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NETHERLANDS: TAKE URGENT ACTION TO ADDRESS GENDER-BASED PSYCHOLOGICAL VIOLENCE

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INTRODUCTION

Amnesty International has been working to stop gender-based violence for over two decades.¹ Violence against women is a human rights violation and a form of gender-based discrimination.² It compromises the rights to life, health, physical and mental integrity and to live free from violence, among others.³ States are obliged to eliminate gender-based discrimination and violence against women.⁴ Regrettably, not enough is being done to prevent and combat the human rights violations in the Netherlands.

In this statement, Amnesty International focuses on the Dutch government's obligations regarding one specific aspect of gender-based violence: psychological violence by an intimate partner or ex-partner.⁵

¹ Amnesty International has worked on a "Stop violence against women" campaign during 2004-2010, under the slogan: *Violence against women affects everyone*. The campaign was meant to contribute to the efforts of women's rights movements around the world. Read the report here: www.amnesty.org/en/wp-content/uploads/2021/08/act770012004en.pdf Read more about Amnesty International the Netherlands' work on gender-based violence here: www.amnesty.nl/wat-we-doen/gender-en-mensenrechten/slachtoffers-seksueel-geweld-onder-vluchtelingen ; www.amnesty.nl/wat-we-doen/campagnes/letstalkaboutyes/overzicht

² Gender-based violence against women is violence directed against a woman because she is a woman or violence that affects women disproportionately, and is rooted in gender discrimination and inequality, the abuse of power and harmful gender stereotypes and norms. Women and girls, LGBTI and gender diverse people are disproportionately affected by gender-based violence, most often perpetrated by men: Amnesty International, *From paper to practise*, Kosovo must keep its commitments to domestic violence survivors (30 August 2023), p. 14, see: www.amnesty.org/en/documents/eur73/7125/2023/en/

³ This follows inter alia from: the European Convention on Human Rights, the EU Charter, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the UN Convention on Women and Istanbul Convention.

⁴ UN General Assembly, *Convention on the Elimination of All Forms of Discrimination Against Women*, United Nations, Treaty Series, vol. 1249, p. 13, 18 December 1979, [hereinafter: CEDAW]. CEDAW requires states to take all appropriate measures to "eliminate discrimination against women by any person, organization or enterprise" and "modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women" (CEDAW, Articles 2(e) & (f)). The obligation to eliminate gender-based discrimination and violence against women is of an immediate nature and delays cannot be justified on any grounds, including on economic, cultural or religious grounds (CEDAW Committee, General Recommendation No. 35, para. 21).

⁵ Domestic violence, in this case in the form of psychological violence, can also take place between other family members.

Violence against women can take on many forms.⁶ A frequent form of violence against women is domestic violence.⁷ Domestic violence is defined in the Council of Europe Convention on preventing and combating violence against women and domestic violence [Hereinafter: Istanbul Convention] as “all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim.”⁸ Although anyone can be a victim of domestic violence, women are disproportionately affected by it.⁹

In the Netherlands, according to Eurostat statistics, around 33 % of women who have ever been in a relationship have experienced violence by an intimate partner during their adult life. In total, 17 % have experienced physical violence (including threats) or sexual violence, while 32 % have experienced psychological violence,¹⁰ showing that gender-based violence is a pervasive problem in the Netherlands.

Human rights monitoring bodies have highlighted a number of urgent steps that need to be taken by the Dutch government to this end, which look at the full set of factors that contribute to the current situation, including legal structures, institutional shortcomings, and biases and stereotypes in society.¹¹

Psychological violence, more specifically, is any intentional behaviour that causes serious harm to a person's mental integrity, through coercion or threat.¹² Examples of psychological violence include, amongst other forms, emotional abuse, stalking and harassment.¹³ A specific form of psychological violence includes ‘coercive control’ or ‘intimate terror’.¹⁴ This is a severe form of intimate partner violence in which one partner strongly dominates and controls the other.¹⁵ Coercive control is a pattern of psychological violence that includes a mix of exerting control, restricting one's freedom and humiliating and threatening someone, resulting in the other person becoming socially isolated, losing self-confidence and having fewer opportunities to seek support.¹⁶

⁶ Among other forms; partner violence, honor related violence, rape, sexual violence, stalking, psychological violence, coercive control, social isolation, financial dependency and cyber violence. The most extreme form is femicide,

www.mensenrechten.nl/themas/gendergelijkheid/geweld-tegen-vrouwen

⁷ CBS Prevalentiemonitor Huiselijk Geweld en Seksueel Grensoverschrijdend Gedrag 2022. See: [Totaalbeeld huiselijk geweld en seksueel grensoverschrijdend gedrag - Prevalentiemonitor Huiselijk Geweld en Seksueel Grensoverschrijdend Gedrag 2022](https://www.cbs.nl/nl-nl/onderzoek-en-publicaties/2022/06/23/de-rol-van-gender-bij-geweld) | CBS: “Between March and April 2022, 9 percent of persons aged 16 and older reported having been a victim of one or more forms of domestic violence in the past 12 months, a rate similar to 2020 (8 percent). This represents nearly 1.3 million persons. Domestic violence includes one or more forms of physical violence in the home, coercive control in the home, stalking by ex-partner and sexual harassment in the home.”

⁸ Article 3 under b, Council of Europe, *Council of Europe Convention on preventing and combating violence against women and domestic violence*, Istanbul, 11 May 2011, [hereinafter: Istanbul Convention].

⁹ Research Report Regioplan, *The Role of Gender in Violence*, June 2022, p. 28: “The data we analyzed for this study show that women are overrepresented as victims of domestic and sexual violence, and men are overrepresented as perpetrators; and that these gender differences increase when zooming in on (ex-)partner violence, sexual violence and to more severe violence and violence with more severe consequences.” See: www.rijksoverheid.nl/documenten/rapporten/2022/06/23/de-rol-van-gender-bij-geweld

¹⁰ Eurostat, 2021, eige.europa.eu/gender-equality-index/2023/domain/violence/NL

¹¹ GREVIO's (Baseline) Evaluation Report Netherlands, 2020, rm.coe.int/grevio-report-on-netherlands/1680997253 ; CEDAW, Concluding observations on the sixth periodic report of the Netherlands, 2016, p. 6 and 7, see: www.vn-vrouwenverdrag.nl/wp-content/uploads/CEDAW_C_NLD_CO_6_25108_E.pdf; The Netherlands Institute for Human Rights, Letter to the Standing Committee on Justice and Security on the committee debate on criminal justice issues, 2 February 2023, see: [Brief aan de vaste commissie Justitie en Veiligheid over het commissiedebat strafrechtelijke onderwerpen | College voor de Rechten van de Mens \(mensenrechten.nl\)](https://www.mensenrechten.nl/actueel/nieuws/2022/11/08/hoe-genderongelijk-is-nederland-het-onzichtbare-probleem-van-psychisch-geweld)

¹² Article 33 Istanbul Convention.

¹³ EIGE, *Understanding Psychological Violence against Women*, 2023, eige.europa.eu/publications-resources/publications/understanding-psychological-violence-against-women-need-harmonised-definitions-and-data-eu

¹⁴ The fact sheet of the national programme 'Violence belongs nowhere' uses the term 'intimate terror': vng.nl/sites/default/files/2022-01/ghnt_factsheet_intimate_terror. In English, the term 'coercive control' is often used.

¹⁵ www.mensenrechten.nl/actueel/nieuws/2022/11/08/hoe-genderongelijk-is-nederland-het-onzichtbare-probleem-van-psychisch-geweld

¹⁶ Evan Stark describes the term ‘coercive control’ as a form of domestic abuse where a perpetrator deprives a victim of liberties in their personal life. Coercive control is an ongoing pattern of controlling tactics inflicted by a perpetrator to exert dominance over a victim. It can be a pattern of humiliation, intimidation, exploitation, isolation, assaults and threats. Victims of coercive control are frequently deprived of money, food, access to communication or transportation, and they are cut off from family, friends and other supports. Coercive control undermines a victim's physical and psychological integrity. Evan Stark, *Coercive Control – How Men Entrap Women in Personal Life*, 2007, p. 5, 16, 208.

While domestic violence is often thought of as physical violence, psychological violence happens frequently and can cause great harm.¹⁷ Psychological violence is a form of gender-based violence, that can also precede other, devastating forms of violence, such as femicide.¹⁸

In this statement, Amnesty International calls on the Dutch government to revise existing criminal law and ensure that all aspects and elements of psychological violence are criminalised in the Netherlands. Amnesty International emphasizes that the revision of the criminal law is only an piece of the puzzle in the fight against psychological violence and must be accompanied with other policies for prevention and capacity building of service providers, police and judiciary in sensitively responding to cases of psychological violence and ensuring survivors can access timely and adequate services and support, justice and remedies.

FROM PAPER TO PRACTICE

The need for a holistic response to gender-based violence was evident in Amnesty International's 2023 report 'Kosovo: From paper to practice', where Amnesty International concluded that survivors of domestic violence in Kosovo face uncertainty and a lack of support when trying to leave abusive situations, even though strong legal provisions were in place.¹⁹ The government in Kosovo has made the response to domestic violence and violence against women a clear national priority. Despite its strong commitment, the state is failing to fully meet its human rights obligations to take all appropriate measures to address domestic violence and violence against women and girls. Survivors do not only need a human rights compliant criminal law on paper but also protection and support in practice. Amnesty International's research in Kosovo has shown in addition to legislation, the government needs to implement comprehensive prevention policies and ensure that survivors receive sufficient and adequate protection and support to leave abusive situations, and to access justice and reparation in accordance with their needs and priorities.

PSYCHOLOGICAL VIOLENCE IN THE NETHERLANDS

Because psychological violence takes on many forms and is not explicitly criminalized in the Netherlands, such cases are not separately registered by the police²⁰ and there are no comprehensive statistics. However, statistics on certain forms of psychological violence can be found. In 2022, nearly 10% of the population aged 16+ said that they had been a victim of one or more forms of coercive control by someone in the home in the past five years.²¹ In 2022, 7% of people that are 16+ years old with an ex-partner reported being stalked by this person in the past five years, and 2% said they were stalked in 2022 (equivalent to over 170 thousand people).²²

¹⁷ Prof. dr. J. Janssen, Prof. mr. W. Dreissen & drs. K. Juncker, Report: 'Towards a separate criminalisation of psychological violence? Arguments for and against', 6 April 2022, p. 4: "Psychological violence, like physical violence, has a great impact on victims. Some victims report finding it even worse than physical violence.", see: www.rijksoverheid.nl/documenten/rapporten/2022/06/03/tk-bijlage-naar-een-aparte-strafbaarstelling-van-psychisch-geweld-voor-en-tegenargumenten ; Marie-José van Hoof, Sander van Arum and Ine Avontuur, 'Intimate Terror, Coercive Control: The Need to Recognise the Pattern and Dismantle Myths,' SOZIO 4 November 2023 – Trade magazine for social professionals and the social domain, p. 12: "Neuro-imaging research by o.a. Hoeboer e.a. (2021), Krause-Utz e.a.(2012), Spinhoven e.a. (2016), Van Harmelen e.a. (2010a; 2010b; 2013) Van Houtem e.a. (2022), Van Schie e.a. (2017) has shown that words matter and can even be more painful, even over a longer period of time, than physical abuse. Emotional mistreatment tends to actually increase the risk of PTSD, depression and anxiety disorders (Crossman et al. 2016). Even in physical incidents, it is often the blaming, shaming, insulting words that make some form of trauma treatment necessary."

¹⁸ The Minister for Legal Protection defines femicide as: *the gendered murder or manslaughter of a woman*. [Commissiedebat femicide | Tweede Kamer der Staten-Generaal](https://www.rijksoverheid.nl/documenten/parlementaire-besluiten/2019/07/18/commissiedebat-femicide)

¹⁹ Amnesty International 'Kosovo: From paper to practice – Kosovo must keep its commitments to domestic violence survivors' (30 August 2023), see: www.amnesty.org/en/documents/eur73/7125/2023/en/

²⁰ Kamerstukken II 2019-20, 3944, nr. 2020Z14088, p. 4, see: zoek.officielebekendmakingen.nl/ah-tk-20192020-3944.html#ID-3944-d37e450

²¹ Prevalentiemonitor Huiselijk Geweld en Seksueel Grensoverschrijdend gedrag 2022. Available here: [Dwingende controle in huiselijke kring - Prevalentiemonitor Huiselijk Geweld en Seksueel Grensoverschrijdend gedrag 2022 | CBS](https://www.cbs.nl/en-gb/indicatoren/2022/10/huiselijke-kring-prevalentiemonitor-huiselijk-geweld-en-seksueel-grensoverschrijdend-gedrag-2022)

²² Prevalentiemonitor Huiselijk Geweld en Seksueel Grensoverschrijdend gedrag 2022, para. 5.1. Available here: [Stalking door ex-partner - Prevalentiemonitor Huiselijk Geweld en Seksueel Grensoverschrijdend gedrag 2022 | CBS](https://www.cbs.nl/en-gb/indicatoren/2022/10/huiselijke-kring-prevalentiemonitor-huiselijk-geweld-en-seksueel-grensoverschrijdend-gedrag-2022)

Psychological violence has also been understood by experts as a step that precedes other, more severe, forms of gender-based violence, such as femicide.²³ Experts have noted that psychological violence often goes unrecognised and unpunished.²⁴

THE NEED TO ADDRESS PSYCHOLOGICAL VIOLENCE

Organizations working on this issue have noted that the measures to tackle psychological violence in the Netherlands are insufficient.²⁵ Of the people who have talked to someone about their experience with coercive control at home, only 5% talked to the police or Veilig Thuis.²⁶ Moreover, GREVIO noted that this type of gender-based violence is often not recognized by professionals as a form of violence, forcing women to cooperate in counselling, mediation or divorce proceedings with the offender, sometimes in fear of losing their children.²⁷

A crucial gap in this regard pertains to the provisions in criminal law. In the Netherlands, all forms and elements of psychological violence are not fully criminalised and therefore there is no adequate legal framework in place to prosecute and punish all forms of psychological violence. Certain elements or forms of psychological violence may fall under other criminal provisions in the Criminal Code (Sr), such as under article 284 Sr (coercion), article 285 Sr (threat), article 285b Sr (stalking) and article 300 Sr (assault). But the legal framework does not provide sufficient possibilities to prosecute and punish various other elements of psychological violence, such as coercive behaviour patterns in intimate partner relationships.²⁸ Similarly, forms and elements of psychological violence, such as structurally belittling and forbidding things, are not covered by the criminal law.²⁹ According to several organizations, including the Netherlands Institute for Human Rights, these existing offences alone do not constitute an adequate legal framework to prosecute and punish all forms of psychological violence, particularly the pattern of psychological violence defined as coercive control.³⁰

²³ Both globally and in the Netherlands, femicide is a major problem. In the Netherlands, a woman is murdered on average every eight days, and in 60 per cent of the cases she is killed by her partner or ex-partner. By comparison, in male homicide or manslaughter, the perpetrator is the partner or ex-partner in just over 4 per cent of cases.

The term femicide clarifies when lethal violence against women is gender-based violence. The term is used to make it clear that women are more at risk of being killed than men in some situations due to their unequal position in society. This plays out, for example, at the time of breaking off a romantic relationship. Terms often used incorrectly are 'crime of passion', 'relational violence' or 'family drama,' rather than actually naming a man's murder of a woman. This makes it seem like an out-of-control emotion. Through disguising language, the pattern of violence and the structural nature of femicide is not recognised. It starts with recognising gender inequality as a major cause before the problem can actually be addressed. See: www.cbs.nl/nl-nl/nieuws/2023/35/meer-mensen-vermoord-in-2022-meeste-slachtoffers-in-rotterdam and www.mensenrechten.nl/themas/gendergelijkheid/geweld-tegen-vrouwen

²⁴ Marie-José van Hoof, Sander van Arum and Ine Avontuur, 'Intimate Terror, Coercive Control: The Need to Recognise the Pattern and Dismantle Myths,' SOZIO 4 November 2023 – Trade magazine for social professionals and the social domain, p. 5; Professor Jane Monckton Smit, *In Control – Dangerous Relationships and how they end in murder*: Femicide is often a predictable murder, as identified by Professor Jane Monckton Smit, and follows a set pattern of eight stages from first meeting to murder; There is usually first 'lovebombing', an intense form of courting where someone appears attentive and charming, but also wants a quick commitment of a permanent relationship or marriage. Then there is jealous behaviour, violence and coercive control where a person is also isolated from friends and family. If the woman then indicates she wants to break up, this is perceived by the man as humiliation, injustice and rejection, and can lead to (more) violence, revenge and stalking. And that can end in murder. In which the man almost always planned the murder, and thus the woman is not murdered during an argument that got out of hand, as is often thought.

²⁵ The Netherlands Institute for Human Rights, Letter to the Standing Committee on Justice and Security on the committee debate on criminal justice issues, 2 February 2023, p. 3, 4. see: [Brief aan de vaste commissie Justitie en Veiligheid over het commissiedebat strafrechtelijke onderwerpen | College voor de Rechten van de Mens \(mensenrechten.nl\)](https://www.mensenrechten.nl/colleges/college-voor-de-rechten-van-de-mens/2023/02/02/brief-aan-de-vaste-commissie-justitie-en-veiligheid-over-het-commissiedebat-strafrechtelijke-onderwerpen)

²⁶ Prevalentiemonitor CBS, Huiselijk Geweld en Seksueel Grensoverschrijdend gedrag 2022, para. 4.4. [Dwingende controle in huiselijke kring – Prevalentiemonitor Huiselijk Geweld en Seksueel Grensoverschrijdend gedrag 2022 | CBS](https://www.cbs.nl/nl-nl/onderwerpen/huiselijk-geweld-en-seksueel-grensoverschrijdend-gedrag-2022)

²⁷ GREVIO (Baseline) Evaluation Report Netherlands, para. 144 and paras 201-205.

²⁸ The Netherlands Institute for Human Rights, Letter to the Standing Committee on Justice and Security on the committee debate on criminal justice issues, 2 February 2023, p. 4.

²⁹ Prof. dr. J. Janssen, Prof. mr. W. Dreissen & drs. K. Juncker, Report: 'Towards a separate criminalisation of psychological violence? Arguments for and against', 6 April 2022, p. 54.

³⁰ The Netherlands Institute for Human Rights, Letter to the Standing Committee on Justice and Security on the committee debate on criminal justice issues, 2 February 2023, p. 3; Orange the World: Action points for a coordinated and effective response to gender-based violence, 2023, see: [www.huiselijkgeweld.nl/publicaties/publicaties/2023/11/23/actiepunten-voor-aanpak-van-gendergerelateerd-geweld-\(2023\)](https://www.huiselijkgeweld.nl/publicaties/publicaties/2023/11/23/actiepunten-voor-aanpak-van-gendergerelateerd-geweld-(2023)). Vereniging voor Vrouw en Recht, Clara Wichmann, Brief reactie uitnodiging brieven voor Staatscommissie rechtsstaat, 12 July 2023, p. 1, see: www.staatscommissierechtsstaat.nl/onderwerpen/brieven/documenten/brieven/2023/07/12/brief-vereniging-voor-vrouw-en-recht-aan-de-staatscommissie-rechtsstaat

In practice, this legal framework hardly leads to prosecutions.³¹ There have been a few cases in the Netherlands in which psychological violence was punished under article 300 of the Criminal Code, but this almost exclusively concerned the abuse of children.³² There is danger that existing provisions do not capture the distinct nature of psychological violence, especially the pattern defined as coercive control. Failing to recognise the distinctive nature of psychological abuse - its repetitive and cumulative impact and the coercive and controlling behaviours that underlie it - creates a gap in the law.³³

In 2021, a number of Dutch MPs introduced a motion asking for independent research answering several questions about psychological violence and for its explicit criminalization.³⁴ In response, the Dutch government commissioned research by the Avans University of Applied Sciences and the Open University into the separate criminalisation of psychological violence.³⁵

The researchers spoke to survivors amongst others.³⁶ They emphasize that for a long time, they did not realize that what they experienced was abuse and that it was psychological violence.³⁷ According to the survivors in this study, separate criminalization would be important to create awareness of the existence of psychological violence among police and emergency services. They further believed that if psychological violence were explicitly recognised in criminal law, it would help them access proper assistance and protection.³⁸

The Minister for Legal Protection and the Secretary of State for Health, Welfare and Sport decided not to explicitly criminalise psychological violence.³⁹ Instead, the government is keen on strengthening the criminal justice approach to psychological violence within the existing possibilities that the Penal Code offers, including through promoting expertise and the education of professionals at the Public Prosecution Service, police, Child Care and Protection Board, the Dutch Probation Services, Safe Home and women's shelter.⁴⁰ The minister expects that a better use of the existing legal framework can contribute to the desired recognition, standardization and willingness to report.⁴¹

INTERNATIONAL HUMAN RIGHTS STANDARDS

The Netherlands has ratified several international and regional instruments that require it to take action to address violence against women. These include the Istanbul Convention, the UN Convention on the Elimination of All Forms of Discrimination against Women and the European Convention on Human Rights. Violence against women is a form of gender-based discrimination against women and girls. The

³¹ The Netherlands Institute for Human Rights, Letter to the Standing Committee on Justice and Security on the committee debate on criminal justice issues, 2 February 2023, p. 4; Ministry of J&V, Policy response to the report 'Towards separate criminalisation of psychological violence? Arguments for and against', www.rijksoverheid.nl/documenten/kamerstukken/2022/12/14/tk-beleidsreactie-op-het-rapport-naar-een-aparte-straftbaarstelling-van-psychisch-geweld-voor-en-tegenargumenten

³² Prof. dr. J. Janssen, Prof. mr. W. Dreissen & drs. K. Juncker, Report: 'Towards a separate criminalisation of psychological violence? Arguments for and against', 6 April 2022, p. 28: "Of the eight cases that were found, seven cases concerned the abuse of children."

³³ McGorry, P., & McMahon, M, 'Criminalizing psychological violence in Europe: (non-)compliance with article 33 of the Istanbul Convention', *European Law Review*, 2021, 46(2), 211-227, p. 8.

³⁴ Motie van het lid Bergkamp c.s. (25 februari 2021) 28345 nr. 246, zoek.officielebekendmakingen.nl/kst-28345-246.html

³⁵ Kamerstukken II 2020/21, 28345, no 246.

³⁶ Prof. dr. J. Janssen, Prof. mr. W. Dreissen & drs. K. Juncker, Report: 'Towards a separate criminalisation of psychological violence? Arguments for and against', 6 April 2022. See: www.rijksoverheid.nl/documenten/rapporten/2022/06/03/tk-bijlage-naar-een-aparte-straftbaarstelling-van-psychisch-geweld-voor-en-tegenargumenten

³⁷ Prof. dr. J. Janssen, Prof. mr. W. Dreissen & drs. K. Juncker, Report: 'Towards a separate criminalisation of psychological violence? Arguments for and against', 6 April 2022, p. 51.

³⁸ Prof. dr. J. Janssen, Prof. mr. W. Dreissen & drs. K. Juncker, Report: 'Towards a separate criminalisation of psychological violence? Arguments for and against', 6 April 2022, p. 52.

³⁹ Kamerstukken II 2022/23, nr. 28345, nr. 260 'Policy response to the report 'Towards separate criminalisation of psychological violence? Arguments for and against'', 14 December 2022, 4 3 12118, open.overheid.nl/documenten/ronl-368a63f96aad2cf9b3864fe54cca2205935c5a68/pdf

⁴⁰ Kamerstukken II 2022/23, nr. 28345, nr. 260 'Policy response to the report Towards separate criminalisation of psychological violence? Arguments for and against', 14 December 2022, 4 3 12118, p. 4, 6. The ministry also facilitated the development of an online informative magazine called 'digizine' on psychological violence. Digizine on Psychological Violence (2023), publicaties.avans.nl/voorlichting-psychisch-geweld-via/cover

⁴¹ Kamerstukken II 2022/23, nr. 28345, nr. 260 'Policy response to the report 'Towards separate criminalisation of psychological violence? Arguments for and against'', 14 December 2022, 4 3 12118, p. 5.

Dutch government has human rights obligations to prevent and combat violence against women, including through addressing its root causes, including gender power inequality between women and men and gender stereotyping and discrimination, and through promoting gender equality and women's empowerment.⁴²

THE COUNCIL OF EUROPE CONVENTION ON PREVENTING AND COMBATING VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE (ISTANBUL CONVENTION)

On 18 November 2015, the Netherlands ratified the Istanbul Convention.⁴³ On 1 March 2016, this legally binding treaty entered into force in the Netherlands.⁴⁴ Countries that have ratified the Istanbul Convention must report on the implementation of its provisions.⁴⁵ The independent expert body that monitors the implementation of the Convention is called GREVIO (Group of Experts on Action against Violence against Women and Domestic Violence) and consists of independent experts.⁴⁶

In its 2020 Baseline report on the Netherlands, GREVIO expressed strong criticism against the Dutch gender-neutral policy in respect to domestic violence and said that an overarching policy or measures to address all forms of violence against women in a comprehensive and co-ordinated way was lacking.⁴⁷ GREVIO furthermore identified a number of "priority issues" requiring further action by the Dutch authorities in order to comply fully with the Istanbul Convention, including amongst others, to "review the criminal offences of psychological violence [...]."⁴⁸

Article 33 of the Istanbul Convention states: "*Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of seriously impairing a person's psychological integrity through coercion or threats is criminalised.*" The explanatory note to this article clarifies that psychological violence is not so much about criminalising an (isolated) incident, but about criminalising a pattern of harmful and coercive behaviour that develops and manifests itself over a longer period of time.⁴⁹

States reserve the right to provide for non-criminal sanctions, instead of criminal sanctions, for the behaviours referred to in Article 33. Nevertheless, sanctions should be "effective, proportionate and dissuasive", regardless of whether Parties chose to provide for criminal or non-criminal sanctions.⁵⁰

In its 2020 Baseline report GREVIO "strongly encouraged" Dutch authorities "to investigate, prosecute and effectively punish acts of psychological violence".⁵¹ GREVIO identified two major shortcomings in Dutch legislation. First, the threshold for punishability of 'coercion' and 'threat' in Dutch law is too high, making only the most serious forms of psychological violence punishable. Secondly, the law does not provide sufficient opportunities to punish harmful patterns of abuse in domestic violence situations.⁵²

⁴² GREVIO's (Baseline) Evaluation Report Netherlands, 2020, para. 16: "Recognising that gender inequality between men and women is a root cause of violence against women, the Convention obliges parties to condemn and prohibit all forms of discrimination against women, to ensure the practical realisation of the principle of equality and to implement effective policies for the equality of women and men as well as to promote women's empowerment (Article 6). In order to effectively address violence against women, comprehensive policies to prevent and combat violence against women and domestic violence must be present alongside and in conjunction with policies to achieve equality of women de jure and de facto."

⁴³ The Council of Europe, *The Council of Europe Convention on preventing and combating violence against women and domestic violence*, Istanbul, 11 May 2011, known as the 'Istanbul Convention.'

⁴⁴ The Istanbul Convention further codifies the "due diligence" standard in relation to states' obligation to address gender-based violence against women in legally binding norms with regards to four key areas including prevention; provision of protection, support, and reparations to survivors; prosecution of perpetrators; and coordinated national policies against gender-based violence. See Council of Europe, *Safe from fear, safe from violence*, 2014, p. 3, [Safe from fear - Istanbul Convention \(coe.int\)](https://rm.coe.int/safe-from-fear-istanbul-convention-coe-int/)

⁴⁵ Article 68 (1) Istanbul Convention.

⁴⁶ Article 66 Istanbul Convention.

⁴⁷ GREVIO's (Baseline) Evaluation Report Netherlands, 2020, para. 28.

⁴⁸ GREVIO's (Baseline) Evaluation Report Netherlands, 2020, p. 7, 8.

⁴⁹ Explanatory Report - CETS 210 - Violence against women and domestic violence, para. 181, rm.coe.int/ic-and-explanatory-report/16808d24c6

⁵⁰ Explanatory Report - CETS 210 - Violence against women and domestic violence, para. 181.

⁵¹ GREVIO's (Baseline) Evaluation Report Netherlands, 2020, para. 219.

⁵² GREVIO's (Baseline) Evaluation Report Netherlands, 2020, para. 214.

In its evaluation, GREVIO also considers that in practice, there seems to be limited use of the current criminal offences.⁵³

GREVIO points out that women who are isolated, controlled, intimidated, and threatened by their partners day in and day out would be more likely to report this behaviour if they were aware that what they were experiencing was a crime.⁵⁴ The police and prosecution are also ill-equipped to respond to this without a specific crime targeting this kind of behaviour.⁵⁵

Amnesty International shares the opinion of other organizations working on these issues, including the Dutch Institute for Human Rights, that the added value of criminalizing all elements and forms of psychological violence is that existing gaps in the current law can be addressed, namely, a pattern of behaviours referred to as “coercive control” can be criminalised, which, viewed in isolation, may not always amount to a criminal offence under existing laws, but which can still cause serious damage to the victim's mental integrity due to its repetitive and long-lasting nature.⁵⁶

UN CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION (CEDAW)

The Dutch government is also bound by the Convention on the Elimination of All Forms of Discrimination against Women [Hereinafter: CEDAW]. The Netherlands ratified this convention on 23 July 1991.⁵⁷ CEDAW states in Article 2 that states have an obligation to eliminate all forms of discrimination against women and to take all appropriate measures to amend or repeal discriminatory laws, regulations, customs and practices. When a state fails to do so, it is a human rights violation and a form of gender-based discrimination.⁵⁸ The Committee on the Elimination of Discrimination against Women⁵⁹ [Hereinafter: the CEDAW Committee] states that gender-based violence does not require direct and immediate threat to the life or health of the victim.⁶⁰ Such violence is thus not limited to acts causing physical harm, but also includes acts causing mental or sexual harm or distress, threats of such acts, coercion and other forms of deprivation of liberty.⁶¹

States are responsible for preventing and prosecuting gender-based violence by state actors⁶² and have a 'due diligence obligation' to 'take all appropriate measures to prevent, investigate, prosecute, punish and redress acts or omissions by non-state actors that result in gender-based violence against women.'⁶³

The CEDAW Committee, in its concluding observations on the sixth periodic report by the Netherlands in 2016, has recommended a range of actions that need to be taken to better address gender-based violence in the Netherlands. For example, it noted that policies around domestic violence must be

⁵³ GREVIO's (Baseline) Evaluation Report Netherlands, 2020, para. 215,

⁵⁴ GREVIO's (Baseline) Evaluation Report Netherlands, 2020, para. 216.

⁵⁵ GREVIO's (Baseline) Evaluation Report Netherlands, 2020, para. 216.

⁵⁶ The Netherlands Institute for Human Rights, Letter to the Standing Committee on Justice and Security on the committee debate on criminal justice issues, 2 February 2023, p. 2.

⁵⁷ OHCHR, Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), adopted by the General Assembly in resolution 34/180, 18 December 1979. The Netherlands ratified this convention on 23 July 1991, see: tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=123&Lang=EN

⁵⁸ Convention on the Elimination of All Forms of Discrimination against Women, General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, CEDAW/C/GC/35, 26 July 2017, para. 24; CEDAW Committee, General Recommendation No.19: Violence against women, 1992, para. 6.

⁵⁹ The Committee on the Elimination of Discrimination against Women (CEDAW Committee) monitors compliance with the UN Women Convention. The CEDAW Committee issues reports, making recommendations.

⁶⁰ General recommendation No. 19, para. 6, and general recommendation No. 28, para. 19.

⁶¹ Convention on the Elimination of All Forms of Discrimination against Women, General recommendation No. 19: Violence against women, 1992; Convention on the Elimination of All Forms of Discrimination against Women, General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, CEDAW/C/GC/35, 26 July 2017 and Committee on the Elimination of Discrimination against Women, 17 August 2011, No. 20/2008 para. 9.8

⁶² CEDAW Committee, General Recommendation No. 35, paras 21 and 22

⁶³ CEDAW Committee, General Recommendation No.19, para. 9; CEDAW Committee, General Recommendation No. 35, para. 24(b).

revised and a gender-neutral policy should be replaced with a gender-sensitive approach that focuses on identification of the gender aspects of domestic violence.⁶⁴

EUROPEAN CONVENTION ON HUMAN RIGHTS

The Netherlands is a founding member of the European Convention on Human Rights (ECHR) and is bound by its provisions.⁶⁵ The European Court of Human Rights (ECtHR) has ruled that gender-based violence constitutes discrimination under the ECHR.⁶⁶ The ECtHR has said that governments have a positive obligation to protect victims of domestic violence.⁶⁷ That positive obligation means that it must establish a legislative and regulatory framework, have an obligation to respond immediately to reports of domestic violence and take operational measures to protect specific individuals at risk of abuse. In addition, the state must effectively investigate credible allegations of any case of such violence.⁶⁸

In the case of *Tunikova and others v. Russia*, the ECtHR held that the Russian government was required to address domestic violence by adopting legal definitions that are broad enough to encompass various forms of violence, including "physical, sexual, psychological, or economic violence, manifestations of controlling and coercive behaviour, stalking and harassment, whether occurring physically or in cyberspace."⁶⁹

Article 3 of the ECHR prohibits states from subjecting people to torture and other ill-treatment.⁷⁰ According to its case law, the ECtHR has found that psychological violence by non-state actors can constitute inhumane treatment.⁷¹

Article 8 of the ECHR, which enshrines the right to respect for private and family life, is also applied in the ECtHR rulings on domestic violence.⁷² The Court has said that governments have a positive obligation to protect the physical and psychological integrity of a person, also in the sphere of relations between private individuals, especially for victims of domestic violence.⁷³ In this context, the Court has said that states are obliged to establish a legal framework to protect an individual's psychological integrity from other persons,⁷⁴ which includes, for example, cyber violence by an intimate partner.⁷⁵

Therefore, according to case law of the ECtHR, governments have positive obligations to combat domestic violence, including psychological violence, to protect the rights enshrined in article 3 and 8 of the ECHR.

⁶⁴ CEDAW, Concluding observations on the sixth periodic report of the Netherlands, 2016, para. 24 (e), see: www.vn-vrouwenverdrag.nl/wp-content/uploads/CEDAW_C_NLD_CO_6_25108_E.pdf

⁶⁵ ECHR, press card Netherlands (last updated July 2023), available at: www.echr.coe.int/documents/d/echr/CP_Netherlands_ENG

⁶⁶ ECHR 9 June 2009, *Opuz v. Turkey*, no. 33401/02.

⁶⁷ ECHR 9 June 2009, *Opuz v. Turkey*, no. 33401/02, para. 128.

⁶⁸ ECHR 4 November 2019, *Volodina v. Russia*, no. 41261/17, para. 77; ECHR 14 March 2022, *Tunikova and Others v. Russia*, no. 55974/16, para. 78.

⁶⁹ ECHR 14 March 2022, *Tunikova and others v Russia*, no 55974/16, para. 153.

⁷⁰ Article 3 ECHR: Prohibition of torture: No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

⁷¹ ECHR 4 November 2019, *Volodina v. Russia*, no. 41261/17, para. 73; ECHR 14 December 2021, *Tunikova and others v. Russia*, no. 55974/16, para. 73; ECHR 16 June 2022, *De Giorgi v. Italy*, no. 23735/19, para. 62; ECHR 7 July 2022, *M.S. v. Italy*, no. 32715/19, para. 109.

ECHR 4 November 2019, *Volodina v. Russia* no. 41261/17, para. 73: 'Ill-treatment must attain a minimum level of severity if it is to fall within the scope of Article 3. An assessment of whether this minimum has been attained depends on many factors, including the nature and context of the treatment, its duration, and its physical and mental effects, but also the sex of the victim and the relationship between the victim and the author of the treatment. Even in the absence of actual bodily harm or intense physical or mental suffering, treatment which humiliates or debases an individual, showing a lack of respect for or diminishing his or her human dignity, or which arouses feelings of fear, anguish or inferiority capable of breaking an individual's moral and physical resistance, may be characterised as degrading and also fall within the prohibition set forth in Article 3. It should also be pointed out that it may well suffice that the victim is humiliated in his or her own eyes, even if not in the eyes of others (see *Bouyid v. Belgium* [GC], no. 23380/09, §§ 86-87, ECHR 2015).'

⁷² For example, ECHR 9 June 2009, *Opuz v. Turkey*, no. 33401/02; ECHR 27 July 2012, *Kaluczka v. Hungary*, no. 57693/10; ECHR 30 November 2010, *Hajduová v. Slovakia*, no. 2660/03;

⁷³ ECHR 11 June 2020 *BUTURUGĂ v. ROMANIA*, no. 56867/15 paras 60-62

⁷⁴ ECHR 14 September 2009, *Sandra Jankovic v. Croatia*, no. 38478/05, para. 45; 25 March 1993, *Costello-Roberts v. the United Kingdom*, para. 36.

⁷⁵ ECHR 6 February 2019, *Case of Milićević V. Montenegro*, no. 27821/16 para. 74; ECHR 14 September 2021, *Volodina v. Russia* (No 2), no. 40419/19 paras 48-49.

CONCLUSION AND CALL TO REVISE THE CRIMINAL LAW

Current Dutch criminal law does not adequately criminalise psychological violence, which contributes to the difficulties in successfully prosecuting it. The law does not provide sufficient opportunities to identify, prevent and punish harmful patterns of behaviour constituting psychological violence including abusive and controlling behaviours (i.e. coercive control). The Dutch legal framework does not meet the requirements of an 'effective, proportionate and dissuasive system', as required by the Istanbul Convention.⁷⁶

Amnesty International recommends that the government of the Netherlands implements the recommendations of the human rights treaty bodies and takes urgent action to address gender-based violence and the gaps in existing legislation concerning psychological violence. The Netherlands should revise provisions in its criminal code to ensure that all elements or forms of psychological violence are adequately and explicitly criminalised within the legal framework.⁷⁷ Failing to recognise all elements of psychological violence as a form of gender-based violence against women, which is systemic and results from gender-based discrimination and often other intersecting forms of discrimination, helps perpetuate societal permission for such violence.

Legal reform by itself is not enough to address root causes and underlying factors leading to such violence. The government should also invest in prevention and in strengthening support and services for survivors of all gender-based violence, including psychological violence. In addition to reforming criminal legislation, implementation is also crucial for ensuring effective protection and support for victims and prosecution of perpetrators, as well as prevention of more harmful outcomes such as femicide. Political will, sufficient financial resources, adequate police and judicial training and awareness-raising are essential.⁷⁸

Criminalisation can be a starting point to address, prosecute and prevent psychological violence, and at the same time, it needs to be part of a broader integrated plan to protect women against psychological violence. It takes interdisciplinary, intersectional collaboration to put the pieces of the puzzle together, to recognize red flags, and to take appropriate action in different areas.⁷⁹

In 2023 and 2024, there has been increasing attention to femicide and psychological violence in the media⁸⁰, at the Public Prosecution Office⁸¹, and in Parliament.⁸² In the 'plan of action against femicide',

⁷⁶ GREVIO's (Baseline) Evaluation Report Netherlands, 2020, Appendix I paras 35, 36.

⁷⁷ The Netherlands Institute for Human Rights, Letter to the Standing Committee on Justice and Security on the committee debate on criminal justice issues, 2 February 2023, p. 5.

⁷⁸ McGorry, P., & McMahon, M. (2021), 'Criminalising psychological violence in Europe: (non-)compliance with article 33 of the Istanbul Convention,' *European Law Review*, 46(2), 211-227, p. 7.

⁷⁹ Marie-José van Hoof, Sander van Arum and Ine Avontuur, *Intimate Terror, Coercive Control: The Need to Recognise the Pattern and Dismantle Myths*, SOZIO 4 November 2023 – Trade magazine for social professionals and the social domain, p. 9.

⁸⁰ Saskia Belleman created a podcast series about femicide with the Telegraph (Dutch newspaper) called 'She is mine,' 27 January 2024, www.telegraaf.nl/nieuws/1751479777/start-podcast-zij-is-van-mij; On 25 October 2023 the NRC (Dutch newspaper) published an extensive and impressive article titled 'Femicide in the Netherlands: for these women, their relationship turned out to be a death sentence', see: www.nrc.nl/nieuws/2023/10/24/femicide-in-nederland-voor-deze-vrouwen-bleek-hun-relatie-eeen-doodvonnis-a4178348; On the 4th of March 2023, de Volkskrant (Dutch newspaper) published an article named 'The ominous truth about the murder of women', available here: www.volkskrant.nl/kijkverder/v/2023/de-waarheid-over-partnermoord-is-onheilspellend~v661776/; A Radio 1 poll showed that 78% of listeners think that there should be more focus in the Netherlands on femicide, 25 oktober 2023, see: www.nporadio1.nl/nieuws/stand-nl/8432e682-0fbc-4c55-a9fa-cfcacf566937/stand-nl-er-moet-veel-meer-aandacht-komen-voor-femicide

⁸¹ According to Van Schoonderwoerd den Bezemer-Wolter of the Public Prosecutor's Office, increasing knowledge and awareness of femicide is one of the main themes of 2024: [Femicide in Nijmegen | De Zaak | Opportuun \(openbaarministerie.nl\)](http://Femicide in Nijmegen | De Zaak | Opportuun (openbaarministerie.nl))

⁸² For example, a roundtable was organized for the first time on June 8, 2023, and a committee debate on femicide by the House of Representatives Committee on Justice and Security on September 27, 2023, www.tweedekamer.nl/debat_en_vergadering/uitgelicht/rondetafelgesprek-over-femicide. Initiated by MP Hanneke van der Werf (D66), the roundtable took place to gain insight into what precedes femicide and how it can be prevented. Survivors were present, as well as National Network Safe Home (LNV), National Lawyers Network Violence and Sexual Assault Victims (LANGZS), Sterkhuis, Federation of Survivors of Violence Victims, Victim Support, scientists, journalists and Olcay Gulsen on behalf of UN Women. During the roundtable Safe Home pleaded for recognition of red flags, for criminalization of intimate terror, for ensuring that the judge can intervene early by means of restraining orders and expansion of the restraining order and safety conditions, for ensuring safer and more accessible reporting options, faster follow-up in case of serious domestic violence, for accessible assistance and for public information.

announced by the Minister for Legal Protection for spring 2024,⁸³ there is a big opportunity for the Dutch government to address domestic violence, including psychological violence and meet its obligations under the Istanbul Convention, ECHR and CEDAW.

⁸³ See: www.tweedekamer.nl/kamerstukken/toezeggingen/detail?id=TZ202310-053&did=TZ202310-053