

**THE EXECUTIVE COMMITTEE FOR NGO FORUM ON CEDAW
FOLLOW-UP SHADOW REPORT ON TURKEY
TO BE SUBMITTED TO THE CEDAW COMMITTEE**

INTRODUCTION

This Follow-up Shadow Report on the latest developments regarding the 5 issues specified by the CEDAW Committee, has been prepared by the Executive Committee for NGO Forum on CEDAW from the perspective of independent women and LGBTI+ organizations.

The latest important developments directly affecting gender equality in Turkey have been underlined. The current government shows no intention to eliminate gender inequality or gender-based violence, while pursuing policies towards re-enforcing inequality. Although Turkey was the first country to sign the Istanbul Convention (IC), the necessary precautions and measures related to the implementation of the Convention or to eliminate the problems in the implementation of prevention, protection, empowerment, researching or proportional penalization have not been taken. Standardization has not been established among the institutions responsible for implementing the Convention, which results in serious problems, for women reporting violence. Furthermore, there is an abundance of discourse from government executives regarding Turkey's withdrawal from the Convention. A detailed account of the issues related to the current situation of gender-based violence in Turkey may be found in the 1st Shadow Report submitted to GREVIO in 2017, prepared by the IC Monitoring Platform¹.

Turkey has adopted the presidency system as of 24th June 2018. Because very little has been revealed to the public regarding the system change, it is difficult to foresee what it will entail. One of the first actions taken after the elections was merging the Ministry of Family and Social Policies (MoFSP), which had taken the place of the State Ministry responsible for Women and Family, liquidated in 2011, to form the Ministry of Family, Labour and Social Services (MoFLSS). According to the 100 Day Action Plan (100DAP), the activities listed among the newly established Ministry's duties regarding women, are limited to how women will take place in the workforce. Women's primary responsibilities are defined as household duties and their participation in the workforce is defined through motherhood, thus seeing women as "secondary subjects" of the workforce, re-enforcing insecure precarious work models. Some important regulations related to women can also be seen among the duties of the Ministry for Justice. For example, mediation and reconciliation implementations will be extended. The lack of information regarding the implementations, leads to concern that violence against women (VAW) cases may also be included in their scope, which arises legitimate concerns regarding women's access to justice. In short, the 100DAP does not include anything about prevention of VAW or establishment of gender equality. It only focuses on penalties.

It points out that penalties will be increased for sexual abuse of children, and a draft law has been prepared accordingly, foreseeing penalties of up to life sentences and "chemical castration" for sexual abuse against minors younger than 15 years of age, ignoring the fact that sexual abuse is a form of violence and reducing the crime to a malady while suggesting forms of punishment, contrary to human rights. There is no mention of protective or preventive precautions. The recent increase and visibility of cases of sexual abuse towards minors, has

¹ Shadow NGO Report on Turkey's First Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence: <https://www.morcati.org.tr/attachments/article/441/turkey-ngo-shadow-report-grevio.pdf>

resulted in public indignation, with provocations from the government, has led to an increasing articulation of restoring the death penalty among the public, arising a deep concern regarding the destination of human rights in Turkey.

The fact MPs from the AKP introduced a last moment resolution to the Turkish Grand National Assembly on 17th November 2016, suggesting that in sexual abuse against minors cases occurring before 16th November 2016, if the survivor of the crime marries the perpetrator, the penalty first be suspended, then after the expiration of the statute of limitations, the perpetrator be pardoned, is a good example. Thanks to the reactions from various communities, primarily, gender and rights-based organizations, the government withdrew the resolution, however, it is still on the agenda. The gender and rights-based organizations fear that some form of pardon is being discussed in the Parliament committees. Furthermore, the government has adopted methods of penalization, including impunity and disproportional penalties, defying human rights, showing no interest in adopting a holistic, decisive and coherent approach towards VAW.

The threats upon gender-based violence and women's rights in Turkey have reached perturbative dimensions. Media organizations and GONGOs affiliated to the government are frequently articulating and increasing the visibility of their demands to restrict and even nullify Law No: 6284 on the Protection of the Family and the Prevention of Violence against Women, which was brought out with respect to the IC, because it is allegedly victimizing men. In response, 170 women's and LGBTI+ organizations published a notice titled, "We will not give up our rights or our struggle"² on 1st August 2018. The oppression inflicted upon gender and rights-based organizations poses a great obstacle towards the elimination of gender-based discrimination and establishment of gender equality, causing great concern for women's organizations, faced with losing the rights they have struggled to establish over the years.

15 (c)

1. The non-refoulment principle is not applied to Syrians or any other refugees or asylum seekers. Although non-Syrian refugees, asylum seekers and undocumented people are subjected to refoulment, this does not mean that Syrians are not under any circumstances subjected to refoulment.
2. Syrians' statue is defined outside of international protection, therefore, the requirements of international law are not practiced.
3. Arbitrary administrative detention and refoulment are very common practices especially for the LGBTI+. LGBTI+ refugees from countries like Iran and Azerbaijan, at risk of being tortured or even murdered if returned to their countries, have been refouled. Besides being subjected to administrative detention in refoulment centres, LGBTI+, with clear identification, are being unlawfully detained and subjected to maltreatment.
4. Furthermore, neither law enforcement forces nor public officials responsible for implementing protection mechanisms are aware of the principles of the IC, forbidding the refoulment of survivors of sexual or gender-based violence.
5. While the number of refoulment centres continues to increase, they have no regard for special needs cases like pregnancy, hormone treatment or HIV, physical conditions are uphauling and the 30-day administrative detention period is often violated.
6. Decisions for administrative detention are arbitrary and the detained are provided with no legal support mechanisms, posing a serious problem. This causes refugees to avoid applying to law enforcement forces for any reason, including under necessary conditions, and refrain from accessing justice under any circumstances. Undocumented migrants, who have no legal status, are totally unprotected. Undocumented people are

² <https://www.morcati.org.tr/tr/465-haklarimizdan-da-mucadelemizden-de-vazgecmeyecegiz>

- so afraid of being deported, they even refrain from asking for support from organizations, providing support regarding refugee and migrant rights, moreover, they are rarely aware that they can receive support. Many cases of violence have been encountered in field work, however, women and LGBTI+, subjected to violence, refrain from taking action or filing complaints.
7. Meanwhile, Rape Crisis Centres or sexual violence counselling/solidarity centres, the State is obliged to establish according to the IC, do not exist. Thus, there is no support system available for survivors of sexual violence, including refugees and asylum seekers. Even when a survivor of sexual violence applies to law enforcement forces, public prosecutor's office or health centres, the frivolous, judgemental, discriminative and accusatory attitudes, in these institutions, present obstacles towards their applying for legal support. Meanwhile, in the judgement phase, the perpetrators are often left unpunished, which in turn encourages sexual crimes, thus posing a disadvantage for refugees and asylum seekers.
 8. Seven years after the migration, there are still Syrian women and children who have no identification, especially those in larger cities like Istanbul, Izmir and Bursa. Thus, limiting women's access to services. Usually, the adult male in the family has identification and women cannot even wonder the streets of the city, without the presences of the man.
 9. Satellite towns also adds to the problems. Refugees and asylum seekers, sent to satellite towns without and directions or support mechanisms, are forced to live under greater risk of discrimination and sexist approaches. LGBTI+ are especially relocated in smaller cities, which lack protection mechanisms, thus increasing risk of violence. In smaller more conservative towns, they are forced to hide their gender identities and sexual orientations.
 10. Although the relocation periods for camps should be 6 months at the latest, according to international standards, based on the 2018 figures, 210 thousand Syrians have been living in the camps since 2011. The camps are still not open to observation by independent NGOs. Women and children in camps are under risk of early marriages, human trafficking and commercial sexual exploitation. Furthermore, sexual and gender-based violence, they had experienced during the time between their displacement and relocation in camps, has not been recorded, there are no psychological or legal support systems available to them and they have not been given any information regarding access to justice.
 11. One of the most important barriers in front of women and LGBTI+ subjected to violence, when they apply for support, is the lack of interpretation services. In a few cities and institutions there are fulltime Arabic interpreters, but there none in other languages. Specialized psychologists and social service expert support only exists in a few cities and institutions.
 12. "The Working Group on Gender-Based Violence", mentioned by the State, has only existed for the last 2 years, whereas, the bulk migration took place 7 years ago. However, this coordination effort does not include the measures necessary to effectively prevent violence or the survivor from going back to the violence cycle. Especially in the first 5-6 years of the crisis, gender-based violence has been totally ignored and placed at the very bottom of the hierarchy of needs. Lack of gender equality content has been observed in training programs provided for those working in the area.
 13. Because both the camps and public institutions are closed to NGO monitoring and methods and outputs of projects implemented are not shared with the public, it is impossible to monitor results.
 14. Support provided to refugee women under temporary protection in case of violence within the scope of Law No: 6284 is limited by the following:
 - Shelter request coming from Syrian women are automatically assumed to be for housing and are subjected to investigation. Woman are forced to prove the violence. Women who ask for shelters are directed to camps.

- Admission of non-Syrian women refugees and asylum seekers into women’s shelters is even harder.
 - LGBTI+ are not able to benefit from the Violence Prevention and Monitoring Centres (VPMC) or shelters. None of these groups can benefit from support mechanisms of Law No: 6284, either due to discriminating attitudes or lack of implementations and mechanisms.
15. There are no support systems to promote employment of individuals subjected to or under the risk of violence. As a result, women and children are being abused as cheap workers with no security. Meanwhile, LGBTI+ cannot even work in insecure jobs.

33 (b)

1. Although various types of VAW are penalized under various crime types in the Turkish Penal Code (TPC), there is no specific article defining domestic violence as a crime and thus, no specific penalty. Another implementation, becoming a norm, is the perception of law enforcement forces seeing violence as “a matter that can be solved within the family” and seen as “small crimes”, consequently, the file is handed over to the conciliation department, before any prosecution, so that the parties concerned can “make-up”, regardless of whether or not they are cases of “VAW”. Consequently, domestic violence and all types of gender-based violence inflicted on women and children must be defined as crimes in the TPC, appropriate penalties must be determined, and they must be completely exempt from conciliation. The TPC must become gender-based violence sensitive.
2. According to the TPC, when physical violence and sexual assault is inflicted upon partners without official marriages, de facto partners or ex/old spouses/partners, aggravating circumstances are not considered, and the penalty is based on the basic crime. Partnerships other than official marriages must be included in the definition of the relevant article of the Law.
3. Very few women subjected to violence report the violence to judicial authorities. In those cases that are reported, very few women follow through to the end of the prosecution; furthermore, very few perpetrators are punished, as a result of prosecution and any punishment given is far from being dissuasive. Moreover, any penalty that is given is usually delayed or suspended. In rare cases, where imprisonment is ruled, implementations such as, parole, pardon or amendments to the enforcement decrees lead to reinforcement of impunity. As a result, in all cases of VAW and discrimination, the perpetrator must be exempt of decisions suspending penalty and/or converting imprisonment to fines by law.

33 (c)

1. Problems are experienced in relation to monitoring of protection orders and implementation of sanctions, when orders are violated due to relevant legislation and implementations, and incapacity of responsible institutions. Existing mechanisms are insufficient in monitoring protection orders and their violations and primary responsibility is left to the woman subjected to violence. Due to lack of human resources, regularly supporting women benefitting from protection orders, in social service institutions and law enforcement forces, it is also impossible to effectively monitor protective orders. Law enforcement forces do not exercise due diligence regarding cases of psychological violence, stalking or physical violence that are less obvious and consequently, do not take action. Some cases of violence have only been acted upon with the intervention of women’s organizations.
2. Protection orders are issued immediately, when requested, however, important problems are experienced in issuing and serving orders to perpetrators. There have been

cases, where the protective order was ruled immediately, due to urgency of the case, however, it took 10 days for the order to be issued and over 15 days to reach the perpetrator. Sometimes, by the time the protective order reaches the perpetrator, the duration of the order is nearly over.

3. The duration between ruling of the protective order and its implementation, is a serious problem for women. Because the perpetrator has not received the protective order he continues to inflict violence and violate the order while the women cannot report the violation because the order has not been served, yet. Furthermore, many women, who continue to be subjected to violence – increasingly in some cases – are not pre-informed as to what they should do in case of a violation. As a result, they lose faith in the effectiveness of protective orders and refrain from reporting violence again. Very few women, supported by women’s organizations or lawyers, are able to monitor the process and take the steps necessary for effective implementation of orders and go through the tedious procedures of reporting any violations.
4. According to Law No: 6284, in case of violation of protective orders, the perpetrator is given 3-10 days of coercive imprisonment. With every recurrence of the violation, the duration of coercive imprisonment is increased. In practice, violations must be reported to the court that issued the protective order together with evidence of violation or to law enforcement forces at the instance of the violation. However, there are cases where law enforcement forces do not take action regardless of a reported violation. In some cases, law enforcement forces, consciously but inconspicuously, discourage women from filing a complaint about violence: they make women wait in the station for hours or instead of starting official procedures, go into dialogue with the women, telling them that legal action is futile and tiresome in these cases, so it would be in their best interest not to file a complaint. After reporting several violations of the protective orders, many women give up trying because they see that the process is dysfunctional.
5. In cases where violation is reported to the court or prosecutor’s office, a trial date is given – usually for 2-3 months after the violation occurs. During the trial, the judge listens to both sides to determine whether or not the perpetrator is aware of the protective order and whether or not a violation has occurred, in order to rule for coercive imprisonment. Unfortunately, this implementation brings the perpetrator and the survivor of violence face to face, in spite of the protective order. Coercive imprisonment penalties, issued very rarely, a few months after the violation, seriously decreases any form of dissuasiveness and effectiveness of the penalty.
6. No mechanism exists for monitoring and evaluating the actions of law enforcement forces or judicial personnel, in order to hold them accountable for their irresponsible actions regarding violations. Women subjected to violence, themselves, must determine malpractices and report them. If a written report is not filed, their complaints are not even recorded. Even in rare cases, which are investigated, personnel will only be held accountable if the woman has suffered serious injuries. With the current mechanisms, the malpractices of law enforcement forces and judicial personnel are only monitored and evaluated in cases, where a complaint report is filed, after a woman has lost her life as a result of male violence.
7. The fact that gender equality must be established in order to end VAW has been endogenized by neither law makers nor law implementors and nothing is being done to ensure its endogenizing. Consequently, law enforcement forces and judicial personnel, delinquent in carrying out their lawful duties, and authorities, to whom complaints are made, continue to show the same attitude and delinquency because they have not embraced the international conventions or the law.
8. No research has been conducted on protection and prevention orders, technical monitoring systems like KADES, to measure or evaluate practices of departments responsible for implementation and monitoring of these systems or to determine and solve problems encountered during implementation, since the Law was adopted. Even if any such research has been conducted, it has not been shared with the public.

Moreover, no attempt has been made towards including NGOs in establishment of policies or monitoring and evaluation of implementations.

33 (f)

1. There is no 24/7 phone line that specifically provides support and guidance for discrimination and VAW, in Turkey.
2. ALO183, shown as the hotline for discrimination and VAW, also serves several other purposes. In 2012, the MoFSP, established the Alo183 Social Support Line for Family, Women, Children, Disabled, Families of Martyrs and Veterans, with the assertion that it would provide these services 24/7 in Turkish, Arabic and Kurdish, throughout the nation, free of charge. The Hotline actually, works as an information and guidance line related to social services in general. Because the line addresses all services provided by the Ministry, the needs and wants of women and children subjected to violence cannot be answered effectively.
3. Support is provided in Turkish, Kurdish and Arabic between 08:00 and 24:00. The hearing impaired can only access support between 08:00 and 24:00 on weekdays and 08:00 and 17:00 on weekends, provided they have a video phone and the required applications.
4. On calling the hotline, people are expected to share their identification number. Although it is possible to access service without sharing this information, it is the first question they are asked and women, children and LGBTI+, faced with this question feel obliged to share this information, thus preventing them from exercising the right to obtain information anonymously.
5. Accepting emergency calls such as negligence, abuse and violence and alerting emergency response teams or law enforcement forces in the relevant province are among the service description of Alo183. However, its present structure is insufficient for addressing VAW and the practices employed usually make it difficult for the women to escape violence. When women call Alo183, they can be given outdated information, the risk analysis may be misleading and insufficient, they may be provided with false guidance or the initiative required for responding to urgent cases may not be taken, practices that create secondary victimization may be resorted to and women may be misadvised putting their safety at risk.
6. Furthermore, many women do not even know that Alo183 exists because announcements regarding Alo183 are insufficient. Moreover, no impact analysis has been conducted to measure awareness related to this line or if it has, it has not been shared with the public.
7. There is an urgent need for a multi-lingual emergency support line, which only provides support for VAW cases, with expert personnel, 24/7, free of charge.

37(c)

There are no developments regarding this Recommendation. According to the limited available information, there is a confidentiality mark on all of the cases that have been opened. The decisions of the Ombudsman and the other relevant mechanisms for complains are not revealed to the public. No action has been taken to improve the faulty legislation and administrative regulations, which make way for impunity regarding the human rights violations of public servants; furthermore, they have been reinforced with the statutory decrees of the state of emergency period.