirms this concern by including tables from the relevant three ministries (justice, interior, and family and social services) which each provide different data sets on the number of preventive and protective orders issued over the past few years.⁹⁰

Family Court Judges and Prosecutors' Assessment

Judges and prosecutors interviewed by Human Rights Watch in Istanbul said protective or preventive orders are rarely refused to those who file complaints of harassment, violence, verbal abuse, or stalking by current or former spouses and partners or family members.⁹¹ All the judges interviewed work in courts issuing thousands of protective or preventive orders a year.

⁸⁷ See the final report by the Parliamentary Enquiry Commission Investigating all aspects of the reasons for violence against women... (TBMM Kadına Yönelik Şiddetin Sebeplerinin Tüm Yönleriyle Araştırılarak Alınması Gereken Tedbirlerin Belirlenmesi Amacıyla Kurulan Meclis Araştırması Komisyonu), March 6, 2022: see <https://www5.tbmm.gov.tr/sirasayi/donem27/yilo1/ss315.pdf>, (accessed March 13, 2022), p.398.

⁸⁸ See speech by Minister of Interior Süleyman Soylu to the Parliamentary Enquiry Commission investigating all aspect of the reasons for violence against women, May 27, 2021, https://www5.tbmm.gov.tr/develop/owa/komisyon_tutanaklari.goruntule?pTutanakId=2742.

⁸⁹ Comment to Süleyman Soylu by Suzan Şahin, CHP member of parliament for Hatay, May 27, 2021, https://www5.tbmm.gov.tr/develop/owa/komisyon_tutanaklari.goruntule?pTutanakId=2742, p. 46.

⁹⁰ See the final report by the Parliamentary Enquiry Commission Investigating all aspects of the reasons for violence against women, *ibid.*, inter alia pp. 361 and 427.

⁹¹ Human Rights Watch interviews with six judges and two prosecutors, conducted with the permission of the Council of Judges and Prosecutors, took place in Istanbul in August and September 2021. All judges interviewed worked in courts issuing protective and preventive orders. The prosecutors worked exclusively on domestic violence cases in the scope of law 6284. The views shared with Human Rights Watch are compiled here without individual attribution.

The initial issuing of preventive and protective orders requires no additional evidence to corroborate a victim's allegations and judges often used formulations such as a woman's or the victim's "testimony is fundamental" to emphasize this point. An experienced family court judge told Human Rights Watch, "There are a rising numbers of [preventive and protective] orders given and this is linked to rising population, rising self-confidence of women, and also the impact of the [Covid] pandemic which caused a rise in reports of domestic violence."

Prosecutors investigating domestic violence described to Human Rights Watch the high number of cases under criminal investigation. They said their work to complete indictments involved instructing the police on the collection of evidence and interviewing suspects and witnesses.

Judges relied strongly on the police to present them with cases via written complaints. Court clerks were also described as playing a role in drafting decisions that judges work on. Heavy workload was cited as the reason why judges and prosecutors rarely meet with victims in person. One judge described the system as follows:

The police prepare a report, a copy of which is sent to the family judge and the prosecutor simultaneously. We look at the past history in each case to see if it's the first complaint about the perpetrator. The more vicious (daha vahim) the conduct, the more aggravated is the penalty (daha nitelikli karar).

On the question of deciding whether to renew a preventive or protection order, one judge said "We do extend orders. More importantly we focus on why people withdraw their complaints – whether under pressure or not. It is a fine line." Another judge estimated that 50 percent of the orders were renewed. A third judge reflected on the difficulty of assessing what will most benefit the victims without seeing them: "We meet with victims if there is a doubt about the case or if there is a violation of a protection order. Victims can tell us some things they can't tell the police. You can only see what kind of requests are possible to answer if you see the victim." However, judges in the family courts issuing protective and preventive orders mostly do not see victims in person.

Opinions differed greatly on whether the system of preventive and protection orders was effective, and whether the orders were a deterrent and – above all – on how frequently the terms of protective or preventive orders were violated by perpetrators and whether they were sanctioned for such breaches. While a few judges said they were not able to provide estimates regarding how often abusers violate protective or preventive orders, others suggested figures ranging from 5 to 40 percent as the proportion of protective and preventive orders that get breached by perpetrators of domestic violence. One judge estimated that of those who violated the terms of protective and preventive orders by visiting or harassing the victim, only 10 percent would be punished by being placed in custody for a short period (referred to as *zorlama hapsi* or *tazyik hapsi*).

While judges said the information about violations was available in individual case files, they made clear that currently the online National Judiciary Informatics System (UYAP), where all prosecutorial and judicial case data is stored and available to relevant authorities, does not offer the option of recording breaches of orders for domestic violence case data. As a result, the data on violations of orders is not captured centrally. One commented: “As far as violations, there is no information recorded on UYAP of violations of protection orders. We can only see it by looking at the case file.” Because data about breaches is currently not captured electronically, it is presumably difficult too to provide statistics that would allow an assessment of the success rate of preventive and protective orders.

Human Rights Watch recommends that the online platform be updated to capture data about protective and preventive order violations, including the nature of the violation and any action taken as a result. This would provide greater visibility of the extent to which the orders have a deterrent effect on perpetrators and the extent to which perpetrators are sanctioned for violating them.

In its 2018 decision on the Opuz group, the Council of Europe Committee of Ministers addressed the matter of data directly, asking that, ahead of its next review in December 2020, Turkey provide “the number of domestic violence-related offences reported in the past five years; *the number of preventive orders breached and the consequences of such breaches, both in terms of violence suffered by the women and sanctions imposed on the perpetrators*; the number of investigations initiated against suspects of domestic violence;

final conviction rates for such offences; and the average length of proceedings in domestic violence cases”⁹² (emphasis added).

The Turkish government did not provide information on numbers and consequences of breaches of protective and preventive orders for the December 2020 review, the key point the Committee raised here. Because of the current way in which information is captured on the UYAP system it seems doubtful that such data is being systematically collected at all.

In its decision on the state of implementation of the Opuz group at the December 2020 session, the Committee of Ministers “expressed concern that despite the positive developments and ongoing efforts, the number of domestic violence victims in Turkey remains persistently high; stressed therefore the need to continue making efforts to ensure effective implementation of the existing measures and taking additional measures with a view to reducing the number of femicide victims.”⁹³

To this end, the Committee of Ministers also urged Turkey to “consider conducting thorough research on the actual femicide victims who lost their lives in 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”⁹⁴ (emphasis added).

In June 2021, the Minister of Justice provided a parliamentary commission examining the causes of violence against women with figures on how many perpetrators were sanctioned with detention for breaches of preventive and protective orders per year. The figure had changed little over five years, ranging from 4,676 in 2016 to 4,820 in 2020.⁹⁵

⁹² Council of Europe Committee of Ministers 1331st meeting, 4-6 December 2018 (DH), H46-29 Opuz group v. Turkey (Application No. 33401/02): https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016808fe1ba.

⁹³ Council of Europe Committee of Ministers 1390st meeting, 1-3 December 2018 (DH), H46-24 Opuz group v. Turkey (Application No. 33401/02): https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680a091a4.

⁹⁴ Ibid. This recommendation was also made by GREVIO in its 2018 baseline report, GREVIO 2018, pp. 22-3.

⁹⁵ The Parliamentary Inquiry Commission Investigating all aspects of the reasons for violence against women with the aim to identify the measures that need to be taken (TBMM Kadına Yönelik Şiddetin Sebeplerinin Tüm Yönleriyle Araştırılarak Alınması Gereken Tedbirlerin Belirlenmesi Amacıyla Kurulan Meclis Araştırması Komisyonu), June 8, 2021, https://www5.tbmm.gov.tr/develop/owa/komisyon_tutanaklari.goruntule?pTutanakId=2756, pp. 15-16.

Police Officers' Assessment

Human Rights Watch also interviewed police officers working in dedicated district units to combat domestic violence.⁹⁶

Human Rights Watch was struck by the lack of resources available to some units visited that would enable them to uphold best practices for responding to domestic and other gender-based violence. Several units were operating in a physical environment lacking private spaces in which to interview victims of violence. In some police stations, officers conducted interviews with victims of domestic violence in spaces barely separated from areas through which male suspects accused of other crimes were being escorted. In one case Human Rights Watch observed a woman having a preliminary interview in a room with many other people present and no privacy; officers told Human Rights Watch she was requesting admission to a shelter and lodging a complaint of sexual violence by her spouse. While the woman waited for the arrival of a lawyer, her two young children had to stay in a waiting room unattended. Other police units Human Rights Watch visited were operating in newer buildings and had spaces separate from other regular crime units. Officers in these units were aware they were more fortunate than their colleagues working in overcrowded conditions ill-suited to assisting victims of domestic violence.

Some of those working in the specialized domestic violence units expressed awareness of the complex factors that contribute to the challenges of combatting domestic violence and admitted the enormous obstacles that prevent women from complaining. One officer said: “In this district there are women who are suffering violence for years. A lot of women cannot complain because they lack economic possibilities to live independently, or they perhaps have a child with disabilities.” In another district, an officer commented on the problem of family pressure which prevented some women complaining: “If a woman has no economic means of standing on her own feet, she doesn’t come... Most complaints come when women are at the stage of divorce.”

Officers who raised concerns about barriers to reporting domestic violence were also supportive of media coverage of cases where women were murdered or subject to abuse. One commented: “I think it’s good that the cases come out in the media and are

⁹⁶ Human Rights Watch interviewed male and female police officers of different ranks in dedicated units to combat domestic violence and violence against women in nine districts of Istanbul in September 2021. Their views are compiled here without individual attribution.

discussed. That way women become more conscious of the issue. We need education on the issues, too, until people gain consciousness.” Another praised “the power of the media” to bring attention to an issue that used to be hidden. Police officers and judges Human Rights Watch interviewed believed that the government is responsive to media coverage. They said ministries immediately contact the police and courts in response to media reports of cases – especially murders – in the districts where they occur. All police and judges reported that in the case of murders they immediately checked records to ascertain whether a victim had ever previously complained to the authorities or there was a record of a history of abuse.

The officers explained in detail the system of compiling a 12-page risk assessment form on the police intranet system (POLNET) where case data is stored. This form, intended to determine the level of risk facing a victim of violence, is completed when victims lodge complaints with the police. Depending on the level of risk identified in this form, the police decide whether to issue initial orders and which elements of protection to include in the individual case. One described the latest form as “detailed and an improvement on the one from last year. It looks at the background in terms of the economic situation, whether the man has a firearm, whether there is a substance abuse issue, the family situation, etc.”⁹⁷ All forms are automatically shared with the family courts, the prosecutor’s office, and Violence Prevention and Monitoring Centers run by the Ministry of Family and Social Services (discussed below). If a higher level of risk is identified, the form is also shared with the office of the district governor.

All officers mentioned cases of women in their district for whom there was a protective order including “protection on call,” meaning that immediate police protection would be made available should they contact the police. They mentioned one to three cases in each district in which courts had issued men with electronic tags. The police generally supported electronic tagging (the system by which both police and the victim receive an alert should the tagged individual approach his victim) though there were some complaints about faulty electronic tags and the bureaucracy required to issue tags. One

⁹⁷ A copy of the form introduced in January 2021 (6284 Sayılı Kanun Kapsamında Aile İçi ve Kadına Karşı Şiddet Olayları Kayıt ve Risk Değerlendirme Formu) is published in the report of the parliamentary commission on violence against women, *op.cit.*, pp. 830-42. The form was introduced following the publication of a report commissioned by the Council of Europe and European Commission: Lori Mann & Zehra Tosun, *Assessing and Managing Risks in Cases of Violence against Women and Domestic Violence: Strengthening Risk Assessments, the Risk Management System and Inter-Agency Coordination in Turkey*, October 2020, <https://rm.coe.int/trk-2021-assessing-and-managing-risks-in-cases-of-vaw-and-domestic-vio/1680a2a7cb> (accessed March 22, 2022).

officer working on electronic tagging said it takes around two months to complete the paperwork and coordination between police, the Violence Prevention and Monitoring Center, and the courts to issue a tag, during which time a victim remains at increased risk of violence. The same officer felt that there needed to be better coordination between authorities – “preferably a situation where we are all working in the same room.”

Police officers explained to Human Rights Watch the different measures available to them under Law No. 6284. One officer estimated that while preventive orders are now served in all cases, protective orders (providing a shelter and other proactive protective measures) were only served in about 20 percent of cases. Officers said they telephone victims weekly and sometimes visit the neighborhood to make sure perpetrators are not violating orders by approaching the victim, but they also said women are now often ready to call to report that the perpetrator had turned up at the door. They also said that use of a cell phone application KADES which women can download, had sped up the process of reporting initial complaints of violence or infractions of preventive orders by perpetrators.

Several officers suggested that their units would benefit from a psychologist working alongside them. One said, “It would be good to have a psychologist here. Currently it’s the biggest gap. From experience we can tell some things about victims, but we aren’t psychologists.”

Among some officers there was concern about women misusing preventive orders to punish or pay back men, and a feeling that nowadays the issuing of such orders was so automatic and pervasive that the system was being abused. One said, “Men say to us, ‘You are on the woman’s side.’” Groundless calls on the KADES application were also cited as a problem. However, the same officers were keen to demonstrate that they feared the consequences of not complying with a request even if not convinced of its merits. One officer commented: “We can’t say no to them because of the fear of what might happen if we do.” The bad press generated by murders of some women despite being known to the authorities as victims of domestic violence and in some cases “under protection” seems to have shone a light on the authorities’ failings which they want to be seen to be actively addressing.

When asked about how deterrent preventive orders are, police officers linked it to the question of whether the perpetrator had anything to lose in terms of social status or not, suggesting such orders deterred those with fixed work and a consciousness about

potential loss of social status but were ineffective in the case of individuals who felt they had little to lose or had a criminal record. Some officers believed it was still hard to reach the most serious cases and cited murders of women over the last year from whom the police had never received complaints. One officer described making efforts to provide enough police reports containing evidence to the prosecutor and courts to support the case for a repeat abuser to be placed in pretrial detention pending completion of criminal investigation, after a woman had lodged multiple complaints of physical violence. Another officer estimated that it took on average four to five complaints of perpetrators violating orders for courts to impose short-term detention (zorlama hapsi), which is not a criminal penalty but is a punitive sanction intended to deter perpetrators from violating the terms of preventive or protective orders.

Lack of Instruments and Data to Measure Effectiveness

Because the police and judges interviewed had no access to reliable data on violations, they were unable to provide an evidence based assessment of the success or limitations of preventive and protective orders. However, they underlined that changes introduced in January 2020 overhauled the system of dealing with domestic violence and that the current situation should be judged on the basis of the new system rather than on how things functioned previously. One police officer running a domestic violence unit said: “We are trying to do something here and it may take time, but I think it will be successful. The foundation stones have been newly laid.”

Police officers informed Human Rights Watch that coordination meetings organized by the provincial governorate take place every three months and are intended to bring together different authorities engaged in combatting violence against women and domestic violence. While this kind of coordination is important, it is unclear that it is intended to measure and monitor the effectiveness of different authorities’ response. A willingness to measure the effectiveness of the reorganized system is key. Simply issuing a high number of preventive orders and a rising number of protective orders do not on their own prove the system is effective.

An experienced retired judge from the family courts interviewed by Human Rights Watch raised a concern that the government and the courts are seeking to deflect criticism by presenting the sheer volume of protective and preventive orders being issued as success. He was uncertain whether there was any evidence to date that this was effective in

combatting domestic violence since the impact was not really being measured. In making this observation the retired judge acknowledged the difficulty the authorities face in protecting women from violence while upholding the rights of all parties.

Assessment of Lawyers and Women’s Rights Groups Working on Domestic Violence

Despite repeated requests, the Ministry of Family and Social Services did not grant Human Rights Watch permission to interview personnel from the Violence Prevention and Monitoring Center in Istanbul or anywhere else. As a result, this report was unable to reflect the perspective of those running or working in the centers which are responsible for coordinating and monitoring the implementation of protective and preventive orders. Instead, this report draws on information about the centers relayed to Human Rights Watch by lawyers and civil society groups working on domestic violence. These interviewees said the lack of effective monitoring of preventive orders was a serious obstacle to preventing the recurrence of abuses at the hands of perpetrators.⁹⁸ They said the Violence Prevention and Monitoring Centers’ effectiveness was hampered by lack of coordination, the absence of a holistic approach, and lack of resources.

A 2020 study by KAMER Foundation examining 157 legal cases including preventive and protective orders as well as prosecutions of domestic violence cases and divorce cases, found widespread mistrust of the justice system among women owing to the long duration of investigations and then trials and “the fact that that women’s problems are not resolved even though they have a court order in hand.”⁹⁹ KAMER found that even though the authorities in recent years have been granting more preventive orders than previously, there was a gap in follow-up: “... even though precautionary decisions are taken immediately, they are not supported by a close monitoring process. It is seen that two women were murdered despite the precautionary decisions. Moreover, in some high-risk cases, protective/preventive decisions were not taken.”

⁹⁸ This point was emphasized in meetings with the Istanbul Bar Association women’s rights center, June 4, 2021, also in meetings in Diyarbakır with the non-governmental organizations Rosa Kadın Derneği (Rosa Women’s Association), June 9, 2021, with KAMER, June 11, 2021, and with Mor Çatı, October 18, 2021.

⁹⁹ See KAMER’s report ‘Who’s Guilty? Volume II Family? State? Society? All of us?’, 2020, p.17. KAMER was established in 1997 as a women’s rights organization and works in 23 eastern and southeastern provinces.

KAMER concluded from the cases examined that: “most precautionary decisions are taken and applied automatically by a copy and paste method, almost following routine template rather than focusing on the specifics of each case.”¹⁰⁰ KAMER identified the problem as deriving from the lack of detailed analysis on a case-by-case basis. It said the main reasons for the ongoing challenges were a lack of trained personnel able to undertake the “new and important” risk assessment process in which women are classified as low, medium, or high risk; a “lack of coordinated security and support offered to the victim;” and a failure to involve the victim as well as civil society organizations in the process.¹⁰¹

In general KAMER discovered that the police were likely to give longer preventive orders than judges and encountered cases where judges unnecessarily requested evidence without explanation.¹⁰²

In a 2020 report using data on cases where the victim had benefited from legal aid, the Istanbul Bar Association Women’s Rights Center analyzed 1,253 instances of preventive and protective orders granted in 2019.¹⁰³ In 92 percent of the cases examined, the perpetrator was the current husband and in 4 percent of cases the former husband. The center examined the length of period of preventive orders, finding that out of the 1,253 orders examined, courts gave 224 for six months, 94 for four months, 194 for three months, 295 for two months, and 169 for one month.¹⁰⁴ The center noted that the proportion of cases barring perpetrators from the home was only 25 percent, less than the authorities stated publicly. They also noted that in no case had they come across an instance of a perpetrator receiving the sanction of enforced detention for violating a preventive order. Overall, they judged that the authorities did not really issue case-specific preventive and protective orders.¹⁰⁵

¹⁰⁰ Ibid p. 18. The report analyses 157 court cases relating to women and child survivors or victims of domestic violence or sexual abuse.

¹⁰¹ Ibid, p.20.

¹⁰² Ibid, p.19

¹⁰³ Istanbul Bar Association Women Rights Center, “Adli Yardım Bürosuna Başvurularda Ailenin Korunması ve Kadına Karşı Şiddetin Önlenmesine Dair 6284 Sayılı Kanun Uyarınca Alınan Tedbir Kararları Raporu,” (Report on Cautionary Orders issued in accordance with Law 6284 in applications to the legal aid department”) is reproduced in a longer report by the İstanbul Barosu Kadın Hakları Merkezi, “Kadına Yönelik Şiddet ve Aile İçi Şiddetin Önlenmesi ve Bunlarla Mücadeleye Dair Avrupa Konseyi Sözleşmesi – İstanbul Sözleşmesi,” March 8, 2021.

¹⁰⁴ Ibid, p.40.

¹⁰⁵ Ibid, p.41.

One of Turkey’s oldest women’s rights non-governmental organizations running a shelter is Mor Çatı Kadın Sığınağı Vakfı (Purple Roof Women’s Shelter Foundation). Mor Çatı’s April 2021 report on the role of bar associations’ legal aid offices in assisting victims of domestic violence provides another assessment about women’s encounters with different authorities. Women reported to Mor Çatı that police officers failed to inform them of their rights or provided incorrect information, sometimes sought to persuade them not to file complaints, asked for evidence in support of their complaints, or simply did not accept complaints. Mor Çatı observed that problems at the police station often stem from lack of training, an insufficient number of personnel and lack of sanctions of police officers for inappropriate actions.¹⁰⁶

Concerning Violence Prevention and Monitoring Centers, Mor Çatı reported that some women who applied to them complained that instead of adopting standard institutional practices, the centers operated according to individual initiatives by the personnel. Some women criticized the centers for failing to implement and navigate secrecy orders (*gizlilik kararları*) issued by courts to conceal the identity of women to maintain their security, as well as for failing to provide guidance and support to women survivors of violence. Mor Çatı noted a failure of coordination among relevant institutions including family courts and Violence Prevention and Monitoring Centers.¹⁰⁷

Mor Çatı representatives also informed Human Rights Watch that the implementation of protective orders was uneven. They cited as examples cases in which difficulties in serving a perpetrator with a protective order meant that violations of the protective order were not counted by the authorities as breaches. In some places, the police were not conducting risk assessments and in other places police in regular police stations did not assist women to get to domestic violence units and made them wait so long that they eventually gave up and decided not to pursue complaints.¹⁰⁸

¹⁰⁶ See Mor Çatı Kadın Sığınağı Vakfı, *Kadınların Adalete Erişimi: Kadına Yönelik Şiddetle Mücadele Yasalarının Uygulanmasında Baro Adli Yardım Büroların Rolü* (“Women’s access to justice: the role of bar association legal aid centers in the implementation of the laws to combat violence against women”), April 2021, pp. 9

¹⁰⁷ *Ibid*, pp.10-12

¹⁰⁸ Human Rights Watch interview with Mor Çatı representative, October 18, 2021.

Constitutional Court Decisions Regarding the Implementation of Preventive and Protective Orders

When ordinary legal remedies are exhausted, individuals can apply to the Constitutional Court if they claim that the authorities have violated one of their fundamental rights and freedoms enshrined in Turkey's constitution or in the European Convention on Human Rights. Concerning the implementation of Law No. 6284, Turkey's Constitutional Court had at the time of writing published judgments delivered in 27 individual applications. Eight cases in which the Constitutional Court found a violation concern the rights of alleged perpetrators of domestic violence served with preventive orders. These concern complaints from men that they had been served with preventive orders to keep them away from the victim but have had their appeals against such orders rejected – sometimes several times – without being offered a full reasoned judgment justifying the grounds. The Constitutional Court found this to be a violation of their right to a fair trial.¹⁰⁹

In May 2021 Constitutional Court found that imposing seven-days detention on the applicant, Mustafa Karaca, for breaching the terms of the preventive order he had been served, did not violate his right to liberty. By affirming that lower courts were entitled to impose a sanction of detention for breaches of orders, it is to be hoped that the Constitutional Court has strengthened the position of lower courts to opt for detention in cases where order violations merit it.¹¹⁰

Of particular importance for this report, however, is the Constitutional Court's September 2021 judgment in the case of T.A., published in December 2021. The Court broke new ground in finding, as the European Court of Human Rights had done in *Opuz v. Turkey*, both substantive and procedural violations of the right to life in a case which concerned the murder, on December 15, 2013, of the applicant's daughter S.E., an academic, by her former husband, V.A. The Constitutional Court found, firstly, that the negligence of the public authorities had contributed to the killing or injury of S.E., and, secondly, that in not permitting an investigation into the public officials who acted with negligence – including police officers, judges and prosecutors – there had been a

¹⁰⁹ Among the salient cases is Salih Söylemezoğlu B. No.2013/3758, 6/12/2016.

¹¹⁰ See *Mustafa Karaca* [GK], B. No: 2020/15967, 20/5/2021, <https://karartarbilgibankasi.anayasa.gov.tr/BB/2020/15967> (accessed January 16, 2022), published in the Office Gazette on September 30, 2021.

violation of the obligation to conduct an effective investigation into her death.¹¹¹ The case concerned the authorities' inadequate response over a six-month period in 2013 to several complaints S.E. lodged against V.A.. Despite V.A.'s repeated death threats, the courts had issued preventive orders of just one month's duration ordering him to desist from threats but not ordering him not to approach S.E. and only included such a measure in the last preventive order which the authorities then failed to serve on V.A. In general, the authorities had not taken the necessary measures to protect S.E. laid out in Law No. 6284 despite her making them aware that she feared for her life and that V.A. had breached the preventive orders. After repeated death threats over months, V.A. stabbed S.E. to death in front of their young child whom he was collecting at the time. During the six-month period prior to S.E.'s killing, the Center for Preventing and Monitoring Violence had been informed of the preventive orders and was "informed of the existence of a real and imminent risk to S.E.'s life" ("S.E.nin yaşamına yönelik gerçek ve yakın bir riskin varlığından haberdar olduğu").¹¹² However, although the center's role made it responsible for monitoring the implementation of the preventive orders, the center had taken no steps to contact S.E. or follow up.

The Court made ample reference to Law No. 6284 and its implementing directives, and also to the Istanbul Convention and CEDAW, to the Opuz judgment and group of cases, in addition to the European Convention on Human Rights.¹¹³ The Court found that "... it was clear that the failure to take protective and preventive measures in a practical and effective way in the name of preventing violence against S.E. from the point of view of the positive obligation for the authorities to protect life pointed to serious negligence/carelessness."¹¹⁴ The failure applied to every authority involved: police, gendarmerie, prosecutors, judges, and the Center for Preventing and Monitoring Violence. The Constitutional Court went on to find that the decisions by higher authorities such as the district governor's office and the Board of Judges and Prosecutors to refuse requests by S.E.'s father for an investigation into the public authorities' and judicial failure to protect

¹¹¹ See *T.A. [GK]*, B. No: 2017/32972, 29/9/2021, <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2017/32972> (accessed May 18, 2022).

¹¹² *Ibid*, paragraph 150.

¹¹³ *Ibid*, paragraphs 92-96.

¹¹⁴ *Ibid*: "Bu durum karşısında S.E.ye yönelik şiddetin engellenmesi adına koruyucu ve önleyici tedbirlerin pratik ve etkili bir biçimde alınmamış olmasının kamu makamları için yaşamın korunması noktasındaki pozitif yükümlülük bakımından ciddi bir ihmale/özensizliğe işaret ettiği açıktır." (paragraph 162).

S.E. had prevented an effective investigation into her death. The Court also ordered that the various authorities should now be subject to criminal investigation.

The Constitutional Court’s judgment on the T.A. application should become a key text for all agencies involved in combatting domestic violence.

This judgement vastly improves the jurisprudence of the Constitutional Court, which, in June 2020, found no violation of the right to life by the authorities in a case involving circumstances comparable to those of T.A. and the Opuz case.¹¹⁵ In that case Fatma Güneş complained that the authorities had violated the right to life of her sister, E.B., by failing to ensure adequate protection from domestic violence. Although authorities offered E.B. protection when she complained of abuse by her husband, R.B., 15 months later, R.B. shot and killed E.B. The Constitutional Court said in the ruling that the authorities had taken action to protect E.B. and that “it couldn’t be said that the authorities knew or should have known that there was a real and imminent risk” of R.B. killing E.B..¹¹⁶ Fatma Güneş’ lawyer has now applied to the European Court of Human Rights.¹¹⁷

¹¹⁵ See Fatma Güneş, B. No: 2016/8300, 3/6/2020, <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2016/8300> (accessed May 18, 2022).

¹¹⁶ Ibid: “gerçek ve yakın bir risk oluşturduğunun kamu makamları tarafından bilindiği veya bilinmesi gerektiği söylenemez.” (paragraph 69).

¹¹⁷ Communication to Human Rights Watch from lawyer, November 16, 2021.

IV. Conclusion

As the cases examined in this report illustrate, Turkey's authorities face deep challenges in combatting violence against women perpetrated mainly by former and current spouses and partners. The evidence shows that violence and harassment may continue despite courts issuing repeated preventive orders. Part of the reason for this lies in the fact that perpetrators manage to get away with breaching the orders without sanction. Some of the worst cases examined demonstrate a catalogue of failure by public authorities, courts, and prosecutors to intervene with resolute sanctions against perpetrators, including their pretrial detention, and lack of proper coordination between agencies to provide victims with effective protection. These cases demonstrate that there is much more to be done to implement Turkey's own laws and directives on protection, prevention, and the prosecution of perpetrators.

In cases where women for whom the authorities have issued preventive and protective orders are murdered, there has to date been little indication of steps to investigate public officials for their role in failing to protect women at imminent risk as a factor contributing to their murders. Thus, while the penalties for men who kill women have increased over the past few years and the overwhelming focus of public debate has been on the need to secure the punishment of direct perpetrators, there has been little open discussion by the authorities of the need to investigate the state's failure in these cases to fulfil its positive obligation to protect women and to uphold the right to life.

The September 2021 decision of the Constitutional Court in the T.A. application, discussed in the previous chapter, offers a clear message to all the agencies involved in combatting violence against women that the fact of issuing preventive orders does not in itself equal effective implementation of protection, and that there is a wide gap between the obligations outlined in laws and their application in practice. The T.A. application concerns a murder that took place in 2013. But cases reviewed in this report, including cases of women murdered since 2017, show that the lack of sanctions for perpetrators breaching protective and preventive orders and the lack of preventive orders suitably tailored to address the level of risk continue to leave women in danger of fatal harm.

While murders garner the most public attention of all domestic abuse cases, it is important to also put a spotlight on the many and widely varied forms of domestic violence women face, often over many years. A good number of these cases remain hidden. There are still enormous obstacles to women accessing complaint mechanisms at all, particularly when they do not have family support or the prospect of economic independence. As one police officer told Human Rights Watch: “If a woman has no economic means of standing on her own feet, she doesn’t come... Most complaints come when women are at the stage of divorce.”

Most of the cases Human Rights Watch examined concerned women who were seeking to separate or had separated from or divorced men. There remains an overwhelming need for outreach to women whose economic situation and lack of prospects of economic independence means they neither feel able to initiate divorce proceedings or separation nor feel able to complain about violence by spouses or partners.

While the authorities have taken concrete steps since January 2020 to increase police and judicial capacity to tackle domestic violence and violence against women, it is not clear how these steps are being measured and assessed in practice. The Ministries of Justice and Interior are at pains to demonstrate that the number of protective and preventive orders is rising. But this gives little information about the qualitative impact of the measures, their rates of success and failure, the number of breaches of protection measures and sanctions for those breaches, and, above all, whether women themselves are overall experiencing improved protection. At best, the situation can currently be understood as demonstrating that more women are lodging complaints, that the authorities have greater awareness of the problem and are concerned about doing the right thing. Data about the number of breaches of protective and preventive orders and the sanctions against perpetrators is badly needed. While the number of men who have faced spells of detention is recorded, this does not tell us how many breached protective and preventive orders and how many of those who breached were sanctioned. Only with such data will it be possible to draw conclusions about the authorities’ response. It is to be hoped that the relevant ministries will undertake such data collection to support police units, social services, judges, and prosecutors to perform their roles effectively and with due diligence. The relevant ministries should also encourage the judicial and law enforcement authorities to share their experience of the challenges they face to address gaps in protection and the prosecution of perpetrators.

A feature of the cases examined in the report is the phenomenon of women and their lawyers appealing to social media in a bid to trigger action by the authorities. Police officers and judges both admitted this was an effective method, but it only serves to demonstrate that the authorities are not responsive enough unless publicly pressed to take action.

The effectiveness of preventive and protective orders depends on the existence of effective oversight mechanisms to ensure that the orders issued by courts are tailored to the risk in each particular case and that they are implemented in practice. Violence Prevention and Monitoring Centers under the Ministry of Family and Social Services are responsible for this coordination and oversight role. Human Rights Watch was not permitted to meet with those working in the Istanbul Violence Preventing and Monitoring Center and was not granted a meeting with officials in the ministry. The ministry's unwillingness to engage in dialogue with a non-governmental organization offers little reassurance that it would be willing to open its efforts to the kind of scrutiny essential to finding solutions to the problem of lack of implementation of protection.

The Violence Prevention and Monitoring Centers have existed for nine years. There are undoubtedly individuals working in them who make enormous efforts on behalf of victims of violence, as women's rights groups informed Human Rights Watch. However, despite the centers' name, it is unclear that they engage in real monitoring since they do not publish findings or report transparently to the public. It is therefore not possible to assess their institutional effectiveness in preventing violence. To improve the current institutional framework for tackling violence against women, the Ministry of Family and Social Services needs to build constructive links with women's rights groups and civil society across the political spectrum and be open to critical scrutiny of the ministry's activities and the centers operating under its supervision.

The Ministry of Family and Social Services' latest action plan on combatting violence against women, discussed in Chapter I, is disappointing for its omissions. Among these are a lack of recent data and analysis of the problems, and no evidence that the effectiveness of measures already in place is being assessed and reported on publicly. The current plan should pledge to analyze gaps in protection and to report back publicly on the performance of the Violence Prevention and Monitoring Centers in recent years. Human Rights Watch heard from women's rights groups and lawyers that there are plans to

overhaul the centers but that there has been a lack of proper public consultation on how to address existing deficiencies and the ministry has not shared an analysis of any findings about where the shortfalls lie or its vision for improvement.

Women’s rights groups and survivors of domestic violence interviewed for this report raised concerns that many victims are still not being informed of their rights and struggle to navigate the system of lodging a complaint of abuse. The involvement of the women’s groups and determined lawyers is key in this respect. Lawyers also struggle to press for prosecutions of perpetrators to progress because there is a clear lack of synchronization between courts issuing protective and preventive orders and prosecutors on a separate track investigating criminal complaints. While these are necessarily separate activities, the effectiveness of protective and preventive orders needs to be underpinned by timely, thorough, and effective criminal investigations and prosecution of perpetrators.

Finally, despite all claims to the contrary by President Erdogan’s government, Turkey’s withdrawal from the Istanbul Convention has conveyed the political message that combatting gender-based violence is not a priority, and that the convention is “foreign” and not relevant to Turkey despite the fact that the Turkey’s own legal framework is largely based on its provisions. In practice, it also means that Turkey rejects scrutiny of its record despite having previously been guided by the recommendations of the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), the body monitoring implementation of the convention.

The government’s steps to increase domestic resources for combatting violence against women frame the issue in paternalistic, conservative terms as part of a national duty to protect women as vulnerable individuals and to support the institution of the family. According to this approach, combatting gender-based violence is not part of a wider effort to promote women’s rights and ensure gender equality, let alone to combat discrimination on the basis of sexual orientation and gender identity. President Erdogan’s clear messages of opposition to gender equality predate withdrawal from the convention and have resulted in the term “gender equality” being suppressed in all government policy documents relating to violence against women and other gender-related issues. Gender equality is, however, enshrined in Turkey’s constitution and laws, and in international human rights treaties to which Turkey is a party – notably the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and the European

Convention on Human Rights. A political approach that does not incorporate international legal norms and fails to situate the eradication of gender-based violence within a broader struggle for women's rights and gender equality legitimizes forms of discrimination. It sets back efforts to advance societal attitudes towards the position of women and undermines the work of multiple state actors entrusted with the legal obligation to ensure women's protection, to assist them in finding paths out of violence and towards economic independence, and to ensure punishment of perpetrators.

Recommendations

To the Government of Turkey

Recommit to and comply with international law on combatting violence against women and domestic violence

- Ensure full implementation of all measures required to prevent further violations identified in the European Court of Human Rights *Opuz v. Turkey* case under enhanced supervision before the Council of Europe Committee of Ministers;
- Ensure full implementation of all recommendations issued by the Committee for the Elimination of Discrimination against Women (CEDAW) from its 2016 review of Turkey and in preparation for its next review, as well as the recommendations from other relevant UN bodies and committees relating to combatting gender-based violence;
- Reverse Turkey's withdrawal from the Istanbul Convention and promptly reaffirm Turkey's commitment to eliminating all forms of violence against women at the national, regional, and international levels by rejoining the convention.

Strengthen the application of preventive and protective orders under Law No. 6284

- Ensure that despite withdrawal from the Istanbul Convention, police units, prosecutors, and courts across Turkey strengthen their commitment to applying protective and preventive orders under Law No. 6284 in response to reports of domestic violence and violence against women; and that the orders are applied and served promptly, are commensurate with the level of risk carefully assessed and are tailored to the needs of the victim, relying on the full range of measures available;
- Ensure that it is mandatory for police units to inform all victims of their rights under the law, the details of the protective and preventive orders available to them and their right to legal aid;
- Ensure that if victims do not speak Turkish or are from disadvantaged groups (including foreign nationals who are asylum seekers or other migrants, including Syrians with temporary protection status), the police can and do provide interpreters to explain in full victims' rights and their right to legal aid;

- Ensure that police, prosecutors and family courts continue to take an inclusive approach to all victims of domestic violence and offer the same protection to all, avoiding any discrimination on the basis of sexual orientation and gender identity;
- Establish systems that clarify roles and responsibilities and ensure full and effective coordination among different agencies operating under the Ministry of Interior, Ministry of Justice, and Ministry of Family and Social Services. Ensure each takes full responsibility for their role in (i) applying protective and preventive orders according to detailed risk assessments; (ii) monitoring their ongoing implementation; and (iii) maintaining follow-up communication with victims in a timely, survivor-centered, and responsive manner to ensure their continuing safety;
- Ensure that legal aid through Bar Associations is accessible to all domestic violence victims.

Strengthen the implementation of preventive orders through sanctions for breaches

- Ensure that detention is imposed as a sanction for breaches of protective and preventive orders;
- Continue to develop and extend the use of electronic tags for perpetrators of domestic violence who breach protective and preventive orders;
- Ensure additional resources are provided to teams managing the use of electronic tags – in Istanbul, the Gayrettepe Common Crimes Department (Asayiş) – so they can coordinate swiftly and effectively with district police units, courts, prosecutors, and the provincial Center for Preventing and Monitoring Violence;
- Provide clear guidelines to prosecutors and courts that repeated breaches of protective and preventive orders may constitute grounds for suspects to be placed in pretrial detention in the context of a criminal investigation on the grounds that they pose a threat to the safety of the victim and witnesses;
- Ensure that the Ministry of Family and Social Services conducts a full evaluation and publishes detailed information and statistics about the performance of provincial Violence Prevention and Monitoring Centers in overseeing the implementation of protective and preventive orders. The ministry should consult on the substance of any plan to reform or restructure the centers with civil society groups focused on combatting violence against women and the women’s rights commissions and centers of provincial bar associations, as well as with other relevant ministries.

Strengthen steps to ensure justice and redress for victims

- Ensure that prosecutors conduct thorough, timely, and effective investigations into allegations of domestic violence and violence against women and girls capable of leading to the prosecution of perpetrators and their conviction on charges appropriate to the severity of the crime in a fair trial.
- Ensure that prosecutors can secure court decisions on preventive orders against alleged perpetrators of domestic violence that will ensure the safety of victims for the duration of a criminal investigation, while maintaining each process as separate and independent so as not to undermine the presumption of innocence in criminal law;
- The Ministry of Justice should develop guidelines to discourage courts from issuing decisions of non-pronouncement of verdict (a form of suspended sentence) in cases where perpetrators have repeatedly breached preventive orders issued against them;
- Ensure that, in instances of alleged failure by the relevant authorities to take timely and effective steps to protect victims who have sought their protection, the officials in question are subject to investigation and if found at fault, disciplinary action;
- In accordance with the Constitutional Court's decision in the T.A. application (no. 2017/32972) and the European Court of Human Rights *Opuz v. Turkey* decision and other relevant caselaw, ensure that the authorities are held to account through criminal investigation leading to the possibility of prosecution and conviction for failures to exercise due diligence in providing protection to victims that contribute to or result in harm to the victim or threats to life;
- Ensure that in cases of domestic violence where preventive and protective orders have been issued, there is no attempt at that stage to resort to a settlement process which would bring together the parties in breach of the terms of the orders;
- Ensure that settlement processes do not become a means by which perpetrators of violence can avoid being held accountable for their crimes;
- Ensure that those conducting the settlement process are properly trained to understand the particular complexity of domestic violence cases, have a duty to make it clear to victims that settlement is never mandatory and should not be means to encourage victims to consent to impunity for perpetrators;
- Organize sessions for settlement experts to train them in appropriate behavior and protocols in the cases of domestic violence.

Strengthen the collection of data to enable measurement of the effectiveness of protective and preventive orders issued under Law No. 6284

- Alongside the existing three-monthly provincial coordination meetings organized by the provincial governor's office, coordinate a cross-ministry working group with inspectors and analysts from the Ministry of Family and Social Services, Ministry of Justice and Ministry of Interior working regionally or on a provincial basis to monitor and measure the implementation of protective and preventive orders from initial complaint onwards; compile full findings from throughout Turkey and report publicly on findings;
- To contribute to this effort, ensure that the Ministry of Justice coordinates the creation of an effective system for recording all breaches of protective and preventive orders (via the UYAP system), categorizing the form of breach and the response to the breach, to enable the capture of full data on breaches;
- Ensure that the Ministry of Justice provides full data about the rate of breaches of protective and preventive orders compared with data on the rate of detention of offenders and other sanctions for such breaches.

Strengthen the collection of data to support justice and redress for victims:

- Ensure that the Ministry of Justice Department of Judicial Statistics supplies detailed disaggregated data about the outcome of criminal investigations, prosecutions, convictions, and acquittals of perpetrators of violence against women and domestic violence under all articles of the Turkish Penal Code, focusing not only on murder but also on cases of physical assault, rape and sexual violence (including marital rape), verbal and online or other harassment, threats, insults, stalking, attacks on property, and any other relevant offenses.

Increase transparency by publishing full data

- Ensure that statistical data relating to all aspects of the authorities' measures to protect victims from domestic violence, including details of the implementation of preventive and protective cautionary orders, data on breaches of such orders, on measures taken against perpetrators in response to breaches, and detailed information about decision to prosecute or not prosecute perpetrators and the outcome of prosecutions in terms of verdicts and sentences is made accessible in a transparent way on a regular basis to the public;

Increase the capacity, resources and support to combatting domestic violence and violence against women

- Provide police units dealing with domestic violence and violence against women with sufficient capacity and resources to respond to violence against women in line with international best practice standards, including private spaces in which to interview victims, and on-site psychologists to assist in assessing victims' needs;
- Provide police units dealing with domestic violence and violence against women with regular training on survivor-centered response to violence and with the possibility of access to mental health support and counselling services to assist them in conducting their interactions and interviews with victims of violence and alleged perpetrators with professionalism and due diligence;
- Provide the courts focused on issuing protective and preventive orders and prosecutorial authorities with increased capacity to reduce their caseload per head and to enable them to take time to interview victims in person where appropriate

Increase cooperation with civil society organizations with expertise in working on domestic violence and violence against women

- Ensure effective and ongoing consultation during legislative drafting and policy planning between the ministries of family and social services, justice and interior and civil society organizations with recognized expertise in the area of domestic violence and violence against women;
- Cease judicial harassment of civil society organizations – including any judicial proceedings against We Will Stop Femicide Platform Association seeking to close down the association for “violating law and morality”.

To the Council of Europe

- The Committee of Ministers of the Council of Europe at its December 2022 review of the execution of the Opuz group of cases pertaining to domestic violence should adopt specific general measures for the government of Turkey to implement in line with the recommendations above;
- Other bodies of the Council of Europe, including the Parliamentary Assembly, should press Turkey to reverse its withdrawal from the Istanbul Convention, and

- increase their attention on the issue of domestic violence in the context of their monitoring of the situation in Turkey;
- Press for more assistance and redress for victims of such violence, and provide support to civil society and governmental initiatives to monitor and combat domestic violence.

To UN bodies

- The UN Committee on the Elimination of Discrimination against Women should prioritize its review of Turkey's obligation under the CEDAW Convention and press the authorities to reverse its decision to withdraw from the Istanbul Convention;
- The UN Special Rapporteur on violence against women should request access to carry out a country visit in Turkey that includes an examination of protection against domestic violence and the impact of the withdrawal of the Istanbul Convention;
- The UN Working Group on Discrimination against Women in Law and Practice should request a country visit to Turkey.

To Turkey's International Partners

- Press Turkey to reverse its withdrawal of the Istanbul Convention, and in the meantime fully implement Law No. 6284;
- Raise domestic violence as an area of key concern in bilateral and multilateral relations and urge the government of Turkey to address their concerns through reforms mentioned above.

Appendix: Selected Articles from the Law to Protect the Family and Prevent Violence Against Women (No. 6284)

SECOND PART

The Provisions on Protective and Preventive Measures

The protective cautionary order decisions to be taken by the administrative authority

ARTICLE 3- (1) One of the following measures, several of them or similar measures deemed appropriate shall be decided by the administrative authority in regard to persons protected within the scope of this Law.

- a) To provide an appropriate shelter to the person and if necessary to the person's children in the vicinity or in some other location.
- b) To provide financial aid to the person, without prejudice to other assistances provided within the scope of other laws.
- c) To provide psychological, professional, legal and social guidance and counseling services.
- ç) To provide a temporary protection upon a request of the relevant person or ex officio if there is a life-threatening danger for the person.
- d) If deemed necessary; four months of preschool day care, maximum two months for those who have a job, is provided to children of the protected persons to support the person's integration into working life through provision of an amount not exceeding half the net minimum wage of persons older than 16 years of age paid from the Ministry's relevant budget on condition that documentation is provided.

(2) In cases where delay is considered to be risky, the measures as contained in paragraph 1, clauses A and Ç shall be taken by related law enforcement chiefs as well. The law enforcement chief shall present the report to the administrative chief for approval not later than the first working day after the decision is taken. The measures which are not approved by the administrative chief within forty-eight hours shall be per se abolished.

The protective cautionary order decision to be taken by a judge

ARTICLE 4- (1) One of the following protective measures, several of them or similar measures deemed appropriate shall be decided by a judge in regard to the persons who are protected within the scope of this Law:

- a) To change the work place.
- b) To decide upon a separate place of residence from the joint residence in cases where the person is married.
- c) To put an annotation to the title deed as a family house if the conditions are applicable as contained within the Turkish Civil Code no.4721 dated 22/11/2001 and upon the request of the protected person.
- ç) To change the identification and other related information and documents based on the informed consent of the relevant person as per the provisions of the Witness Protection Law No. 5726 dated 27/12/2007 if it is determined that there is a life-threatening danger to the protected person and the measures to prevent this danger are inadequate.

The preventive cautionary order decisions to be taken by a judge

ARTICLE 5- (1) One of the following preventive measures, several of them or similar measures deemed appropriate shall be decided by a judge with regard to the perpetrators of violence:

- a) Not to use words or behavior including threats of violence, insults, derision or humiliation towards the victim of violence.
- b) To move from the shared dwelling or the vicinity immediately and to allocate the shared dwelling to the protected person.
- c) Not to approach the protected persons and their residences, schools and workplaces.
- ç) If there is a previous decision to allow personal contact with the children, to be accompanied by someone during the personal contact, to restrict the personal contact or to revoke it completely.
- d) Not to approach the friends or relatives and children of the protected person even though they haven't been subject to the violence, without prejudice to decisions that allow personal contact with children
- e) Not to damage the personal belongings and household goods of the protected person.
- f) Not to disturb the protected person by methods of communication or via alternative channels

- g) To hand over officially permitted and authorized weapons to the law enforcement authorities.
- ğ) To hand over a weapon to the employer, even if the person is in a profession of public service that requires carrying a weapon.
- h) Not to use alcohol, drugs or stimulants in places where the protected people are present or not to approach the protected people and their whereabouts while under the influence of these substances, and to be subject to a medical examination and treatment including in-patient treatment in case of addiction.
- i) To apply to a health center for examination or treatment and to undergo the treatment.
- (2) In cases where delay is considered to be risky, the measures as contained in clauses (a), (b), (c) and (d) of the first paragraph shall be taken by the relevant law enforcement chiefs as well. The law enforcement chief shall present the report to the judge for approval no later than the first working day after the decision is taken. Measures which are not approved within twenty-four hours by a judge shall be per se lifted
- (3) With the measures identified within this Law, the judge is authorized to take a decision on protective and preventive measures as contained within the Child Protection Law no. 5395 dated 3/7/2005 and on the issues of guardianship, custody, alimony and personal contact as per the provisions of Law no.4721.
- (4) If the perpetrator of violence is the person who at the same time is the provider of or contributor to the family's livelihood, the judge may decide on a temporary alimony by taking into consideration the living standards of the victim even without request provided that no decision on maintenance had been rendered prior to this, as per the provisions of Law no. 4721.

Reporting

ARTICLE 7- (1) If there has been violence or there is a risk of it, anybody can report this situation to the official authorities and organs. The public officials who receive the report are obliged to fulfill their duties without any delay and inform the authorities for the other measures required to be taken.

Taking a cautionary order decision, its notification and confidentiality

ARTICLE 8- (1) The cautionary order decision is taken either upon a request of the relevant person or law enforcement officers or public prosecutor. The cautionary decisions may be

requested from the judge, administrative chief or law enforcement unit, whichever is in the nearest and easiest location.

(2) The cautionary decision is initially taken for a period of six months at most. However, if it is determined that there is a continued risk of violence, the measures shall be extended, modified, abolished or kept ex officio or upon a request of the protected person or the officials of the Ministry or law enforcement agencies,

(3) No evidence or report proving the violence is required in order to take a cautionary decision. The preventive cautionary decision is taken without delay. This decision cannot be delayed as to endanger the realization of the aim of this Law.

(4) The cautionary decision is pronounced or notified to the protected person and perpetrator of violence. Regarding to the refusal of the request for a cautionary decision, only the protected person is notified. In cases where the delay is considered to be risky, the perpetrator of violence is immediately notified with an official report on the cautionary decision taken by the related law enforcement unit.

(5), The legal warning stating that the person is subject to the preventive imprisonment in the case of acting contrary to the cautionary decision is issued when the cautionary decision is pronounced and notified.

(6), If deemed necessary, in addition to the cautionary decision, the identification information of the protected person or other family members or the information to reveal their identification, their addresses and the other information important for the efficiency of protection shall be kept confidential within records upon a request or ex officio. A different address is identified for the notifications to be sent. The person who illegally gives, reveals and discloses the information to somebody else is subject to the related provisions of Turkish Penal Code no. 5237 dated 26/9/2004

(7) If requested, the delivery of personal belongings and documents to the relevant persons is ensured through law enforcement.

Appealing

ARTICLE 9- (1) The decisions taken as per the provision of this Law may be appealed to the family court by the relevant persons within two weeks after the notification is received.

(2) Upon a complaint about the cautionary decisions taken by the judge, if there is more than one family court, the file is transferred to the numerically succeeding family court; if the court taking the decision is numerically the last court, it is transferred to the numerically first court; if there is one family court in that area, it is transferred to the court

of first instance; if the judge of family court and judge of the court of first instance are the same person, it is transferred to the nearest court of first instance without delay.

(3) The authority for complaints shall make the decision within a week. The decisions taken by the authority for complaints are final.

Notification and implementation of cautionary decisions

ARTICLE 10- (1) The related Province and District directorates of the Ministry and, depending on the nature of decision, the public prosecutor and law enforcement officer are notified of the cautionary decisions taken as per the provisions of this Law through the fastest channels.

(2) The authority to which applied for the cautionary decision immediately shall inform the related Province and District directorates of the Ministry about the applications made to the related authorities and the decisions of acceptance or refusal of the applications within the scope of this Law

(3) The law enforcement unit is responsible and authorized to implement the protective cautionary decision on providing a temporary protection and the preventive cautionary decision taken for the perpetrator of violence and to protect the residential area of the protected persons or its location or the place where the measures shall apply.

(4) On the occasion when the cautionary decision is taken and implemented by the law enforcement chief or when the protected person is in the police station, the person is taken off to the related Province or District directorates of the Ministry urgently. If this is not possible, temporary shelter is provided to the person and her company by covering the expenses from the Ministry's related budget allocation.

(5) The fact that the cautionary decisions haven't been pronounced or notified to those concerned shall not constitute an impediment to implement the decision.

(6) The persons for whom a decision for providing a shelter has been taken shall be settled in places belonging to the Ministry or under the supervision of the Ministry. On the occasions when the shelters are not adequate, the protected persons are sheltered in the social facilities, dormitories or similar lodgings of state institutions and organizations upon a request of the district authority and, when urgent, upon a request of the law enforcement officials or the Ministry

(7) The cautionary decision regarding changing the workplace shall be implemented by the competent authority or person in accordance with the related regulations the person is subject to.

Law enforcement duties

ARTICLE 11- (1) The law enforcement duties in regard to the services specified within this Law shall be implemented by an adequate number of personnel who have a training on the human rights of children and women and the equality of men and women, and who are assigned by the related law enforcement units at the central and provincial level.

Monitoring through technical methods

ARTICLE 12- (1) While implementing the cautionary decisions taken as per the provisions of this Law, technical means and methods may be applied by a judicial decision. However, individuals cannot be monitored and recorded through audio-visual means.

(2) The procedures and principles regarding to monitoring through technical means and methods shall be stipulated by a regulation.

Violations of cautionary decisions

ARTICLE 13- (1) In case of that the perpetrator of violence for whom a cautionary decision is taken as per the provisions of this Law acts contrary to the requirements of this decision, they shall be subject to detention lasting from 3 to 10 days by a judicial decision depending on the nature and severity of the violated measure, even if the act constitutes another crime.

(2) In each recurring action contrary to the requirements of the cautionary decision, the period of the incarceration shall be from fifteen to thirty days. But the period of the incarceration cannot be more than six months.

(3) Decisions regarding detention shall be implemented by the public prosecutor. The related Province and District directorates are notified of these decisions.

Combating Domestic Violence in Turkey

The Deadly Impact of Failure to Protect

In 2021, despite a high incidence of gender-based violence, Turkey withdrew from the landmark Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, known as the Istanbul Convention. It is the only country to date to do so. This report examines the Turkish authorities' record in protecting women from domestic violence, preventing its recurrence, and holding perpetrators to account. It tackles the use of protective and in particular preventive cautionary orders (types of restraining orders) issued by courts and law enforcement officials under Turkey's Law to Protect the Family and Prevent Violence against Women (Law no. 6284).

Drawing on interviews with victims of domestic violence and their lawyers, police officers, judges and prosecutors, the report examines in detail 18 cases where women lodged complaints to the police or the prosecutor and had secured preventive orders barring the perpetrator from contact with the victim, or, in a few cases, protective measures such as shelter accommodation. In six of the cases examined, the woman was killed by the abusive current or former husband or partner despite being known to the authorities to be at risk and having secured preventive orders. In other cases examined, women secured multiple preventive orders but the abuser repeatedly breached the order barring any contact and the cycle of abuse continued. The report also includes examples of cases where preventive orders were effective. Human Rights Watch offers a series of recommendations on how to address gaps in protection, including sanctioning perpetrators for breaches of preventive orders, ensuring timely prosecution, holding to account authorities responsible for enforcing protective measures, improving coordination between authorities, and improving data collection to identify failures in the protection framework.



Güllü Yılmaz, Ayşe Tuba Arslan, Müzeyyen Boylu, Pelda Karaduman and Remziye Yoldaş were killed by current or former husbands or partners, even though they had secured court orders granting them protection. The text is from a September 2021 judgment by Turkey's Constitutional Court finding that state authorities' failure to protect a woman from her abusive former husband had contributed to her being killed.

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