



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of
Discrimination against Women**

**Concluding observations on the sixth periodic report
of Turkey***

Addendum

**Information provided by Turkey in follow-up to the
concluding observations****

* Adopted by the Committee at its forty-sixth session (12-30 July 2010).

** The present document is being issued without formal editing.



[23 October 2013]

The Committee on Elimination of Discrimination against Women (CEDAW), by its letter received on March 8, 2013, requested further information from Turkey by September 2013, regarding the follow-up report which Turkey presented in order to provide the requested information mentioned in the concluding observations of the sixth periodic report of Turkey. These specific areas are:

A. Additional information on the steps taken to finalize the study aimed at evaluating the impact of the headscarf ban in the fields of education, employment, health as well as political and public life

In 2012, information was requested from 21 ministries regarding “the reasons why their women staff members quit their jobs” and from 102 universities as to “why their female students and women academicians left the university” in order to “explore the impacts of the headscarf ban in education, health, political life and public domains in Turkey.” The data thus obtained was referred to The Turkish Statistics Institute (TUIK). However, in due course, it was found that no reliable outcome could possibly be obtained by carrying out the intended research using the data attained. A report, prepared by a working group comprised of the TUIK and Ministry of Family and Social Policies, General Directorate on the Status of Women (MoFSP-GDSW) experts, upon their examination of the available data, concluded that the said research would not be scientifically viable and listed the reasons why. It is presented as an appendix to this letter.

On the other hand, the Law Nr. 6495, which was adopted by the Turkish Grand National Assembly (TGNA) on July 12, 2013 and published in the Official Gazette dated August 2, 2013, introduced a new provision, with the aim to provide relief for the unjust treatment in public employment and education due to the headscarf ban.

This law introduced a provision which enables civil servants, who were previously not appointed to positions principally on account of the legal provisions pertaining to the appearance of civil servants, that enabled them to return to their previous positions or similar ones. Similarly, in the context of an “academic amnesty”, those who were discharged from higher education, due to disciplinary actions taken against them by university authorities were allowed to return to their former undergraduate or graduate student status and were exempted from any age restrictions, in entry into public service for a period of two years.

Additionally, individuals who were deprived of their right to education or work due to the headscarf ban are granted individual access to the Constitutional Court within the framework of the rights guaranteed by the European Convention on Human Rights as well as Article 10 of the Constitution concerning equality before law, Article 24 thereof on freedom of thought and faith, Article 42 stipulating the right to education, Articles 48 and 49 regarding the right to work and other articles concerning the fundamental rights and freedoms. The Council of State which is the higher administrative court- Court of Appeals, has made various decisions in favour of those civil servants who were suspended due to headscarf-related reasons, ruling they may resume their duties. Further details relating to the decisions in question are going to be presented within the 7th Country Report. The Ombudsman also receives

applications from individuals against all acts, deeds and attitudes of the government agencies.

B. Combating violence

1. Amend Law Nr: 6284 on the “Protection of Family and Prevention of Violence against Women” to ensure that it contains provisions for prosecution and adequate punishment of perpetrators, that it covers all forms of violence against women, including rape, marital rape, sexual harassment and other forms of sexual violence, and that it focuses on violence against women

In our country, basic arrangements to combat violence against women are set forth in two specific laws; the Turkish Penal Code which includes the general provisions stipulating crimes and their penalties and the Law Nr. 6284 on the Protection of the Family and Prevention of Violence against Women which stipulates specific provisional protective and preventive orders.

The essence of the Law Nr. 6284 is preventing violence against women and protecting victims and potential victims of violence by virtue of a set of “fixed term — provisional — measures”.

As is specified in the relevant articles of the Law, the injunctions ruled in scope of this law are viable for a maximum of six months and revocable; or can be altered ex-officio or upon demand or in case of an objection. Accordingly, the injunctions ruled within the scope of this law are short-term measures, the purpose of which is to protect the victim and her children, if any, from violence and deliver due services.

On the other hand, in line with the provisions of the Istanbul Convention, all women, children and other family members, as well as the victims of unilateral persistent stalking are included within the scope of the Law Nr. 6284. The concepts “violence”, “domestic violence” and “violence against women” are defined, in the said Law in such a way as to comprise physical, verbal, economic and psychological violence. The purpose of the Law is identified as “regulating the principles and procedures as to the measures to be taken to protect and prevent violence against women and family members victimized by or are under the risk of being subjected to violence, as well as the victims of stalking”.

The measures, which could be taken for the protected individuals, as well as, the perpetrators and potential perpetrators, are set forth in detail under the title of protective and preventive measures. In this context, the Law Nr. 6284 also entitles aside from the family court judges, authorized high level public administrators and law enforcement authorities to issue protection and barring orders. Hence, it is now possible to rule injunctions, without delay out of working hours, during weekends and on holidays, without any need for evidence and documentation.

The law also ensures that in the event that the perpetrator of violence acts in violation of a preventive injunction, he/she is sentenced to coercive imprisonment from three to ten days and a further period of fifteen to thirty days each time he/she violates the order.

Law Nr. 6284 is applicable independently from the whole set of general provisions. In other words, no penal or legal proceedings need to be taken in order

to demand an injunction within the scope of this Law; or to proceed as per the general provisions, is not a requirement for the claim to injunction.

Different from the Law Nr. 6284, which embodies arrangements as tentative measures, The Turkish Penal Code is the law that defines crime and punishment; and acts such as injury, killing, sexual assault and harassment, marital rape, menace and coercion are set forth as crimes basically in the Penal Code.

In the event that a person suffers from violence, not only is it possible to have an injunction ruled for her/him in accordance with the Law Nr. 6284; but also criminal proceedings are followed pursuant to the Penal Code.

In this sense, the two laws are complimentary in terms of violence against women and domestic violence. Law Nr. 6284 covers violence against family members and all forms of violence against women. On the other hand sexual assault and harassment (sometimes considered as an aggravating circumstance when aimed at family members) are also set forth in details in the Penal Code. Since there is no impediment to the applicability of both Laws simultaneously; no further arrangements have yet been needed. However, judging from the fact that all issues included in the scope of the Law Nr. 6284 (such as stalking) are not considered offences in the Penal Code, it is essential to align the two pieces of legislation. Therefore, the government envisages new amendments in the Penal Code to consolidate the provisions related particularly to sex crimes.

2. Conduct a study on the implementation of the law, including with regard to the implementation of the protection orders and the remaining practice of mediation in cases of domestic violence

In order to confirm the effectiveness of the practices since the enactment of the Law Nr. 6284 on the Protection of the Family, and Prevention of Violence against Women, preparatory work for an “Impact Analysis of the Implementation of the Law No. 6284” has been started.

The Project aims to identify to what extent shortcomings in the implementation of the (previously existing) Law Nr. 4320 have been eliminated with the enactment of the Law Nr. 6284, in combating violence against women, detect the challenges faced by implementers of the new law, to identify the challenges in the process of civil and criminal cases related to victims of violence and perpetrators, to assess the effectiveness of the new law with a view to eliminate the obstacles faced in the implementation.

However, since law Nr. 6284 only came into force in 2011, it is thought that reliable results can be obtained from such an the impact analysis only after a few more years.

Moreover, the Violence Prevention and Monitoring Centres (VPMC) that are being established under the provisions of the Law Nr: 6284 store data on persons who are issued injunctions and monitor and evaluate these injunctions. Also, through family counselling centres of the Ministry of Family and Social Policies, preventive, educational, improving, counselling and rehabilitative services are provided in order to promote and strengthen the family, to enable family members to be participating, productive, self-sufficient and to increase their problem-solving capacities.

In line with international norms and as prohibited in the Istanbul Convention to which Turkey is a party, mediation in violence in the family and violence against women cases is inapplicable in our domestic law. Hence, reconciliation is not sought in domestic violence, which constitutes a violation of human rights. Needless to say, fundamental human rights can never be a subject of mediation and reconciliation.

3. Establish additional counselling and other support services for victims of violence, including shelters, and ensure that adequate resources are allocated in order to implement the necessary measures in this regard

As part of the victim-oriented counselling and support services that our Ministry offers;

- Pursuant to the new shelters set up and the capacity improvements in the available women's shelters, the overall capacity of 87 women's shelters affiliated with the MoFSP-GDSW has been boosted up to 2316, as of July 2013. There are ongoing efforts for setting up women's shelters in our remaining cities without shelters or those in need of more shelters.
- As of July 2013, 25 first-step stations are in service in detached buildings and in the days ahead it is intended to set up at least one first-step station in each city.
- The VPMCs put into service within the scope of Law Nr. 6284 have been operating in 14 pilot cities since December 6, 2012. It is targeted to have functioning VPMCs in all cities nationwide.

The VPMCs provides various services, which are aimed particularly at prevention of violence and follow-up of the injunctions and oriented at the victims of violence. Accordingly, the VPMCs are supposed to

- collect data as to the ruling and implementation of the preventive and protective injunctions and coercive imprisonment rulings in order to build a database and keep track of the injunctions,
- coordinate the accommodation, tentative financial aid, health care, legal support services and others for the protected individuals,
- apply for the injunctions to be ruled and implemented, where necessary,
- develop and implement programs to eliminate violence within the scope of this law,
- ensure that the use of the call centre set up within the Ministry is extended in line with the objective of this Law and the applications are followed up once filed, and cooperation with the non-governmental organizations engaged in the efforts to end violence.

These centres offer housing facilities, temporary financial assistance, counselling and guidance services, follow-up and surveillance regarding the provisional protection of victims and potential victims in case of a life risk, day-care aid, legal support, medical support, support for employment, scholarships for their children, training and education support for victims of violence.

Victims of violence have access to these services via application of the institutions, notice by a third person or through their own applications. The victims

are received by professional staff members in a safe environment where they are interviewed in private.

Once the applications are evaluated, the victims who are considered directly eligible for shelters or those who are at life risk are accepted directly in the shelters; or referred to the first-step stations in the absence of a shelter in the particular city or in case of poor capacity thereof; or when the woman applicant is not eligible for the shelters, a suitable social service model is decided for the victims. Furthermore, in case of women with sons older than 12 years or handicapped children, a separate house can be rented to accommodate them under specific circumstances, covering their rental and subsistence expenses.

All the services except for health care services are available at the centres. The victims of violence are prioritized in the health care institutions they apply to when they need health certificates and medical treatment.

As for the women who don't need housing, counselling and guidance services are rendered duly; their data is stored in a database. In addition, the applications for protective injunctions to be ruled for women in need of other means of support are filed ex officio or upon demand of the protected individual, the law enforcement officials or the Ministry.

Each woman housed at the shelters is provided with the necessary services during her stay and for 1 year after she leaves, in cooperation with the Shelters and VPMCs. If the desired outcomes have not been achieved, the support services are continued as necessary.

The equivalent of the sum of nearly 68.000.000 US \$ has been allocated in the 2013 Ministerial budget for the future practices within the scope of the Law Nr. 6284 and the VPMCs. Out of this sum, the equivalent of 12.000.000 US \$ is planned to be spent on day-care expenses, 22.000.000 US \$ on housing expenses, 33.500.000 US \$ on health care expenses, tentative financial aid and VPMC current expenditures.

Appendix

CEDAW — The Research on the Impact of the Headscarf Ban in Fields of Education, Employment, Health and Political and Public Life

The Preliminary Survey Report

Aim of the research

In pursuant to the paragraph No. 17 regarding “making efforts to evaluate the impact of the headscarf ban in the fields of education, employment, health and political and public life” which is mentioned in the Concluding Comments issued by the CEDAW Committee in the wake of the 6th Periodic Report of Turkey submitted as per the 18th Article of the Convention, it was intended to explore “The Impacts of the Headscarf Ban in Fields of Education and Health Care as well as the Political and Public Life” across Turkey between the years 1990-1996, 1997-2002 and 2003-2010.

Framing efforts

- In order to frame the research, the Ministry of Family and Social Policies General Directorate on the Status of Women sent an official letter to 21 ministries inquiring “the reasons of women workers’ release” and to 102 universities requesting information about “the reasons for women students’ and women academic staff’s release” on 17 January 2012. A form was attached to this letter which asked for the id numbers, names, surnames, birth dates, educational backgrounds, release dates and the reasons for release.
- On 6 February 2012, an informative meeting was held with the participation of representatives from 21 Ministry which had received the letter concerned.
- On 14 March 2012, a reminder letter was sent to 4 ministries which did not respond (The Prime Ministry, The Ministry of Culture and Tourism, The Ministry of Foreign Affairs and The Ministry of National Defense) and they were informed through a phone call.
- By 9 April 2012, all the data was collected from the Ministries.

The shortcomings of the framework

1. The information concerning “the year of release” from the institutions/universities pertaining to each individual should be available in the research list in order for an analysis to be made in the year groups of 1990-1996, 1997-2003 and 2004-2010. However, the “**year information**” was not provided in the lists, especially for the people who were released before the year 2003. For instance, the data of the Ministry of Education before the year 2002 is incomplete in the files. In conclusion, it was found that the institutions/universities did not have regular data pertaining to the years between 1990 and 2010.
2. Among the reasons of the release (death, retirement, transfer etc.), “wearing headscarf” is not stated separately at all, in the lists.
3. “Address and contact information” of individuals did not exist.

4. “The individual id numbers” were incomplete in the lists, therefore it was not possible to access to the address or contact information of the individuals. Matching address information with the individual id numbers is applicable since the year 2007 in Turkey. For this reason, the use of id numbers will be insufficient to locate the residential addresses of the individuals.

Efforts to make up for the shortcomings in the framework

The data collected by the Ministry of Family and Social Policies General Directorate on the Status of Women is insufficient to enable classification according to the criteria that was asked for in the form.

For example, The Ministry of National Education’s (the largest public service employer) data before 2002 could not be collected due to lack of a standardized and centralized data collection practice. Accordingly, there is a lack of information in case of around 700.000 individuals.

In order to eliminate this kind of problems, The Ministry of Family and Social Policies General Directorate on the Status of Women re-contacted relevant institutions on March 14, 2012. Unfortunately, it was not possible to frame the research on account of the lack of uniform data collection standards in different institutions regarding the headscarf not being recorded as a release reason alongside retirement and resignation, as well as, the inability to contact individuals without id numbers and addresses.

General assessment

The ratio estimation method is the method which could be used in order to produce the estimations of the individuals released due to the headscarf related reasons. However, the number of individuals reported by the institutes/universities does not reflect the real number of released people. Therefore, the use of the lists attained from the institutes/universities as a frame is not considered reliable. In addition, lack of the release year information in the lists will cause bias in the study. Consequently, this research will not yield the targeted results if conducted under these circumstances.
