Fighting Domestic Violence - Turkey

3. Similarities and differences in terminology

| Contents |
| --- |
| To generate table of contents, right-click here and select **Update Field.** |

# 3.1 Domestic violence

Pursuant to Article 2(1)(b) of Law No. 6284, "domestic violence" means any physical, sexual, psychological and/or economic violence between the following:

the victim of violence and the perpetrator of violence

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

# 3.2 Stalking

Although legislators determined that the aim of Law No. 6284 is to protect the women, children, family members and victims of stalking who have been subject to the violence or are at the risk of violence, and to regulate procedures and principles with regard to the measures of preventing the violence against those people, there is no strict legal definition of "stalking." The Turkish Criminal Code does not define the term "stalking" either.

# 3.3 Harassment

Neither Law No. 6284 nor the Turkish Criminal Code define the term "harassment." However, the Turkish Criminal Code penalizes sexual harassment and child molestation but only defines child molestation, which means all kinds of sexual attempts against children who are under the age of 15 or against those who are aged 15 but lack the ability to understand the legal consequences of such act; and the abuse of other children sexually by force, threat or fraud.

# 3.4 Victim

Pursuant to Article 2(1)(e) of Law No. 6284 a "victim" is defined as the person who is directly or indirectly subject to or at risk of the attitudes and behaviors that are defined as violence and the person who is affected by violence or at risk of being affected by violence.

Violence will mean the acts that result or will probably result in a person having physical, sexual, psychological and financial sufferings or pain and any physical, sexual, psychological, verbal or economic attitude and behavior that include the threat, pressure and arbitrary violation of a person's freedom in a social, public and private space.

# 3.5 Abuser

Article 2(1)(g) of Law No. 6284 defines abuser as the perpetrator of violence. As such, the abuser is the person who exhibits attitudes and behaviors defined as violence.

# 3.6 Civil protection order

Victims are entitled to a wide range of protective and preventive measures. These measures can be taken *ex officio* or upon the request of a judge, law enforcement officers or administrative chiefs.

The following protective cautionary measures are available to the civilian authority or, if the delay is considered risky, to the law enforcement chief:

providing shelter

providing financial aid

providing psychological, professional, legal and social guidance, and counseling services

providing temporary protection in case of a life threatening danger

providing four months of day care (maximum two months for those who have a job) to the children of the victim to support the protected person's integration into working life and additional financial aid, which cannot exceed half of the net minimum wage

The following protective measures are available to a judge:

making an order to change workplace

deciding a house settlement different from the shared one if the person is married

adding an annotation to the title deed categorizing the property as a family house

changing the victim's identification and other related information and documents

The following preventive measures are available to a judge or, in case the delay is considered risky, to the law enforcement chief against the abuser:

prohibiting an attempt of violence or behaviors including threats of violence, insult and humiliation against the victim of violence

requiring the abuser to move from the shared dwelling or from the neighborhood

prohibiting the abuser from approaching the protected persons and their residences, schools and workplaces

restricting personal contact between the victim and the abuser

prohibiting the abuser from approaching friends or relatives or children of the victim even though they haven't been victims of the violence, in this case the court will consider child visitation if necessary

prohibiting the abuser from damaging the personal belongings and household goods of the protected person

prohibiting the abuser from causing any distress to the protected person by means of communication instruments or alternative channels

requiring the abuser to hand over any weapons

restricting the use of alcohol, drugs or stimulants in places where the protected people are present or requiring the abuser not to approach the protected people and/or their known whereabouts while under the influence of these substances and/or requiring the abuser to have a medical examination and treatment including in-patient treatment in case of addiction

making an order for a health center examination or treatment

additionally, the judge may decide on temporary alimony by considering the living standards of the victim

# 3.7 Causes of action

There are multiple causes of action that can be pursued depending on the nature of the abuse suffered by the victim, for example, sexual harassment, sexual abuse and felonious injury.

# 3.8 Marital rape

The Turkish Criminal Code penalizes sexual abuse in general, which means the violation of the sexual immunity of a person. The abuser could be sentenced upon the complaint of the victim. Thus, the Turkish Criminal Code does not differentiate between sexual abuse of an independent individual and the sexual abuse of a spouse. As such, every provision of the Turkish Criminal Code relating to sexual abuse will also be applied to marital rape. If the sexual abuse is committed by inserting an organ or instrument into a body, the act constitutes a more severe form of the crime. The Turkish Criminal Code notes that in such a case, and if the victim is the spouse, the commencement of investigation or prosecution is bound to the complaint of the victim.

Among others — in relation to marital rape — the following circumstances could qualify as aggravating circumstances. If the sexual abuse is committed:

against a person who cannot protect himself/herself because of physical or mental disability

by using weapons or the participation of more than one person in the offense

If the abuser is using force against the victim, the abuser will be punished not only for sexual abuse, but for felonious injury. When sentencing the abuser, it will be decided whether the victim had a physical or mental disability. If they had, the punishment will be more severe. Last, if the sexual abuse causes the death of the victim, the abuser could be sentenced to life in prison.

# 3.9 Are there any other important domestic violence terms defined in relevant domestic violence statutes and codes?

Law No. 6284 differentiates between violence and violence against women. Pursuant to Article 2(1)(ç) of Law No. 6284 violence against women means a 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 Law No. 6284.

©Copyright © 2024 Baker & McKenzie. All rights reserved. **Ownership**: This documentation and content (Content) is a proprietary resource owned exclusively by Baker McKenzie (meaning Baker & McKenzie International and its member firms). The Content is protected under international copyright conventions. Use of this Content does not of itself create a contractual relationship, nor any attorney/client relationship, between Baker McKenzie and any person. **Non-reliance and exclusion**: All Content is for informational purposes only and may not reflect the most current legal and regulatory developments. All summaries of the laws, regulations and practice are subject to change. The Content is not offered as legal or professional advice for any specific matter. It is not intended to be a substitute for reference to (and compliance with) the detailed provisions of applicable laws, rules, regulations or forms. Legal advice should always be sought before taking any action or refraining from taking any action based on any Content. Baker McKenzie and the editors and the contributing authors do not guarantee the accuracy of the Content and expressly disclaim any and all liability to any person in respect of the consequences of anything done or permitted to be done or omitted to be done wholly or partly in reliance upon the whole or any part of the Content. The Content may contain links to external websites and external websites may link to the Content. Baker McKenzie is not responsible for the content or operation of any such external sites and disclaims all liability, howsoever occurring, in respect of the content or operation of any such external websites. **Attorney Advertising**: This Content may qualify as “Attorney Advertising” requiring notice in some jurisdictions. To the extent that this Content may qualify as Attorney Advertising, PRIOR RESULTS DO NOT GUARANTEE A SIMILAR OUTCOME. **Reproduction**: Reproduction or copying of the Content on this Site without express written authorization is strictly prohibited.