

LAW ON ESTABLISHMENT, DUTIES AND PROCEEDINGS OF FAMILY COURTS

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Objective and scope

Article 1- Objective of this law is to regulate establishment, duties and proceedings of family courts.

This law encompasses provisions regarding family courts that are established to handle cases and other work stemming from family law.

Establishment of family courts

Article 2- Family courts are established in every province and town with a population of over a hundred thousand people in the center by taking affirmative opinions of Ministry of Justice and Council of Judges and Prosecutors as courts of first instance with one judge in office. Judicial locality of family courts shall be determined by administrative boundaries of the province and town where they are established. However, judicial locality can be changed by Council of Judges and Prosecutors upon proposal of Ministry of Justice.

When necessary, as per procedure of paragraph one more than one chamber can be established within the scope of family courts established in a place. In that case, the chambers shall be enumerated. In places where family courts cannot be established, Civil Courts of First Instance to be designated by Council of Judges and Prosecutors shall handle cases and work covered by this law.

In family courts there is a chief clerk and an adequate number of personnel.

Qualities and appointment of family court judges

Article 3- Council of Judges and Prosecutors shall appoint judges to family courts from among those who are entitled to work in the region or sub-region they are to be appointed to, preferably married with children, who have turned thirty and done a master's degree in the field of family law.⁽¹⁾

Duties of family courts

Article 4- Family courts shall handle the following cases and work:

1. Excluding Chapter Three of Turkish Civil Code Act No. 4721 and dated 22.11.2001, cases and work arising from Second Book and Law on Enforcement and Modus Operandi of Turkish Civil Code Act No. 4722 and dated 3.12.2001,⁽²⁾
2. Recognition and enforcement of decisions of foreign courts related to family law as per International Private and Procedure Law No. 2765 and dated 20.5.1982,
3. Other duties entrusted by law.

(1) The phrase "married with children, having turned thirty and preferably" featuring in this article is amended as "preferably married with children and having turned thirty" as per article 1 of Law No. 5133 and dated 14/4/2004 and incorporated into the text.

(2) The phrase "excluding Chapter Three" featuring in this clause is appended and incorporated into the text through Article 2 of Law No. 5133 and dated 14/4/2004.

Benefitting from experts ⁽¹⁾

Article 5- (Amended paragraph one:17/10/2019-7188/14 art.) Family courts,

1. To do research and make inquiries about the causes of dispute between the parties regarding issues requested by court before delving into the merits of the case or during the trial and to inform about the results,
2. To be present during hearing as deemed necessary by the court, undertake work on the issues requested and express opinions,
3. To fulfill other duties assigned by the court,

benefit from psychologists, pedagogues and social workers assigned by Ministry of Justice in courthouses who are preferably married with children, have turned thirty and done a master's degree in family problems.

In the case that these officers are not present or available due to workload or that there is a legal or factual obstacle standing in the way of duties being fulfilled by these officers or that there is need for another specialty, officers working in other public institutions or freelancers shall be tapped into.

These experts can be refused based on grounds for recusation of a judge regulated by Code of Civil Procedure Act No. 6100 and dated 12/1/2011. ⁽²⁾

Protective, educational and social measures

Article 6- Family courts may rule on the following without prejudice to provisions of other laws:

1. About adults;
 - a) Warning the spouses about their obligations arising from union of marriage and reconciliation when necessary,
 - b) Taking the necessary measures to protect economic assets of the family or to make sure that financial obligations stemming from union of marriage are fulfilled,
 - c) Placing adults with official or private healthcare institutions or social service institutions, nursing home or similar facilities,
 - d) Enrolling in a vocational training course or other training institution deemed appropriate,
2. About minors;
 - a) Taking the necessary measures regarding alimony obligations aimed at care and surveillance,
 - b) Placing the minor whose physical and mental development is at stake or who is abandoned morally with a family or official or private healthcare institution or an institution providing education exclusively to children who are hard to train,
 - c) Taking the necessary measures for management and protection of children's assets,
 - d) Placing them with general and mixed budget departments, local administrations, public economic enterprises and organizations, enterprises or institutions established by banks or similar workplaces or a person having a profession.

⁽¹⁾ *Heading of this article was "Experts within the scope of family courts" and is amended as is incorporated into the text through Article 14 of Law No. 7188 and dated 17/10/2019.*

⁽²⁾ *The phrase "Code of Civil Procedure Act No. 1086 and dated 18.6.1927" featuring in this paragraph through article 14 of Law No. 7188 and dated 17/10/2019 is amended as "Code of Civil Procedure Act No. 6100 and dated 12/1/2011"*

(Amended paragraph two:17/10/2019-7188/15 art.) Experts assigned as per article 5 can be tapped into for follow-up and enforcement of these decisions made by family court. In case of failure to comply with the decisions, article 398 of Code of Civil Procedure shall apply.

Procedural provisions

Article 7- Family courts shall encourage settlement of problems faced by spouses and children by peaceful means in order to maintain love, respect and tolerance within the family by benefitting from experts when necessary before delving into merits based on specifics of the cases and work they deal with. If the parties cannot come to an agreement, trial shall continue and a decision shall be made on the merits.

(Repealed paragraph two: 14/4/2004-5133/3 art.)

Without prejudice to provisions in private laws, about issues not covered by this law, procedural provisions of Turkish Civil Code regarding family law and provisions of Code of Civil Procedure shall apply.

Personnel cadre

Article 8- The following cadres indicated in the lists (1) and (2) annexed created to be used in provincial organization of Ministry of Justice are appended in the relevant parts of sheet (I) and (II) annexed to Decree Law No. 190 and dated 13.12.1983.⁽¹⁾

Amended and repealed provisions

Article 9- 1) The phrase “Civil Magistrate” featuring in Article 1, paragraph 1 of Law on Protection of Family No. 4320 and dated 14.1.1998 is amended as “Family Court Judge”.

2) Subclause (4) of clause II of article 8 of Code of Civil Procedure Act No. 1086 and dated 18.6.1927 is amended as indicated below, subclause (5) is abolished and subclause (6) has replaced subclause (5) in succession.

4. Work delegated to court or judge as per article 91, 92 of Code of Obligations,

Provisional Article 1- When the family courts established come into operation, cases and work that are incomplete and within judicial locality and that fall into their remit shall be handed over to the competent family court in charge.

Provisional Article 2- (Add.: 14/4/2004-5133/4 art.)

Cases and work related to issues covered by Chapter Three of the Second Book of Turkish Civil Code Act No. 4721 and being tried by family courts at the time this law took effect shall be handed over to the competent court in charge.

Effect

Article 10- This law shall take effect when it is published.

Enforcement

Article 11- Provisions of this law shall be enforced by Council of Ministers.

(1) The cadres mentioned in this article were published in the Official Gazette No. 24997 and dated 18/1/2003.

**TABLE INDICATING ENTRY INTO EFFECT DATE OF LEGISLATION AMENDING OR
APPENDING LAW NO. 4787**

Number of Amending Law/Decree Law or Repealing Constitutional Court Decision	Amended or Repealed Articles of Law No. 4787	Entry into Effect Date
5133	3, 4, 7 and Provisional Article 2	20/4/2004
7188	5, 6	24/10/2019