



**Report on the Cautionary Decisions (Injunctions)
in accordance with Law no. 6284 on the
Protection of Family and Prevention of Violence
against Women within the framework of
Applications to the Legal Aid Office of Istanbul
Bar Association**

Istanbul Bar Association Women's Rights Center

2020

PREAMBLE

This report has been prepared by the Women’s Rights Center of Istanbul Bar Association in order to put forth a statistical study on the cautionary decisions ruled out upon the applications to the Legal Aid Offices [of Istanbul Bar Association] within the scope of Law no. 6284.

In 2019, total number of applications to the Legal Aid Offices is 13.795 while 12.102 of this total were filed by women. 2842 of these applications is to demand cautionary decisions within the scope of Law no. 6284. While drafting the report, 1253 interlocutory injunctions have been analyzed.

It is observed that violence against women and femicides are increasing in our country. In 2015 303 women, in 2016 328 women, in 2017 409 women, in 2018 440 women and in 2019 474 women were murdered. Based on Istanbul Convention, Law no. 6284 is the most important law as it includes measures to protect the victims of violence and to prevent violence. Effective implementation of Istanbul Convention and the Law no. 6284, termination of unjust and groundless attacks against the Convention and the Law no. 6284, elimination of the problems encountered in practice would result in the decrease of violence against women and increasing prevention of violence.

Numbers, which came out as a result of our review of the cautionary decisions, reveal that Istanbul Convention and Law no. 6284 protect “women victimized by violence”.

Violence against women is a human rights violation. Violence against women is caused by gender inequality and discrimination against women.

As Istanbul Bar Association Women’s Rights Center we will continue with our struggle till gender equality is achieved and violence against women comes to an end.

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1. Number of applications, filed within the scope of Law no. 6284, to Istanbul Bar Association Legal Aid Center in 2019:

Legal aid is a free service securing access to justice provided to the people who are not able to meet attorney fees and litigation expenses, which aims at eliminating the obstacles in front of the individuals' freedoms to claim their rights and to ensure equality in exercising their right to legal remedies.

Only the lawyers who have undergone "Vocational Training on Legal Aid and Women's Rights" organized by Istanbul Bar Association Women's Rights Center are appointed in the applications filed concerning Family Law and violence against women.

In 2019, Istanbul Bar Association Legal Aid Office 2019

Total number of applications: **13795**

Applications within the scope of Law no. 6284: **2.842**

Number of Files Reviewed :**1253**

Applications Filed by Women: **12.101**

This report has been compiled following the review of 1253 files among the files for which cautionary decisions have been taken following the applications that have been processed by Beyoğlu Legal Aid Center, Bakırköy Legal Aid Center, Gaziosmanpaşa Legal Aid Center, Kartal Legal Aid Center and Ümraniye Legal Aid Center.

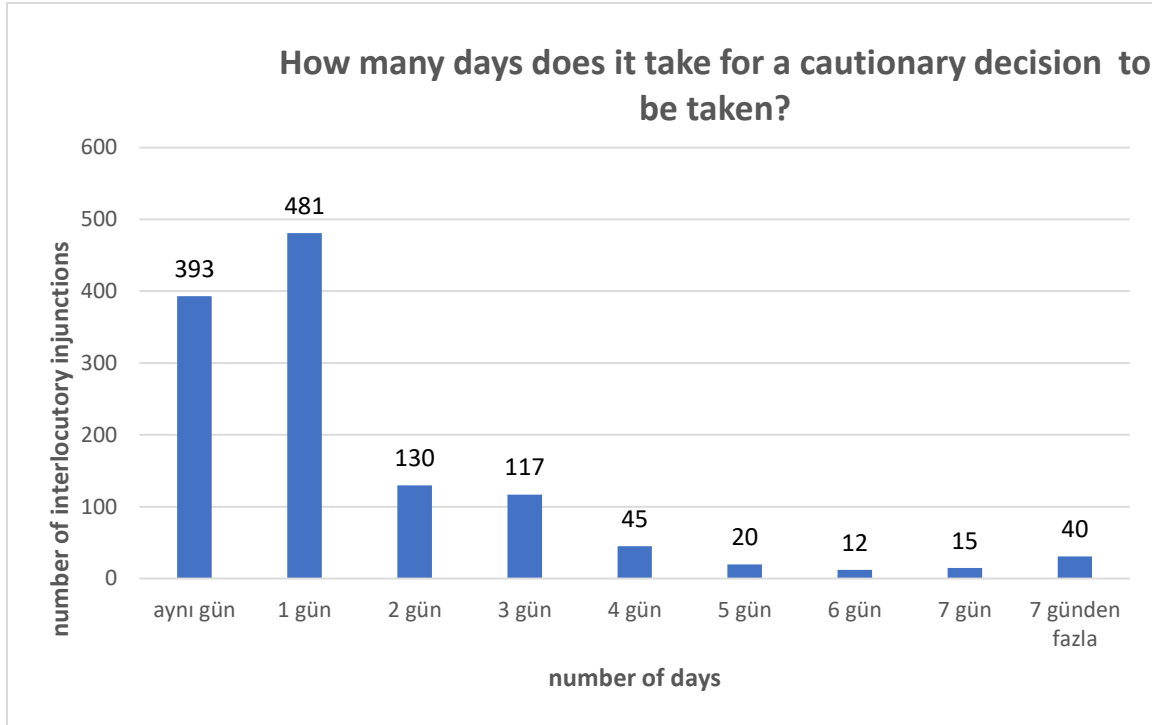
2. Time period for the cautionary decisions to be taken:

In accordance with Article 8, paragraph 3 of the Law no. 6284; *"No evidence or report proving violence is required in order to take cautionary decision. The preventive **cautionary decision is taken without delay. This order cannot be delayed as to endanger the realization of the aim of this Law.**"*

For a total of 1253 cautionary decisions are taken;

- 393 of them, on the same day of the application,
- 481 of them, 1 day later
- 130 of them, 2 days later ,
- 117 of them, 3 days later,
- 45 of them, 4 days later,
- 20 of them, 5 days later,
- 15 of them, within 7 days ,
- 40 of them, more than 7 days.

It is the imperative provision of the Law that cautionary decisions shall be taken without delay. A cautionary decision which is taken on the same day of the application or within 1 day is one of the vital elements in protecting the victim of violence.



3. PROTECTIVE CAUTIONARY DECISIONS TO BE TAKEN BY THE JUDGE

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

a) To change the workplace.

Only 1 out of 1253 cautionary decisions reviewed involves a measure as such within the scope of this paragraph.

b) To decide a dwelling different from the shared dwelling if the person is married.

None of the 1253 cautionary decisions reviewed includes such a measure.

c) To put an annotation to the title deed as a matrimonial home if the condition laid down under the Turkish Civil Code no.4721 and dated 22/11/2001 are applicable and upon the request of the person under protection.

None of the 1253 cautionary decisions reviewed includes such a measure.

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 for the protected person and the measures to prevent this danger are inadequate.

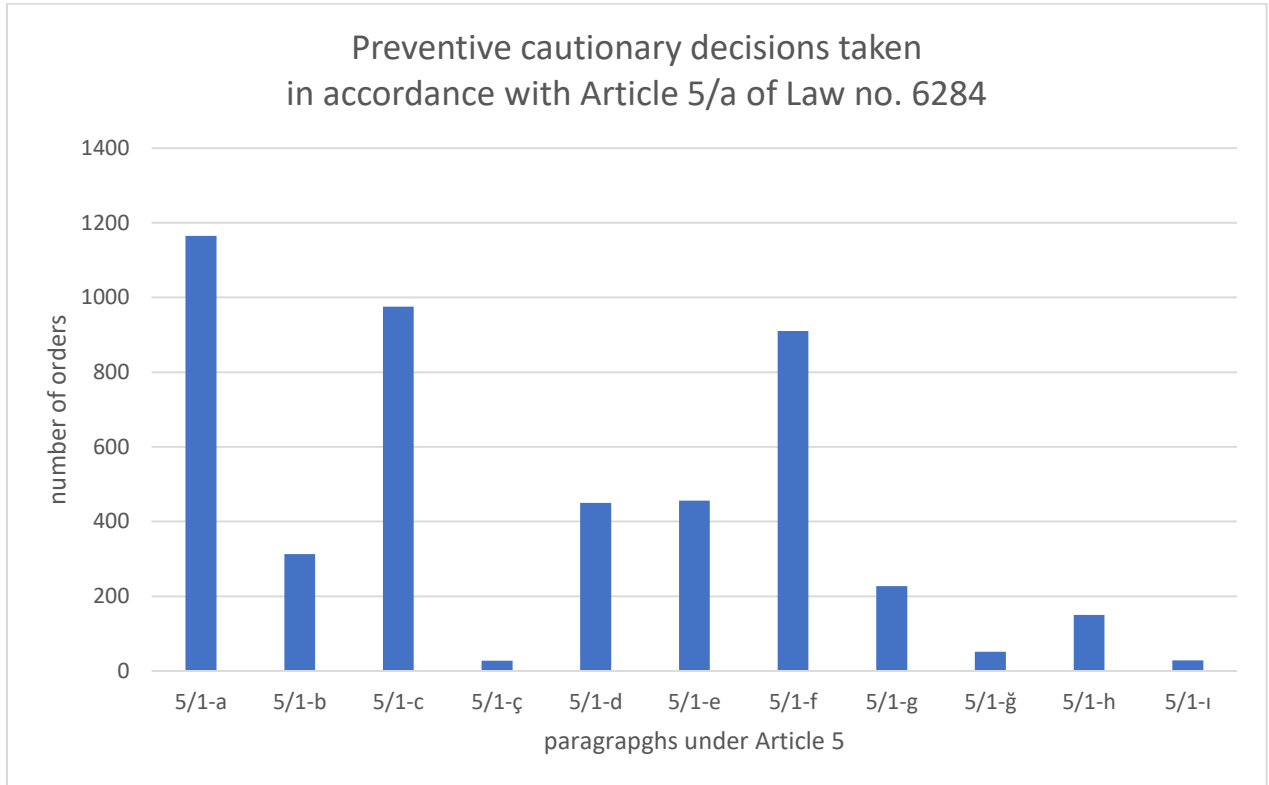
Only 1 out of 1253 cautionary decisions reviewed involves a protective cautionary decision as such within the scope of this paragraph.

4- PREVENTIVE CAUTIONARY DECISIONS TO BE TAKEN BY THE JUDGE

Article 5 of the Law no. 6284 regulates the preventive orders to be taken by the judge, and these orders are not limited in number.

Article 5/1 ; *“One of the preventive measures, several of them or similar measures that are deemed appropriate shall be decided by the judge with regard to the perpetrators of violence.”*

Looking at the cautionary decisions we have reviewed in our study, it is seen that in the 1218 applications for cautionary decisions, same measures regulated under Article 5/1 were taken and that no similar measures were decided by the judges.



Article no.	5/1-a	5/1-b	5/1-c	5/1-ç	5/1-d	5/1-e	5/1-f	5/1-g	5/1-ğ	5/1-h	5/1-ı
Number of orders	1.165	313	975	27	450	456	910	227	51	150	28

Article 5/1-a) Not to exhibit an attitude and behaviors including the threats of violence, insult and humiliation against the victim of violence:

- It was found out that a preventive order was taken in accordance with Article 5/1-a in 1165 files out of 1253 reviewed.
- This data correspond to 93% of the orders reviewed.
- It can be discerned that preventive cautionary decisions have frequently been taken by the Family Courts. Yet more, in many of the decisions, measures have been taken within the scope of Article 5/1-a only.

Article 5/1-b) To move from the shared dwelling or the vicinity immediately and to allocate the shared dwelling to the protected person:

- It was found out that a preventive order was taken in accordance with Article 5/1-b in 313 files out of 1253 reviewed, and that approximately 25% of the decisions involve restraining order and allocation of the shared dwelling to the victim of violence.

Article 5/1-c) Not to approach to the protected persons and their residences, schools and workplaces:

- It was found that a preventive order was taken in accordance with Article 5/1-c in 975 files out of 1253 reviewed, and that approximately 78% of the decisions involve not approaching to the protected person.
- It was deduced that the preventive order “not to approach to the protected person” was more in number than the restraining orders taken.

Article 5/1-ç) If there is a previous decision to allow having a personal connection, to have personal connection with the children accompanied by a person, and to restrict the personal connection or to revoke it completely :

- It was found out that a preventive order was taken in accordance with Article 5/1-ç in 27 files out of 1253 reviewed. Preventive orders taken pursuant to this article is very few in number and this coincides with 2,2% of the total number of cautionary decisions reviewed.

Article 5/1-d) Not to approach the friends or relatives and children of the protected person even if they have not been subject to violence, without prejudice to the orders that allow personal connection with children:

- It was found out that a preventive order was taken in accordance with Article 5/1-d in 450 files out of 1253 reviewed.
- This coincides with 36% of the total number of cautionary decisions reviewed.

Article 5/1-e) Not to damage the personal belongings and household goods of the protected person:

- It was found out that a preventive order was taken in accordance with Article 5/1-e in 456 files out of 1253 reviewed.
- This coincides with 36% of the total number of cautionary decisions reviewed.

Article 5/1-f) Not to disturb the protected person by means of communication instruments or alternative channels:

- It was found out that a preventive order was taken in accordance with Article 5/1-f in 910 files out of 1253 reviewed.
- This coincides with 73% of the total number of cautionary decisions reviewed and it is one of the most frequently-taken orders.

Article 5/1- g) To hand over the officially-permitted and authorized weapons to the law-enforcement officers:

- It was found out that a preventive order was taken in accordance with Article 5/1-g in 227 files out of 1253 reviewed.

Article 5/1-ğ) To hand over the weapon to the employing institution, even if the person is in a profession of public service that requires carrying a weapon:

- It was found out that a preventive order was taken in accordance with Article 5/1-ğ in 51 files out of 1253 reviewed.

Article 5/1-h) Not to use alcohol, drugs or stimulants in places where the protected people are present or not to approach the protected people and whereabouts while under the influence of these substances and to ensure to have a medical examination and treatment including in-patient treatment in case of an addiction.

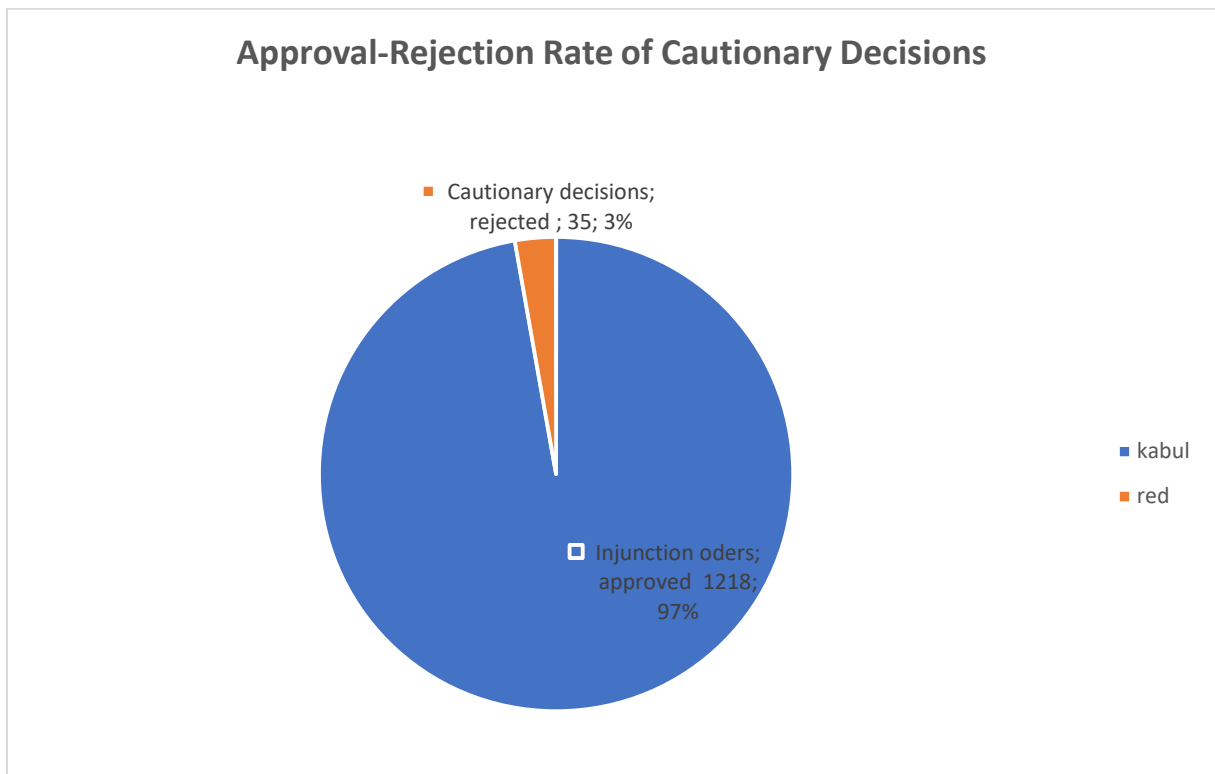
- It was found out that a preventive order was taken in accordance with Article 5/1-h in 150 files out of 1253 reviewed.

Article 5/1-i) To resort to a health center for medical examination or treatment and to ensure having a treatment.

- It was found out that a preventive order was taken in accordance with Article 5/1-i in 28 files out of 1253 reviewed.

5. APPROVAL-REJECTION RATES OF CAUTIONARY DECISIONS

In 1218 files out of 1253 reviewed, request for an cautionary decision was approved, whereas in 35 of them it was rejected. "Referring it to the authorized court or non-expiry of the cautionary decision" was given as a ground for rejection.



6. DURATION OF CAUTIONARY DECISIONS

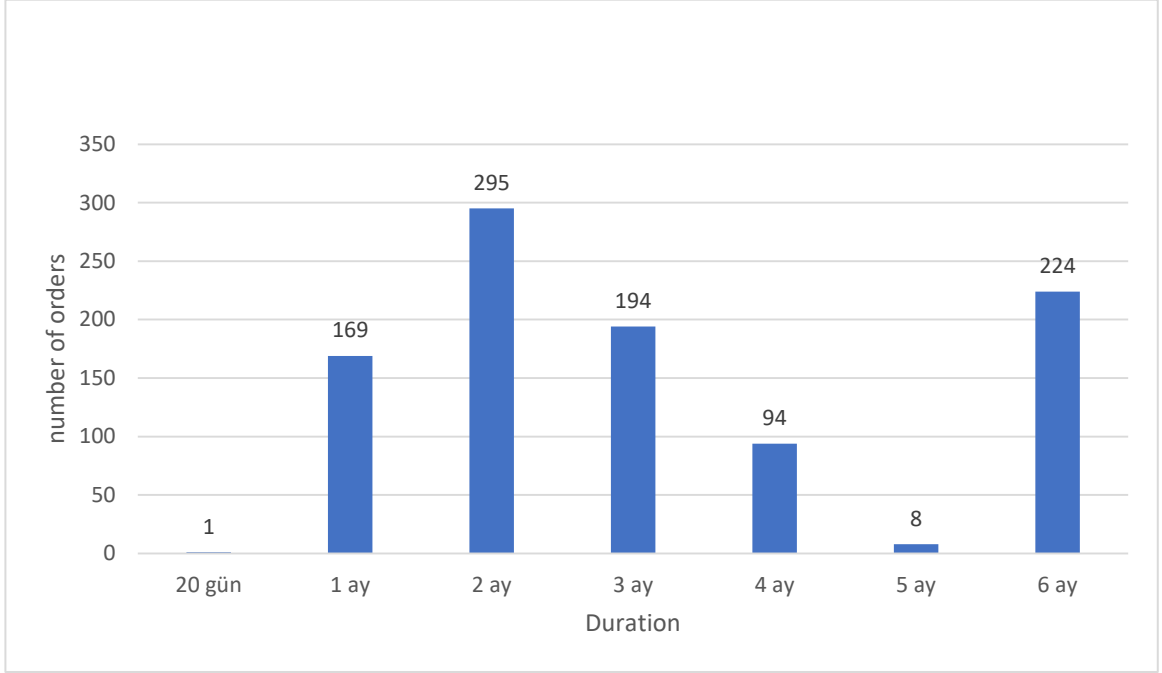
Article 8/2: The injunction decision is taken for a period of six months at most initially. However, if it is determined that there is a continued risk of violence, the measures shall be extended, modified, abolished or kept ex officio or upon the request of the protected person of the officials of Ministry of law enforcement agencies.

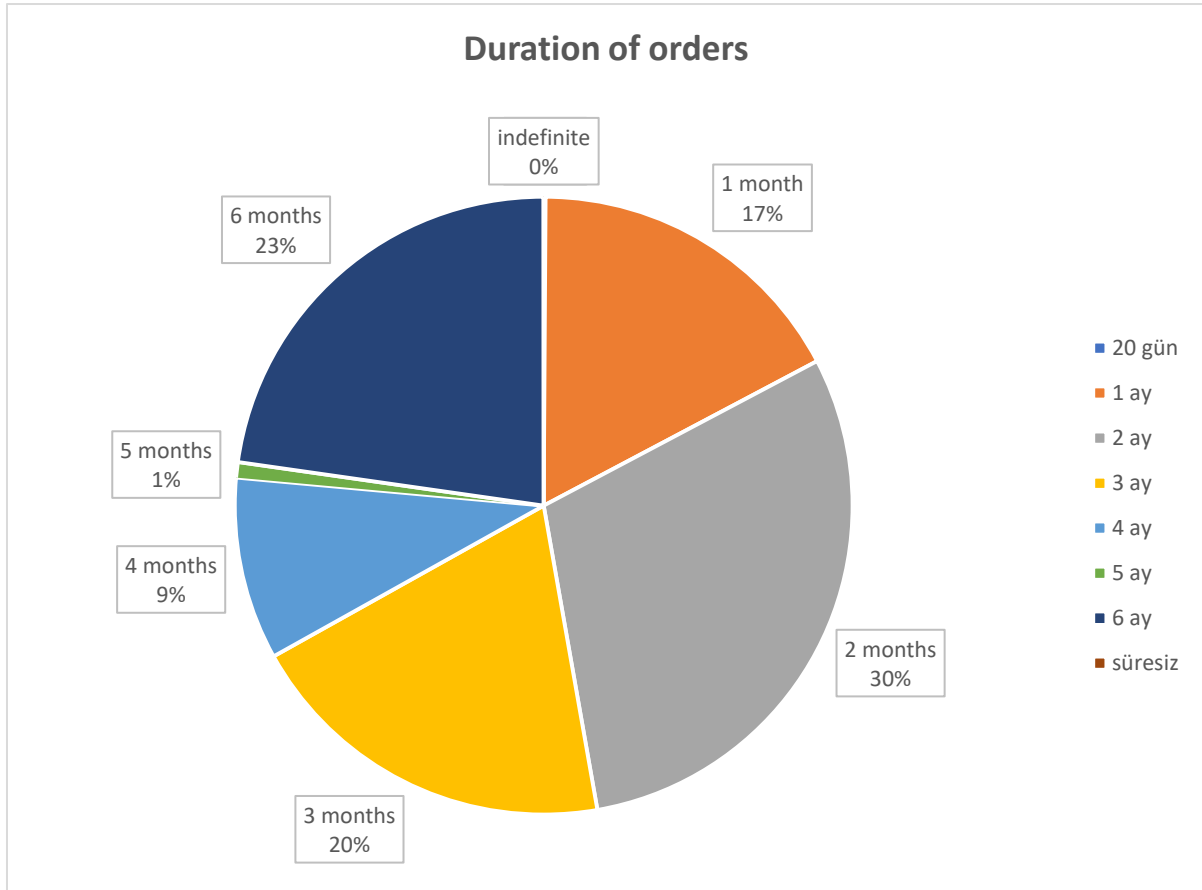
It is seen that duration of cautionary decisions are as follows in 1218 orders approved out of 1253 reviewed:

- For 169 of the cautionary decisions- 1 month
- For 295 of the cautionary decisions- 2 months

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- For 194 of the cautionary decisions- 3 months
- For 94 of the cautionary decisions- 4 months
- For 8 of the cautionary decisions- 5 months
- For 224 of the cautionary decisions- 6 months
- For only 1 decision- less than 1 months (20 days)

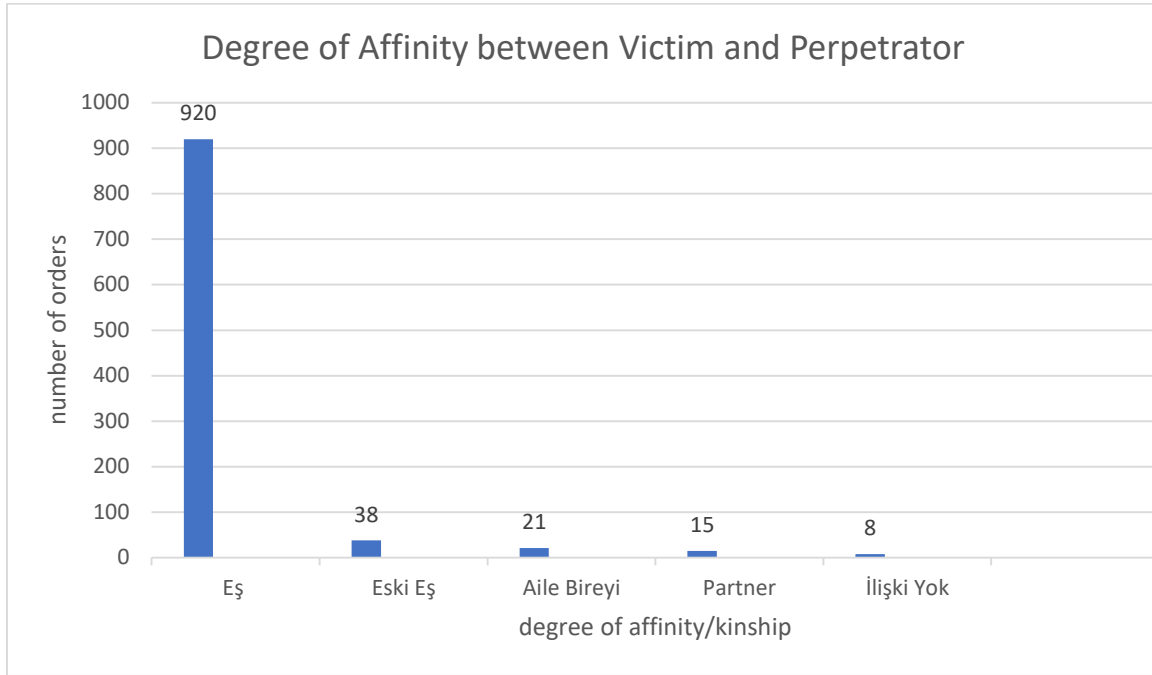




7- SITUATION OF CHILDREN IN THE ORDERS REVIEWED

- It was identified that in 455 of the files out of 1253 reviewed parties have children in common.
- In 29 of the decisions, there are no children in common.
- Although it is regulated under Article 5/3 of the Law no. 6284 that ***“with the measures identified within the scope of this Law, the judge is authorized to take a decision on protective and preventive measures as contained within the Child Protection Law no.5395 and dated 3/7/2005”***, no order of this sort is available in the orders reviewed.
- In 27 of the orders reviewed, a cautionary decision was taken in accordance with Article 5/1-ç that is *“If there is a previous decision to allow having a personal connection, to have a personal connection with the children accompanied by a person and to restrict the personal connection or to revoke it completely”*.

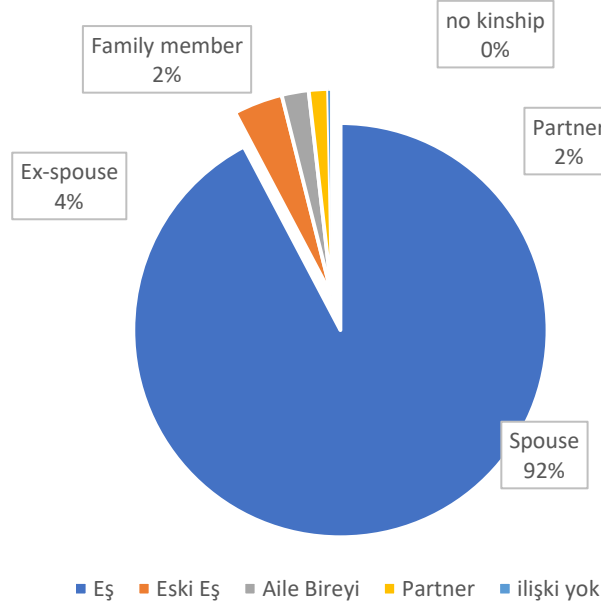
8- DEGREE OF AFFINITY (KINSHIP) BETWEEN VICTIM OF VIOLENCE AND PERPETRATOR OF VIOLENCE



In 1002 files, out of 1253 files reviewed, in which degree of affinity can be identified:

- In 920 of them, parties are married to each other, ,
- In 38 of them, parties are divorced,
- In 21 of them, parties have kinship with each other (father, elder brother, step father, uncle, etc.)
- In 15 of them, parties are having a relationship with each other or has been into a relationship (engaged, ex-fiancee, religiously married, boyfriend, etc.)
- Only in 3 of them, no kinship or affinity between the parties involved.
- Violence against violence is mostly in the form of domestic violence and in 92 % of the files reviewed, it was perpetrated by the husband.
- %4 of the violence cases was perpetrated by the ex-husband whereas %2 was perpetrated by the family members.
- It was found out that 98% of the women who were subject to or at the risk of being subject to violence were suffering from domestic violence.

Degree of Affinity between Victim and Perpetrator (in 1002 cautionary decisions in which degree of affinity was identified)



Number of cautionary decisions reviewed: 1253

CAUTIONARY DECISIONS

5/1-a	5/1-b	5/1-c	5/1-ç	5/1-d	5/1-e	5/1-f	5/1-g	5/1-ğ	5/1-h	5/1-ı
1.165	313	975	27	450	456	910	227	51	150	28

DURATION OF CAUTIONARY DECISIONS

20 DAYS	1 MONTH	2 MONTHS	3 MONTHS	4 MONTHS	5 MONTHS	6 MONTHS	INDEFINITE	REJECTED
1	169	295	194	94	8	224	20	35

DECISION-MAKING PERIOD FOR THE CAUTIONARY DECISIONS

Same day of application	1 day	2 days	3 days	4 days	5 days	6 days	7 days	More than 7 days
393	481	130	117	45	20	12	15	40

DEGREE OF AFFINITY BETWEEN VICTIM AND PERPETRATOR (In 1002 files)

SPOUSE	FAMILY MEMBER	EX-SPOUSE	PARTNER	THIRD PERSON
920	21	38	15	8

CONCLUSION ;

- In 92% of 1253 files reviewed, violence against women was perpetrated by husbands.
- In 4%, women are exposed to violence by ex-husbands.
- In 2%, perpetrators of violence are family members.
- It is seen that 98% of the violence is domestic violence.
- The mostly-ordered measure is about intimidation with violence.
- The cautionary decisions regarding the removal from the shared dwelling are not as many as publicly stated. In only 25% of the files reviewed, it was decided to remove the perpetrator from the shared dwelling and to allocate the shared dwelling to the victim of violence.
- In the files reviewed, no decision on "coercive imprisonment" was found for violation of cautionary decisions.
- 67% of the cautionary decisions is for 3 months at most.
- Although it is clearly stated in the law that protective and preventive measures are not limited in number and that similar cautionary decisions can be imposed, it has been determined that the cautionary decisions reviewed in this study are limited to the number of cautionary articles in the law, and no different cautionary decision specific to the incident has been issued.
- There are no protective cautionary decisions regarding the imposition of a "family residence annotation", which is one of the protective cautionary decisions, and the determination of a separate settlement.
- Only 1 cautionary decision has been taken regarding "workplace change and change of identity information", which are among the protective measures.
- The treatment measure, which is one of the important measures to prevent violence, is one of the least given measures and is 2% in the files reviewed.

- **Women’s rights are human rights.**
- **Violence against women is a human rights violation.**
 - **Violence is caused by gender inequality.**
- **Equality between men and women is a fundamental criterion for democracy in a state.**
- **Abolishment of inequalities for women and prevention of violence is intrinsically a struggle for democracy.**

- **İSTANBUL BAR ASSOCIATION WOMEN’S RIGHTS CENTER**

CONTRIBUTIONS AND REPORT COMMITTEE

This report has been prepared reviewing 1253 files on which a cautionary decision has been taken following the applications to the Legal Aid Offices of Istanbul Bar Association in Beyoğlu, Bakırköy, Gaziosmanpaşa, Kartal and Ümraniye within the scope of Law no. 6284.

Members of the Women’s Rights Center of Istanbul Bar Association

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