

## **Domestic violence**

Law no. 119 of October 15, 2013, containing, inter alia, "urgent provisions on security and for combating gender-based violence", provides a definition of domestic violence.

Domestic violence is defined as one or more acts, serious or non-episodic, of physical, sexual, psychological or economic violence occurring within the family or household or between persons who are or have been related by marriage or other intimate relationship, regardless of whether the perpetrator and the victim share or have shared the same house.

A key provision is article 572 of the Italian criminal code punishing whoever commits abuse against family members or cohabiting partners. The offence is constituted by behavior on the part of the perpetrator causing harm to the physical or mental health of the victim, or attempting at his/her freedom or dignity, by means of systematic and planned abuse. In our legal system this offence covers abuse in any form as it has not been specifically identified by the legislator. It covers offending behavior resulting in the infliction of harm or failure to prevent harm.

For this offence, as with a stalking offence, Law no. 119 of October 15, 2013, requires mandatory arrest of the perpetrator when caught in the act.

Article 572 of the criminal code was recently amended by Law no. 69 of 2019, the so-called Red Code, which provides for:

- increased penalties (previously ranging from a minimum of two to a maximum of six years imprisonment, then raised to a minimum of three to a maximum of seven years imprisonment);
- the introduction of an aggravated offence, entailing a penalty increased by up to half, when the act is committed in the presence of or against a minor, a pregnant woman or a disabled person, or when it is committed with weapons;
- the minor, who witnesses the abuse, to be always considered an offended person.

Abuse against family members and cohabiting partners is included in the list of offences which may entail the application against the suspect of a restraining measure consisting in his/her removal from the family home and prohibition to visit places usually frequented by the offended person.

In this regard, Law no. 119 of 2013 introduced article 384 bis into the code of criminal procedure: criminal police agents and officers, having been authorized by the public prosecutor, can order the urgent removal of the suspect from the family home and prohibit the latter from going near the places frequented by the offended person if the offender is caught in the act of committing specific offences (including injuries that can be prosecuted ex officio, serious threats and sexual violence), and if a well-grounded risk exists that the criminal conduct will repeatedly occur, thereby placing the life or physical or psychological integrity of the offended person in serious and imminent danger.

Violation of this prohibition is punished with imprisonment from six months to three years (art. 387 bis of the criminal code).

The preventive measure consisting in the warning is also applicable to domestic violence.