Fighting Domestic Violence - The Netherlands

1. Legal provisions

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# 1.1 What are the relevant statutes and codes?

**Council of Europe Convention on preventing and combating violence against women and domestic violence**

The Istanbul Convention is the most comprehensive international treaty on combating and preventing violence against women and domestic violence. It was presented and opened for signature in 2011, signed in 2012 and was ratified in the Netherlands in March 2016; it follows that the Netherlands must therefore comply with this treaty. The Istanbul Convention is the first legally binding instrument that creates a comprehensive legal framework and associated approach to combat violence against women and focuses on preventing domestic violence, protecting victims and prosecuting offenders.

**European treaty**

Source available in

[English](https://wetten.overheid.nl/BWBV0006074/2016-03-01#Verdrag_1)

[Dutch](https://wetten.overheid.nl/BWBV0006074/2016-03-01#Verdrag_2)

**1979 Convention on the Elimination of All Forms of Discrimination against Women**

The United Nations Committee on the Elimination of Discrimination against Women (CEDAW), an expert body established in 1982, watches over the progress made for women in those countries that are parties to the 1979 Convention on the Elimination of All Forms of Discrimination against Women ("**1979 Convention**"). The Netherlands has signed and ratified this convention.

**Global treaty (UN)**

Source available in

[English](https://www.un.org/womenwatch/daw/cedaw/text/econvention.htm)

**Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse**

This convention mainly regulates the criminal protection of children against new forms of abuse via the internet. The criminalization of child pornography, the corruption of children and the way in which pedophiles make contact with children, i.e., so-called "grooming," are tightened up. In the Netherlands, the convention has been approved and has therefore been in force since 26 November 2009.

**European treaty**

Source available in

[English](https://rm.coe.int/1680084822)

[Dutch](https://wetten.overheid.nl/BWBV0004127/2010-07-01#Verdrag_2)

**Convention on the Rights of the Child**

The United Nations Convention on the Rights of the Child is a human rights treaty that sets out the civil, political, economic, social, health and cultural rights of children. This convention was ratified in February 1995. The convention defines a child as any human being under the age of 18. This convention has been adopted under Dutch law.

**Global treaty (UN)**

Source available in

[English](https://www.ohchr.org/en/professionalinterest/pages/crc.aspx)

[Dutch](https://wetten.overheid.nl/BWBV0002508/2002-11-18#Verdrag_2)

***Wetboek van Strafrecht*(Criminal law)**

This law contains relevant articles on crimes against public order, crimes against morality, crimes against personal liberty, crimes against life, ill treatment, and causing death or bodily injury by guilt, destruction or damage.

Source available in

[Dutch](https://wetten.overheid.nl/BWBR0001854/2021-07-01)

***Burgerlijk Wetboek Boek 1*(Dutch Civil Code)**

The Dutch Civil Code contains the most important provisions that regulate the everyday life of citizens. This part of the Dutch Civil Code contains articles about personal and family law relating to, amongst others, marriages and divorces. The Dutch law provides for the tasks and powers of child protection that can be exercised in cases of domestic violence.

Source available in

[Dutch](https://wetten.overheid.nl/BWBR0002656/2021-01-01)

***Jeugdwet*(Administrative law dealing with Youth)**

This law states that the municipality must provide most care and help for children and young people. The purpose of the law is to prevent fragmentation of care for youth and to organize care and help. Municipalities are the third tier of public administration in the Netherlands and responsible for carrying out the duties that are delegated to them by the central government.

Source available in

[Dutch](https://wetten.overheid.nl/BWBR0034925/2020-07-01)

***Wet tijdelijk huisverbod*(Administrative law dealing with Temporary Restraining Orders)**

This law provides that a temporary restraining order can be imposed by the mayor on a person who poses a serious threat of domestic violence. For example, this law provides the mayor with the authority to impose a restraining order on a person if facts and circumstances show that this person poses a danger to the safety of others. Furthermore, the mayor has the power to mandate or authorize the auxiliary public prosecutor to carry out these powers and duties.

Source available in

[Dutch](https://wetten.overheid.nl/BWBR0024649/2020-07-01)

***Aanwijzinghuiselijk gewelden kindermishandeling* (2016A003) (Criminal law framework for dealing with domestic violence and child abuse)**

This designation provides a framework and rules for the criminal law approach to domestic violence and child abuse. Domestic violence and child abuse cover different forms of violence, always involving violence committed by someone close to the victim, where the victim is in a relationship of dependency and/or lack of freedom in relation to the perpetrator and where in some cases inequalities and stereotyped norms about women and men as a social group play a role. This can include partner violence, violence related to "honor," female genital mutilation, child abuse, parental abuse, marriage coercion, abandonment, bigamy and marital imprisonment, but also violence in (care) institutions. "Domestic violence" and "child abuse" is used as a collective term in this designation. Sometimes a short reference is made to "domestic violence" or "violence in the private sphere." These terms always have the same meaning and are considered a very broad definition of domestic violence compared to most European countries.

Source available in

[Dutch](https://wetten.overheid.nl/BWBR0037818/2016-05-01)

***Regeling specifieke uitkering aanpak huiselijk geweld en kindermishandeling*(Administrative law setting out specific benefit scheme for tackling domestic violence and child abuse)**

This scheme helps regions, through so-called central municipalities to put their plans and projects regarding domestic violence and child abuse into practice. This is done via the program team "Geweld hoort nergens thuis." The team helps regions in the transition from thinking to doing, in order to structurally solve bottlenecks in daily practice.

Source available in

[Dutch](https://wetten.overheid.nl/BWBR0043531/2020-05-16)

***Wet maatschappelijke ondersteuning 2015 - Hoofdstuk 4 VeiligThuis Uitvoeringsbesluit*(Administrative law framework for Social Support (See in particular: Chapter 4 Safe at Home))**

The Social Support Act (*Wet maatschappelijke ondersteuning*) is an act within the framework of aid and support. The purpose of the law is to help citizens so that they can continue to live independently at home and participate in society for as long as possible. Municipalities are responsible for implementing this law.

Source available in

[Dutch](https://wetten.overheid.nl/BWBR0035362/2021-07-01)

***Wmo 2015 - Hoofdstuk 4 Advies- en meldpunt huiselijk geweld en kindermishandeling*(Implementation decree (Chapter 4) Advice and reporting center for domestic violence and child abuse)**

Source available in

[Dutch](https://wetten.overheid.nl/BWBR0035733/2020-01-01#Hoofdstuk4)

***Meldcode Huiselijk geweld en kindermishandeling (Besluit verplichte meldcode huiselijk geweld en kindermishandeling)*(Administrative law setting out framework for mandatory reporting code for domestic violence and child abuse)**

The Reporting Code on Domestic Violence and Child Abuse (*Huiselijk geweld en kindermishandeling*) provides the reporting guidelines for professionals who encounter suspected domestic violence or child abuse of women and children in their work as a professional (e.g., as doctors, teachers, etc.). Based on five steps, professionals can determine whether they need to report their concerns to Veilig Thuis (Safe Home, a governmental organization that collaborates with the police in investigating domestic violence) and whether sufficient help can be deployed.

Source available in

[Dutch - Link 1](https://wetten.overheid.nl/BWBR0033723/2019-01-01)

[Dutch - Link 2](https://www.rijksoverheid.nl/onderwerpen/huiselijk-geweld/meldcode)

***Richtlijn voor strafvorderinghuiselijk geweld*(2015R049) (Guidelines for criminal law procedure for domestic violence)**

This regulation covers various forms of domestic violence in cases brought to the criminal court (police court) or cases in which a conditional discharge/dismissal is sufficient. If, in the context of domestic violence, a child is a victim of abuse or sexual abuse, the regulation should be used for child abuse or sexual abuse of minors, respectively.

Source available in

[Dutch](https://wetten.overheid.nl/BWBR0036268/2015-03-01)

***Wet tegengaan huwelijksdwang*(Administrative/criminal law dealing with compulsory marriage)**

The purpose of this law is to further curb marital coercion in the Netherlands and to limit the recognition of marriages contracted abroad to marriages that correspond to the generally accepted nature of marriage in the Netherlands. Furthermore, the law regulates that foreign marriages contracted under duress, foreign child marriages and polygamous marriages with a connection to the Netherlands are no longer recognized in the Netherlands.

Source available in

[Dutch](https://wetten.overheid.nl/BWBR0037085/2015-12-05)

***Uitkering Schadefonds Geweldsmisdrijven voor slachtoffers geweldsmisdrijven*(Administrative/criminal law Violent Crimes Compensation Fund for Victims of Violent Crimes)**

The Compensation Fund for Violent Crimes (*Schadefonds Geweldsmisdrijven*) provides a one-off payment for (i) victims of violent crimes who have or have had serious physical and/or psychological problems (injuries) as a result of a violent crime, and (ii) next of kin of victims of violent crime or death by crime of guilt and close relatives of victims who have serious and permanent physical and/or psychological problems (injuries) as a result of a violent crime.

There is no specific definition of a "violent crime." A violent crime can be seen as an act whereby a person is put into a state of unconsciousness or impotence.

Source available in

[Dutch](https://www.rijksoverheid.nl/wetten-en-regelingen/productbeschrijvingen/uitkering-schadefonds-geweldsmisdrijven-voor-slachtoffers-geweldsmisdrijven)

# 1.2 What is the controlling case law?

Laws are divided into the following sections: (i) civil law: these laws deal with conflicts between individual members of the public and organizations, (ii) administrative law: this refers to the prescribed rules that public authorities must keep to in their decision-making and regulates relations between government and citizens, and (iii) criminal law: these laws deal with all offenses and results in cases being brought before the courts by the Public Prosecution Service (PPS). The PPS is one of the main parties involved in dealing with criminal cases and has the sole discretion to decide if a case should be prosecuted and if an offender must appear before the court.

The Netherlands is divided into 11 judicial districts, each with its own court, four appeal courts and one Supreme Court. Each district court is made up of a maximum of five sections (such as administrative law, civil law, criminal law and sub-district law sector; family and juvenile cases are often put into a separate fifth section) and cases are typically heard by a single judge. In addition to the district courts there are also special administrative tribunals.

The Dutch legal system is not a system of case law. However, the Dutch civil legal system knows jurisprudence (*jurisprudentie*), and this can be used to interpret the civil law.

# 1.3 What are the specific parts of the court system that address domestic violence?

The prosecution of domestic violence infractions occurs in the following three main courts that work together to combat domestic violence: the criminal court, the civil court, court of appeals, and finally, in rare cases also the Hoge Raad, which is comparable to the Supreme Court.

In terms of protection and prevention, please see Section 2.1 "Are there civil and criminal legal remedies for domestic violence victims?" which specifies all the regulatory measures and organizations that work together with the court system.

**Other parts of the public system that address domestic violence**

The state works together with municipalities to combat domestic violence. The municipalities are responsible for *Veilig Thuis* ("**Safe Home**") (formerly known as *Steunpunten Huiselijk Geweld*) and for women's shelters. This is stated in the Social Support Act (Wmo 2015). In the fight against domestic violence, municipalities work closely together with other sectors. For example, mental health care (GGZ), probation, youth care, police and the Public Prosecutor's Office (OM).

Victims of domestic violence can get help from Safe Home. This is the advice and hotline for domestic violence and child abuse. Safe Home is also for perpetrators or witnesses of domestic violence. The number 0800-2000 is free of charge and can be reached every day and every hour. In immediate danger, victims should call the police on 112.

Victims of sexual abuse can turn to the Sexual Abuse Helpline for help and advice. The helpline is also there for witnesses of sexual abuse or for people who want to help a victim of sexual abuse in their environment. The telephone number is 0900-9999 001. It can be reached on working days from 9 am to 5 pm.

Children up to the age of 18 can also use the Kindertelefoon, for example, in cases of abuse, domestic strife or sexual violence. The telephone number is 0800-0432. It is available every day from 11 am to 9 pm.

# 1.4 What are potential causes of action?

Domestic violence is covered by general provisions of criminal law (i.e., common assault, rape, sexual assault, murder and stalking) but intimate partner violence is considered an aggravated circumstance that is likely to result in longer penalties for the convicted abuser.

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