

### **Shelters:**

- *Legislative framework and/or guidelines regulating shelters' operations procedures and their shortcomings;*
- *Types of shelters and number of shelters in a given State, their territorial allocation and their financing;*
- *Conditions to access shelters for women with their children (in particular boys and specific age restrictions and children with special needs);*
- *Length of stay in shelters;*
- *Availability of alternative accommodation and of second and third stage housing*
- *Landmark jurisprudence and good practices.*

### **Protection orders:**

- *Legislative framework and/or guidelines regulating them as well as their shortcomings;*
- *Practicalities on how protection orders work, who can issue them , types and length of protection or barring orders;*
- *Efficiency or lack thereof of protection orders;*
- *Legal consequences of the non-respect of protection orders;*
- *Landmark jurisprudence and good practices.*

### **Legislative framework and/or guidelines regulating shelters' operations procedures and their shortcomings;**

One of the most significant problems in Turkey in the struggle with male violence against women in Turkey is the hardships in the practical implementation of the written law. An evaluation on the situation in Turkey merely depending on written legal rights would be insufficient as most of the rights contained in the law are not practically implemented due to lack of infrastructure and the existence of sexist viewpoint. Additionally, there are 2 major articles that require amendment in the regulations that define the functioning of women's shelters. According to the Regulations on Shelters, women above the age of 60 and boys above the age of 12 are not allowed in shelters. It is known that women above the age of 60 are sent to senior nursery homes and boys above the age of 12 are settled in dormitories. Although there is a legal article requiring that women with children above 12 years of age or children with disabilities will be offered housing, there is no practical implementation of such article. Additionally, the infrastructure required for the implementation of the article on housing has not been prepared. It is also not realistic to implement housing allocation due to the problem of women's security.

### **Types of shelters and number of shelters in a given State, their territorial allocation and their financing**

As of December 2016, there are 101 shelters in Turkey bound to the Central Government with capacity to host 2647 persons and 32 shelters bound to local governments, with capacity to host 741 persons. The only independent women's shelter in Turkey offering assistance for women exposed to male violence is by Mor Çati Women's Shelter Foundation with capacity for 20 individuals. According to the article 14 of the Local Governments Act in Turkey, municipalities with regions populated over 100.000 are liable for opening shelters for women and children.

Accordingly, the minimum number of shelters legally required to be opened in Turkey is 787 and the minimum capacity should be 20.283. Today, the total capacity in Turkey's shelters is 3408.

Almost all of the shelters bound to the central government are also bound to the Violence Prevention and Monitoring Centres of the Ministry of Family and Social Policies (and in the provinces where these centres (or, with the abbreviated name “ŞÖNİM”s are not available, these shelters are subject to the Province Directorates of the Ministry of Family and Social Policies). Some municipalities prefer to continue with their shelter activities as independent from ŞÖNİM, as they may not be willing to implement central government policies. However, most of these municipalities were appointed trustees (seized control of by the central government) within the scope of the declared State of Emergency and some of them cannot sustain their activities for struggling violence against women. The shelters operated by municipalities are funded by municipalities whereas those bound to the Ministry of Family and Social Policies are funded by the Ministry. From time to time, both the Ministry and the municipalities can make use of EU funds. All shelters except for the independent shelter of Mor Çatı that is based on feminist methods and principles can be regarded as similar. Mor Çatı’s shelter continues its activities based on its own resources and volunteers and with the financial support of one municipality and two NGOs from the UK.

### **Conditions to access shelters for women with their children (in particular boys and specific age restrictions and children with special needs)**

According to the regulations in Turkey, the women above the age of 18 and under the age of 60 are allowed in shelters. Women above 60 cannot make use of shelters even though they are exposed to violence and are directed towards services for elderly care. However, since this type of service is very limited in Turkey, they cannot make use of such services as well.

Girls are allowed in shelters with their mothers. According to the same regulations, women with disabled children and boys above the age of 12 are not allowed in shelters when with their children. According to the same regulations, these women should be provided with housing. However, there has been no example of this article in practice. The “12 years of age” for boys may also be reduced down to the age of 9-10 due to misleading reports by officers. Most women prefer to remain in the violent situation as they are not allowed in shelters with their children. The shelter of Mor Çatı allows all children without any classification of age or gender.

Discrimination against migrant women is also prohibited by law in terms of shelters. However, it is observed that discrimination prevails in practice. The migrant and refugee women without any legal status or up-to-date residence permits, visas or passports cannot apply to any official governmental body even when they are exposed to male violence as they are scared of being deported. The migrant women that have residence permits due to marriage cannot leave their abusive husbands and apply for shelters as they are afraid of losing their permit.

Another hardship in getting access to shelters is that police application is required first, despite the fact that there are other authorized institutions for application defined in the law. Legally, women should be able to directly apply to ŞÖNİM or the Province Directorates of the Ministry for shelters; however, they are being directed to the police by ŞÖNİM. Women are affected from the negative attitude and approach of the police and thus they are discouraged from taking their first steps. The number of specialized first stations that serve for women is very low and the available ones’ quality is also low.

Shelters are also physically unavailable for women and children with disabilities and efforts are not made for any adaptation.

### **Length of stay in shelters**

The maximum term for staying in the shelters of the Ministry is 6 months. Extensions of term are made available when necessary. The term for staying in Mor Çatı’s shelter is determined according to the needs of women and children.

## **Availability of alternative accommodation and of second and third stage housing**

The recent governmental policies in Turkey in terms of male violence do not support women's independence. Shelter policies are parallel to this approach. Women's empowerment is not put into practice in shelters whereas the protection of family approach is dominant. For the government, a decrease in the number of divorces is a higher priority than the prevention of violence against women. There is no effective supportive mechanism to enable women to establish new lives after shelter. Women are finding it hard to find jobs and get access to social aids when they are staying in shelters.

## **Landmark jurisprudence and good practices**

In general, the jurisprudence in Turkey are closer to the required legal norms. The problem is not with the written legislation but with the practicing of such legislation.

There are significant resolutions by ECHR and CEDAW against Turkey, which can be exemplary. For instance, after Opuz/Turkey case, when domestic violence is committed against the wife or children, jurisdiction should continue without seeking complaint. However efficient jurisdiction is still lacking today.

1- In the cases of women being killed or wounded by men, the "time off for good behaviour" and "time off for unjust provocation" are automatically decreed. Looking into the logic behind these time-offs awarded for the offenders, it is observed that they are not as a result of a legal definition but rather, they are resulting from the sexist viewpoint of the legal practitioner. For the past ten years, with the cases of women killed by men that are followed up by women's organizations and feminists, the openly sexist resolutions of "time off for unjust provocation" decreased in number. Sexual offense cases pose a great and dominant problem for Turkey. Although in the Criminal Act, sufficient penal sanctions are implemented in cases of rape, in practice, "impunity" is common. Despite resolutions of cases where Turkey was convicted by ECHR (most recently, G.U/Turkey, 18 October 2016) Court orders that are not based on the statement of women and that judge women rather than sexual offenders with a predominantly patriarchal approach are being given very often. In the case of a woman exposed to sexual violence of a man, who had survived the aftermath by having to accept to have breakfast with the offender, a rejection of the penalty was demanded because the "receipt of meal" was regarded as "an evidence of willingness". Secondary victimizations are common in cases of rape due to lack of effective mechanisms of investigation and interrogation. Istanbul Convention gained effect on 01.08.2014. And still, the *rape crisis centres and sexual offense consulting centres have not been established yet*.

2- Qualified personnel working at shelters and consultancy centres are low in number. There is no violence hotline working 24/7 working in the area of violence against women (The line number 183 for Women, Children, Special Needs and Social Consultancy is available however, this line does not cover this specific needs.)

3- Asylum seeker women are protected by the Law for Outlanders and International Law of Protection and related regulations when they are exposed to violence. The practice, however, is not available. There is no shelter in Turkey for refugees, immigrants and asylum seekers.

4- A recent report by the Parliament's Divorce Commission, which did not include independent women's organizations during its composition, has been scandalous in the following aspects:

-The report seeks evidence for protection orders longer than 15 days.

-A limitation of women's right to indefinite allowance after divorce is offered.

-“Confidentiality order” is required in all court cases regarding family law.

Although this report has not been enacted and has been put aside, it is possible to interpret the national government’s approach towards male violence.

5- It is not possible to make a list of good practices when it comes to the case of Turkey. A woman from another country, who had been in Turkey for 15 years and married a Turkish citizen man and has 3 children from the man, was exposed to systematic physical, sexual, psychological violence from her husband for years and also prevented by her husband from applying for citizenship or residence permit. She even had to give birth to her children at home for such reasons. She recently abandoned her husband who also sexually abused her children and started staying at an independent shelter. The woman thought that she could be exported if she applied for a shelter bound to the ministry. Consultancy was offered to the woman by Mot Çati Foundation in receiving her residence permit legally allowed according to the legal principle of the best interest of children, the 59<sup>th</sup> Article of Istanbul Convention, the Law No 6548 on Outlanders and International Protection. It is the first known humanitarian residence permit due to domestic violence. This residence permit was issued to 1 year and can be extended when required.

### **Legislative framework and/or guidelines regulating them as well as their shortcomings**

Progress was made in the legal regulations for struggling violence against women after the ratification of Istanbul Convention by Turkey in 2011 as the first state party, the pressure and efforts by women’s organisations and the liabilities after OPUZ-v-Turkey resolution. In 2012, the Law No 6284 for the Protection of Family and Prevention of Violence against Women was enforced to prevail the Law No 4320 on the Protection of Family. We are in the opinion that the national law on paper is adequate and comprehensive and the main problem is in its practical implementation.

The Law no 6284 covers the women, children and family members exposed to violence or under threat of violence and those who are exposed to stalking. As stalking is not considered a crime according to Turkish penal code, its coverage has been a new gain. However, the fact that the law is gender-neutral and it is not specifically targeting only women and children enables men to consequently define themselves as the beneficiaries of this law as well. The fact that men are able to make use of this law which does not specifically target women and children is contradictory to the primary aim of the Law’s composition.

The law envisages two types of orders as protective and barring orders and regulated the authorities that these can be issued by. Accordingly, the protective orders are issued by administrative chiefs, the police units and family courts on the condition of additional approval by the administrative chiefs within 48 hours and the barring orders are regulated as under the authority of only family courts. Although it is not widely known in practice, it is an advantage for women and children as they can opt for the nearest authority.

The law regulates that no evidence is required in the issuance of these orders, which is a positive step towards the quickness of orders. The orders can be received without any cost, removing the economic barriers. The limit of duration is 6 months for the barring order.

It is possible to keep the identities of women and children confidential in their processes at any government authority in terms of high risk of security, under the same law. Additionally, according to the Implementation Regulations of the Law no 6284, the women that receive barring orders are able to make use of health care services.

One of the significant regulations brought by the Law no 6284 is that it enables women to make use of temporary custody and allowance even when there is no case of divorce at court. This regulation has been supportive of women's efforts to get away from violence.

All barring orders issued within the scope of the Law are sent to ŞÖNİM (Violence Prevention and Monitoring Centre), and to the Province Directorates of the Ministry of Family and Social Policies for the record.

### **Practicalities on how protection orders work, who can issue them , types and length of protection or barring orders**

In practice, women apply to the police stations because of ease of access. There is a low chance for women to come across police officers with an approach on the side of women and children are either not adequately informed or misled about the protection orders. Family court is the second authority that women most frequently apply within the scope of Law no 6284. Orders are issued on the same day or on the day following the application.

After the enforcement of the law, in practice, barring orders are issued for 6 months (within the maximum legal period). Especially in the last year, this period started to be shortened. Recently, applicant women and children hardly receive orders longer than 1-3 months. Considering the deterring effect of the orders for the offender, it is too short and ineffective for women. The fact that evidence is not required under the Law, offers reasons for the judges to shorten these periods. It is clear that there is a tendency among the judges to assert that they cannot come to any decision for barring the offenders from home without seeing the evidence. Aside from that, simpler orders such as deterring the offender from calling, coming near and insulting are issued without questioning the evidence.

Quick issuance of barring orders is very important and positive whereas this has also resulted in a tendency to copy and paste a standard order for every case. The authorities issuing the barring orders, especially the judges, started avoiding a case assessment and do not read some of the demands in the files peculiar to each case and issue the same printed text for every application. For instance, there has been a case where a woman's demand for extra confidentiality for hiding her identity because of risk to life, was omitted in one of the orders.

In short, most of the judges are issuing orders by copying and pasting and also shortening the terms of the orders. However, despite all deficiencies, the most effective and deterring mechanism for women and children exposed to or under threat of violence are these orders.

### **Efficiency or lack thereof of protection orders**

As explained above, despite deficiencies, there are no major problems in obtaining the barring orders. The main problem lies in the implementation of such orders, and identifying the deficiencies concerning infrastructure.

The lacking of an effective control mechanism after the issuance of orders, the insufficiency of the infrastructure in confidentiality orders in hiding the identities of women and children, the failures in making security plans, lack of budget for protection, the short terms of barring orders or the omission of all aspects of a case in the issuance of orders may pose a reducing effect in the impact and effectiveness of the barring orders.

For instance, despite the barring orders for hiding the identity of women and children under threat of violence, women have to take extra measures to hide their identities at each authority that they have their processes at. It is not possible to hide a woman's address information at the records of all state authorities in one single move in Turkey. Some of the authorities also avoid hiding a woman's personal information even though she asks them to. It is known that a woman's personal information and doctor appointment information can be accessed merely by calling the Health Care Help Line Number 182.

Another example is the killing of a woman at the court house even though she had a police officer along for protection. The officer did not make an effective security plan and took the woman out through the front door of the court house, which led to murdering of both the woman (Hanime Aslan), who was then known to be under high risk to life, and himself.

Despite all of the aforementioned problems of infrastructure and lack of a holistic policy, the barring mechanisms continue to be used as deterring tools against the offending men, with applications from women and efforts from women's organizations.

### **Legal consequences of the non-respect of protection orders**

According to the legal regulation, in cases when the offender violates the barring order, imprisonment due to violence is decreed with a length of 3 to 10 days by the judge's resolution. In each violation of the same order, the term of the imprisonment increases to 15 up to 30 days. However, such imprisonment cannot be longer than 6 months.

In case of a violation, for imprisonment order to be issued, women have to present a petition as well as evidence as to the violation. The judges do not evaluate the evidence according to the file and make a judgment in order to give the imprisonment order. For that, there are periods of notifications and dates are notified for court sessions. Since dates to court sessions are given for dates that are 2-3 months later, which is the earliest, the effect of such imprisonment orders is very inadequate. The risk of violation and violence continues and a lack of deterring mechanism may encourage the offender to continue with his violations. Additionally, some women may also be discouraged as they may think that the offender could even get angrier after the imprisonment and as they also do not rely upon its deterring power.