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Legal information

Under Swiss law, several laws together apply to the case of domestic violence. These laws are at the Federal level (Swiss Penal Code, Swiss Civil Code, Law on Foreigners, Federal Law on Assistance to Victims of Offences - LAVI) as well as at the level of each Canton.

This section lists the essential Federal clauses in this matter, as well as the Geneva Cantonal Law.

International Conventions

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (ratified by Switzerland in 1997).

Convention on the Rights of the Child (ratified by Switzerland in 1997).

Federal Law

Here-under the list of laws at the Federal level:

- Penal Code
- Civil Code
- Law on Foreigners
- LAVI

Federal Law > Penal Code

As of April 1, 2004, **acts of violence committed in couples or partnerships are persecuted by law as a criminal offence – meaning even without a victim's complaint – art. 55a¹** :

- simple bodily injuries - art. 123, ch. 2 CP
- repeated use of force - art. 126 CP
- threats - art. 180 CP
- coercion - art. 181 CP
- sexual coercion - art. 189 CP
- rape - art. 190 CP

What does « criminal offence persecuted by law » mean? The Penal Code distinguishes between « offence persecuted by complaint » and « offence persecuted by law ». In principle, a reprehensible act constitutes an offence persecuted by law. It must be persecuted penally by the police or by the penal persecution authorities as soon as it comes to their attention, even against the will of the victim.

In well-defined cases, a fact cannot be penally persecuted *other than upon complaint by the victim.*

The other pertaining clauses are (CP; RS 311.0):

- Serious bodily injury - art. 122¹ CP
- Bodily injuries by negligence - art. 125 CP

- Endangering the life or health of others. Exposition - art. 127 CP
- Negligence to come to the rescue - art. 128 CP
- Endangering the life of others - art. 129¹ CP
- Offence against the heritage/ illegitimate appropriation - art. 137 CP
- Abuse of confidence - art. 138 CP
- Confinement and kidnapping - art. 183¹ CP
- Aggravating circumstances - art. 184¹ CP
- Violation of domicile - art. 186 CP
- Endangering the development of minors / Sexual acts with children - art. 187 CP
- Sexual acts with dependent persons - art. 188 CP
- Sexual acts committed on a person incapable of judgement or resistance - art. 193 CP
- Exhibitionism - art. 194 CP
- Pornography - art. 197 CP
- Incest - art. 213¹ CP
- Violation of a maintenance obligation - art. 217¹ CP
- Violation of a duty to assist or educate - art. 219¹ CP
- Kidnapping of minors - art. 220¹ CP

Important :

- Right to notify - art. 364 CP
When the interest of minors is concerned, people bound by a professional or job secret (art. 320 and art. 321) can notify the tutelary authorities of the infractions committed against them.
- Mandatory denouncement – Private persons – Geneva Penal Procedure Code - article 10
1 Denouncement is mandatory for any person who has knowledge of a crime against the life and bodily integrity, the patrimony, freedom, customs, the State and national defence, or creating a collective danger, except when infractions only persecuted upon complaint are concerned.
2 The provisions on professional secrecy remain reserved.
- Authorities - Geneva Penal Procedure Code - article 11
Any authority, any Civil Servant or Public Officer, acquiring, in the course of his or her function gaining knowledge of a crime or offence that should be persecuted by law is bound to notify the Public Prosecutor on the spot.
- When it receives a complaint, the Prosecution can open a preliminary investigation or classify the complaint. In case of classification, the parties concerned may be notified thereof by mail. The prosecution may also not transmit any information to the parties. If the plaintiff has not received any notification by the Prosecution three months after depositing the complaint and if he/she wishes to know which follow-up it has been given, he/she is advised to inform oneself thereof in writing to the Public Prosecutor.

The following organisms can inform you on the laws:

- **Consultation Centre for Victims of Offences LAVI - Geneva**
Blvd St-Georges 72, 1205 Geneva Phone: +41 22 320 01 02
- **Legal Permanence of the Order of Solicitors of Geneva**
13, rue Verdaine, 1204 Geneva Phone +41 22 310 24 11,
from Monday to Friday, 10 AM to 7 PM without interruption
- **F-Information**
Rue de la Servette 67, 1211 Geneva 7 Phone: +41 22 740 31 00
- **Caritas**
Rue de Carouge 53, 1211 Geneva 4 Phone: +41 22 708 04 44
- **Protestant Social Centre Geneva**
Rue du Village-Suisse 14, 1211 Geneva 8 Phone: +41 22 807 07 00
Legal Permanence (Monday and Thursday, 9 to 11:30 AM) Phone: +41 22 807 07 07

Federal Law > Civil Code

As of July 1, 2007 and the coming into force of article 28b₁, modified on June 23, 2006, the civil courts may order the person having had recourse to violent behaviour to leave the common accommodation in order to protect the victim:

Protection of personality - art. 28 and next CC
Protection of personality in case of violence, threat or harassment - art. 28b
Provisional measures during a divorce procedure - art. 137 CC
Protection of conjugal union - art. 172 and next CC
Protection of children/ Protectionist measures - art. 307 CC

The following organisms can inform you on the laws:

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Federal Law > Law on Foreigners

The new Law on Foreigners (LEtr) came into force on January 1, 2008, replacing the Law on the Residence and Settling of Foreigners (LSEE) which has hence been repealed since that date.

Article 50: Family Dissolution

Moreover, the Order on the Admission to Reside and the Exercising of a for-profit Activity (OASA), details the Law on Foreigners:

Article 77: Family Dissolution

Federal Law > LAVI

Federal Law on the Assistance to Victims of Offences

The present Law aims to supply effective assistance to victims of offences and to reinforce their rights. The supplied assistance includes advice, protection of the victim and the defence of its rights in penal procedures, the indemnification and the moral mending.

- **Consultation Centre for Victims of Offences LAVI - Geneva**
Blvd St-Georges 72, 1205 Geneva Phone: +41 22 320 01 02
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Cantonal Law

Law on Domestic Violence (F1 30)

This Law, voted on September 16, 2005, came into force on November 22, 2005.

Complaint Depositing

For offences persecuted upon complaint, the deadline for depositing a complaint is 3 months from the date of facts.

Complaints may be deposited with:

- **The Police**

The person may deposit his/her complaint by going to any Police post or by going to the Judicial Police at 17-19 Blvd Carl-Vogt, preferably upon appointment.

He/She may be accompanied by a person of confidence at his/her choice or a person from the LAVI Centre.

- **The Public Prosecutor**

The person may address his/her complaint, by registered letter, to the following address:

PUBLIC PROSECUTOR
PALACE OF JUSTICE
Place du Bourg-de-Four 1
PO Box 3565
1211 Geneva 3

He/She may seek complaint editing assistance by intervention of the LAVI Centre or a Solicitor.

- **Important**

Medical and/or other proof are desired.

Right to notify - art. 364 CP

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