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Dissolution Case against the 'We Will Stop Femicide' Platform

PEN Norway

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Recent months have seen the unilateral termination of the Council of Europe Convention on the Prevention and Combating of Violence Against Women and Domestic Violence, known as the Istanbul Convention, by a presidential decree. This has now become one of the main agendas of the women’s and LGBTI+ struggle in Turkey.

Among lawyers, an intense debate was sparked off over whether a presidential decree could be the appropriate means to unilaterally abolish an international agreement, while women and LGBTI+ organisations -the main stakeholders of the agreement- have organized widespread campaigns against the government’s decision to abolish the convention, emphasizing that the agreement was directly related to their personal safety. The subsequent series of femicides within Turkey proved, unfortunately, that these campaigns were vindicated in choosing the pertinent “Istanbul Convention Saves Lives” as their main slogan. This is because, in April 2022, namely one year after the convention was abolished on 21 March 2021, data was released showing that 302 women were killed by men during this one-year period, and the deaths of 254 women were recorded as suspicious deaths.

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To overturn the decision to abolish the convention, dozens of women's organisations, bar associations and political parties filed lawsuits, which were heard in the 10th Chamber of the Council of State. Unprecedented in the history of the Council of State, those cases saw the participation of hundreds of women, and some of the cases are still ongoing. In July 2022, the 10th Chamber of the Council of State pronounced its judgment on some of these cases. Even though the public prosecutor and the rapporteur judge of the Council of State both expressed their opinion that the president's decision must be overturned, the judicial panel dismissed the first group of merged cases by two votes to three, thus declaring that the abolition of the convention by a presidential decree to be lawful.

Numerous non-governmental organizations and associations were closed down under the State of Emergency regime declared in July 2016. Eleven of these banned institutions had been carrying out activities focused on women's rights, and one on children's rights.

The omnibus bills that the government has been enacting unintermittedly despite the lifting of the state of emergency, are proof that the non-governmental organisations in Turkey that work in the fields of women, LGBTI+ and children's rights are unfortunately conducting their activities under the constant risk of being shut down by the government. Nowadays, the We Will Stop Femicide Platform faces a similar risk. On December 2nd, 2021, a lawsuit was filed against the association with a request for its closure, over which a trial is still ongoing.

Who is the We Will Stop Femicide Platform?

The Association in question is a non-governmental organisation established to prevent the unabating femicides in Turkey and to end impunity in this field. The association was originally established as a platform following the murder of Münevver Karabulut in 2010. The platform was transformed into an association in 2012, and has been continuing its activities uninterrupted since then. Strikingly, among the founders of the association are the relatives of the women who lost their lives and the women who have been exposed to violence themselves.

With a focus on femicides, the Association carries out a number of activities in a way that complement each other. For example, the Association had observed that the Ministry of Justice neither had any disaggregated data nor an archival study on femicides, and has thus now been in a systematic reporting effort in this area for years. Moreover, the Association is either directly following femicide cases in almost every city in Turkey or itself intervenes in these cases by submitting requests of becoming a third party to the case. The We will stop femicide platform submitted to the court a declaratory statement which contains data showing that since its establishment, the platform has followed up nearly 1000 cases of femicide, suspicious death of women or of violence against women. In 100 of these cases, the courts approved the request of the platform to become an intervening party.

The platform also undertakes activities such as drafting bills to prevent violence against women, ensure effective proceedings and end impunity practices.

According to the femicides index data released by the United Nations in December 2021, Turkey ranks 67th among 151 countries. Between 2010 and 2020, We Will Stop Femicide Platform claims, the number of women killed in Turkey was 2296. These numbers make it blindingly obvious how crucial is the field in which this association works in Turkey.

Highlights of the Lawsuit against the platform:

First of all, a "lawsuit" and an "indictment" are essentially legal texts that are subject to the same requirements even though they refer to two different concepts and legal mechanisms. In other words, the requirements that an indictment should meet, especially that it contains a strong cause-effect relationship, and is based on the facts supported by evidence, are indispensable elements of a lawsuit as well.

The lawsuit filed against this association unfortunately falls far from meeting these basic requirements. The lawsuit generally refers to the correspondence between the Provincial Directorate of Associations of the Governorate of Istanbul and the Department of Security, and additionally mentions numerous and allegedly anonymous complaints filed against the platform.

In essence, the complaints allege that the platform degraded the fabric of the family, disregarded the institution of family under the pretext of protecting women's rights, that it profited from women and children but actually ignored them, that it aimed to create social chaos and create more victims, made insulting statements about the President, aimed to damage the family and society, and that it, together with figures such as Sebahat Tuncel and Gülten Kışanak, made publications that defended women who took part in terrorist activities. In mid-September this year, a nationally-broadcast public service advertisement approved by the Presidency of the Radio and Television High Council, called for a large rally, which was then staged against LGBTI+ individuals with the main slogan announced to be "The Great Family Gathering". In the light of these developments, it is unfortunately not surprising that any activity that is undertaken with a focus on women's and LGBTI+ rights is easily attributed to have the blanket objective of "damaging the fabric of the family".

However, it does not make any legal sense that this lawsuit includes allegations raised by various anonymous complaints. Because, as the name suggests, these are "complaints". It is the task of the institution that will file the lawsuit to inspect and reveal whether the allegations in these complaints are true or not. Instead, the Governorate considered these anonymous complaints to be adequate as they are and held the "opinion" that the Association acted against the law and the standards of morality. A remarkable detail in the lawsuit, however, is the fact that the Prosecutor's Office sent multiple official letters to the relevant unit of the Governorate, "with a request for information and documents to corroborate the fact". In other words, the Prosecutor's Office has, in multiple occasions, declared that it regarded the aforementioned complaints to be inadequate until the time it drafted and finalised the lawsuit.

Another interesting detail reveals once again the extent of the predicament the non-governmental organisations face during their activities in Turkey. As understood from the lawsuit, a fundamental reason behind the investigation against the Association was that one of its members was also a member of the Association of Lawyers for Freedom. A couple of points must be highlighted here so the reader may come to grips with the problem.

There are two separate associations that the prosecution is attempting to establish a link between: one is the anti-femicide platform and the other is a lawyer's organization. Their fields of activity are not the same. Apparently, a female lawyer became a member of both associations to undertake activities in the fields of femicides and law simultaneously. At the time of her membership, both associations were legal associations established in accordance with association legislation in Turkey. Apart from her membership of both associations, there is no other information or allegation about this lawyer. The presence of such a far-fetched effort to make up a case against the We Will Stop Femicide platform reinforces the impression that there was a political motive behind the request to close down the platform, as explained at length by the platform itself in its declaratory statement.

Another fact that strengthens this impression is that the lawsuit does not mention any exculpatory issues about the platform. In reality, the platform underwent three inspections while the processes of Governorate - Security Forces correspondence, criminal complaint

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Photo: Emre Orman / sgorrelsarsiv.org

and judicial investigations were ongoing. The dates of the inspections were January 2017 (covering activities from 2013 to 2016), September 25th, 2018 and October 6th, 2021, respectively. As well as checking the financial transactions of the platform, these inspections scrutinised whether it carried out its activities in line with its objectives. In all three inspections, the following question is asked in the inspection report: “Are the founding activities (of the platform) compatible with the purpose and the field of activity specified in its charter?” In all three reports, the inspectors answered “yes” to this question. This important fact, however, is not mentioned in the lawsuit.

Lawyers of the platform argue that the investigation process leads to rights violations

Lawyers of the association claim that all legal principles that must be upheld were violated during the investigation of the Prosecutor’s Office that preceded the lawsuit. The declaratory statement submitted against the lawsuit makes the following points: “*The Principle of the Right to a Fair Trial, Principle of the Right to Fair Hearing, Principle of Publicity, Principle of Right of Privacy, Principle of Investigation of the Factual Truth, Principle of Obligation of Prosecution, Principle of Prosecutorial Discretion, Principle of the Rule of Law and Principle of Proportionality* were all neglected during the investigation. During the preparation of the lawsuit in the case file, the client platform’s right to seek justice, the suspect’s, or the accused’s rights to learn about the accusations and legal rights, and their right to defence were violated.

If you ignore the investigation that preceded the lawsuit and read the lawsuit alone, you will get a certain impression about these violations listed by the platform’s lawyers. As mentioned above for example, the lawsuit omits any defensible elements about the platform and leaves out its defence, which, taken together, is enough to create this impression.

The declaratory statement that the platform’s lawyers wrote against the lawsuit underlines that the lawsuit is merely based on the opinion report prepared by the Provincial Directorate of Civil Society Relations of the Governorate of Istanbul: “A case to close down the client platform has been brought through a lawsuit that was based on the opinion of an officer” and they add: “... the evidence of the charge is absent both in the case file and in the lawsuit. Besides, a charge that is so sweeping and open to interpretation but has no time and place information cannot become the subject of a lawsuit. The lawsuit and its annexes do not answer the question that through which activities and exactly when the client platform violated the law and moral principles.”

PEN Norway to observe the hearing on October 5th

The presence of non-governmental organisations that struggle to stop femicides in Turkey is extremely important and this is demonstrated by the following data from the platform's report in April 2022:

"Of the 24 women killed in April, 11 were killed by their husbands, 3 by their relatives, 1 by their former partners, 7 by their ex-husbands, 1 by her son and 1 by someone she did not know. This month, 46% of women were killed by the man they were married to." "Fifteen of the women were killed at home, 4 in the middle of the street, 1 in a car, 1 at work, 1 in the park and 1 on a deserted roadside. Sixty-seven percent of the women murdered this month were murdered in their homes."

It is also the case that most of the complaints filed to the Communication Service of the Prime Ministry (BİMER) against the platform are related to the social media posts by its members. A prolonged investigation process eventually resulted in a lawsuit aiming to close down a public benefit platform that has been working in a crucial field, a fact which reveals how the freedom of expression and right of association of women and LGBTI+ individuals are at peril.

Women's and LGBTI+ individuals' freedom of expression and their rights of association are enshrined both by the Constitution of the Republic of Turkey and the European Convention on Human Rights. Needless to say that the protection of these rights without any discrimination is among the main duties of the judges. There is no doubt that same rights apply to women and LGBTI+ individuals in the same way.

As PEN Norway, we have been closely following this kind of legal case to monitor whether they met procedural requirements and are in line with the rule of law and, accordingly, the right to a fair trial. We hope that the courts will ensure that the requisite legal provisions to uphold the right to a fair trial are met.

As PEN Norway, we will be present in person at the second hearing to be held on October 5, 2022, and will monitor the case brought against the We Will Stop Femicide Platform. We shall then share our report with the public. We hope to witness a positive step towards supporting freedom of expression and the right to association in Turkey. ■

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