

## **Stalking and Swiss Law**

Switzerland does not have any specific anti-stalking law. There have been attempts to establish a specific legislation in 2007 and 2008 but both failed.

Below the link to the Swiss Federal Council's answer as to why the motion didn't pass. It is available in German and French.

They argue among other things that it will be very difficult to capture all kinds of stalking behaviour in a legislation and they are worried that socially adequate behavior will be criminalized as well.

[http://www.parlament.ch/d/suche/seiten/geschaefte.aspx?gesch\\_id=20083495](http://www.parlament.ch/d/suche/seiten/geschaefte.aspx?gesch_id=20083495)

### **(1) Penal Law**

The answer basically states that the majority of stalking behaviors can be prosecuted by existing Swiss laws like e.g. Threats (Penal code 180) or misuse/abuse of communication systems (Penal code 179).

Some of them are criminal offences prosecuted only upon application by the victim, others are criminal offences liable to public prosecution. The former usually must be reported to the police no longer than three months after the incident happened.

If it's not possible to prosecute the stalker's behavior under current laws (e.g. Stalker waits in front of the house), they argue that the **civil law** will be helpful in such cases.

### **(2) Civil Law**

They refer to Civil Code 28b which was established in 2007 and protects the personality (**Civil code 28: Protection of Personality – 28b: Protection against Violence, Threats and Stalking**).

The victim can apply at the court that the stalker isn't allowed to **a)** approach him/her; **b)** loiter around the house or other places where the victim might spend his/her time; **c)** contact him/her via phone, letters or through other electronic means.

Code 28b can be applied independently from a penal prosecution.

The restraining order can be linked with a **threat of punishment**. If the stalker breaks the restraining order, he can be prosecuted for **Disobedience Against an Official Order** under **Penal Code 292**. The punishment is a money fine.

**But...**

Applying the civil law means that the victim has to play an **active part, there has to be enough evidence** and there might be **financial costs** for the victim.

## **Future:**

The Swiss Federal Council is going to evaluate the efficacy of the civil code 28b within five years. If it's not sufficient to protect victims' rights, further measures will be taken into consideration.

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## **(3) Cantonal Rights/Laws against violence**

**Rights/Laws against violence** were established in almost all cantons of Switzerland. They only concern **domestic violence cases/Ex-Partner-Stalking** and they differ in various Swiss cantons/states.

They allow the **police** to prohibit the stalker to enter the once-shared home, approach or contact the victim. The victim can ask the judge for an extension of this restraining order (max. three months).

The police can also apprehend the stalker during a specific time frame. Victim's shelters or Offender information center's contact the parties concerned.

## **Citation:**

Guildimann, A. (2011). *Stalking and Swiss Law*. Retrieved from <http://www.stalkingriskprofile.com/what-is-stalking/stalking-legislation/international-legislation> on INSERT DATE.