Fighting Domestic Violence - Colombia

1. Legal provisions

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

# 1.1 What are the relevant statutes and codes?

Articles 42 and 43 of the Colombian Political Constitution (CPC)

Law 599 of 2000 | Criminal Code ("**Criminal Code**")

Law 906 of 2004 | Criminal Procedural Code ("**Criminal Procedural Code**")

Law 294 of 1996 | Enacted to prevent, remedy and punish domestic violence ("**Law 294**")

Law 1257 of 2008 | Enacted to develop standards of awareness, prevention and punishment of forms of violence and discrimination against women ("**Law 1257**")

Decree 4840 of 2007

The Children and Teenagers Code Law 1098 of 2006 ("**Law 1098**")

# 1.2 What is the controlling case law?

In Colombia, our system is based on statutory law as opposed to common law; as a result, judicial decisions of courts are, in principle, not mandatory and there is no "controlling case law" applicable to domestic violence.[1] However, the Colombian Constitutional Court ("**Constitutional Court**"), which is responsible for the protection of the integrity and supremacy of our CPC, decided that the two following law suits filed on the grounds that certain articles of Law 1257 and Law 575 (which partially modified Law 294), were unconstitutional.

Decision C-776, dated 29 September 2010. Judge: Jorge Ivan Palacio Palacio. The court decided that Articles 13 and 19 of Law 157 were constitutional.

Decision C-059, dated 1 February 2005. Judge: Clara Ines Vargas Hernandez. The court decided that paragraph 1 of Article 1 and certain sentences of law 575 were constitutional.

It is important to mention that these decisions are not based on a particular case; rather, they analyzed whether a law violates or contravenes the CPC.

Decision SU 080 of 2020, dated 25 February 2020 ("**Decision SU 080**") also issued by the Constitutional Court is very relevant too. In Colombia, any person has the right to submit an *accion de tutela*, a judicial summary process exclusively established in 1991 to decide on the violation of fundamental rights when there is no other remedy available to protect them. The Constitutional Court has the authority to randomly pick *tutela* decisions and confirm or revoke them. However, when the court wants to unify its position regarding a particular topic, it issues an "SU" decision, which becomes binding upon everybody. Decision SU 080 is, therefore, a binding decision through which the Constitutional Court held that victims of domestic violence are entitled to obtain full payment of remedies and damages as a consequence of domestic violence (namely, loss of profit, emerging damage and moral damage). However, this decision needs to be further developed by a national law and that is why the Constitutional Court has urged Congress to regulate access of domestic violence victims to integral reparation of damages from the aggressor and ordered the implementation of training for family judges around the country on integral reparation of domestic violence victims. As of the date of this document, we have no information regarding any bill being discussed in this regard in Congress.

# 1.3 What are the specific parts of the court system that address domestic violence?

In Colombia, the following are the main parts of the court system in charge of addressing domestic violence:

family judges

family commissioners

family public defenders

criminal judges

prosecutors

# 1.4 What are potential causes of action?

In general terms, victims of domestic violence may: (i) request a protection order; (ii) file a criminal complaint to prosecute the abuser; or (iii) seek monetary compensation.

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