

Law no. 38 dated April 23, 2009

Law no. 38 dated April 23, 2009 filled a gap by introducing the offence of persecutory acts (art. 612-bis of the criminal code). Previously, police officers approaching a stalking victim would either detect conducts that were not criminally relevant or crimes for which no precautionary measure was applicable (i.e. duress); as a consequence, they would not be able to adequately protect the victim.

Persecutory acts or stalking are conducts – in the form of threats, harassment -- which cause a state of anxiety and fear in the victim(s) or provoke within the victim(s) a well-founded fear for his/her own safety or for the safety of relatives or partners. These conducts take the form of text messages, e-mails, phone calls, surveillance, chases, unwelcome presents, etc.

Law 38/2009 also established new protective measures such as restraining orders prohibiting the offender to approach the places frequented by the victim (art. 282-ter of the criminal procedure code).

A further novelty was the introduction of the possibility for the victim to apply for a warning to be issued by the Questore (local police chief) against the abuser as an alternative to reporting him/her to the police.

Further changes to the regulatory framework were brought about by Law 119/2013 which established stricter penalties for perpetrators of both persecutory acts committed by the separated spouse or a former partner and crimes against life and body which are committed in the presence of or against minors or pregnant women.

The Law also established the obligation to provide information to victims and strengthened some procedural rules in order to protect them by introducing a precautionary measure – the urgent removal of the offender from the family home – which can be adopted by the criminal police upon authorization of the public prosecutor.

Law 119/2013 also implemented preventive tools such as the warning by the Questore in case of domestic violence defined as one or more serious and not episodic acts of physical, sexual, psychological or economic abuse occurring within the family or between current and former spouses or partners. Present or past cohabitation with the victim is not a relevant factor.

A special stay permit for foreign victims of domestic violence is provided in art. 18-bis of Legislative Decree 286/1998.

Art. 5 of Law 119/2013 envisages an Action Plan to be coordinated by the Department for Equal Opportunities of the Presidency of the Council of Ministers.