Fighting Domestic Violence
Pro Bono Initiative
Europe
Norway
Domestic Violence Legislation

“Protection from domestic violence has not been specifically identified as a human right under the Constitution of Norway.”
1 Legal provisions

1.1 What are the relevant statutes and codes?

The Norwegian Penal Criminal Code ("Penal Code") is applicable, and violence and sexual offenses are regulated in Sections 25 and 26.

Sections 282 and 283 prohibit domestic violence and abuse. In case of a gross violation, the maximum penalty is 15 years of imprisonment.

Municipalities are required by law to provide crisis center services/shelters for their inhabitants.

1.2 What is the controlling case law?

Norway follows a civil law system and legislation is the predominant source of law. While case law can be utilized to demonstrate the judicial approach in domestic violence cases, no controlling case law acts as a source of law.

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

N/A

1.4 What types of proceedings (civil or criminal), submissions or orders can a domestic violence victim sue/begin against an abuser?

N/A
2 Introduction: framework guiding domestic violence law

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

N/A

2.2 Is protection from 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)?

Protection from domestic violence has not been specifically identified as a human right under the Constitution of Norway.

Norway has signed and ratified the Istanbul Convention and it is now working on the sixth national action plan against domestic violence (Action Plan Against Domestic Violence (2020-2024)). This action plan follows up on and further develops the Action Plan Against Domestic Violence, A Life Without Violence (2014-2017), and it outlines and addresses the remaining challenges.¹

2.3 Has your country signed and ratified the Council of Europe's Istanbul Convention (2011) preventing and combating violence against women and domestic violence (CETS No. 210)?

Yes, Norway has both signed and ratified the Istanbul Convention.

Signature: 7 July 2011

Ratification: 5 July 2017

Entry into force: 1 November 2017

2.4 If it has ratified the Istanbul Convention, how has this convention been implemented into national law?

The national legislation is considered to be in accordance with the Istanbul Convention. The convention is not incorporated into Norwegian law; however, according to the principle of presumption, Norwegian legislation should be interpreted in accordance with the obligations in public international law that are binding on Norway. The Norwegian Supreme Court has cited this principle a number of times.²

2.5 If it has not ratified or signed the Istanbul Convention, is it envisaged that your country will do so?

N/A
2.6 If it has ratified the 1979 Convention, how has the recommendations part of General Comment No. 35 been implemented into national law?

N/A

2.7 If the 1979 Convention has not been ratified or signed, is it envisaged that your country will do so?

N/A
### 3 Similarities and differences in terminology

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Domestic violence</td>
<td>Section 282 of the Penal Code covers &quot;abuse in close relationships&quot; and it is defined as serious or repeated abuse of a current or previous partner, relative, someone in the household or someone in the person's care. The abuse can be by way of threats, force, violence, taking away freedom or other degrading treatment. This may result in up to six years of imprisonment and a potential restraining order under Section 57 of the Penal Code.</td>
</tr>
<tr>
<td>Stalking</td>
<td>Section 266(a) covers &quot;serious stalking,&quot; which is defined as someone who repeatedly threatens, follows, watches, contacts or stalks another person in a way that may cause fear or anxiety. This may result in up to four years of imprisonment.</td>
</tr>
<tr>
<td>Harassment</td>
<td>Section 266 covers &quot;harassing conduct,&quot; which is defined as frightening or bothersome behavior, or other harassing stalking or conduct, or violating another person's peace. This may result in up to two years of imprisonment or a fine.</td>
</tr>
<tr>
<td>Victim</td>
<td>No definition found.</td>
</tr>
<tr>
<td>Abuser</td>
<td>No definition found.</td>
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<tr>
<td>Civil protection order</td>
<td>No definition found.</td>
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<tr>
<td>Causes of action</td>
<td>No definition found.</td>
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<tr>
<td>Marital rape</td>
<td>No definition found.</td>
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</tbody>
</table>

3.1 Are there any other important domestic violence terms defined in relevant domestic violence statutes and codes?  

N/A
4 Protection for domestic violence victims and relief granted

4.1 Civil protection orders

4.1.1 Are there civil protection orders available to victims of domestic abuse?

In 2004, the government established the Norwegian Centre for Violence and Traumatic Stress Studies, a research center affiliated with the University of Oslo and with national responsibility for violence research in Norway, including domestic violence.

Restraining orders are available to victims of domestic abuse. This type of order may be made against any person who has committed a criminal act when there is reason to believe that the person will otherwise: a) commit a criminal act against another person; b) stalk another person; or c) otherwise disturb another person's peace.³

The restraining order may provide that the person subject to the order may not: a) be present in specific areas; or b) stalk, visit or otherwise contact another person.⁴

If there is an obvious risk of a criminal act being committed against another person, the offender may be banned from their own home.⁵

The restraining order may be limited subject to specific conditions. There are sanctions for breaching a restraining order and a penalty of a fine or imprisonment for a term not exceeding one year can apply.⁶

4.1.2 Who can petition for civil protection orders?

A restraining order may be made against any person who has committed a criminal act when there is reason to believe that the person will otherwise: a) commit a criminal act against another person; b) stalk another person; or c) otherwise disturb another person's peace.⁷

4.1.3 Are there temporary custody of a child or child support orders?

If a child is a victim of violence from a partner, family member or others, they are able to get help. They can be provided with safe accommodation at a crisis center, and guidance and legal assistance to report the matter to the police.

4.1.4 Is there a provision to order the abuser to move out or stay away from places that the victims frequent?

If there is an obvious risk that a criminal act will be committed against another person, the offender may be banned from their own home.⁸ A ban from one's own home can only be imposed for a specific period not exceeding one year.⁹

4.1.5 Are there any other types of emergency, preventive and civil protection orders?

Research does not show that there are any other civil protection orders. However, upon the request of the police, the court could also impose electronic monitoring, which sends an alarm if the violent person enters a certain defined area. The monitoring can only register the following information: (i) whether the convicted person is moving within the areas covered by the restraining
order; (ii) whether the convicted person is moving in the vicinity of the aggrieved person; or (iii) any loss of signal from the monitoring equipment. The convicted person has a duty to provide assistance and follow the policy instructions as necessary for the implementation of the monitoring.\textsuperscript{10}

4.1.6 Can these orders be requested by direct or indirect victims or legal representatives in children's cases?

When a woman suffers violence by her partner, that action becomes the responsibility of the government, and the police have the duty to open a case and assure the protection of the victim irrespective of whether they want to press charges.

It is unclear as to whether these orders also apply to children.

4.1.7 Are there different types of civil protection orders, e.g., for a short-term period?

N/A

4.1.8 Are \textit{ex parte} orders permitted without the aggressor being present?

N/A

4.1.9 Do emergency orders also extend protection for abuse and intimidation to family members of the victim?

Restraining orders must be decided on by the police with immediate effect and be brought in front of the court within five days from notifying the person concerned. If the police do not decide to issue a restraining order, the victim can appeal it to the court.

4.1.10 How long do the orders last?

They last for up to one year.

4.1.11 Please provide any data or hyperlinks to government or NGO websites that include information on how often civil protection orders are issued, and any relevant demographic information, e.g., police reports, convictions, etc.

No data found.

4.2 Steps for receiving a protective order

4.2.1 What documentation is needed to obtain a civil protection order?

N/A

4.2.2 Does the victim need to attend a hearing?

The police must bring their decision on issuing a restraining order to the court within five days of notifying the person concerned. If they decide not to issue an order, the person it was meant to protect can bring the matter to court. The court will convene a court session attended by the subject of the order and the person it is meant to protect. If neither of them attends, the court will
usually consider the restraining order based on the case documents. The person the order is intended to protect usually attends court.11

### 4.2.3 Can you request remedies?

N/A

### 4.2.4 Are there time limits?

A loss of rights pursuant to Section 57 (“Restraining orders”) of the Penal Code can be imposed for a specific period not exceeding five years or for an indefinite period when special reasons warrant it. However, electronic monitoring may not be imposed indefinitely. A ban from one’s own home may only be imposed for a specific period not exceeding one year.12

### 4.2.5 Are there different rules in emergencies?

N/A

### 4.3 Judicial discretion

#### 4.3.1 What discretion does a judge have in granting a civil protection order or other protective orders?

No sentence is required for a person to be subject to a restraining order. The police serve restraining orders, which apply from the moment the person they apply to is made aware of it.13

The police must bring their decision on issuing a restraining order to the court within five days of notifying the person concerned. If they decide not to issue an order, the person it was meant to protect can bring the matter to court. The court will convene a session attended by the subject of the order and the person it is meant to protect. If neither of them attends, the court will usually consider the restraining order based on the case documents. The person the order is intended to protect usually attends court.14

If deemed necessary to ensure compliance with a restraining order, the court can decide that the person will have electronic monitoring imposed for all or part of the duration of the restraining order. The monitoring can only cover: (i) whether the convicted person is moving within the areas covered by the restraining order; (ii) whether the convicted person is moving in the vicinity of the aggrieved person; and (iii) any loss of signal from the monitoring equipment.15 The district court can review an order imposing electronic monitoring after six months and, if the order is upheld, it cannot be reviewed again for a period of six months.16

The district court in the judicial district where a restraining order applies, on the application of the prosecuting authority and in the interests of the person(s) the order is intended to protect, may amend the content of the restraining order.17

#### 4.3.2 Are there age limits on who can obtain orders?

Under Section 57 of the Penal Code, a person who is subject to a restraining order prohibiting contact with a child cannot have access to the child as set out in the restraining order. However, this does not apply if the restraining order allows access.18
4.4 Restitution and remedies available to victims

4.4.1 Can victims obtain reimbursement for costs and restitution paid?
N/A

4.4.2 Can they recover wages and profits lost?
N/A

4.4.3 Is a separate civil process required?
N/A
5 Prosecutorial considerations

5.1 Police procedures

5.1.1 When do the police get involved in domestic disputes or legal actions?

The police are responsible for coordinating the government's efforts to combat violence in close relations. In Norway, the police may enforce the law and criminally charge the offender of a violence against women crime without the permission of or representation from the victim.

5.1.2 What circumstances affect law firm involvement?

It is up to the victim to decide whether a law firm should be involved. In many cases, the victim has a right to a bistandsadvokat (an appointed counsel) paid for by the government. The accused is permitted to be represented by counsel in the criminal law process.

5.2 Standard of proof

5.2.1 Is proof required by any legal means?

N/A

5.2.2 Are there any requirements regarding evidence and documents?

N/A

5.2.3 Is proof "beyond a reasonable doubt" required?

We have not found any grounds for any codified degree of proof.

5.2.4 Is the standard of proof different for ex parte orders?

N/A

5.3 Affirmative defenses

5.3.1 Are affirmative defenses available to the accused?

N/A

5.3.2 Is willful intent required?

N/A

5.3.3 Are false accusations punishable for the victim?

Section 222 of the Penal Code states that if a person provides false information to the courts, police or another public authority that creates false grounds for criminal liability and thus causes a person to be charged or convicted, the person may be liable to a fine or imprisonment for up to three years. If the false accusation is aggravated, under Section 223 of the Penal Code, the person may be liable for imprisonment for up to 10 years.
5.3.4 How is consent discussed in the law?

Norway has ratified the Istanbul Convention, which, for example, defines "rape" as a situation where there is lack of consent since consent has to be voluntary and grounded on free will. However, the Penal Code is not based on freely given consent.

5.3.5 Is self-defense or insanity a defense?

N/A

5.4 Witness status

5.4.1 What is a witness's duty to testify honestly and completely?

N/A

5.4.2 Who may abstain from testifying in certain situations?

N/A

5.4.3 What potential "excuses" can a witness raise to refuse to testify in a domestic violence action?

N/A

5.4.4 Are there any laws that provide special protections to children who are testifying in domestic violence proceedings?

N/A

5.4.5 Can children be called upon to testify?

N/A

5.4.6 What is the effect of a child victim on the charges against the offender?

N/A

5.5 Penalties and sentencing; penalty enhancements

5.5.1 What are the penalties and sentencing laws for first-time domestic violence offenses?

The penalty is either a restraining order or imprisonment as found in Part 2, Section 282 of the Penal Code, which states the following:

Abuse in close relationships

A penalty of imprisonment for a term not exceeding six years will be applied to any person who by threats, force, deprivation of liberty, violence or other degrading treatment seriously or repeatedly abuses the following:

a) a present or former spouse or cohabitant
b) a relative in the direct line of descent, or a present or former spouse’s or cohabitant’s relative in the direct line of descent

c) a relative in the direct line of ascent

d) a member of the person’s household

e) anyone in the person’s care

When someone is found guilty of a criminal act pursuant to Section 282(b) of the Penal Code, the court will consider whether a restraining order pursuant to Section 57 of the Penal Code should be imposed.

5.5.2 Are there criminal penalties?

Yes. Please refer to Section 5.5.1.

5.5.3 What is the result of a violation of an existing order for protection?

A fine or imprisonment is permitted as per Part 2, Section 168 of the Penal Code, which states the following:

Breach of an exclusion order and restraining order or of a decision to freeze assets

A penalty of a fine or imprisonment for a term not exceeding one year will be applied to any person who does the following:

a) who has been ordered on conviction to stay in or out of certain parts of the realm and who has illegally returned to a place prohibited by them, or who otherwise breaches a restraining order pursuant to Section 57 of the Penal Code

b) who contravenes a ban pursuant to Sections 222(a) or 222(b) of the Criminal Procedure Act

c) who with intent or gross negligence obstructs the implementation of electronic monitoring pursuant to Section 57 of the Penal Code, or who obstructs ongoing monitoring

d) who contravenes the duty to provide information pursuant to Section 17(k)(1) of the Police Act or the ban pursuant to Section 17(k)(2) of the Police Act

5.5.4 What fines and other penalties are imposed besides incarceration and liberty restriction?

Restraining orders are available as a sentence. Please refer to Section 5.1.1.

5.6 Post-release restrictions

5.6.1 Does the law notify the victim of the offender’s release from custody?

Victims can apply for a personal alarm that would notify the police if they were in danger. Perpetrators can also be required to carry a locator device that would alert police should they enter a predefined "no-go" area. The police could then alert the victim and arrest the perpetrator.
6 Special issues

6.1 Battered woman syndrome

6.1.1 Can lawyers present evidence of battered woman syndrome or other domestic abuse as an affirmative defense to crimes that the battered woman has committed? (Note: Battered woman syndrome is accepted by courts in certain jurisdictions to show that battered women can use force to defend themselves and sometimes kill their abusers due to abusive and life-threatening situations.)

Section 48 of the Penal Code grants a person the right to self-defense in certain situations. Whether this right can also be exercised preemptively has been massively discussed in Norway. However, Norwegian case law suggests that the right to self-defense can be exercised preemptively. In the Liv-Saken case in 1983, a woman who had been systematically battered for 18 years and who knew that it would likely happen again the same night killed her husband with a shotgun and was found not guilty on the grounds of self-defense. Many legal commentators have discussed the case but it appears to still be good law; hence, in principle, battered woman syndrome as an affirmative defense is available in Norway. Whether it will succeed or not will rely heavily on the specific circumstances, including the proportionality between the violence used in self-defense and the risk of being abused.

6.2 Domestic violence in the workplace

6.2.1 Can courts issue orders to protect employees suffering from domestic violence?

N/A

6.2.2 Can departure be deemed "for good cause" if related to domestic violence?

N/A

6.2.3 Can family members of domestic violence victims take reasonable leave to help the victim seek treatment or obtain help and services?

N/A

6.3 Immigration

6.3.1 Does the law include provisions that are intended to prevent abusers who are citizens or permanent residents of your country from using immigration laws to perpetrate domestic violence against their spouse?

N/A

6.3.2 If battered immigrants cooperate with law enforcement in domestic violence, can they obtain immigration remedies?

N/A
6.3.3 Does domestic violence law discuss asylum accessibility?
N/A

6.4 Armed forces

6.4.1 Can a victim seek a military protective order if the abuser is in active military?
N/A

6.5 Child custody and child/spousal support

6.5.1 Do judges follow special rules to determine custody or visitation of children in domestic violence cases?
N/A

6.5.2 Can the judge consider the testimonies of the other spouse and the children when determining custody?
N/A

6.6 Housing rights of domestic violence victims

6.6.1 Does the law include any barriers to prevent landlords from forcing a tenant to move out because they are victims of domestic violence?
N/A

6.6.2 Does the law allow a tenant to terminate his/her lease early due to domestic violence?
N/A

6.6.3 Can an order exclude the abuser from the residence?
N/A

6.6.4 Can abusers be forbidden by court orders to alienate or mortgage the property in his/her name if it is the family domicile?
N/A
Endnotes

1. 16809f9e09 (coe.int).
2. 16809f9e09 (coe.int).
3. Section 57 of the Penal Code.
4. Section 57 of the Penal Code.
5. Section 57 of the Penal Code.
6. Section 168 of the Penal Code.
7. Section 57 of the Penal Code.
8. Section 57 of the Penal Code.
9. Section 58 of the Penal Code.
10. Section 57 of the Penal Code.
12. Section 58 of the Penal Code.
15. Section 57 of the Penal Code.
16. Section 58 of the Penal Code.
17. Section 58 of the Penal Code.
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