

FRANCE

Documents (or partial) included below:

Penal Code (as amended through 2002, 2003, 2004)

Law No. 79-1204 of 31 December 1979 and related laws

Penal Code of 1810

Penal Code (as amended through 2002, 2003, 2004)

TITLE II

OFFENCES AGAINST THE HUMAN PERSON (Articles 221-1 to 227-31)

CHAPTER I

OFFENCES AGAINST THE LIFE OF PERSONS (Articles 221-1 to 221-1)

SECTION I

WILLFUL INJURY AGAINST LIFE (Articles 221-1 to 221-5-3)

ARTICLE 221-1

The willful causing of the death of another person is murder. It is punished with thirty years' criminal imprisonment.

ARTICLE 221-3

Murder committed with premeditation is assassination. Assassination is punished by a criminal imprisonment for life.

ARTICLE 221-4

(Act no. 94-89 of 1 February 1994 Article 6 Official Journal of 2 February 1994 into force 1 March 1994) (Act no. 96-647 of 22 July 1996 Article 13 Official Journal of 23 July 1996) (Act no. 99-505 of 18 June 1999 Article 14 Official Journal of 19 June 1999)

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(Act no. 2003-88 of 3 February 2003 Article 2 Official Journal of 4 February 2003) (Act no. 2003-239 of 18 March 2003 Article 47 II, Article 60 I, II Official Journal of 19 March 2003 Correction JORF 5 June 2003) (Act no. 2004-204 of 9 March 2004 article 6 I Official Journal of 10 March 2004)

Murder is punished by criminal imprisonment for life where it is committed:

1. Against a minor under fifteen years of age;
2. Against a natural or legitimate ascendant or the adoptive father or mother;
3. Against a person whose particular vulnerability, due to age, sickness or infirmity, or to any physical or psychological disability or to pregnancy, is apparent or known to the perpetrator;

ARTICLE 221-5

Making an attack against the life of another person by the use or administration of substances liable to cause death constitutes poisoning.

Poisoning is punished by thirty years' criminal imprisonment.

It is punished by criminal imprisonment for life where it is committed in any of the circumstances provided for by articles 221-2, 221-3 and 221-4.

The first two paragraphs of article 132-23 governing the safety period apply to the offence under the present article.

CHAPTER II

OFFENCES AGAINST THE PHYSICAL OR PSYCHOLOGICAL INTEGRITY OF THE PERSON

(Articles 222-1 to 222-51)

SECTION I

WILLFUL OFFENCES AGAINST THE PHYSICAL INTEGRITY OF THE PERSON

(Articles 222-1 to 222-18-2)

Paragraph 1

Torture and acts of barbarity (Articles 222-1 to 222-6-2)

ARTICLE 222-7

Acts of violence causing an unintended death are punished by fifteen years' criminal imprisonment.

ARTICLE 222-8

(Act no. 96-647 of 22 July 1996 Article 13 Official Journal of 23 July 1996) (Act no. 99-505 of 18 June 1999 Article 14 Official Journal of 19 June 1999) (Act no. 2003-88 of 3 February 2003 Article 4 Official Journal of 4 February 2003) (Act no. 2003-239 of 18 March 2003 Article 47 IV, Article 60 I, II Official Journal of 19 March 2003)

The offence defined under article 222-7 is punished by twenty years' criminal imprisonment where it is committed:

1. Against a minor under fifteen years of age;
2. Against a person whose particular vulnerability, due to age, sickness or infirmity, to a physical or psychological disability or to pregnancy, is apparent or known to the perpetrator;

CHAPTER III

ENDANGERING OTHER PERSONS (Articles 223-1 to 223-20)

SECTION V

ILLEGAL TERMINATION OF PREGNANCIES (Article 223-10)

ARTICLE 223-10

(Ordinance No. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September into force 1 January 2002)

The termination of a pregnancy without the consent of the person concerned is punished by five years' imprisonment and a fine of €75,000.

CHAPTER VII

OFFENCES AGAINST MINORS AND THE FAMILY (Articles 227-1 to 227-31)

SECTION I

DESERTION OF MINORS (Articles 227-1 to 227-2)

ARTICLE 227-1

(Ordinance no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force 1 January 2002)

The abandonment of a minor under fifteen years of age in any given place is punished by seven years' imprisonment and a fine of €100,000 except where the circumstances of the abandonment enabled the health and the safety of the minor to be assured.

ARTICLE 227-2

The abandonment of a minor under fifteen years of age causing the minor to suffer mutilation or permanent disability is punished by twenty years' criminal imprisonment.

The abandonment of a minor under fifteen years of age causing the death of the minor is punished by thirty years' criminal imprisonment.

SECTION IV

OFFENCES AGAINST FILIATION (Articles 227-12 to 227-14)

ARTICLE 227-12

(Act no. 94-653 of 29 July 1994 Article 4 Official Journal of 30th July 1994; Ordinance no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force 1 January 2002)

The incitement of the parents or one of them to abandon a born or unborn child, made either for pecuniary gain, or by gifts, promises, threats or abuse of authority, is punished by six months' imprisonment and a fine of €7,500 €.

Acting for pecuniary gain as an intermediary between a person desiring to adopt a child and a parent desiring to abandon its born or unborn child is punished by one year's imprisonment and a fine of €15,000.

The penalties provided by the second paragraph apply to acting as an intermediary between a person or a couple desiring to receive a child and a woman agreeing to bear this child with the intent to give it up to them. Where the offence is habitually committed for pecuniary gain, the penalties incurred are doubled.

Attempt to commit the offences referred to under the second and third paragraphs of the present article is subject to the same penalties.

ARTICLE 227-13

(Ordinance no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force 1 January 2002)

Willful substitution, false representation or concealment which infringes the civil status of a child is punished by three years' imprisonment and a fine of €45,000.

Attempt to commit this offence is subject to the same penalties.

ARTICLE 227-14

Legal persons may incur criminal liability for the offences under the present Section, pursuant to the conditions set out under article 121-2.

The penalties incurred by legal persons are:

1. A fine, pursuant to the conditions set out under article 131-38;
2. The penalties referred to in 1°, 2°, 3°, 8° and 9° of article 131-39.

Source: www.legifrance.gouv.

Law No. 79-1204 of 31 December 1979 and related laws.

(*Journal Officiel*, No. 1, 1 January 1980, p. 3.)

Introduction: Law No. 75-17 on the Voluntary Termination of Pregnancy first went into effect on 18 January 1975 for a five year trial period after its adoption by Parliament on 20 December 1974 and a successful test of its constitutionality. Because new legislation became necessary at the end of 1979, another law was passed by the National Assembly by a vote of 271 to 211 and by the Senate by 155 to 113 with 12 abstentions. It went into effect on 31 December 1979.

Law No. 79-1204 of 31 December 1979 Concerning the Voluntary Termination of Pregnancy has amended the previous law on the subject, dated 17 January 1975 (see A, below), the Code of Public Health (see B, below), and the Penal Code (see C, below). In addition, it contains provisions concerning the newly constituted Parliamentary Delegation on Demographic Problems (see D, below). Thus, the basic provisions of the French law on abortion after the reforms of 1975 and 1979 are contained in four statutes or codes complementing each other, as follows:

A.

Law No. 75-17 of January 1975, concerning the Voluntary Termination of Pregnancy, as amended by Law No. 79-1204 of 31 December 1979, reads in part as follows:

1. The law guarantees the respect of every human being from the commencement of life. There shall be no derogation from this principle except in cases of necessity and under the conditions laid down by this Law.

The teaching of this principle and its consequences, the provision of information on the problems of life and of national and international demography, the education towards responsibility, the acceptance of the child in society, and family-oriented policy, are national obligations. The State, with the co-operation of territorial communities (collectivités territoriales) implements these obligations and supports initiatives towards these ends.

13. The voluntary termination of pregnancy must under no circumstances constitute a means of birth control. In this connection, the government shall take all the measures necessary to promote information on birth control on as wide a scale as possible, notably by the universal establishment, within maternal and child care centres, of family planning or education centres, and by the utilization of all information media.

The education (formation initiale) and practical training (formation permanente) of physicians, midwives, and nurses (male and female) shall include instruction concerning contraception.

14. Every family planning or education centre established within a maternal and child care centre shall be provided with the necessary means for informing, counselling, and assisting a woman requesting a voluntary termination of her pregnancy.

16. The report on the demographic situation in France, submitted annually to Parliament by the Minister responsible for Population Affairs in pursuance of Law No. 67-1176 of 28 December 1967, shall cover developments relating to the socio-demographic aspects of abortion.

In addition, the National Institute for Demographic Studies shall analyse and publish, in conjunction with the National Institute of Health and Medical Research, statistics compiled on the basis of the notifications provided for in Article L. 162-10 of the Public Health Code.

B.

Chapter III bis of Book II, Title I of the Code of Public Health, as amended by Article 4 of Law No. 79-1204, reads as follows:

Division I

Voluntary termination of pregnancy performed before the end of the tenth week

Article L. 162-1. A pregnant woman whose condition places her in a situation of distress may make a request to a physician for the termination of her pregnancy. The termination may be performed only before the end of the tenth week of pregnancy.

Article L. 162-2. A voluntary termination of pregnancy may be performed only by a physician.

The procedure may be carried out only in a public hospital establishment or in a private hospital establishment conforming to the provisions of Article L. 176.

Article L. 162-3. A physician who has been approached by a woman with a view to the termination of her pregnancy is required from the time of her first visit, to:

1. Inform her of the medical risks to herself and to her future maternity, and

- of the biological seriousness of the operation requested by her;
2. Furnish her with an information folder (dossier-guide), to be updated at least once every year, containing in particular:
 - a reference to the provisions of Article 1 of Law No. 75- of 17 January 1975 as well as to the provisions of Article L. 162 of this Code, limiting the termination of pregnancy to such cases where the pregnant woman is by her condition placed in a situation of distress;
 - a list of the rights, forms of assistance, and benefits guaranteed by law to families, mothers, including unmarried mothers, and their children, as well as of possibilities offered for adoption of children to be born;
 - a list and the addresses of the institutions referred to in Article L. 162-4 as well as of the associations and institutions capable of supplying the persons concerned with moral material assistance; and
 - a list and the addresses of establishments where voluntary termination of pregnancies are performed.

The conditions under which the Departmental Directorates of Health and Social Affairs are to undertake the preparation and distribution of the information folders intended for physicians shall be defined by an order (un arrêté).

Article L. 162-4. A woman who considers herself to be placed in the situation referred to in Article L. 162-1 must, after completion of the formalities prescribed in Article 162-3, consult a family information, counselling, or advisory establishment, a family planning education centre, a social welfare service, or any other approved situation, which shall furnish her with a certificate to the effect that the consultation has taken place.

This consultation shall consist of a private interview during which the woman shall be provided with assistance and advice appropriate to her situation, as well as the necessary means to resolve the social problems posed, especially with a view to enabling her to keep her child. On this occasion she shall be supplied with the names and addresses of persons who, either as individuals or acting on behalf of organizations, may be able to provide women and couples facing problems of how to accept and raise a child with moral or material assistance. With the exception of public hospitals (l'accueil de l'enfant), the above consultations may not be undertaken inside such establishments where voluntary terminations of pregnancies are undertaken.

The staff of the institutions referred to in the first paragraph shall be subject to the provisions of Article 378 of the Penal Code.

Wherever possible, both partners shall participate in the consultation and in the decision to be taken.

Article L. 162-5. Should the woman repeat her request for pregnancy termination after the consultations referred to in Articles L. 162-3 and L. 162-4,

the physician must ask her to give written confirmation; he may not accept such information before a period of one week has elapsed following the woman's initial request *except in cases where there is a risk that the period of ten weeks might be exceeded the physician being the sole judge of the propriety of his decision. Moreover, this confirmation may not be given earlier than two days after the consultation provided for in Article L. 162-4, which time may be included in the period of one week provided for above.*

Article L. 162-6. If confirmation is forthcoming, the physician may himself perform the pregnancy termination under the condition laid down in the second paragraph of Article L. 162-2. Should he not perform the abortion himself, he shall return the request to the woman so as to enable her to present it to a physician of her choice; he shall likewise furnish the woman with a certificate to the effect that he has complied with the provisions of Articles L. 162-3 and L. 162-5.

The director of the hospital establishment to which the woman requests admission with a view to the voluntary termination of her pregnancy is required to obtain and to preserve, for a period of not less than one year, certificates confirming that the woman has complied with the consultation procedures prescribed in Articles L. 162-3 through L. 162-5.

Article L. 162-7. If the woman is an unmarried minor, the consent of one of the persons exercising parental authority or, where applicable, of her legal representative, shall be required.

This consent shall be in addition to the consent of the unmarried minor, which must be given outside of the presence of her parents or legal representative.

Article L. 162-8. In no case shall a physician be required to perform a voluntary termination of pregnancy; he must, however, not later than the time of her first visit, inform the woman of his refusal. He is, moreover, required to meet the obligations of Articles L. 162-3 and L. 162-5.

No midwife, nurse, or member of the allied health professions shall be required to assist in a pregnancy termination.

A private hospital establishment may refuse to allow voluntary terminations of pregnancy to be performed on its premises.

However, where the establishment has applied to participate in the provision of the public hospital service or has concluded a concession contract under the terms of Law No. 70-1318 of 31 December 1970 providing for the reform of the hospital system, such a refusal is permissible only if other establishments are in a position to meet local needs.

The categories of public establishments which are required to have at their disposal the means necessary for the performance of voluntary terminations of pregnancies, shall be defined by decree (décret).

In the hospital establishments in the categories mentioned in the previous paragraph, the Board of Governors (conseil d'administration) shall designate the department where the voluntary terminations of pregnancies will be performed.

If the head of the department concerned refuses to take responsibility for such procedures, the Board of Governors shall create a unit equipped with the means necessary for the performance of voluntary termination of pregnancies.

Article L. 162-9. Every establishment in which a pregnancy termination is performed must provide the woman, after the operation, with information on birth control.

Article L. 162-10. Every pregnancy termination must be the subject of a notification drawn up by the physician and forwarded to the regional medical inspector of health by the establishment at which the operation was performed; no mention shall be made of the identity of the woman in this notification.

Article L. 162-11. The termination of a pregnancy in the case of a non-citizen shall be authorized only if the woman concerned satisfies the residence requirements laid down by way of regulations.

The requirement laid down in Article L. 162-7 must also be satisfied in the case of unmarried women under 18 years of age who are not French citizens.

Division II

Voluntary termination of pregnancy performed on therapeutic grounds

Article L. 162-12. A voluntary termination of pregnancy may be performed at any stage of gestation if two physicians certify, after an examination and discussion, that the continuation of the pregnancy is seriously endangering the woman's health or that there is a strong possibility that the unborn child is suffering from a particularly serious disease or condition considered as incurable at the time of the diagnosis.

One of the two physicians must be practising his profession in a public hospital establishment or in a private hospital establishment conforming to the provisions of Article L. 176, while the other must be entered on a list of experts attached to the Court of Cassation or to an appeal Court.

One copy of the consultation shall be given to the woman concerned; two others copies shall be retained by the consulting physicians.

Article L. 162-13. The provisions of Articles L. 162-2 and L. 162-8 to L. 162-10

shall be applicable to voluntary terminations of pregnancy performed on therapeutic grounds.

Division III

Joint Provisions

Article L. 162-14. A decree made with the accord of the *Conseil d'Etat* shall determine the means for the implementation of this Chapter.

Article L. 178-1 of the code of Public Health (as amended by Law No. 75-17) reads as follows:

Article L. 178-1. The number of voluntary terminations of pregnancy performed annually in the establishments referred to in Article L. 176 may not be greater than one-quarter of all the surgical and obstetrical operations (*actes*) performed.

Exceeding the said proportion shall entail closure of the establishment for a period of one year. Any repetition of the offence shall entail final closure of the establishment.

Article L. 647 of the Code of Public Health (as amended by Law 75-17) reads as follows:

Article L. 647. Any persons who by any means whatsoever have incited others to pregnancy terminations, even if the latter are legal and even if no actual abortions are performed as a result of such incitement, shall be sentenced to two months' to two years' imprisonment and/or a fine of between 2,000 and 20,000 F, without prejudice to the provision of Article 60 of the Penal code.

The same penalties shall be imposed on any persons who, by any media whatsoever, other than publications restricted to physicians and pharmacists, have disseminated propaganda or publicity concerning either establishments in which pregnancy terminations are performed or medicaments, products, and objects or methods intended to procure, or presented as being of such a nature as to procure, an abortion.

In the case of incitement, propaganda, or publicity effected by means of written material, even where the latter is introduced from abroad, or by means of audio-visual media, even if the source of the latter is located abroad but the media have been received in France, the penal proceedings prescribed in the preceding paragraphs shall be instituted against the persons listed in Article 285 of the Penal Code under the conditions laid down by the said Article (where the offence has been committed through the medium of the press) or against the persons recognized as being responsible for the transmission or, in their absence, the heads of establishments or the directors or managers of undertakings who disseminated the transmission or profited therefrom (where the offence has been committed through any other medium).

C.

Article 317 of the Penal Code (as amended by Article 3, No. IV of Law No. 79-1204) reads as follows:

Article 317. Any person who causes or attempts to cause an abortion on a pregnant or putatively pregnant woman, with or without her consent, by means of food, beverages, medicaments, manipulations, force, or by any other means whatsoever, shall be punished by imprisonment from one to five years and by a fine of 1,800 to 100,000 francs.

Imprisonment shall be from five to ten years and the fine from 18,000 to 250,000 francs, if it is proven that the perpetrator habitually performs the acts referred to in the preceding paragraph.

A woman who has performed or attempted to perform an abortion on herself, or has agreed to use means indicated or supplied to her, shall be punished by imprisonment from six months to two years and by a fine of 360 to 20,000 francs.

Physicians, health officials, midwives, dentists, pharmacists, as well as medical students, pharmacy students or pharmacy employees, herbalists, trussmakers, sellers of surgery equipment, female and male nurses and masseurs, who have indicated, aided, or used means for causing an abortion, shall be sentenced to the punishment provided for in paragraphs 1 and 2 of this Article. Furthermore, conviction shall entail the complete ineligibility or loss of right to practise their profession for at least five years.

Any person who violates the prohibition of exercising his profession as provided in the preceding paragraph, shall be punished by imprisonment for not less than six months nor more than five years and by a fine of 3,600 to 100,000 francs, or either punishment.

The provisions of the first four paragraphs of this section shall not apply where a voluntary termination of pregnancy is performed either under the conditions laid down in Article L. 162-12 of the Public Health Code or, before the end of the tenth week, by a physician in a public hospital establishment or a private hospital establishment conforming to the provisions of Article L. 176 of the Code of Public Health.

The first two paragraphs of Article 378 of the Penal code (as amended by Law No. 75-17) read as follows:

378. Physicians, surgeons, and other health officers, as well as pharmacists, midwives, and all other persons entrusted with secrets by reason of their situation, profession, or temporary or permanent functions, and who disclose such secrets other than in cases where they are obliged or authorized to do so

by the law, shall be sentenced to one to six months' imprisonment and a fine of between 500 and 3,000 *francs*.

However, the above-mentioned persons, although not obliged to report abortions performed under conditions other than those prescribed by the law and which have come to their knowledge in the course of their professional practice, shall not be liable to the penalties laid down in the preceding paragraph in the event that they do report such abortions; if subpoenaed in connection with an abortion case, they shall be free to give evidence without rendering themselves liable to any sanction.

D.

Article 13 of Law No. 79-1204 provides:

I. A Parliamentary Delegation on Demographic Problems shall be constituted. It shall consist of twenty-five members: fifteen deputies of the National Assembly and ten Senators.

II. The members of the Delegation shall be assigned to the functions by each of the Chambers of Parliament in such a manner to assure proportional representation of the political groups.

The deputy-members of the Delegation shall be assigned at the beginning of the legislative session for its duration.

The Senator-members of the Delegation shall be assigned after every partial re-constitution (*renouvellement partiel*) of the Senate.

The mandates of the members of the Delegation end at the same time as their mandates in the Parliament.

III. The task of the Parliamentary Delegation on Demographic Problems is to inform the Chambers of Parliament:

1. on the results of pro-natalist policies;
2. on the application of the laws on the regulation of births and contraception;
and
3. on the application and consequences of the Law on the Voluntary Termination of Pregnancy.

IV. The government shall each year present to the Delegation a report concerning actions mentioned in paragraph III above; the Delegation shall formulate its observations on this report and submit them to the competent Parliamentary commissions.

V. The Delegation shall determine its own rules and procedures.

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317. Whoever, by reason of substances to be swallowed, either solid or liquid; by medicines; by violence; or by any other means; shall have caused the miscarriage of a woman with child, whether she has consented to it or not, shall be punished with solitary imprisonment.

The same penalty shall be awarded against the woman who shall have procured her own miscarriage, or shall have consented to make use of the means prescribed to her, or administered for that purpose, if the miscarriage has actually ensued therefrom.

The physicians, surgeons, and other officers of health, who shall have prescribed or administered such means, shall be condemned to hard labour for time, if the miscarriage has actually taken place.

Source: France: Penal Code of 1810, Book The Third of Crimes and Delicts, and of their Punishment. Law decreed February 15th, 1810. Transcribed by Tom Holmberg.