

Appendix: Selected Articles from the Law to Protect the Family and Prevent Violence Against Women (No. 6284)

SECOND PART

The Provisions on Protective and Preventive Measures

The protective cautionary order decisions to be taken by the administrative authority

ARTICLE 3- (1) One of the following measures, several of them or similar measures deemed appropriate shall be decided by the administrative authority in regard to persons 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 preschool 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 working life through provision of an amount not exceeding half the net minimum wage of persons older than 16 years of age paid from the Ministry's relevant budget on condition that documentation is provided.

(2) In cases where delay is considered to be risky, the measures as contained in paragraph 1, clauses A and Ç shall be taken by related law enforcement chiefs as well. The law enforcement chief shall present the report to the administrative chief for approval not later than the first working 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 order decision to be taken by a judge

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

- a) To change the work place.
- b) To decide upon a separate place of residence from the joint residence in cases where 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 to the protected person and the measures to prevent this danger are inadequate.

The preventive cautionary order decisions to be taken by a judge

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

- a) Not to use words or behavior including threats of violence, insults, derision or humiliation towards 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 the protected persons and their residences, schools and workplaces.
- ç) If there is a previous decision to allow personal contact with the children, to be accompanied by someone during the personal contact, to restrict the personal contact 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 decisions that allow personal contact with children
- e) Not to damage the personal belongings and household goods of the protected person.
- f) Not to disturb the protected person by methods of communication or via alternative channels

- g) To hand over officially permitted and authorized weapons to the law enforcement authorities.
- ğ) To hand over a weapon to the employer, 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 their whereabouts while under the influence of these substances, and to be subject to a medical examination and treatment including in-patient treatment in case of addiction.
- i) To apply to a health center for examination or treatment and to undergo the treatment.
- (2) In cases where delay is considered to be risky, the measures as contained in clauses (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 working day after the decision is taken. Measures which are not approved within twenty-four hours by a judge shall be per se lifted
- (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 contact 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 the living standards of the victim even without request provided that no decision on maintenance had been rendered prior to this, as per the provisions of Law no. 4721.

Reporting

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

Taking a cautionary order decision, its notification and confidentiality

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

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

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

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

Monitoring through technical methods

ARTICLE 12- (1) While implementing the cautionary decisions taken as per the provisions of this Law, technical means and methods may be applied by a judicial decision. However, individuals cannot be monitored and recorded through audio-visual means.

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

Violations of 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, they shall be subject to detention lasting from 3 to 10 days by a 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 incarceration shall be from fifteen to thirty days. But the period of the incarceration cannot be more than six months.

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