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REGULATIONS ON PREVENTING VIOLENCE AGAINST WOMEN IN TURKEY

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Abstract

Violence against women, constitute an important problem in Turkey as it does in all over the World. Lots of movements in the field of law and various fields are being done in order to struggling this problem in the World, as well in Turkey. One of these movements which is done in our country is enacting Code on Protection of the Family and Preventing Violence against Women numbered 6284. This code widen its scope of protection by bring the people both who exposed to violence and who in the risk of exposing to the violence into the scope. In order to provide the protection, there is no requirement such as proofs or documents about the violence. And about crimes in the context of Violence against women, Criminal Code is being applied. However, some definitions in the Criminal Code do not correspond with regulations which is demanded in the European Council Act on preventing and combating violence against women and domestic violence . In this article, Code numbered 6284 and Criminal Code will be examined.

Keywords: Women, violence against women, domestic violence, aggrieved, European Council Act.

I. GENERAL REMARKS

Violence creates a problem which may be observed in all fields of human life and which increases gradually in the world. And the most common form of violence is domestic violence against women. Violence against women is the common problem of women living in different societies of the entire world regardless of their income and education level. Violence against women is an important problem in Turkey as well. News on violence against women is heard in Turkey almost every day. Approximately 25 thousand women were aggrieved in 2012 for violence against women. 76 of them were exposed to violence by being murdered. And in 2013, 28 thousand women were aggrieved and 95 women among them lost their lives.

Turkey is performing studies in various fields in order to struggle against this problem. Some of them are the regulations made in the legal field. Two special codes were enacted in this field. Code on Protection of the Family and Preventing Violence against Women numbered 6284 is in force currently.

II. REGULATION OF CODE NUMBERED 6234

In article 1 of this code, it was stated that the purpose was regulating the principles and procedures to be taken for the purpose of protecting women, children and family members who suffer from violence or are under the risk of suffering from violence as well as persons who are aggrieved of unilateral insisted follow-up and preventing violence against those people. Consequently, protection of all people aggrieved of violence was targeted with this code. According to this article, not only people suffering from violence but also those who are under the risk of suffering from violence are protected. Even it is stated that no evidence or document indicating violence was applied in order to take precautionary action and probable losses were desired to be prevented by taking all sorts of requests seriously.

It is not significant whether those people are exposed to violence in the family in order to apply the law provisions for the child or woman who are within the scope of protection. Everybody whether child or woman benefit from protection regardless of where they are exposed to violence or under the risk of being exposed to violence. Woman is defined, as people who are older than 18 and who are female and women shall benefit from the protection of this code as soon as they become a woman. However, it was expressed in the European Council Act that the term women included girls younger than 18 as well. According to the act, the people whose genders are women shall be deemed to be within this scope regardless of their ages. The reason for this is that the purpose of the act was expressed as protecting women and the people aggrieved of domestic violence, and children cannot be included in the purpose of the act as a separate group excluded from women and the people aggrieved of domestic violence. According to our law, child refers to everybody who is younger than 18. Determining the issue in this manner, it was no longer necessary to deem girls younger than 18 as women and taking them into the scope of protection. But what people deemed family members refer to is not included in the definitions section. It is not significant for the code whether the person who is exposed to domestic violence is a child or woman or man. This term refers to all family members. According to code, children are defined as the aggrieved not only when they are directly exposed to violence but also when they witness violence. Furthermore, not only the children who are or may be influenced by domestic violence are within the scope of protection but also the children who are or may be influenced by non-domestic violence shall be defined as the aggrieved of violence. Comparing the act to the Code numbered 6284, the act protects the children who are exposed to domestic violence and the children who witness domestic violence whereas the Code numbered 6284 does not seek for the condition of children being witnesses of domestic violence. This refers to the children who are or may be influenced by violence even this may not be domestic violence and all people who are within the scope of the code within this framework. And what the person who is aggrieved of unilateral insisted follow-up and the violence applied to them is not defined in the law. However unilateral insisted follow-up was defined in paragraph 'ş' of article 3 of Application Regulation dated 18th January 2013. Accordingly, all sorts of attitudes and behaviors of the violence applicer toward the violence aggrieved regardless of whether there is a family tie or relation between them so that they will not cause any feeling of freight and despair in physical or psychological terms that will lead to anxiety for safety whether actually, verbally or in writing or using any communication means regardless of its content and which attitudes and behaviors would keep the aggrieved under oppression shall be defined as unilateral insisted follow-up. No determination was made in the regulation with regard to the gender of the person aggrieved of violence, to whether he/she is a child or not or to whether he/she is a family member. Within this framework people with different sexual preferences shall be protected within the scope of this

Code due to the determination in question. It is observed that it made a more explanatory determination compared to the determination of the act.

III. EXAMINATION OF REGULATION OF THE CRIMINAL CODE

No determination was made within the context of crimes in the Code numbered 6284. The provisions of the Criminal Code shall be valid. And certain determinations in the Criminal Code fail to respond certain regulations contained in and required by the European Council Act on Preventing Domestic Violence and Violence against Women and Struggling against these. For example only people experiencing official togetherness are deemed as spouses and acts against divorced spouses are not deemed to be within the scope of qualified version. Furthermore the violence applied against the spouse was stipulated as qualified version in certain acts rather than all acts within the scope of violence in our criminal code. Furthermore relations other than blood relationships are not accepted generally within the scope of qualified situation. The relation of upper ancestry and lower ancestry in law are not accepted as a reason that requires giving higher penalty in significant crimes included in the scope of violence. Nevertheless the act requires accepting committing of crime by the subject against the current or previous spouse, by the family members who live together with the aggrieved or who abuse his/her authority recognized by domestic law as qualified situation. Again in the act it is stipulated that performance of violent acts before the child should be accepted as qualified situation whereas our legislation contains no determination for committing the act before the child. Furthermore the obligation of stipulating intentional behaviors of forcing any adult or child to get married is imposed on the party states in article 37 of the Act. These sorts of acts are observed very frequently in our country as well. However these sorts of acts are not an independent crime under the title of forcing to get married in terms of our legislation. Other crimes may be in question depending on the quality of the acts performed or privacy rules may be applied within the context of crimes against sexual immunity. Although there is a determination in the act with regard to female circumcision there is no regulation in the quality of independent crime in our legislation in this regard. Solution of the problem under intentional injuring shall be in question.

Assessing the provisions of the European Council Act, we conclude as the following: Certain provisions of our Criminal Code are not sufficient in terms of responding the requirement of the act.