

Country and target area of study	FRANCE
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I. Outline of the legal protection for domestic violence victims and their children

※ Including the legal definition of domestic violence in your target area of study

※ Including names of laws or regulations

A distinction must be made depending on whether domestic violence is dealt with under civil or criminal law.

1. **Before the civil courts**, the protection of domestic victims and their children is mainly achieved by means of a **protection order** applied for from the **Family court judge** (*discussed below*). There are other proceedings that allow the matter to be referred to this judge as a matter of urgency, in particular to change the arrangements for exercising parental authority. But there is no definition of 'domestic violence' in the Civil Code. In recent years, judges have increasingly referred to the concept of "**coercive control**" to better understand and identify forms of domestic violence. This expression describes a phenomenon of control and oppression over the victim, in particular by isolating her and making her financially and socially dependent.
2. **The children's judge** can also intervene if the child is placed in a situation of danger within his or her family: he or she can order measures to remove the child from this situation of danger. This danger is assessed by the judge. The Social Action and Family Code provides a definition of abuse, which the judge may use as a basis (article L119-1).
3. **The criminal judge** will judge acts of abuse punishable under the Criminal Code: abuse, sexual assault, rape or murder of a spouse (article 221-4, 4°; article 222-13 and articles 222-24, 11°) of the Criminal Code); marital harassment (article 222-33-2-1 of the Criminal Code).

In France, legislation on domestic violence is constantly evolving in an attempt to protect victims.

II. Legal process regarding domestic violence

1 Handling of abusers by the police

(1) Outline

To report acts of abuse, the victim can file a complaint with the police or "gendarmerie", who are obliged to take the complaint (article 15-3 of the Code of Criminal Procedure).

The police or "gendarmes" will then investigate and forward the complaint to the **Public Prosecutor** (in each Judicial Court), who will decide what action to take.

Victims can also file a complaint by post directly to the Public Prosecutor.

(2) Names of police in your target area, contact information, how to contact, etc :

- **Police Nationale or Gendarmerie Nationale:** **17** (emergency number) or **114** (emergency number for SMS communication).
- **112** : European emergency number which allows you to be redirected to the national authorities.
- **3919 – Violence Femmes Info:** Helpline for victims of domestic violence (including psychological and economic abuse).
- **<https://arretonslesviolences.gouv.fr>** : Government platform
- **Information centre on women's and family rights (CIDFF)**
- **119 – Allô Enfance en Danger:** A specific helpline for children in danger or anyone concerned about the safety of a child.
- **Butterfly' letterbox** set up in schools so that children can drop off a letter when they are victims of abuse, particularly domestic violence.
- **WOMEN FOR WOMEN FRANCE website:** multilingual information portal for all victims of domestic violence.
- **ASE - Aide Sociale à l'Enfance** : Each French department has services dedicated to children at risk.

(3) Police procedures when they are notified of domestic violence

➤ **The complaint phase**

- The police are obliged to register the victim's complaint. Victims are advised to provide evidence (screenshots of threatening or insulting text messages, screenshots of telephone call logs in the event of harassment, e-mails).
It is important to insist on filing a complaint and not a 'handrail', which does not trigger an investigation (even though in principle, in cases of domestic violence, the police are obliged to forward the handrail to the public prosecutor).
- The police officer will suggest that the victim be examined by a doctor from the UMJ (Judicial Medical Unit), who will assess the physical and psychological consequences of the abuse on the victim's health, even if there are no physical traces. The doctor will draw up a medical certificate stating the injuries and their seriousness (total incapacity to work).
It is essential that the victim agrees to the examination, even if the abuse was purely psychological.

➤ **The prosecution phase:**

The police will investigate and question the perpetrator of the abuse, known as the "mis en cause". Depending on the seriousness of the offence, the accused may be summoned to the police station:

- in "voluntary police interview", which means that they can voluntarily end the hearing at any time and leave the police station
- in "police custody", which means that they will be deprived of their liberty and must remain there for a set period of time, up to a maximum of 48 hours.

The police may propose a confrontation between the victim and the accused.

The victim may be accompanied by his or her lawyer during the confrontation. The victim may also refuse

the confrontation.

During the investigation, the public prosecutor may set up a remote protection and geolocation system, with the victim's consent, in cases of proven and imminent danger (article 41-3-1 of the Code of Criminal Procedure).

The public prosecutor will often carry out **a neighbourhood survey or a survey of the victim's relatives**. When filing a complaint, it is important to indicate the names of people who can testify.

If the victim is already under the care of a doctor, the doctor's professional confidentiality may be lifted and the doctor may also report the danger to the public prosecutor (Article 226-14-3 of the Criminal Code).

When the facts are very serious and no further investigation is necessary, the public prosecutor may decide to bring the perpetrator of the abuse to trial immediately after police custody (a proceeding known as immediate appearance).

At the end of the investigation, the public prosecutor will take a decision on the next step in the proceedings. He may decide to:

- not to prosecute the perpetrator of the abuse by dropping the case, for example if the prosecutor considers that there is insufficient evidence;
- propose an alternative measure to prosecution (reminder of the law, to remind the offender of his obligations under the law and the risks incurred in the event of non-compliance, or a responsibility training course to prevent and combat domestic violence) ;
- ask the investigating judge to continue the investigation, for example by requesting psychiatric reports or witness statements.

The investigating judge may decide to place the perpetrator of the abuse under judicial supervision if he considers, in particular, that the victim's safety is at risk. **This temporary protective measure will be in place until the trial**. The measures that can be imposed under judicial supervision include, for example, a ban on contact, a ban on appearing at the victim's home or place of work, or at the children's school, a ban on appearing in a wider geographical area (the département), a ban on leaving the country, or an obligation to report regularly to the authorities (police station or gendarmerie) (article 138 of the Code of Criminal Procedure).

(4) Police procedures when they were notified that restraining order or any other orders are not followed by abusers

Failure to comply with the measures imposed in the protection order is an offence punishable by three years' imprisonment and a fine of €45,000. A complaint must be lodged if the accused fails to comply with the measures imposed.

The Judge of Liberties and Detention may decide to place the person in provisional detention.

(5) Treatment for victims who are immigrants/foreigners (including assistance of interpreter, etc.)

- Any victim of domestic violence can lodge a complaint in France to report the abuse, even if they do not have a valid residence permit for France.
- 112 : European emergency number for referral to the appropriate authorities
- The 3919 helpline offers a listening service in 12 different languages in addition to French (as the people providing this service are only present at certain times, you will be asked to call back at the appropriate times): English, Arabic, Creole, Dari, Spanish, Hebrew, Kabyle, Mandarin, Persian, Polish, Portuguese and Turkish.
- The possibility of reporting abuse online via a multilingual chat service (<https://www.service-public.fr/particuliers/vosdroits/R50511>), which leads to an appointment to file a complaint.
- The right to an interpreter during their hearing (article D591-11 of the Code of Criminal Procedure) and more specifically before any court, provided they make a prior request to the court clerk's office.

(6) Any other useful information related to the handling of abusers by the police

- Police stations and “gendarmeries” have a family protection unit, as well as a psychologist and a social worker who can also provide guidance to victims. Victims should not hesitate to contact them, particularly if the accused fails to meet his or her obligations, or if they need to lodge another complaint.

2 Protective measures for domestic violence victims

- ✂ Including orders that prohibits the abuser from approaching the victim, and victim's children or relatives, an order that obliges the abuser to vacate the residence shared as the main home with the victim, etc.

(1) Outline (please specify your target area of study)

Our firm handles both civil and criminal cases.

In civil cases before the **Family court judge**, the victim of domestic violence (within the current or former couple) can apply for a protection order (provided for in articles 515-9 to 515-13 of the Civil Code and articles 1136-3 and 1136-15 of the Code of Civil Procedure).

As soon as the application is lodged with the Court, the clerk's office informs the two parties and the public prosecutor of the date set for the hearing. The Public Prosecutor gives his opinion on the application for a protection order, which he sends to the Judge.

The victim may ask to be heard separately by the judge on the day of the hearing. They may be accompanied by any person they designate if they need a translator (who must be sworn in at the hearing). The victim may also request the presence of a court-appointed translator (free of charge) when the application is lodged.

To obtain a protection order, the victim must demonstrate :

- 1) The likelihood of the alleged abuse
- 2) The danger to which the victim and/or one or more children are exposed

Lodging a complaint is not compulsory, but it is strongly recommended. The complaint will constitute additional evidence. CAUTION: The Family court judge has no investigative powers. It is up to the victim to provide proof of the abuse.

- If the conditions are met, the judge may order a series of measures to protect the victim, including :
 - a ban on contact,
 - awarding the use of the matrimonial home to the victim, and evicting the perpetrator of the abuse, even if he or she is the owner:
 - payment by the perpetrator of the abuse of a financial contribution if the parties are married
 - set the terms for exercising parental authority: request exclusive parental authority over the children, and/or suspend the perpetrator's visiting rights or stipulate that they will be exercised in a meeting place
 - wearing electronic anti-approach device, concealing the victim's place of residence
 - a ban on children leaving the country if there is a risk of abduction abroad

The judge who issues a protection order immediately informs the Public Prosecutor and also informs him or her if the children are likely to be endangered. This means that the Public Prosecutor may decide to initiate a new investigation and prosecution for child endangerment.

A protection order may also be requested in the event of a forced marriage.

(2) Necessary time to obtain the orders

- ⇒ A protection order is issued **within a maximum of 6 days** after the matter is referred to the judge.
- ⇒ Creation in 2024 of an **immediate provisional protection order** (article 515-13-1 of the Civil Code) designed to protect people in danger during the 6-day period required for the Family Court to issue a standard protection order. It is issued by the Family court judge at the request of the public prosecutor, **within 24 hours**, in the event of serious and imminent danger. The judge may prohibit contact and visits to certain places, suspend the violent parent's visiting and accommodation rights and authorise the victim to hide his or her home.

(3) Term of validity of the orders

The protection order has a maximum duration of 12 months following notification of the order (article 515-12 of the Civil Code). The judge may decide that the measure lasts for a shorter period.

(4) How to start legal process

The proceedings begin with the filing of a petition delivered or addressed to the clerk's office of the court having jurisdiction.

Under article 1070 of the Code of Civil Procedure, the Family court judge with territorial jurisdiction is:

- the judge for the place where the family resides;
- If the parents live separately, the judge for the place of residence of the parent with whom the minor children habitually reside in the event of joint exercise of parental authority, or for the place

of residence of the parent who exercises this authority alone;

- In all other cases, the judge in the place of residence of the parent who did not initiate the proceedings.

If the victim is housed urgently in another location, such as a shelter for women victims, she may bring the matter before the court of that location. In these shelters, lawyers and social workers can help prepare the petition.

(5) Whether appointing a lawyer is mandatory or not

A lawyer is not compulsory but is strongly recommended to support the victim and help him or her build a solid case.

If the victim has financial difficulties, it is possible to apply for legal aid to cover the legal costs, including the lawyer's fees (*see below*). When applying for legal aid, be sure to include bailiff's and interpreter's fees. If the victim cannot find a lawyer who accepts legal aid, it is advisable to contact an association that will help him or her to complete and submit the applications for legal aid.

<https://www.aidejuridictionnelle.justice.fr/aide/demande-en-ligne>

(6) Useful information for victims who are immigrants/foreigners

- Victims of foreign origin who benefit from a protection order can benefit from legal aid without a residence requirement, provided they meet the means test (article 3 of the Act of 10 July 1991).
- An application for a protection order may be made even if the victim has no right of residence in France, without risking detention or expulsion from the country.
- Victims of foreign origin who are the beneficiaries of a protection order may obtain a temporary residence permit for a period of one year (renewable) and, in the event of the defendant's final conviction, a residence permit for a period of 10 years if they have lodged a complaint (articles L.425-6 and L.425-7 of the CESEDA).

(7) Any other useful information related to protective measures for victims

⇒ The law introduced the universal emergency assistance mechanism to remedy the economic dependence in which some victims find themselves. Beneficiaries are victims of an offence committed by a spouse (partner or cohabitee) or ex-spouse, whose abuse is attested to by a protection order, the lodging of a complaint or a report made to the public prosecutor (article L. 214-9 of the Social Action and Family Code).

This assistance takes the form of an interest-free loan or a grant, depending on the person's financial and social situation, taking into account the presence of any dependent children.

As part of home insurance (which covers the family home), there is a legal protection system that covers the costs of a lawyer.

⇒ Possibility to obtain the 'serious danger telephone' system: a system set up following a notification to the Public Prosecutor or directly to the organization responsible if the perpetrator of the abuse fails to comply with the ban on contact with the victim. This telephone has a button directly linked to a helpline available 7 days a week, 24 hours a day. The person receiving the call can geolocate the victim and request police intervention.

3 Possible countermeasures expected to be taken by the abuser when a victim takes protective measures described in 1

※ Including an appeal against the orders described in 1, filing a petition for a new order, lodging a complaint against the victim on the ground that the victim also used abuse on the abuser, etc.

(1) Outline (please specify your target area of study)

The perpetrator of the abuse against whom a protection order has been issued may appeal against the decision, or request that the measures ordered by the Family Court judge be lifted. The protection order is enforceable without suspensive effect of an appeal, and non-compliance is a criminal offence that is punishable. The appeal procedure is referred to as an emergency proceeding (it takes 3 months).

(2) Term of validity of the countermeasures

The perpetrator of the abuse may:

- Appeal the order: The time limit for appealing against the protection order is 15 days from notification of the decision (article 1136-11 of the Code of Civil Procedure).
- Request the lifting or modification of the protection order; they may also request temporary exemption from certain of their obligations. The application to lift the protection order is made in the same way as the application for a protection order (article 1136-12 of the Code of Civil Procedure). The victim is summoned to a new hearing before the Judge and may object. Once again, it is strongly advised to be accompanied by a lawyer.

(3) Measures that can be taken by the victim against the countermeasures by the abuser

The protection order is provisionally enforceable. The victim can therefore enforce the order despite an appeal, if necessary with the help of the public force, particularly in the case of eviction from the family home.

(4) Useful information for victims who are immigrants/foreigners

A protection measure ordered in a Member State of the European Union is recognized in the other Member States without the need for a special procedure and is enforceable without the need for a declaration of enforceability (Reg. no. 606/2013, 12 June 2013).

To enable protective measures to circulate within the EU, the victim may request a certificate from the authority that issued the decision (article 5-1 of Reg. no. 606/2013 art. – civil procedure code, art. 509-1).

(5) Any other useful information related to countermeasures to be taken by abusers

4 Legal process for claiming living expense to the abuser
<p>(1) Outline (please specify your target area of area)</p> <p>Victims can obtain financial measures depending on the proceedings they initiate.</p> <ul style="list-style-type: none"> ➤ Protection order: <ul style="list-style-type: none"> – The judge grants the use of the shared home to the spouse/partner/cohabitee who is not the perpetrator of the abuse, unless there is a specially reasoned order justified by particular circumstances, and may make the violent spouse responsible for the costs relating to the home; repayment of the mortgage, for example. (article 515-11 3° of the Civil Code for spouses, article 515-11 4° for partners and cohabitees). – The judge may also rule on the spouses' contribution to the expenses of the marriage, and award the victim maintenance. – If there are children, the judge may also rule on the contribution to the maintenance and education of the children (article 255-11 5° of the Civil Code): award child support, and/or order the abusive parent to pay certain expenses for the children (for example: school fees). ➤ Divorce proceedings for the spouses: the judge may grant the victim the use of the matrimonial home (free of charge or for a fee). He may also award maintenance to one of the spouses, based on the duty of care. Lastly, it may also set out the terms and conditions relating to the contribution to the maintenance and education of the children (article 255 of the Civil Code). If there is a significant disparity in income, the judge may also order the victim to pay an ad litem provision to cover the costs of the divorce proceedings. ➤ Non-divorce proceedings relating to the exercise of parental authority: the judge decides on the contribution to the maintenance and education of the children (child support and/or assumption of costs). <p>(2) Necessary time to obtain the orders</p> <p>As previously mentioned (<i>see above</i>), the protection order must be issued within 6 days of the application. In other so-called emergency cases, the time limits are longer.</p> <p>(3) Term of validity of the orders</p> <p>Protection orders are issued for a maximum period of 12 months from the date of notification of the order, and may be renewed. They are automatically extended if, during this period, an application for divorce or legal separation has been filed or an action relating to parental authority (article 515-12 of the Civil Code).</p> <p>For measures taken during the divorce, they last until the divorce is finally pronounced.</p> <p>(4) How to start legal process</p>

- ⇒ Or the protection order, the steps for initiating the proceedings have been set out above.
- ⇒ For the divorce proceedings, the husband or wife issues a summons to divorce which informs them of the date of the hearing on provisional measures. These are the measures that apply during the divorce proceedings.
- ⇒ For proceedings other than divorce relating to the exercise of parental authority:
 - In the case of non-marital relationships, the parents may apply to the judge to determine the arrangements for the exercise of parental authority
 - After the divorce, the parents may apply to the judge to modify the arrangements for the exercise of parental authority, provided that they can demonstrate the existence of a new fact

In both cases, the proceedings are initiated either by petition with writ or by means of a writ of summon at short notice, which requires authorisation from the Family Court judge, who will set an urgent hearing date (article 1137 of the Code of Civil Procedure).

(5) Whether appointing a lawyer is mandatory or not

A lawyer is mandatory for the divorce proceedings. This is not the case for the protection order, nor for proceedings relating solely to the arrangements for the exercise of parental authority, but it is strongly recommended. (*see above*),

(6) Useful information for victims who are immigrants/foreigners

- As explained, foreign victims who do not have the right to remain in France may still be eligible for legal aid if they apply for a protection order or if they are involved in criminal proceedings.
- In the case of divorce proceedings, or proceedings relating to the exercise of parental authority, legal aid is granted, on the basis of means:
 - to EU nationals
 - to foreigners who habitually reside in France
 - exceptionally to persons who do not fulfil these conditions when their situation appears particularly worthy of interest in view of the subject of the dispute or the foreseeable costs of the trial.

(7) Any other useful information related to measures for claiming living expense to the abuser (including administrative measures to claim living expense to the abuser)

Since January 2023, financial intermediation has been automatically put in place for child support payments provided for in an enforceable title (judgment, approved parental agreement, protection order). The CAF (Caisse d'allocations Familiales) collects the child support payments every month from the parent liable for payment before redistributing them to the parent who is the beneficiary.

Financial intermediation is automatic in principle, but it is possible to derogate from this in the event of refusal by both parents, or in exceptional circumstances, when the judge considers that this measure is incompatible with the situation of one of the parties or with the terms of the contribution. However, it is not possible to

derogate from this rule when one of the parties has, in the proceedings leading to the fixing of a maintenance payment, made a complaint or been convicted of threatening or violent behaviour towards the creditor parent or the child, or when a decision mentions such threats or violence (article 373-2-2 II ° of the Civil Code).

In other words, the victim of violence will receive child support every month from the CAF, without depending on the perpetrator of the abuse.

In the event of non-payment of the contribution to the maintenance and upbringing of the children by the debtor parent, or of the maintenance due to the creditor spouse during the divorce proceedings, the creditor may have recourse to the common law enforcement proceedings. For example, he or she may ask a bailiff to seize the bank accounts or make a direct payment from the wages of the person who has to pay the maintenance.

Furthermore, non-payment over a period of two months constitutes a criminal offence, punishable by two years' imprisonment and a fine of 15,000 euros (article 227-3 of the Criminal Code). The victim may file a complaint for abandonment of the family.

5 Divorce process involving domestic violence victim

(1) Outline (please specify your target area of study)

Whether or not there is a divorce case pending, the Family court judge must take into account the abuse suffered by the other parent when ruling on matters relating to the exercise of parental authority. This consideration is expressly provided for in Article 373-2-11 of the Civil Code : “Where he rules on the terms and conditions of exercise of parental authority, the judge shall take into consideration in particular (...) 6° Duress or violence, physical or psychological, carried out by one of the parents upon the person of the other.”

It should be emphasised that acts of violence constitute cause for divorce on the grounds of misconduct and the family court judge may award damages.

One of the spouses may file for divorce urgently, by means of a procedure at short notice or a fixed date procedure. These proceedings will be chosen in the event that the elements of the case are not sufficient to obtain a protection order (if the parties are married).

However, it will be necessary to justify the urgency of the situation, which will generally be constituted by the impact of the perpetrator's abusive behaviour on the children and the need for measures relating to the exercise of parental authority to be taken quickly.

(2) General trend of the legal decision about child custody in divorce process involving domestic violence victim

Whether in divorce proceedings or otherwise, the Family Court judge will apply the same provisions of the Civil Code with regard to the arrangements for the exercise of parental authority. The principle in French law is that of the joint exercise of parental authority, even in the event of the parents separating (article 373-2 of the Civil Code).

Article 373-2-1 of the Civil Code nevertheless states that if the interests of the child so require, the judge may entrust the exercise of parental authority to one of the two parents. This may be the case, in particular, where abuse is perpetrated against the child or the other parent. The judge has sole discretion in this regard.

Nevertheless, the parent who does not have parental authority retains the right and the duty to supervise the child's upbringing and education. They must be informed of important decisions relating to the child's life.

(3) General trend of the legal decision about the residence of the child in divorce process related to domestic violence victims

When the judge decides on the child's residence arrangements, he will take into account 'the physical or psychological pressure or violence exerted by one of the parents on the other' (article 373-2-11 of the Civil Code).

More generally, if alternating residence appears to be contrary to the child's interests, the judge will establish the child's habitual residence as being with the parent who is the victim. The judge will make a concrete assessment of the situation and will take into account parental disagreement, the child's safety and the behaviour of the parents towards each other.

Secondly, the judge will grant the other parent visiting and accommodation rights in order to maintain the relationship. Article 373-2-1 of the Civil Code states that the exercise of these visiting and accommodation rights can only be refused on serious grounds.

Depending on the circumstances, this visiting and accommodation entitlement may take the form of:

- Conventional visiting and accommodation entitlement (every other weekend and half the holidays)
- Progressive visiting and accommodation entitlement, when it is necessary to restore the bonds
- Simple daytime visiting entitlement
- A right of access in a meeting place with media coverage when there is a risk of danger to the child or to the parent who has the child's habitual residence. The judge will give reasons for his decision on the existence of serious grounds.
- the removal of all visiting and/or accommodation rights when the behaviour of the parent presents a real danger for the child or for the other parent, which characterises an additional degree of serious grounds

(4) General trend of the legal decision about the childcare expenses in divorce process related to domestic violence victims

See above

(5) General trend of the legal decision about visitation in divorce process related to domestic violence

victims

See above

(6) Useful information for victims who are immigrants/foreigners

See above

(7) Any other useful information related to divorce process involving domestic violence victim

Under French law, children must be heard by the judge in all proceedings concerning them, provided that they are capable of discernment. There is therefore no minimum age for a child to be heard by the family court judge. This is at the judge's discretion, depending on the child's maturity. No age is set by law. Thus, when the family court judge is going to make a decision, he must take into consideration the feelings expressed by the child (article 373-2-11, 2° of the Civil Code). The same goes for the children's judge.

The Code of Civil Procedure stipulates that the minor must be informed by the person(s) exercising parental authority of his or her right to be heard and to be assisted by a lawyer. In the absence of a request for a hearing, the judge will verify that the child has indeed been informed (by means of a form to be completed). This is a very important point if the decision is intended to be enforced in another European state, because the Brussels II bis Regulation recognises the child's right to express his or her opinion (article 21), and makes this lack of a hearing a ground for non-recognition in another state.

The request for a hearing may come from the minor, in which case it is compulsory. Refusal can only be based on the minor's lack of discernment (article 388-1 of the Civil Code).

The hearing may also be requested by one of the parties. In this case, it may be refused if the judge does not consider it necessary for the resolution of the dispute or if it appears to him or her to be contrary to the child's interests.

The child has the option of being assisted by a lawyer or a person of his or her choice. When the child requests assistance from a lawyer or the judge considers it to be in the child's interest, the judge refers the matter to the president of the bar association in writing so that he or she can appoint a lawyer for the child. A minor who has chosen to be heard with a lawyer is entitled to legal aid, both for proceedings before the family court judge and before the children's judge. This assistance from a lawyer is free of charge.

The child will automatically be heard by the children's judge. And he or she also has the option of being assisted by a lawyer or a person of his or her choice.

The child's lawyer appointed by the bar association is free of charge.

CAUTION:

Domestic violence can also be reported by third parties (school, doctor) to the public prosecutor. If the parent who is the victim of the abuse does not act to protect the children, the case can be referred to the children's judge, who can order measures to protect the child.

Article 40 of the Code of Criminal Procedure states that: *“Any constituted authority, public officer or civil servant who, in the exercise of his duties, becomes aware of a crime or offence is required to notify the public prosecutor without delay and to forward to that magistrate all related information, official reports and documents.”*

The effect of this article is therefore to release public officers or civil servants from professional confidentiality by requiring them to report to the public prosecutor any crimes or offences of which they have become aware in the course of their duties. This obligation to report applies to all civil servants and concerns all offences.

However, failure to comply with this obligation to report is not subject to criminal sanctions.

Furthermore, article 434-3 of the criminal code states that: *“The fact, for anyone who has had knowledge of deprivation, ill-treatment or sexual abuse inflicted on a minor under fifteen years of age or on a person who is not able to protect themselves due to their age, illness, infirmity, a physical or psychological disability or a state of pregnancy, of not informing the judicial or administrative authorities is punishable by three years imprisonment and a fine of 45,000 euros.”* Thus, anyone with knowledge of physical, psychological or sexual abuse inflicted on a minor under the age of fifteen is obliged to inform the judicial authorities, under penalty of criminal prosecution. This abuse may be characterized by the removal of the minor's parents from their legal obligations, compromising the health, safety or morality of a minor.

The child may also be interviewed by the police station or gendarmerie during ongoing criminal investigation. The child will not have a lawyer and will be accompanied by a parent. The child's statement will be taken by professionals and the interview may be recorded.

This hearing of the child will remain within the framework of the criminal investigation and cannot be used before the Family Court. Only a criminal decision convicting the violent parent can be addressed to the Family Court.

6 Legal process for child custody modification

(1) Outline (please specify your target area of study)

To request a change in the arrangements for the exercise of parental authority, the parent can refer the matter to the Family Court. For the request to be admissible, the parent must provide proof of a new factor, in relation to the last decision setting out the arrangements for the child. This condition is not required if the parents agree to change the arrangements.

(2) How to start the legal process for child custody modification

As already indicated, the proceedings are initiated either by petition or by means of summons at short notice, which presupposes that prior authorization has been obtained from the Family Court to issue an emergency summons to the defendant (article 1137 of the Code of Civil Procedure).

On the basis of article 1070 of the Code of Civil Procedure, the competent judge is either:

- the judge of the place where the family residence is located;
- if the parents live separately, the judge of the place of residence of the parent with whom the minor children

habitually reside in the event of joint exercise of parental authority, or of the place of residence of the parent who exercises this authority alone;

- in other cases, the judge of the place where the person who did not initiate the proceedings resides.

In the context of criminal proceedings, the investigating judge or the liberty and custody judge may suspend a parent's right to visit and stay overnight with the children, even without direct abuse against them, as part of a judicial review (article 138, 17° of the Code of Criminal Procedure).

If the victim has filed a complaint, the investigation may result in referral to the criminal court, which may pronounce the forfeiture of parental authority as an additional penalty.

The loss of parental authority means the **loss of rights and duties**: Deprived parents lose their rights and duties associated with the exercise of parental authority, such as custody, visiting rights and decisions concerning the education, health and well-being of their child.

- Protective measures: The child may be placed under the protection of a third party (such as a family member, guardian or institution) who will then exercise parental authority on their behalf. This person will be responsible for ensuring the child's well-being and development.
- Child support: Deprived parents are still obliged to contribute financially to the maintenance and education of their child. Child support must therefore be paid to the third party who now exercises parental authority.
- Adoption: In some cases, the loss of parental authority may pave the way for the child to be adopted by a third party. This decision must always be made in the best interests of the child and requires a specific legal procedure.

A parent deprived of their parental authority may, after two years, apply to the Family Court to have their rights restored.

(3) Whether appointing a lawyer is mandatory or not

A lawyer is not compulsory but is strongly recommended.

(4) General trend of the legal decision about child custody modification

In French law, the principle of co-parenting remains in effect even in the event of separation or divorce. Article 373-2 of the Civil Code establishes that "the separation of the parents does not affect the rules governing the exercise of parental authority", unless a judge decides otherwise in the best interests of the child.

The judge may nevertheless be required to modify the child's established arrangements if the applicant parent provides proof that it is in the child's interest. The legal provisions relating to the modification of visiting rights take as a criterion, abuse committed by one parent against the other or the child.

If serious circumstances justify it, the Family Court judge may remove or limit a parent's right to visit and stay with the child. He may also stipulate that this visiting right be exercised in a meeting space, with professionals responsible for supervising the meetings between the parent and the child. The judge must set the duration of the measure and determine the frequency and duration of the meetings.

(5) Useful information for victims who are immigrants/foreigners

The French judge will have jurisdiction to rule on the arrangements for the exercise of parental authority if the child's habitual residence is in France.

(6) Any other useful information related to legal process for altering child custody

The decisions of the Family Court judge relating to the exercise of parental authority may be appealed within one month of notification in the case of a judgment, and within 15 days in the case of an order. The decision must be enforced by the parties. The parent with whom the child resides is obliged to hand the child over to the other parent in accordance with the judge's decision establishing visiting and accommodation rights. Failing this, they may be criminally convicted for failure to produce the child. The penalties can be severe, as this article provides for a sentence of up to one year's imprisonment and a fine of 15,000 euros (article 227-5 of the Penal Code).

Influence of criminal decisions on civil matters:

In the event of a parent being convicted as the perpetrator, co-perpetrator or accomplice of a crime committed against the other parent, the criminal court may order the total withdrawal of parental authority. If the criminal court does not order total withdrawal, it must give reasons for its decision (article 228-1 paragraph 1 of the penal code).

If a parent is prosecuted or charged with a crime against the other parent, the exercise of their parental authority and their visiting and accommodation rights are suspended either until the decision of a Family Court judge if one of the parents refers the matter to him, or until the decision of the investigating judge to dismiss the case, or until the decision of the criminal court (article 378-2 of the Civil Code).

When the parent is convicted of an offence committed against the other parent, the criminal court has the option of ordering the total or partial withdrawal of parental authority, or the withdrawal of the exercise of this authority (article 228-1 paragraph 2 of the Criminal code).

7 Legal process for getting permission to move to another place with children (domestically and internationally)

(1) Outline (please specify your target area of study)

A parent may ask the judge for authorization to move with their child, in France or abroad. As this move necessarily infringes the parental rights of the other parent, the authorization of the latter or of the judge is necessary for it to be lawful. Failing this, the move constitutes international child abduction.

(2) How to start the legal process for getting permission to move to another place with children

The application is made by the parent before the Family Court judge, in the same way as for an application for modification, either by petition or by summons (see above.)

(3) Whether appointing a lawyer is mandatory or not

A lawyer is not compulsory but is strongly recommended for a request to relocate the child, as the judge will only grant the request if there is solid and relevant evidence that the planned move abroad is in the child's best interests.

(4) General trend of the legal decision related to moving to another place with children

The judge rules according to the best interests of the child. In practice, this means:

- Taking into account the child's geographical and emotional ties;
- Taking into account the existence of siblings;
- Hearing the child if a request is made;
- Verify that the child's living conditions in his or her new place of residence are in his or her best interests;
- Verify that the child's relationship with the other parent will be maintained. To do so, the judge relies in particular on previous practices and on the parents' ability to talk to each other.

(5) Useful information for victims who are immigrants/foreigners

Cf supra

(6) Any other information related to moving to another place with children

The parent who exercises sole parental authority must inform the authorities of the move with the child. If the abusive parent is deprived of their parental authority, the parent who has custody of the child may move without committing abduction.

8 Legal process for changing visitation schedules

(1) Outline (please specify your target area of study)

There is no specific proceeding for changing a parent's visiting and accommodation rights: the same proceeding applies for changing the exercise of parental authority or residence – see section 5.

(2) How to start the legal process for changing visitation schedules

See above

(3) Whether appointing a lawyer is mandatory or not

It is always preferable to be assisted by a lawyer.

(4) General trend of the legal decision about changing visitation schedules

(5) Useful information for victims who are immigrants/foreigners

(6) Any other useful information related to legal process for changing visitation schedules

9 Retaining a lawyer

(1) How to find a lawyer with expertise in dealing with domestic violence

It is possible to find a lawyer specializing in domestic violence by consulting the Bar Association directories and searching for a lawyer specializing in family law. Each Bar Association has a directory. For example, in Paris, the directory can be consulted at the following link: <https://www.avocatparis.org/annuaire>

It is also advisable to contact victim support organizations, which very often work with lawyers:

- The National Federation of Information Centers on Women's and Family Rights (FN CIDFF)
- Local associations near the victim's home, which can be found via this government website: <https://arretonslesviolences.gouv.fr/associations-de-lutte-contre-les-violences-sexistes-et-sexuelles/associations>

(2) How to find a lawyer who is good at Japanese languages

By contacting the Association des Avocats Japonophiles (+33 01 42 65 55 04; contact@asso-aaj.fr). Some of their members speak Japanese fluently. It is nevertheless advisable to contact a lawyer specialising in international family law.

(3) How to ask a lawyer

The lawyer can be contacted directly by telephone or email or via the website.

(4) General information about lawyer fee

Lawyers can be remunerated in different ways:

- Time-based fees, the lawyer is paid according to the time he spends on the case;
- Flat-rate fees, the lawyer is paid a flat rate, regardless of the time he actually spends on the case;
- Performance-related fees: in France, a lawyer cannot be paid exclusively on the basis of results, but may supplement their remuneration (flat-rate or time-based) with a performance-related fee.

In any case, the lawyer's fees are set out in a fee agreement signed between the lawyer and their client, which also sets out the scope of the lawyer's mission.

Not all lawyers accept legal aid. If the victim is eligible, they will need to ask the lawyer they have contacted if they accept.

(5) Legal aid

If the victim's resources are limited, they can apply for **legal aid** (full or partial coverage of lawyer's fees by the State). The form is available online or from the court. Legal aid is granted subject to means and assets tests: a certain amount of income and assets must not be exceeded, and the amount depends on the number of people in your tax household. Legal aid can be requested before or during the proceedings.

<https://www.aidejuridictionnelle.justice.fr/aide/demande-en-ligne>

The protection order may provide that the victim be granted provisional legal aid. To obtain legal aid on a permanent basis, proof of financial resources (income, property assets, savings) will be required. If these exceed the legal aid eligibility thresholds, the sums paid by the State will have to be repaid.

In addition, free legal consultations are offered by some town halls, houses of justice and law, or associations such as the **CIDFF** (for victims of violence) and the **Points d'Accès au Droit** (Law Access Points) which include: 'Maison de Justice et du Droit (MJD)', 'Point d'accès au droit (PAD)', 'Relais d'accès au droit (RAD)', 'Antenne de justice (AJ)' or even 'France services (FS)'.

In some insurance contracts, it is possible to have legal protection cover (car, home, credit cards, etc.), with the indication of the contribution.

Legal protection cover is also available as a stand-alone contract from an insurance company or bank.

(6) Useful information for victims who are immigrants/foreigners

(7) Any other useful information related to retaining a lawyer

1 0 Visas

(1) Measures to help victims apply for visas or renew the period of stay in your target area of study when the victims who are immigrants/foreigners cannot expect assistance from abusers (including special visa issued for domestic violence victims, etc.)

People married to a French national who have come to France or have a right of residence as a result of their marriage to a French national can retain this right in the event of a breakdown of their relationship with their spouse if they have suffered domestic or family violence or are in a polygamous situation. The application is made to the prefecture. All evidence of abuse or polygamy must be provided (testimonies, complaints, medical certificate, etc.).

A victim of foreign origin who is the beneficiary of a protection order can obtain a **temporary residence card** for a period of one year (renewable) and, if a complaint is filed, for the duration of the criminal proceedings. In the event of a final conviction of the accused, the person is entitled to a 10-year residence permit (articles L.425-6 and L.425-7 of the 'CESEDA').

(2) How to apply

The application is made via the website of the ANEF (Administration numérique des étrangers en France).

This site is run by the Ministry of the Interior.

There are several associations in France that can help you with the steps to obtain a visa:

- CIMADE: an organisation specialising in supporting immigrants and refugees in France, particularly those facing violence. The service is free and trilingual (French, English and Spanish).
 - To contact them: 01 40 08 05 34 or 06 77 82 79 09 on Wednesdays from 9.30am to 1.30pm and from 2.30pm to 5.30pm.
- GISTI : organisation specialising in legal advice for immigrants and refugees in France. This service is free of charge.
 - +331 84 60 90 26 Monday to Friday from 3pm to 6pm and also from 10am to 12pm on Wednesdays and Fridays. Or by post: Gisti, 3 villa Marcès 75011 Paris, France.

(3) Any other useful information related to visas

1 1 Any other useful information related to legal process regarding domestic violence

III. Information for domestic violence victims preparing to return to your country based on the 1980 Hague Convention

※ A typical case is supposed where a domestic violence victim, who removed children without consent of the abuser, is preparing to return to the country of habitual residence with children after relevant proceedings in accordance with the 1980 Hague Convention.

1 How to know whether an arrest warrant is out against the victim before he/she returns to the country of habitual residence

※ Including measures to obtain official or reliable information about the arrest warrant other than asking the abuser

An arrest warrant is issued in the case of a criminal offence, i.e. following a complaint lodged with the public prosecutor. If the victim of violence is the perpetrator of the abduction, she will not know if there is an arrest warrant, as the criminal investigation is subject to secrecy.

2 Measures to terminate criminal proceedings against the domestic violence victim before he/she returns to the country of habitual residence

※ Including registering or enforcing orders which may be made by the foreign court when it made return order, any other legal or administrative measures, etc.

It will be necessary to contact the public prosecutor through a lawyer to request the lifting of the arrest warrant. It is then up to the prosecutor to decide whether or not to prosecute the perpetrator of the wrongful removal before the criminal court.

3 Measures to secure accommodation, financial support, etc., for a domestic violence victim before he/she returns to the country of habitual residence

※ Including registering or enforcing orders which may be made by the foreign court when it made return order, any other legal or administrative measures, etc.

See above for the assistance available for victims of domestic violence.

4 Any other useful information for a domestic violence victim preparing to return to your country based on the 1980 Hague Convention

IV. Any other relevant information