Fighting Domestic Violence - France

1. Legal provisions

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# 1.1 What are the relevant statutes and codes?

From the beginning of the 19th century, domestic violence became punishable by law in France pursuant to Articles 309 and 311 of the French Criminal Code.[1]

In 2006, a national survey on violence against women[2] raised awareness on the necessity to improve the legal framework on domestic violence.

In 2019, France launched the Grenelle Roundtable, a nation-wide debate on conjugal violence that brought together ministers, administrators and associations of families and victims.[3] This debate was held following the observation of the murder of 130 women by their partners in 2017, upon the initiative of Prime Minister Edouard Philippe. Participants in the Grenelle Roundtable discussed ways to prevent these crimes and how offenders should be punished.[4] Three important outcomes emerged from this debate:

On 25 November 2019, a press release was published containing 30 measures to combat the scourge of violence against women, prevent violence and protect women and their children.[5] These 30 measures or actions are mostly in the process of being implemented.

On 28 December 2019, Law 2019-1480 of 28 December 2019, aimed at taking action against domestic violence,[6] was promulgated.

On 30 July 2020, Law 2020-936 of 30 July 2020, to protect victims of domestic violence, was promulgated.[7]

**Criminal Code provisions**

**Sexual harassment** (misdemeanor): The act of: (i) repeatedly imposing on a person sexual or gender-based comments or behaviors that either violate that person's dignity because of their degrading or humiliating nature; or (ii) create an intimidating, hostile or offensive situation against such person, or using any form of serious pressure for the actual or apparent purpose of obtaining an act of a sexual nature, whether it is sought for the benefit of the perpetrator or for the benefit of a third party.

**Moral harassment** (misdemeanor): In couples, imposing on his/her spouse or his/her partner bound by a civil solidarity pact[8] repeated comments or behavior causing a deterioration of his/her living conditions resulting in an alteration of his/her physical or mental health.

Offences of sexual and moral harassment have recently been extended[9] to cover situations where these comments or behavior are imposed on the same victim: (a) by several persons; or (b) successively, by several persons who, even in the absence of any mutual understanding, are aware that these comments or behavior are of a repeated nature.[10]

The law of 30 July 2020 also increases the penalties for harassment within the couple to 10 years' imprisonment and a fine of EUR 150,000 where the harassment has led the victim to commit or attempt to commit suicide.

**Statutes**

The specificity of domestic violence was first recognized on 1 March 1994 in the French Criminal Code, which provided that violence committed within a couple was an aggravating factor.

Throughout the 2000s, several laws provided a more detailed and tailored protection framework for victims of domestic violence.[11] Since then, the most significant laws enacted on domestic violence are the following:

Law 2006-399 of 4 April 2006 on the prevention and repression of domestic violence[12]

Broadens the scope of the application of domestic violence to other perpetrators such as civil partners or ex-spouses, explicitly criminalizes forced intercourse in married couples and provides a more detailed framework on repeated domestic violence offences and the eviction of the abusive spouse.[13]

Law 2014-873 of 4 August 2014 on equality between men and women[14]

Reinforces sanctions and legal actions taken against violence against women and strengthening victims support by:

improving (i) the judicial protection of victims of domestic violence or forced marriages (and their children)[15] and (ii) protection of nonnational victims of violence

introducing the principle of exclusion of the violent spouse from the couple's residence and setting up a special alert telephone number for violence and rape victims

creating specific offences in order to sanction other forms of harassment such as reiterated electronic messages and recording and publishing of facts of harassment

introducing mandatory responsibility and awareness trainings for domestic violence perpetrators and for professionals in certain fields of activity

Law 2015-925 of 29 July 2015 on the protection of women victims of violence seeking asylum[16]

Introduces the principle that gender aspects must be taken into account in assessing the five grounds of persecution pursuant to the Geneva Convention relating to the status of refugees.

Law 2015-993 of 17 August 2015 on the protection of victims of violence during criminal proceedings[17]

Introduces a personalized evaluation of the victim to determine any specific protection needs/requirements during the criminal proceeding.[18]

Law 2016-274 of 7 March 2016 on the protection of nonnational victims of violence[19]

Lays down the principle of automatic renewal of the temporary residence permit obtained as a French spouse when the latter justifies being victim of domestic or family violence. The same applies to the first renewal of the temporary residence permit granted for family reunification when the holder justifies having suffered domestic violence. In addition, the law creates a new right to issue a full temporary residence permit.

Law 2018-703 of 3 August 2018 on strengthening the fight against sexual and gender-based violence[20]

Aims to prevent domestic violence, support victims and sanction the attackers by:

extending the statute of limitations to 30 years for gender based and sexual crimes on minors

reinforcing the protection of minors against sexual aggressions and rape by an adult

creating of an offence sanctioning street harassment

adapting the legal framework to new forms of aggression (i.e*.*, social network harassment, "upskirting" phenomenon, voyeurism and date rape drugs)

Law 2019-1480 of 28 December 2019 aimed at taking action against domestic violence[21] ("Grenelle Law")

Was promulgated on 28 December 2019 and published in the Official Journal on 29 December 2019. It aims at combatting domestic violence by, among others:

generalizing the use of the electronic bracelet allowing the perpetrator and the victim to be geo-located in real time and to trigger an alert if the perpetrator gets close to the victim

setting a maximum of six days, as of the setting of the hearing date, for the family court to issue a civil protection order

providing that the victim may, if he or she so wishes, remain in the marital home

prohibiting family mediation in matters of contentious divorce or the exercise of parental authority, in cases of alleged domestic violence

extending the circumstances in which a severe danger phone (*téléphone grave danger*) can be allocated

Law 2020-936 of 30 July 2020 to protect victims of domestic violence[22]

authorizing the doctor or any other health professional to waive professional secrecy when he or she consciously believes that the violence puts the victim's life in immediate danger

increasing the penalties for harassment within couples to 10 years' imprisonment and a fine of EUR 150,000 where the harassment has led the victim to commit or attempt suicide

repressing the geo-location of a person without their consent

authorizing the judge to suspend the housing and visitation rights for parents under judicial supervision during the investigation

prohibiting the use of civil or criminal mediation in cases of domestic violence

# 1.2 What is the controlling case law?

recognition of domestic rape (between spouses)[23]

recognition of intentional violence without need to show/prove physical contact[24]

admissibility of the couple's children's testimonies[25]

recognition of the sovereign power of the judges to review the merits when assessing the plausibility of the facts justifying the protective order[26]

One of the most well-known and publicized cases is the "Jacqueline Sauvage case."

A presidential pardon was granted on 28 December 2016 by the then French President Francois Hollande to Jacqueline Sauvage, a woman who had been sentenced to ten years imprisonment for having killed her husband, after undergoing several decades of violence and sexual assaults by her husband. Certain politicians and renowned members of the public advocate for the recognition of a "deferred" self-defense concept that would, under certain circumstances, allow a victim of domestic violence to legally respond to the aggression in a delayed manner and in a manner that is not recognized under French law.

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

There are no specific courts (or specific budgets for judges) exclusively dedicated to domestic violence cases.

Cases of criminal offences relating to domestic violence are submitted to the competence of criminal courts. Regarding interim matters, family judges of civil courts have jurisdiction for the issuance of victim protective orders (see paragraph 4.1).

Family mediation is prohibited in matters of contentious divorce or the exercise of parental authority, in cases of alleged violence by one of the two parties against the other or against the child, or in the event of clear control by one of the spouses or parents established by the judge.

Criminal mediation is prohibited in case of domestic violence.

# 1.4 What are potential causes of action?

There are multiple potential causes of action that cover any act that affects one of the persons living together such as, in particular, physical violence, sexual violence, sexual harassment, forced intercourse, moral harassment, economic violence,[27] "blows," "slaps," "throwing objects in the face," "pushing while insulting," forced marriage, sexual mutilation, verbal violence, etc.

Since July 2020, recording or transmitting, by any means whatsoever, the real-time or delayed location of a spouse or partner without that person's consent is punishable by two years' imprisonment and a fine of EUR 60,000. The violation of the secrecy of correspondence by a spouse or ex-spouse is an aggravating circumstance.

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