

LAW TO PROTECT FAMILY AND PREVENT VIOLENCE AGAINST WOMEN

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FIRST PART

The Aim, Content, Fundamental Principles and Definitions

The Aim, Content and Fundamental Principles

ARTICLE 1- (1) The aim of this law is to protect the women, the children, the family members and the victims of stalking, who have been subject to the violence or at the risk of violence, and to regulate procedures and principles with regard to the measures of preventing the violence against those people.

(2) The following fundamental principles are observed to enforce this law and provide necessary services:

a) The Constitution of Republic of Turkey, the international agreements to which Turkey is a party, especially the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, and other current regulations shall prevail.

b) A fair, effective and speedy method, which is based on basic human rights, sensitive to the equality of men and women, applicable to the social state principle, is maintained in providing support and services to the victims of violence.

c) The cautionary decisions taken for the victims and perpetrators of violence are implemented with respect to human dignity and honor.

ç) The special measures taken within the scope of this law to prevent the gender based violence against women and protect the women from the gender based violence cannot be interpreted as discrimination.

Definitions

ARTICLE 2- (1) Certain terms used in this law are defined as follows;

a) Ministry: the Ministry of Family and Social Policies,

b) Domestic violence: Any physical, sexual, psychological and economical violence between the victim of violence and the perpetrator of violence and between the family

members and the people who are considered as a family member whether they live or do not live in the same house.

c) Judge: The judge of family court,

ç) Violence against women: The gender- based discrimination directed against a woman just because she is a woman or that affects women disproportionately and any attitude and behavior violating the human rights of women and defined as violence in this Law.

d) Violence: The acts which results or will probably result in person's having physical, sexual, psychological and financial sufferings or pain and any physical, sexual, psychological, verbal or economical attitude and behavior which include the treat, pressure and arbitrary violation of person's freedom as well and conducted in social, public and private space.

e) Victim of violence: The person who is directly or indirectly subject to or at the risk of the attitudes and behaviors which are defined as violence in this Law and the people who are affected by violence or at the risk of being affected by violence.

f) Violence Prevention and Monitoring Centers: The centers which operate on a 7/24 basis and provide support and monitoring services in order to prevent the violence and to carry out the protective and preventive measures efficiently.

g) Perpetrator of violence: The people who exhibit attitudes and behaviors defined as violence in this Law or entail the risk of exhibiting them.

ğ) Cautionary decision: The cautionary decision taken in regard to the victims and perpetrators of violence, ex officio or upon a request, by the judge, law enforcement officers and administrative chiefs within the scope of this Law.

SECOND PART

The Provisions on Protective and Preventive Measures

The protective cautionary decisions to be taken by the civilian authority

ARTICLE 3- (1) One of the following measures, several of them or similar measures deemed appropriate shall be decided by the civilian authority in regard to the persons who are 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 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 worklife; the amount which cannot exceed the half of the net minimum wage paid to those older than 16 years of age with the condition of documenting is covered from the Ministry`s related budget.

(2) In cases where delay is considered to be risky, the measures as contained in the paragraph 1, clauses A and Ç shall be taken by related law enforcement chiefs as well.

Law enforcement chief shall present the report to the administrative chief for approval not later than the first work 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 decision to be taken by the judge

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

a) To change the work place.

b) To decide a house settlement different from the shared one if 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 for the protected person and the measures to prevent this danger are inadequate.

The preventive cautionary decisions to be taken by the judge

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

- a) Not to exhibit an attitude and behaviors including the threats of violence, insult and humiliation against 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 to the protected persons and their residences, schools and workplaces.
- ç) If there is a previous decision to allow having a personal connection, to have a personal connection with the children together with a company and to restrict the personal connection 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 the decisions that allows personal connection with children
- e) Not to damage the personal belongings and household goods of the protected person.
- f) Not to cause distress to the protected person by means of communication instruments or alternative channels
- g) To hand over the officially permitted and authorized weapons to the law enforcement officials.
- ğ) To hand over the weapon to the employing institution, 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 whereabouts while under the influence of these substances and to ensure to have a medical examination and treatment including in-patient treatment in case of the addiction.
- ı) To apply to the health centre for examination or treatment and to ensure having a treatment.

(2) In cases where delay is considered to be risky, the measures as contained in the clauses of (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 work day after the decision is taken. The measures which are not approved within the twenty- four hours by the judge shall be per se abolished

(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 connection 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 of the living standards of the victim even without request provided that no decision on maintenance had been rendered priorly as per the provisions of Law no. 4721

The provisions remain reserved in regard to the crimes

ARTICLE 6- (1) Due to the fact that the person's possession of a weapon or usage of drug or stimulant constitute a crime or result in another crime, the law provisions remain reserved in regard to the followings;

a) The protective measures or supervised liberty measures during the investigation or prosecution,

b) The execution of the sentence or security measures in case of conviction and the supervised liberty measures to be applied within this framework.

Reporting

ARTICLE 7- (1) If there has been violence or there is a risk of it, everybody 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 needed to be taken.

Taking a cautionary decision, its notification and confidentiality

ARTICLE 8- (1) The cautionary 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 taken for the six months period at most initially. 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 Ministry or law enforcement agencies,

(3) No evidence or report proving the violence is required in order to take 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 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 the final.

Notification and implementation of the 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 the state institutions and organizations upon a request of district authority and, when urgent, upon a request of the law enforcement officials or the Ministry

(7) The cautionary decision regarding to changing the workplace shall be implemented by the competent authority or person in accordance with the related regulations the person is subjected 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 for the children and women and the equality of men and women, and who are assigned by the related law enforcement units in central and provincial organization.

Monitoring with technical methods

ARTICLE 12- (1) While implementing the cautionary decisions taken as per the provisions of this Law, the technical means and methods may be used with a judicial decision. However, the audio-visuals of the persons cannot be monitored and recorded in this way.

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

Acting Contrary to the 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, he shall be subject to the preventive imprisonment from 3 to 10 days by the 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 preventive imprisonment shall be from fifteen to thirty days. But the period of the preventive imprisonment cannot be more than six months.

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

THIRD PART

Establishing the Centers, the Support Services and the Inter-Agency Coordination

Establishing the Violence Prevention and Monitoring Centers

ARTICLE 14- (1) The Ministry shall establish the Violence Prevention and Monitoring Centers, where necessary qualified personnel especially the women are employed and perform a duty, and where the support and monitoring services are provided to the persons to prevent the violence and efficiently implement the protective and preventive measures. They operate on a basis of seven days and twenty- four hours and their procedures and principles are identified by regulation.

(2) Monitoring studies are conducted and support services are provided to the persons in these centers in order to prevent violence and efficiently implement the protective and preventive measures.

Support Services

ARTICLE 15- (1) The followings are the services to be provided by the violence prevention and monitoring centers in regard to preventing the violence and monitoring the efficient implementation of cautionary decisions within the scope of this Law:

a) To build a data bank by collecting data regarding to the protective and preventive cautionary decisions, the sentences of preventive imprisonment and the implementation of these decisions and acts, and to keep record of the cautionary decisions.

b) To coordinate the services of sheltering, temporary financial aid, medical, judicial assistance and other services provided to the protected person.

c) When deemed necessary, to file an application for cautionary decisions to be taken and implemented.

ç) To prepare and implement the programs on an individual and collective scale in regard to preventing the violence within the scope of the Law.

d) To popularize the call centers established within the structure of the Ministry and to ensure the applications monitored in accordance with the aim of this Law

e) To cooperate with the non-governmental organizations working to end violence within the scope of this Law.

(2) The followings are the support services to be provided to the protected persons by the the Violence Prevention and Monitoring Centers;

a) To guide the persons about their rights, the institutions where they can receive support, the employment and similar issues and to conduct activities to ensure their attendance at vocational courses.

b) To make suggestions and to give an assistance in order to realize the aim of the cautionary decision.

c) To monitor the results of the implementation of cautionary decisions and their effects on persons.

ç) To assist and counsel on resolving the pshyco-social and economical problems.

d) Upon a request of the Judge; to prepare and present a detailed social research report on the person's background, family, social environment, education, personal, social, economical and psychological status.

e) Upon a request of the competent authority, to prepare a report on the results of the implementation of cautionary decisions and their effects on related persons.

f) To provide necessary guidance to the persons to receive the financial aid as per the provisions of the Encouragement of Social Assistance and Solidarity Law no.3294 dated 29/5/1986.

(3) The followings are the support services to be provided to the perpetrator of violence by the violence prevention and monitoring centers:

a) Upon a request of the Judge; to prepare and present a detailed research report on the person's background, family, social environment, education, personal, social, economical and psychological status and the risks posed to the society.

b) Upon a request of the competent authority, to prepare a report on the results of the implementation of cautionary decisions and their effects on related persons.

c) To conduct encouraging, enlightening and guiding activities to ensure that the person do the followings;

1) Attending at the anger management, stress management, training and rehabilitation programs which aim to change attitude and behavior by raising awareness to prevent the violence

2) Having medical examination and receiving treatment in a health center in case of addiction to alcohol, volatile substance or stimulants or psychological disorder.

3) Attending at Vocational courses,

(4) The services for the victim and perpetrator of violence are rendered in different units with the exception of compulsory situations.

Inter-agency coordination and training

ARTICLE 16- (1) The ministry is charge of interagency coordination in application of the provisions of this Law.

(2) Public institutions and organizations and other natural and legal persons are responsible for implementing the cautionary decisions without delay and cooperating and assisting to each other in issues related to their agencies in regard to the implementation of this Law. Natural and legal persons are encouraged to support the studies of the Ministry and conduct joint studies within the scope of this Law.

(3) Along with Turkish Radio and Television Corporation, the private radios and television channels broadcasting national, regional and locally have to broadcast informative materials, at least 90 minutes each month, on the integration of women into the work life, the

mechanisms and policies to fight against the violence especially related with children and women which are all prepared by the ministry or prepared by other agencies with the consent of the ministry. These materials are broadcast between 0800 and 2200 o'clock including at least 30 minutes broadcasting between 1700 and 2200 o'clock and the copies of these broadcasts are submitted monthly to Supreme Board of Radio and Television. Any broadcast before or after these hours are not considered within the monthly 90 minute timeframe. These hours are inspected by the Supreme Board of Radio and Television. Informative materials to be broadcast on TVs and radios are prepared by the units of the Ministry with the opinions of universities, related vocational organizations and NGOs.

(4) During the practice of the duties stated in this Law, the staff of public institutions and organizations assists the Ministry personnel.

(5) For an effective application of this Law, the public institutions and organizations and professional organizations with public institution status ensure their personnel and members to attend educational courses prepared and coordinated by the Ministry on the human rights for women and the equality of women and men.

(6) The Educational courses on the human rights for women and the equality of women and men are integrated into primary and secondary education curriculum.

PART FOUR

Financial Provisions

Temporary financial aid

ARTICLE 17 – (1) In case of financial aid decision as per the provisions of this Law, daily payment of one thirtieth of minimum wage identified yearly is made for those over sixteen years of age. In cases where there are multiple protected people an additional sum of twenty percent of this amount is paid to every additional individual. However, the amount to be paid cannot exceed one and a half times of the daily payment. If the protected persons are provided with shelter, the amounts stated in these provisions are applied by reducing fifty percent.

(2) These payments are made from the Ministry's fund opened for temporary financial aids. All payments are collected from the perpetrator of violence within one month after notification is received. Other non-collected sum is tracked and collected by tax offices as per

the provisions of the Procedures of Collection of Public Receivables Law No. 6189 dated 21/07/1953.

(3) On occasions when a protected person is identified as giving false statement, the total amount of aid is retrieved from the person as per the provisions of law no. 6183.

Alimony

ARTICLE 18 – (1) On occasions when the alimony decision is taken as per the provisions of this Law, a copy of the verdict is sent to directorate of debt collection where the alimony recipient ex officio or payer resides.

(2) In case of an occasion where alimony payer has any ties with Social Security Institution, the alimony is collected from the payer's salary, wage or earnings by directorate of debt collection without seeking alimony recipient's application. The related mailing expenses of directorate of debt collection on alimony collection is covered from Chief Public Prosecutor's reimbursement pool.

Health expenses

ARTICLE 19 – (1) As per the provisions of this law, those for whom the protective cautionary decision is taken but who do not have general health insurance, who cannot benefit from a dependent insurance, who cannot benefit from general health insurance as a result of due payments and those who cannot benefit from treatment assistance for other provisional reasons are regarded as having general health insurance without an income test within the scope of article 60, paragraph 1, clause C and sub clause 1 of the Social Security and General Health Insurance Law no. 5510 dated 31/05/2006.

(2) As per the provisions of this law, if the person under the preventive cautionary is also decided to take rehabilitation or treatment, the rehabilitation expenses which are not covered by general health insurance and the cost of other health expenses required by rehabilitation services are covered from the related budget of the Ministry.

Exemption from the fees, expenses and taxes and participation to the case

ARTICLE 20 – (1) No court expenses, fees, mailing expenses and etc. are required for applications and for other processes during the execution and implementation of the decisions within the scope of this Law. As per the article 17 of this law, the payments are exempt from

income tax, inheritance and transfer tax; also, receipts of these payments are exempt from stamp tax.

(2) The ministry can, if deems necessary, participate in an administrative, punitive and judiciary lawsuit or ex parte proceeding opened due to the violence or violence threat against women, children and family members.

PART FIVE

Various and Last Provisions

Personnel

ARTICLE 21 – (1) The personnel listed in the annex are created and added to table 1 of “Ministry of Family and Social Policies” part of Statutory Decree on General Personnel and Procedure No. 190 dated 13/12/1983.

Regulation

ARTICLE 22 – (1) The methods and principles on the application of this Law shall be stipulated by the regulations prepared by the Ministry by taking the opinions of the Ministries of Justice, Interior, Economy, National Education and Health within the six months.

Abolished provisions and references

ARTICLE 23 – (1) The Family Protection Law no.4320 dated 14/1/1998 has been abolished.

(2) The references made to the law no.4320 will be considered as references made to this Law in the legislation.

(3) The decisions taken before this law was put into effect as per provisions of Law No.4320 shall continue to be applied.

The Violence Prevention and Monitoring Centers becoming operational

TEMPORARY ARTICLE 1- (1) The Violence Prevention and Monitoring Centers proposed to be established on article 14 of this Law, shall be established for a pilot scheme in cities to be determined by the Ministry within two years after the law is put into effect.

Effective Date

ARTICLE 24 – (1) This law takes effect on its publication date.

Executive

ARTICLE 25 – (1) The Council of Ministers executes the provisions of this Law.