

**Mandate of the Working Group on discrimination against women and girls**

Ref.: OL TUR 4/2025

(Please use this reference in your reply)

19 May 2025

Excellency,

I have the honour to address you in my capacity as Working Group on discrimination against women and girls, pursuant to Human Rights Council resolution 50/18.

In this connection, we would like share our observations concerning the reported **lack of implementation of the Constitutional Court decision which annulled the Civil Code provision 187 and resulting legislative and administrative gaps regulating women’s surname upon marriage, which could adversely affect women’s autonomy, dignity, freedom from discrimination, rights to non-discrimination and gender equality, the rights to equality before the law and equal protection of the law, the right to privacy, the right to family life, and cultural rights and the right to self-expression.**

According to the information received:

In February 2023, the Turkish Constitutional Court annulled article 187 of the Civil Code, in part because the provision violated article 10 of the Turkish Constitution, which mandates that all individuals are afforded equal protection under the law regardless of identity-based characteristics including sex.<sup>1</sup> The Constitutional Court stated that “*bearing a surname as part of one’s personality is not only an obligation but also a right under . . . the Constitution,*” and that the “*provision therefore results in an explicit difference in treatment on grounds of sex between spouses who are in a comparably similar situation.*” The decision of the Court entered into force on 28 January 2024. A new version of article 187 was proposed. However, the decision has not been implemented to date.

The draft article 187 read as follows:

*“ARTICLE 187- A woman takes the surname of her husband upon marriage. However, the woman may also use her previous surname in front of her husband’s surname upon her written application to the marriage officer or later to the civil registry office. If the surname of the woman consists of her own surname and the surname of her former husband, she may use only one of these surnames in front of the surname of her future husband.”*

In July 2024, the 9th Judicial Reform Package, including draft article 187, was submitted to the Grand National Assembly of Türkiye. The draft article aimed to reintroduce the requirement for married women to adopt their husband's surname disregarding the Judgment No. 2023/38. The Judicial Reform Package was ultimately sent to the Parliamentary Commission on Equal Opportunities

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<sup>1</sup> Case No. E.2022/155, Judgment No. 2023/38, Official Gazette 28/4/2023 - 32174.

for Women and Men (KEFEK) and the Parliamentary Justice Commission. Both Commissions reached the conclusion that the draft article was in line with the Constitution.

Subsequently, draft article 187 was withdrawn at the general assembly of the Grand National Assembly of Türkiye, and the Judicial Reform Package entered into force without any provision in the Civil Code regulating women's right to surname after marriage.

We observe there is a legislative gap in the Civil Code that may result in discrimination against women by denying their right to preserve their individuality and identity as members of society. At the same time, the lack of implementation of the Constitutional Court's decision could lead to reinstating a legal provision that may impact on women's rights. Requiring women to adopt their husbands' surnames entrenches patriarchal ideals, reinforcing existing gender-based inequalities within the family and society. Mothers also cannot pass on their maiden names to their children, as the Turkish Civil Code requires children of married couples to adopt the family surname.

*Regarding the principles of equality and non-discrimination in the family:*

The rights to non-discrimination, equality before the law and the equal protection of the law are protected by articles 2 and 7 of the Universal Declaration of Human Rights as well as the non-discrimination provisions of core international human rights treaties acceded to by your Excellency's Government.

In case the legal provision (annulled or draft article 187) is re-imposed, the mandatory surname provision would detract from Türkiye's international human rights obligations, including under the Convention on the Elimination of all forms of Discrimination against Women (CEDAW), ratified by Türkiye on 20 December 1985. Article 16 of CEDAW compels States to "take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations," as well as ensuring "the same personal rights as husband and wife, *including the right to choose a family name.*" In fact, the CEDAW Committee has explicitly and on [multiple occasions called](#) on Türkiye to amend article 187 and gender-discriminatory aspects of the Civil Code, recommending that Türkiye should "allow women to maintain their own surnames after marriage and pass their surnames to their children if they choose to do so, in line with article 16 of [CEDAW] and the ruling of the European Court of Human Rights."<sup>2</sup>

The CEDAW condemns all forms of discrimination against women and girls (art. 2), requires the modification of social and cultural patterns of conduct in order to eliminate discrimination against women and girls (art. 5), recalls that States Parties shall accord to women equality with men before the law, as well as treat them equally in all stages of procedures in courts and tribunals (art. 15 (2)), and guarantees the same rights as husband and wife, including the right to choose a family name, a profession and an occupation (art. 16 (1) (g)).

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<sup>2</sup> ECHR, Ünal Tekeli v. Turkey - 29865/96 Judgment 16.11.2004

In this connection, we would also like to refer your Excellency's Government to the CEDAW Committee General Recommendation 21 on "equality in marriage and family relations", which states that each partner should have the right to choose his or her name, thereby preserving individuality and identity in the community and distinguishing that person from other members of society. When by law or custom a woman is obliged to change her name on marriage or at its dissolution, she is denied these rights. Furthermore, denying a woman the right to retain her maiden name can affect her sense of dignity, limit her expression of her family lineage and cultural heritage, creating a disconnection from her familial identity. The legislative vacuum and failure to implement the Constitutional Court's decision appear to be contrary to the obligation to eliminate discrimination under article 2 of CEDAW and under article 3 of the International Covenant on Civil and Political Rights (ICCPR), ratified by your Excellency Government on 23 September 2003, which guarantees the equal enjoyment of civil and political rights by men and women. These concerns also intersect with the right to legal identity, especially in contexts where women would be unable to pass on their surname to their children, undermining both cultural heritage and family lineage.

The mandatory surname provision may also enter into conflict with article 23 (4) of the ICCPR which sets forth that States "shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage." In general comment 19, the Human Rights Committee interpreted the rights within article 23 as including "the right of each spouse to retain the use of his or her original family name or to participate on an equal basis in the choice of a new family name."

At the level of the Council of Europe, your Excellency's Government ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) on 18 May 1954, including its Additional Protocols No. 7 and No. 12. The European Court of Human Rights (ECtHR) has already affirmed that article 187 violates the Convention. In 2014, in *Ünal Tekeli v. Turkey*, the ECtHR held that the surname law violated article 14 (prohibiting discrimination in application of the law, including sex-based discrimination) taken in conjunction with article 8 (the right to privacy in one's private and family life) of the Convention, noting that the provision clearly created a "gender-based difference" that had "no objective and reasonable justification."<sup>3</sup> The ECtHR has affirmed its reasoning from *Ünal Tekeli* in several other analogous cases,<sup>4</sup> underlying the importance of individuals' autonomy and personal identity associated with surname choices and confirming that compelling a woman to take her husband's surname without equal choice violates her dignity and equality.

Furthermore, we would like to refer your Excellency's Government to the Working Group on discrimination against women and girls' report on discrimination against women in cultural and family life ([A/HRC/29/40](#)) which highlights that full equality between women and men, and girls and boys, is a requirement of international human rights law and constitutes a right of women that is vital for the well-being of the family and for society as a whole (paragraph 28). States have obligations to ensure gender equality in all matters relating to marriage and family relations, including in

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<sup>3</sup> *Ünal Tekeli v. Turkey* (29865/96), at p. 66-68.

<sup>4</sup> See *Leventoğlu Abdulkadiroğlu v. Turkey* (7971/07); *Tuncer Güneş v. Turkey* (26268/08); *Tanbay Tüten v. Turkey* (38249/09); and *Yavuz Nal and Others v. Turkey* (11736/09).

respect of the decision whether to marry, the free choice of spouse, rights and responsibilities as parents, the decision on the number and spacing of children, and personal rights as husband and wife (paragraph 29). The Experts stated that legislative provisions can strengthen patriarchal family structures, as well as the concomitant discrimination and violence against women creating de jure inequality that has considerable harmful effects on women and their children.

Finally, we observe that the ongoing legislative gaps appear to undermine Türkiye's commitment under Sustainable Development Goal 5, particularly targets 5.1 and 5.c, which call for the elimination of discriminatory laws and the adoption of enforceable legal frameworks to promote gender equality.

Taking into consideration the above-mentioned observations and international human rights standards, we would like to urge your Excellency's Government to implement the 2023 Constitutional Court decision regarding the annulment of article 187 of the Civil Code in compliance with your Excellency's human rights obligations. We hope that the executive and legislative authorities will seize this opportunity to ensure that domestic law is brought in line with Türkiye's international human rights obligations.

We remain at your disposal to provide any technical assistance to the authorities upon request.

As it is our responsibility, under the mandate provided to the Working Group by the Human Rights Council, to seek to clarify all cases brought to my attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-presented analysis.
2. Please provide information on specific plans to ensure the implementation of the prior annulment of article 187 of the Civil Code by the Constitutional Court in the absence of a new legal provision, particularly any directives around instructing Civil Registry Offices on providing public awareness campaign on women's options for surname registry and re-instating processing of existing applications.
3. Please provide details of any concrete measures your Excellency's Government intends to take to ensure that new surname provisions, including those within the Civil Code, are not in conflict with its international human rights law obligations.
4. Please provide information on any further measures your Excellency's Government intends to take to ensure the voice of women and civil society is heard and considered in deliberations that take place around the forthcoming Bill hearing at Parliament.
5. Please provide information on any measures your Excellency's Government will take to ensure its compliance with international human rights law, including the relevant provisions of the UDHR, CEDAW and

the ICCPR.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of my highest consideration.

Laura Nyirinkindi  
Chair-Rapporteur of the Working Group on discrimination against women and girls