Fighting Domestic Violence - France

2. Introduction: framework guiding domestic violence law

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# 2.1 Are there civil and criminal legal remedies for domestic violence victims?

Victims of domestic violence have the possibility of seeking civil legal remedies in the form of protective orders and other interim measures in case of danger, before initiating a criminal proceeding in order to seek criminal remedies (in particular, the conviction of the perpetrator and damages).

**Civil remedies**

Victims of domestic violence may file for a protective order with the family court judge (*juge aux affaires familiales*).[28] Evidence must be provided by the plaintiff in order to demonstrate the violence suffered (medical certificates, etc.) and the situation of danger the victim is exposed to. This evidence is subject to a debate before the judge.[29]

Such specific protective measures can be preventing the partner from entering the home, making contact, carrying a weapon, etc. (see paragraph 4.1).

The law also suspends the survivor's pension if the surviving spouse has been convicted of a misdemeanor or crime against the insured spouse.[30]

**Criminal remedies**

The initiation of criminal proceedings by the victim will normally result in the alleged perpetrator being placed into custody. In the case of severe domestic violence, it is likely that the alleged perpetrator will be referred directly to a criminal court. In some instances, a subsequent hearing may be held depending on the seriousness of the facts.[31]

In case of conviction before the criminal court, sanctions ordered by the court can be:

imprisonment (from two years to 30 years) and fines (from EUR 30,000 to EUR 100,000)

award of damages covering total damages suffered by the victim (which will be ordered by the civil court).

Please see the table in paragraph 3 ("Similarities and differences in terminology") for examples of penalties for different types of offences.

In addition, the judge may, at the request or with the express consent of the victim, prohibit the person under judicial supervision from approaching the victim within a certain distance fixed by the decision or from going to certain places. In order to ensure compliance with this prohibition, the person may be required to wear a bracelet incorporating a transmitter making it possible at any time to remotely determine his or her location throughout the national territory and if he or she approaches the victim who has been assigned an electronic device that also makes it possible to locate him or her.

The law of 30 July 2020 also provides for more severe punishments when certain offenses/crimes are committed by the victim's spouse or cohabitee or the partner linked to the victim by a civil solidarity pact. For instance, the following:

Willfully violating the privacy of another person by capturing, recording or transmitting, by any means whatsoever, the real-time or delayed location of a person without that person's consent will be punishable by one year's imprisonment and a fine of EUR 45,000, and where these acts are committed by the victim's spouse or cohabitee or the partner linked to the victim by a civil solidarity pact, the penalties will be increased to two years' imprisonment and a fine of EUR 60,000.

The act, committed in bad faith, of opening, deleting, delaying or hijacking incoming or outgoing correspondence addressed to third parties, or of fraudulently taking knowledge of it, is punishable by one year's imprisonment and a fine of EUR 45,000, and where these acts are committed by the victim's spouse or cohabitee or the partner linked to the victim by a civil solidarity pact, the penalties will be increased to two years' imprisonment and a fine of EUR 60,000.

The fact of usurping the identity of a third party or making use of one or more data of any nature enabling him/her to be identified with a view to disturbing his/her peace of mind or that of others, or to the detriment of his/her honor or consideration, is punishable by one year's imprisonment and a fine of EUR 15,000, and where these acts are committed by the victim's spouse or cohabitee or the partner linked to the victim by a civil solidarity pact, the penalties will be increased to two years' imprisonment and a fine of EUR 30,000.

# 2.2 Is domestic violence identified in national law as a human right (noting that at a European level protection from domestic violence has not been explicitly identified as a human right but is indirectly captured by the other provisions)?

Yes. Domestic violence constitutes a violation of human rights and a violation of Articles 3 (prohibition of torture, inhuman or degrading treatment) and 14 (prohibition of discrimination) of the European Convention. As such, the European Court of Human Rights would be entitled to sanction a state in case of the failure — even unintentional — of such state to effectively protect women from domestic violence.

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