



Communication

**In accordance with Rule 9.2. of the Rules of the Committee of Ministers concerning
Opuz v. Turkey Group of Cases (no. 33401/02)
October 2023 – Istanbul**

Executive Summary

The Turkish state fails to adequately monitor the case of M.G. to prevent further obstacles to accessing justice and safeguarding her from violence. A 12-year imprisonment sentence given due to the defendant's restriction of M.G.'s freedom was overturned on the grounds of insufficient evidence, leading the court to order a re-examination. The perpetrator continues to threaten M.G. through her children, prompting her to file a new complaint against him.

The periods of cautionary orders issued under Law No. 6284 are often brief, and decisions are frequently made without proper risk assessments. Migrant women can only secure these orders when accompanied by an expert. Court orders and decisions lack coordination, and risk analysis is frequently disregarded during the decision-making process. Women with children are compelled to reapply for orders on behalf of their children because judges do not assess the children's needs without a separate application. Furthermore, Family Courts grant visitation rights to the perpetrator, even in cases with confidentiality orders. These pre-existing barriers to the implementation of Law No. 6284 and the lack of coordination leave earthquake-affected regions of Turkey without any mechanisms to protect women from violence.

A positive change is the inclusion of stalking as a crime in the Turkish Penal Code. Nevertheless, complaints regarding cyberstalking are often overlooked, and authorities fail to assess potential risks. Misinformation and deterrent behaviour from law enforcement officials are widespread, hindering women's access to their rights and showcasing the lack of expertise, gender perspective, coordination, and risk assessment.

Women face discrimination based on their age, citizenship, gender identity, and their children's age when seeking admission to shelters. The conditions in shelters are overly strict, limiting women's freedom and their ability to rebuild their lives. Additionally, there is inadequate social support within the shelters. Turkey still lacks a specialized hotline for violence against women, reflecting a tendency to underestimate the need for social support. As a consequence, the only mechanism publicly highlighted by the state is a mobile app that allows women to reach the police by pressing a button. Although this app is convenient for women as they do not have to wait on hold, problems related to the deterrent behaviour of the police persist here.

Sentences for crimes against women lack deterrent effect as they are not effectively enforced, a problem exacerbated by a new legal regulation that shortens the periods required for eligibility for transfer to an open prison or probation.

The overall political situation and regression in gender equality in Turkey create an urgent need for close monitoring of policies and implementations regarding violence against women. Advocating for essential changes and opposing any legal changes that could undermine women's rights in Turkey is crucial for the overall safety of women."

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I. Introduction

This Rule 9.2 submission addresses observations and recommendations by Mor Çatı Women's Shelter Foundation under Rule 9(2) of the "Rules of the Committee of Ministers for the supervision of the execution of judgments and the terms of friendly settlements" regarding the individual measures and general measures required for the implementation of the Opuz group of judgments.

Mor Çatı Women's Shelter Foundation was established in 1990 to combat violence against women. The experiences of women who applied to Mor Çatı demonstrate their needs and the barriers they face as they try to distance themselves from violence. To combat violence against women and ensure gender equality, Mor Çatı, based on the information obtained from women, monitors and reports on the implementation of laws, regulations and international conventions, including Istanbul Convention and CEDAW, providing policy recommendations to decision-makers such as the Ministry of Labour, Family and Social Services, the Ministry of Justice and the Ministry of Interior.

II. Case Summary

This group of cases concerns the failure of the authorities to protect women (the applicants or their female relatives) from domestic violence, despite having been reasonably informed of the real and imminent risks and threats (Articles 2 and 3). In the cases of Opuz, M.G. and Halime Kılıç, the Court also found that the failure to protect the women was discriminatory on grounds of gender (violation of Article 14 in conjunction with Articles 2 and 3).

As regards preventive measures, the Court criticised the authorities' failure to offer alternative solutions to women unable to stay in shelters, the lack of provision for the security of victims in shelters, and the failure of the authorities to issue injunctions when needed and delays in issuing and serving them. Moreover, the Court found that when prevention orders were issued, sanctions were not applied for breaches, making them ineffective and affording impunity to offenders.

Furthermore, the Court identified specific problems with the legislative framework, namely the exclusion of divorced women from the protection offered to married women by the Family Protection Act and the requirement under the Criminal Code then in force for a complaint by the victim in order for an investigation to be pursued in relation to less serious injuries.

More generally, it criticised the lack of sufficient deterrent and protective effects in the criminal law system stemming from a degree of tolerance of domestic violence by the authorities. The problems identified included delays in initiating investigations and failures to conduct them effectively, failures by judges when considering pre-trial detention to evaluate the risk to victims, discontinuances of proceedings following the withdrawal of complaints by victims, delays in completing criminal proceedings, and inadequate sentences, including mitigation of sentences on grounds of custom or honour.

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III. Individual Measures

Mor Çatı Women's Shelter Foundation would like to comment on the individual measures required for the implementation of the M.G. v. Turkey Case (646/10). Mor Çatı has been providing support to M.G. since 2005 and therefore we have first-hand information about her case.¹

The Istanbul 6th Assize Court sentenced the applicant's ex-husband to 3 years of imprisonment for the crime of bodily harm with intent and to 12 years of imprisonment for the crime of deprivation of liberty. Since our last submission in October 2022, the appeal proceedings are finalized. The Court of Cassation has approved the decision to dismiss the crime of sexual violence inflicted by the defendant due to the statute of limitations. 12 years imprisonment given due to the defendant's restriction of MG's freedom was overturned on the grounds that there were not necessary evidence and the court ruled it to be re-examined. The 3-year imprisonment sentence imposed against defendant due to his injury against M.G. was approved.²

The perpetrator still continues to threaten M.G. through her children. On September 15, 2023 she filed for a complaint against him.

Having in mind these circumstances, the national authorities should ensure that the perpetrator is brought to justice effectively, and should also urgently take measures to ensure the applicant's safety.

IV. General Measures

a. Protective and Preventive Measures

Following the withdrawal of Turkey from the Istanbul Convention, the only remaining legal basis for combatting violence against women is Law No. 6284. This law regulates the measures for distancing and protecting women from violence. The measures include women's shelters, restraining orders and confidentiality orders. The law stipulates that these measures should be taken by law enforcement officers, prosecutors and Family Courts based on women's statements and the principle of non-discrimination. The experiences of women seeking assistance from Mor Çatı and the experts working in this field point to problems in implementing these measures.

The periods of cautionary orders issued under law no. 6284 are so short that they do not allow women to distance themselves from violence. A review of these periods reveals the lack of a risk analysis about the threat of violence women face and/or the lack of consideration of a risk

¹ For detailed information about M.G.'s Case please refer to Appendix 1.

² For the official decision, please refer to Appendix 2.



analysis when issuing these orders.³ Cautionary orders issued for 158 women who received support from Mor Çatı Solidarity Centre between 1 June 2022 and 30 June 2023 cover a period of a maximum of 6 months, even as short as 15 days in some cases. Among women who receive support from Mor Çatı shelter, 18 women applied for 6-month cautionary orders for 43 times; yet only 6 of them were granted 6-month cautionary orders.⁴ The brevity of the periods compels women to seek cautionary orders repeatedly, sometimes resulting in lapses of time between orders. This situation generally leads to women striving to get cautionary orders, even putting their lives in danger in some cases.

Issuing cautionary orders has turned into an automatic action; copy-paste decisions neither responds to women's risk status nor satisfies women's needs. This situation is reflected in the press with news reports on women who had been granted an ongoing cautionary order at the time of their murders. For instance, the press covered the murder of Aslı Yılmaz by her husband in January 2023, reporting that the restraining order issued against the husband ended one month before the day of the murder. Still, Antalya 9th Family Court overruled the request to extend the restraining order because of a lack of evidence that the suspect would commit any act of violence.⁵

According to media news reports,⁶ 43 women and girls murdered between May 2022 and 2023 were under protection. A common fact that comes to notice in these murder cases is the failure to detain the perpetrators despite multiple complaints made against them before the murders. The fact that women who request restraining orders and confidentiality orders cannot obtain these orders for their children and/or fail to obtain temporary custody of their children continues to pose a severe security risk. Women who are granted restraining orders are compelled to come together with the perpetrator for him to see the children because of the judgments of Family Courts, which prioritise the relationship between the father and the child over security. Particularly in cases where the woman subjected to violence is not a Turkish citizen, this situation creates a fear that they cannot access justice in Turkey and that their children will be taken away if they do not return to the perpetrator. For example, D.K., who received support from Mor Çatı, had obtained a protection and confidentiality order due to the psychological and physical violence she endured. However, despite the confidentiality order, the Family Court ruled in favour of the father having visitation rights with the child. D.K., despite the confidentiality order, felt compelled to take the joint children to meet their father, and as a result of the fear and helplessness she felt, she made the sudden decision to leave the shelter and return to the perpetrator.⁷

In the aftermath of the earthquakes of 6 February 2023, which affected 10 provinces, the status of anti-VAW mechanisms and the women and children experiencing or at risk of violence in affected provinces shows that existing problems have been exacerbated. There has not been any

³ For detailed information please refer to Appendix 3.

⁴ For detailed information please refer to Appendix 4.

⁵ <https://www.hurriyet.com.tr/gundem/asli-yilmazi-canice-katletmistiyeni-detaylar-ortaya-cikti-42208889>

⁶ <https://www.birgun.net/haber/koruma-kararina-ragmen-katledildiler-436956>

⁷ For detailed information please refer to Appendix 5.

urgent plan of action to resolve the problems faced in the notification and implementation of cautionary orders obtained by women living in tents/containers. The earthquakes affected the buildings and staff of ŞÖNİM (Violence Prevention and Monitoring Centres) responsible for following up on cautionary orders. Again, due to the lack of an urgent plan of action, there have been major setbacks in their work and women have faced even more challenges than ever in distancing themselves from violence.

The above-listed problems faced in effectively implementing protective and preventive measures under law no. 6284 creates risks at various levels. Turkey, [in its action plan submitted to the Committee of Ministers on 25.11.2022](#), refers to a risk analysis form for law enforcement officers, adding that measures are taken according to varying levels of risk based on this form. However, the above examples show that a risk-based approach is not adopted in practice.

- **Migrant Women**

Problems in accessing protective and preventive measures exacerbate in the case of migrant women. When migrant women seek assistance from law enforcement units because of the violence they experience, their complaints may not even get recorded; they can get a protective cautionary order only when a persistent official accompanies them. They cannot reach social services; social services for migrant women are provided by humanitarian aid organizations. NGO's project based and very limited services is not enough to combat violence against them. For instance, a migrant woman who received support from Mor Çatı shelter had filed multiple requests in various forms (first, she objected to the court decision granted by Gaziosmanpaşa 2nd Family Court in Istanbul, then filed a request at the same court, followed by a request filed in Bakırköy 1st Family Court in Istanbul), including a confidentiality order, temporary custody of children and temporary alimony; however, her requests were dismissed every time. As a result of her persistent applications, she was granted a confidentiality order for three months; however, this order did not extend to her children. She tried for as long as a year to get a confidentiality order for her children, who could not enrol at a school for a year due to security risks.

b. Barriers to access to justice - stalking

Another noteworthy fact is the ongoing problems with the complaint mechanism. Although stalking is defined as a crime in the Turkish Penal Code, there is an absence of any action about cyberstalking in the digital medium. The press also covered cases of stalking that started in the digital medium, where the complaints were left unresolved and, in some cases, even resulted in murder. In one case, the several different official complaints of a 15-year old girl against the perpetrator who stalked her were ignored, which then followed by the same perpetrator stalking another 16 year old girl who then was killed by him.⁸

⁸ <https://www.evrensel.net/haber/468130/beyza-dogani-katleden-salim-tekin-daha-once-de-baska-bir-cocugu-istismar-etmis>



c. Support mechanisms

- **Law Enforcement**

For most women who consult Mor Çatı, deterring attitudes and behaviours of law enforcement staff are among the factors that make it difficult for them to ask for help, go to a shelter and file an official complaint in order to distance themselves from violence. Practices that deter women from getting away from violence include rude behaviours, sexist and judgmental rhetoric, trying to talk the woman out of going to a shelter by providing false information or deterring women from filing a complaint by telling her that it would not yield any results even if she filed a complaint. For instance when a woman who applied to the gendarmerie station asked, “can I go to the shelter”, the commander replied to her saying, “If you go to the shelter, you won’t be able to leave. Think twice.” She then thought, “If I can’t reach the state [institutions] I can’t complain, for if I complain how can I stay with that man?” and felt compelled to return to her home.⁹ In another case, a woman who wanted to settle in the shelter with her children stated that the law enforcement officer told her not to go to the shelter by saying, “They’ll force you there to give your children to the institution”.¹⁰ These deterrent behaviour are often combined with reconciliation attempts by the law enforcement. In one case, a woman who was subjected to violence by her husband contacted law enforcement to file a complaint and demand access to a woman’s shelter. Although she said she did not want to go to her family home, law enforcement officers called her family, telling them to come over and, together with her family members, tried to talk the woman into making up with her husband. Other women shared their experiences where law enforcement officers brought them and their husbands together, encouraging them to make it up, or they were manipulated into consent or intimidated into making up with their husbands.¹¹ In another example a woman who took out a medical report for battery and marriage rape gives the following account of her experience at the police station: “I told them that I wanted to get a restraining order and use the battery report for evidence. The police called my husband and told him to come to the station. They told me “Even if you file a complaint now, you will patch things up with him after 3-4 years. You will have to pay a fine of 10 thousand liras to the state. Patch it up now, you are going to do so anyways.” I had called my family for support, but the police convinced them that I should make up with my husband. They took my husband’s statement. When he got out of the room, he said, “Do you think they were mad at me in the interview room. They gave me tactics! These are the people you seek

⁹ Mor Çatı Women’s Shelter Foundation, 2022 Activity Report
<https://en.morcati.org.tr/reports/mor-cati-2022-activity-report/>

¹⁰ Mor Çatı Women’s Shelter Foundation, The Monitoring Report on Coordination in Combating Against Male Violence in Turkey, 2022
<https://en.morcati.org.tr/reports/the-monitoring-report-on-coordination-in-combating-against-male-violence-in-turkey/>

¹¹ Mor Çatı Women’s Shelter Foundation, Law Enforcement Practices In Turkey To Combat Male Violence, 2023
<https://en.morcati.org.tr/reports/law-enforcement-practices-in-turkey-to-combat-male-violence/>



help from.” That day I went to the police station at 9:30 pm and left there at 5 am. The police made my husband kiss my feet and we went home together.”¹²

- **Shelters**

In regards to shelters and alternative solutions in case it is necessary, according to the regulations that determine the operation of shelters in Turkey, women with sons over the age of 12 or disabled children and women over the age of 60 cannot benefit from shelter services. Furthermore, the alternatives offered to these women do not encompass specialized services for combating violence, and in practice, it is observed that the alternatives outlined in the regulations do not work effectively. For women with sons over the age of 12, an alternative is often suggested that they place their children in state care to be able to go to a shelter. However, both the child and the woman entering the protection system do not receive any specific support in this special situation, and women also have to fight to meet the conditions required to retrieve their children from the institution. In Turkey, existing services for the elderly are already quite inadequate, so there is no equivalent alternative offered for women over the age of 60.

In addition to the common violations seen in the admission of shelters, there are also violations that are accepted as norms and are repeatedly committed. It is observed in practice that migrant and refugee women, as well as women residing in other cities, are not systematically admitted to shelters, although it is not specified in the regulations. As an alternative for women residing in other cities, they are often advised to return to the cities where their abusers are located, from which they have escaped. There is no alternative provided for migrant and refugee women.

Women who go to shelters cannot access the social services they need to build new lives free from violence. Security measures are taken in shelters that restrict women's freedoms and create conditions that make it impossible to start a new life. Conditions such as security personnel and cameras both outside and inside the building, strict monitoring of entry and exit times, prohibition of phone use, and body searches upon entering the building are often likened by women to prison conditions. On the other hand, individual security risk analysis and security plans are not prepared for women. The accounts of women who receive support from Mor Çatı while staying in shelters affiliated with ŞÖNİMs show that the shelters do not offer any support in helping them rebuild their lives. When their term of stay is over, they are dismissed from the shelter without any risk analysis.

- **Hotline service**

Turkey still lacks a hotline service that specifically supports combatting violence against women. The State points to Alo 183 Social Support Line as a hotline that provides support in this regard. However, this hotline serves as a 24/7 call centre. When a call is made, it is the call centre staff, not professionals, who pick up the line. Therefore, call centre staff cannot respond professionally but can only forward tips or make a referral by providing information to the caller. The lack of a hotline service that supports women in emergencies or serves as a first-step support remains a barrier to effectively combatting violence against women.

¹² Ibid.



- **Women's Emergency Support Application (KADES)**

Women's Emergency Support Application (KADES) is a smartphone application developed by the Ministry of Interior to speed up emergency response. In recent years, the state has often referred to this application vis-à-vis the efforts to combat violence against women; however, the application could only resolve a small part of the problems and hardly eliminated any of the challenges faced in law enforcement practices. The application basically offers to call the police quickly in one move. A report by Mor Çatı published in August 2023 identifies problems with KADES, including that the application is not accessible to all women and the swiftness of law enforcement officers' arrival at the scene varies according to the area. Other problems include that law enforcement officers responding to the call are not equipped to combat violence against women and that any random law enforcement officer may respond to the call. This causes the perpetuation of bad practices by law enforcement officers, including incomplete and wrong practices, deterring attitudes and coercion into reconciliation even when the KADES application is used.

d. Independent monitoring assessment mechanism

[In our submission of 14 November 2022](#) in reply to the state report submitted during the monitoring period last year, we underlined the lack of an independent monitoring assessment mechanism in Turkey regarding policies on violence against women; we, therefore, noted that it remained unknown to what extent existing laws were implemented or what their effects were. In its statement on 26 April 2023, the Ministry of Interior announced the establishment of a Monitoring Committee for Combatting Domestic Violence and Violence Against Women (AKŞİM). In a press statement, the Ministry expressed that the Committee was set up following a 6-month preparatory work and would offer opinions and recommendations about the Ministry's efforts in raising awareness on combatting violence and overcoming the problems in practice.¹³ We, an organisation combatting male violence against women since 1990, found out about this development from the press statement. We submitted a request to the Ministry of Interior for further information. Still, our questions about the committee were left unanswered, which included questions on the functions, duties and responsibilities of the committee, committee members and the criteria for the eligibility of committee members as well as the engagement of women's organisations in the 6-month preliminary work in the establishment of the committee. There are some grounds for concern regarding the extent to which the work of the Committee could be independent given the facts that our request for information is left unanswered; there is no publicly shared information about the work, members and the management of the Committee other than the press statement, the head of the Committee has no academic and professional background specifically on violence against women, and Mor Çatı, an organisation actively combatting violence against women for years, and other organisations were not involved in the establishment of the Committee and in identifying its functions.

¹³ <https://www.icisleri.gov.tr/aile-ici-ve-kadina-siddetle-mucadele-calismalari-aksim-tarafindan-denetlenecek>



e. Non-Deterrent Effect of Sentences and *de facto* impunity

Our 2022 report stressed that the sentences were not deterrent as they were not effectively executed.¹⁴ However, this problem has been further exacerbated because of a new legal regulation. Law no. 7456, The Law on the Execution of Sentences¹⁵, published on 15 July 2023, introduced a new regulation on the execution of sentences,¹⁶ as an extension of the 2020 law on the execution of sentences, which is known in public as Covid Pardon. Under this law, the periods required for entitlement to a transfer to an open prison or probation are shortened by three years. The purpose of the law on the execution of sentences is reportedly to reintegrate offenders into society; nevertheless, there are no ongoing efforts by the state, neither in theory nor in practice, to reintegrate ex-convicts into society. It is apparent that the law serves to forgive the crimes committed against women, in other words, grants offenders impunity. A case in point of how the new regulation leads to impunity in cases of violence against women is that a person convicted of sexual assault and sentenced to 13 years of imprisonment on 1 January 2023 would be entitled to be transferred to an open prison in 2029 or be placed under probation in 2031 under the previous regulation; however, according to the new regulation, the convict can be transferred to an open prison in 2026 and can be placed under probation in 2028. Another case in point concerns the offence of bodily harm with intent. Our previous shadow report submitted to the Committee of Ministers states that a convict sentenced to 8 years for physical harm with intent spends only one month in a closed prison.¹⁷ According to the new regulation, the same convict will now be entitled to probation only after three months of jail time instead of 3 years.

V. Conclusion and Recommendations

The non-implementation of the *Opuz* group judgments enables the persistent problem of impunity in cases of violence against women. The atmosphere of impunity encourages perpetrators to continue committing violence against women, while also disempowering women who have distanced themselves from violence.

Consequently, we urge the Committee of Ministers to continue examining this case on their agenda every six months and to closely follow up the process on the implementation of general measures. The case has been pending implementation since 2008, there has been very little progress, and there have been regressive steps (withdrawal from Istanbul Convention). In view of the December 2023 meeting, we insist that the authorities are required again to work in close cooperation with domestic NGOs and conduct a data collection-based comprehensive and disaggregated research on the actual femicide victims in the recent years, and we call on the

¹⁴ https://morcati.org.tr/wp-content/uploads/2022/12/Opuz_Golge_Rapor.pdf

¹⁵ <https://www.resmigazete.gov.tr/eskiler/2023/07/20230715-2.pdf>

¹⁶ Persons who are convicted and serving time in prison as of 31 July 2023 are entitled to invoke this law. In other words, this law on the execution of sentences will not be invoked for persons whose sentences are not final and fugitive perpetrators whose sentences are final. However, there is a possibility that the law may be invoked for those who are not convicted if they apply to the Constitutional Court.

¹⁷ Mor Çatı Women's Shelter Foundation, Shadow Report for Opuz Group Cases https://morcati.org.tr/wp-content/uploads/2022/12/Opuz_Golge_Rapor.pdf



Committee of Ministers to instruct the Secretariat to prepare an interim resolution in the case in the event that the authorities do not provide this comprehensive data.

We also request the Committee of Ministers to request the following the Government of Turkey to:

- Reverse their decision to withdraw from the Istanbul Convention, as a sign of their commitment to eliminating domestic violence and violence against women.
- Establish state-wide effective, comprehensive, and coordinated policies encompassing all relevant measures to prevent and combat all forms of violence against women.
- Establish an integrated data system for coordination between ŞÖNİMs and all relevant institutions, to achieve effective coordination among relevant institutions.
- Ensure collaboration with civil society by allowing the participation of rights-based women's organizations in the monitoring of the National Action Plan to Combat Violence against Women (2021-2025), share the monitoring results with the public and make statements regarding challenges and unattained targets.
- Provide information and/or data on:
 - How the implementation of the National Action Plan to Combat Violence against Women (2021-2025) is being monitored and what measures have been taken to achieve the indicated targets, to what extent the targets have been achieved, the remaining challenges and the plans for the next two years.
 - How and to what extent the Circular (2020) for the Penal code and 2021 Circular on the Use of Technical Methods and Tracking Systems Under Law Number 6284 is being enforced, the impact of these policies and sanctions for non-implementation.
 - The existing official complaint mechanisms, the number of complaints filed to these mechanisms and outcomes, as well the number and results of investigations towards public officers for discriminatory or negligent practices in VAW cases.
 - Collect and make publicly available statistical data on domestic violence disaggregated by gender, age, type and frequency of violence, relationship between perpetrator and survivor, geographical location and disability status.
 - The number of cases where risk assessment is conducted and how the risk assessment affects actions taken further and how its effectiveness is monitored, including experienced women's organizations in this assessment.
- Reassign the duty to serve as the first line of contact for women subjected to violence from Law enforcement units and given to ŞÖNİMs.
- Monitor, evaluate and supervise decisions made by the judges responsible for the implementation of Law No. 6284 and prosecutors working in domestic violence crime investigation offices and apply disciplinary sanctions for discriminatory decisions.



- Take measures to deter Prosecutor's Offices and Family Courts from issuing identical cautionary orders and to train magistrates to provide appropriate motivations taking into consideration women's needs and safety when issuing cautionary orders.
- Ensure that protective and/or preventive measures are provided without any delay and for reasonable durations to guarantee women's and children's safety and take measures to ensure that these decisions are properly notified and sanctions for non-compliance are implemented.
- Reverse the amendments in the Law on the Execution of Sentences that lead to de facto impunity – or make them legally inapplicable to domestic violence and violence against women.
- Take measures to ensure that shelter admittance is implemented swiftly, without any discrimination (against migrant women, trans women, etc.) and ensure that alternative accommodation is provided where women can stay with their children when shelters are at maximum occupancy.
- Set up a 24/7 public emergency line specifically for women subjected to violence.
- Take measures to facilitate women's rights to file complaints with the police stations in their own neighborhoods instead of being referred to specialized units and ensure that effective investigations are commenced swiftly, setting out time limits for carrying out investigative steps.

Communication in accordance with Rule 9.2. of the Rules of the Committee of Ministers concerning

Opuz Group Cases (no. 33401/02) Submitted by Mor Çatı Women's Shelter Foundation

This Rule 9.2 communication is submitted by the Mor Çatı Women's Shelter Foundation in response to the Action Plan (10/10/2023) submitted recently by the national authorities.

Individual Measures

The applicant, MG, was called to give a statement by the Bahçelievler Police Station on 15.09.2023. She was asked if she had requested any protection orders since 2021. During this interview, the applicant stated that she had an ongoing criminal case and that her ex-husband was threatening her through their children because of this criminal case, and therefore, she requested a protection order. However, despite what is stated in the state's report, the applicant has not been notified of any protection order issued after this statement. Furthermore, the information that a criminal investigation was opened by the Prosecutor's Office after the applicant's statement was not communicated to her but was conveyed to her by her children.

General Measures



The authorities provide detailed information about the existing laws, legislations and the circular issued by the Ministry of Interior; however, first of all it should be stated that there is a lack of coordination among Ministries, specifically between the Ministry of Interior and Ministry of Social and Family Affairs, that should be the main authority in combating VAW. This shows the fact that in practice, all responsibility has been transferred to the Ministry of Internal Affairs (as we showed in our report the law enforcement is identified as the first step for women who experience violence) instead of the Ministry of Social and Family Affairs. More importantly, despite the existing legislations and circulars, the main issue on the ground is the implementation of these measures. The fact that the state's Action Plan does not mention any issues with the implementation indicates that the state does not recognize implementation problems as a serious issue, does not put in place monitoring and evaluation processes to achieve standards in its practices and does not have any sanctions against bad practitioners. The action plan does not make any reference to any observations regarding the experiences of women, especially as they attempt to access this law, or to possible obstacles in their access to their rights that reflects current gender inequality atmosphere and lack of any solutions developed for these issues. As comprehensively addressed in the communication presented by Mor Çatı on [17.10.2023], due to the lack of any relationship established between the fight against violence against women and gender inequality, women who are victims of violence face significant challenges when seeking access to their rights. Therefore, a report on the state of mechanisms for combating violence against women in Turkey should include data on how issues encountered in practice are identified and resolved, in addition to existing laws and regulations.

While legal steps have been taken at the legislative level, we see that they do not find a corresponding response in practice, apart from the information we have gathered from women's experiences in the field. To illustrate this, it stated in Article 19 that "a public prosecutor is under an obligation to initiate an ex officio investigation," but so far, it has not provided any data on the disciplinary investigations that have been initiated, thereby not presenting any data on its implementation. Additionally, no information has been shared on how the determination of duty negligence is made, which further raises questions about how the application issues we mentioned in our report have been addressed.

Risk assessment emerges as another notable issue. Besides cases reported in the media involving women who were killed while protective orders were in place, we also witness instances where the risks of some women who have applied to Mor Çatı were not monitored by institutions, and they were only followed by Violence Monitoring and Prevention Centers (ŞÖNİMs) if they had suffered serious physical harm. Therefore, information and data regarding the steps taken based on the classifications generated as a result of the risk assessment form should be shared by the state, and analytical data concerning the relationship between the previous risk assessment and cases where women reapply should be provided.

In the action report it is stated that according to the circular, the statements of the victim women should be taken in a physically suitable environment where they can feel comfortable and in the absence of third persons. In many police stations, women are often required to provide their statements in the presence of numerous personnel and third parties, and sometimes even in close physical proximity to the perpetrator. This situation causes women to feel hesitant and unsafe.

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Women who have resorted to police stations that do not provide suitable physical conditions for privacy are not being taken to police stations with the necessary facilities by the police.

Although the state suggests that the issue of not establishing personal contact with the child during the confidentiality period should also be assessed when requesting a confidentiality order, as we have pointed out in the example we provided in our report and as stated in the report we wrote to the UN Special Rapporteur¹⁸, there are cases where judges do not limit the father's personal relationship with the child even when the child is exposed to violence. In such cases, the mother and children continue to be subjected to violence during the divorce process, and family courts ignore this situation, even when there are ongoing cases in criminal courts.

¹⁸<https://en.morcati.org.tr/reports/input-on-custody-cases-violence-against-women-and-violence-against-children/>