MOGA FOUNDATION RESEARCH PROJECT
RESEARCH REPORT

Domestic Violence and the Protection of the Child *in Dutch Return Proceedings* under the 1980 Hague Child Abduction Convention

An empirical analysis of published Dutch case law, 2015–2026

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The analysis, conclusions and recommendations in this report, and any errors, are my own. They do not necessarily reflect the views of the MoGa Foundation, Centrum IKO or any other organisation mentioned here.

Nadia Rusinova
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Executive summary

This report examines how Dutch courts deal with allegations of domestic violence in return proceedings under the 1980 Hague Child Abduction Convention. It analyses all 93 published decisions of the District Court of The Hague (Rechtbank Den Haag) and the Court of Appeal of The Hague (Gerechtshof Den Haag) delivered between January 2015 and August 2026 in which domestic violence or child abuse was at issue. Together, these decisions concern 59 return proceedings. Because decisions on return applications under the Convention are, as a rule, published in full on rechtspraak.nl, the study comes close to a complete picture of Dutch case law in this field rather than a sample of it. Each decision was analysed against a structured framework of 79 variables, and the full texts of the judgments were read to verify the analysis and to examine the use of international instruments.

The cases

The cases conform closely to the pattern described in the international debate. In 50 of the 59 proceedings, the parent who took or retained the child was the mother. Violence between the parents or within the household was alleged in 37 proceedings — in all but one of them by a mother — and abuse of the child without partner violence in a further 16. The allegations are frequently serious: direct abuse of the child is alleged in 53 of the 93 decisions, a repeated or structural pattern of violence in 60, and in 56 decisions the taking parent explained her departure as a flight to safety. Nearly two-thirds of the proceedings concerned return to another EU Member State, and 43 of the 59 concerned a State that is also a party to the 1996 Hague Child Protection Convention. This profile mirrors the global picture: in 2021, 75% of taking persons worldwide were mothers, 94% of them primary or joint-primary carers, and Article 13(1)(b) had become the most frequently applied ground for refusal (Chapter 2.6).

Key findings

1. **Domestic-violence allegations do lead to non-return, but mostly by an indirect route.** Return was refused in 19 of the 58 proceedings that reached a final decision (33%), and in 15 of the 37 proceedings involving partner violence (41%). In three of the refusals, the violence was decisive, and in eight it formed part of a combination of circumstances. In the remaining eight, the refusal rested on other considerations, such as a child's objection or the child's separation from a parent who cannot return.
2. **Establishing the facts is the principal hurdle.** The alleged violence was held to be established, fully or partly, in 13 of the 93 decisions; in 54 it was held not to have been established. In the remaining 26, the court left the question open (11), did not need to reach it (10), or described the violence as plausible without making a finding or made no express finding (5). The summary character of the procedure and the standard of substantiation against a reasoned denial weigh heavily on the parent who alleges violence.
3. **The link between violence and risk to the child is central.** In 63 decisions, the court found no sufficient link between the alleged violence and a grave risk for the child. At least eight decisions reason that the alleged violence, *even if* established, would not in itself amount to such a risk — a position consistent with the HCCH Guide to Good Practice, which also, however, draws attention to the child's exposure to violence and its effect on the carer's ability to care.
4. **Exposure of the child to violence deserves a more visible place.** Exposure was alleged in 34 decisions, but it was addressed as a question of fact in only 21 of the 93.

5. **Coercive control is an emerging theme.** Patterns of coercive or controlling behaviour were analysed as such in four decisions, all from 2025–2026, which illustrate both the promise of structured risk-assessment tools and the evidential difficulties of assessing control within a summary procedure.
6. **The child's separation from the primary carer is the most frequent route to refusal.** Most acceptances of Article 13(1)(b) rest on the prospect that the child would be separated from the primary carer — because she faces arrest or detention, cannot lawfully reside in the State of return or is in a mental-health crisis — or from siblings whose objection has been upheld.
7. **Independent evidence is decisive.** Where material independent of the parents supported the allegation, Article 13(1)(b) was accepted in 11 of 14 decisions; where it pointed the other way, in none of 18; where no such material was available, in 4 of 44, each time on grounds other than the violence itself.
8. **Children are closely involved.** A special curator was appointed in 63 decisions, and the child was heard directly by the court in 49. The child's own views were engaged with in the reasoning in 48 decisions; in 32, the judgment records no views of the child, mostly because the children were very young. Children's accounts of violence are carefully weighed against the possibility of a loyalty conflict; direct hearing by the appellate panel has on several occasions led to such accounts being accepted as authentic.
9. **Protective measures are discussed often and examined in depth less often.** Measures were discussed in 68 decisions. Their availability was verified with a concrete source in 7, their accessibility assessed in 5, and their enforceability and cross-border operability in one decision each. The fullest assessments of effectiveness are found in decisions refusing return; return orders have not so far been made conditional on specific protective measures. In most of the 36 return orders that relied on protection, the court had already concluded that a grave risk had not been shown, and the protection was addressed in general terms; its availability was verified, fully or in part, in nine. The protection relied on is recorded in the reasons rather than in the operative part, and the instruments by which it could take effect in the State of return have not yet been used for that purpose.
10. **Cooperation instruments offer further potential.** The Central Authority channel is used routinely for the transmission of applications and decisions; direct judicial communication and information requests about protection in the State of return are, as yet, rarely part of the reasoning. None of the return orders that rely on protection records a request to the State of return for information about the protection available there; in the refusals in which such information was sought, the information obtained, or the lack of a response, was among the reasons for the result.
11. **Protection is realised through Article 13(1)(b).** Article 20 was invoked in 22 decisions but did not serve as an independent ground for refusal. Arguments based on the ECHR, the CRC and the Istanbul Convention are generally absorbed into the grave-risk assessment.
12. **The appeal functions as a genuine second look.** The Court of Appeal reversed 11 of 42 first-instance outcomes. All seven reversals towards non-return coincided with a new assessment of the violence, the risk or the protection available, often on the basis of new information or after hearing the child.
13. **The 1996 Child Protection Convention offers untapped potential.** It was referred to in three decisions, each time to determine the law governing parental responsibility. Its provisions on urgent protective measures, recognition, enforceability and cooperation provide a legal basis for making protective arrangements travel with the child.

14. **The HCCH Guide to Good Practice can serve as a common point of reference.** Dutch practice is closely aligned with the Guide on the threshold for Article 13(1)(b) and on the burden of proof. It is not, however, cited by name in any of the 93 decisions. Drawing more explicitly on the Guide's step-by-step analysis and on its guidance on protective measures would further strengthen consistency and international alignment.

Conclusion

Dutch courts apply Article 13(1)(b) with care, in a procedure that involves children to a high degree and that provides a meaningful appellate review. The analysis also shows where further development is possible. Where violence is alleged, the key questions for the child's safety — what happened, how it affects the child and the carer, whether it is likely to continue, and what will protect them on return — are not always addressed explicitly in the reasons. A return accompanied by concrete, verified and enforceable protection, and a refusal grounded in a clear assessment of the violence and its effect on the child, are both fully consistent with the Convention. The recommendations in Chapter 17 focus on a structured, step-by-step assessment along the lines of the HCCH Guide, on explicit attention to exposure and to the risk of continuation, on the concrete verification of protective measures, and on the instruments that already exist to support this: the 1996 Convention, Article 27(5) of the Brussels IIb Regulation, Regulation (EU) No 606/2013 on civil protection measures and direct judicial communication. They also underlie the two publications that accompany this report, in Dutch and English: Domestic violence in Dutch return proceedings: Findings from the published case law under the 1980 Hague Child Abduction Convention, 2015–2026, and the research note Protective measures in Dutch return proceedings: Assessment, form and cross-border effect in the case law under the 1980 Hague Child Abduction Convention, 2015–2026.

1 Introduction

1.1 Background and problem statement

The Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (hereafter: the 1980 Convention) establishes an expedited procedure for the prompt return of children who have been wrongfully removed to, or retained in, another Contracting State. It rests on the premise that decisions on custody and care should be taken by the authorities of the State of the child's habitual residence, and that prompt return in principle serves the interests of children generally, both by restoring the situation that existed before the removal and by deterring abduction.[1]

Almost fifty years after its adoption, the Convention operates in a profoundly changed social and legal context. A considerable share of contemporary return proceedings involves allegations of domestic violence, typically raised by mothers who are the primary carers of their children and who crossed a border with them in what they describe as an attempt to escape violence. Such cases bring to the surface tensions that lie at the heart of the Hague system: between speed and protection, between the Convention's jurisdictional neutrality and the lived reality of violence, and between the assumptions on which the Convention was built and contemporary standards of child protection and human rights. The Convention itself contains no express reference to domestic or gender-based violence. Its rapporteur, Elisa Pérez-Vera, has acknowledged that gender-based violence was not taken into account during the drafting, because it was not then recognised as a phenomenon of systemic significance, and has called for the Convention to be read in the light of present-day social realities.[2] The social reality to which the Convention responded in the late 1970s was one in which abductions were mostly carried out by fathers without custody rights who took children away from their mothers. Present-day practice shows the reverse pattern: most removals and retentions are carried out by mothers who are primary carers, often with (joint) custody, and who frequently state that they fled domestic violence.

It is widely accepted that the central difficulty is not *whether* Article 13(1)(b) — the exception for a grave risk that return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation — can apply to domestic violence, but *how* it is to be applied in proceedings that are summary, urgent and cross-border. Four tensions recur in the international debate, and they structure this report.

- **The child's exposure to violence.** It is increasingly recognised that a child may be a victim of domestic violence even where the violence is directed at a parent, usually the mother. Exposure to such violence may therefore constitute harm to the child within the meaning of Article 13(1)(b), even if the child is not itself the direct target.[3]
- **Evidence.** An allegation of violence does not in itself suffice. The court must be persuaded that violence occurred and that return would expose the child to a grave risk. Domestic violence, however, is typically characterised by limited, fragmented or hard-to-obtain evidence, while the expedited procedure leaves little room for extensive fact-finding.

[1] Convention on the Civil Aspects of International Child Abduction, The Hague, 25 October 1980, Preamble and Arts 1, 12 and 16. See also E. Pérez-Vera, *Explanatory Report on the 1980 Hague Child Abduction Convention* (HCCH, 1982), paras 16–25 and 34.

[2] P. Álvares, 'Exclusive: The 1980 Hague Convention's rapporteur proposes "to reinterpret" the treaty, considering GBV', *la diaria*, 10 February 2024.

[3] C. Bernasconi, opening remarks, Second Forum on Domestic Violence and the 1980 Child Abduction Convention (Fortaleza, 27–30 October 2025), p. 3, https://assets.hcch.net/docs/e70eea3d-8025-418b-b92a-0e18c6ae2110.pdf.

- **Protective removal.** It is increasingly acknowledged that some removals are motivated by a genuine wish to protect the child. The Convention does not distinguish according to motive: wrongfulness is established first, and the exceptions are examined thereafter. A protective motive may inform the risk assessment, but it does not cure the wrongfulness of the removal. Domestic violence and child abduction do not cancel each other out; together, they form the framework within which the court must assess whether return would place the child in an intolerable situation.[4]
- **Protective measures.** Courts are expected to consider whether measures of protection in the State of habitual residence would adequately protect the returning parent and, through her, the child. There is persistent concern in the international debate that the *formal* availability of such measures may be given decisive weight without sufficient attention to whether they are accessible, enforceable and effective in practice — a concern captured in the notion of a "soft landing", which requires that measures protect in reality and not only on paper.[5]

Taken together, these elements describe the practical challenge that courts face in return proceedings in which domestic violence is alleged. They are asked to apply a Convention designed for speed and jurisdictional clarity to cases marked by complex dynamics of violence, evidential difficulties and serious protection concerns. The task is not to choose between return and protection as opposing values, but to apply the Convention carefully, consistently and transparently — in the knowledge that a well-reasoned decision not to return a child may, in appropriate cases, be entirely in keeping with the Convention's object and purpose.

1.2 International developments

The Hague Conference on Private International Law (HCCH) has itself acknowledged that the Convention does not always operate as it should when survivors of domestic violence take their children across borders. It convened two dedicated fora on the subject, in Sandton, South Africa (June 2024), and Fortaleza, Brazil (October 2025), bringing together judges, Central Authorities, practitioners, researchers, civil-society organisations and people with lived experience from a wide range of legal systems.[6] The fora highlighted recurring concerns about inconsistency in the case law, the assessment of evidence of domestic violence, and the assumption that formally available protective measures offer sufficient protection. In March 2026, the HCCH's Council on General Affairs and Policy took note of the reporting on the second Forum and, on a proposal from the United Kingdom, mandated a Working Group on a possible future convention on the cross-border recognition and enforcement of protection orders.[7]

The Netherlands takes an active part in these discussions and has a strong, specialised institutional framework: return applications are concentrated at the District Court of The Hague, with appeal to the Court of Appeal of The Hague, and are supported by the Central Authority, the Child Care and Protection Board (Raad voor de Kinderbescherming) and the Centrum Internationale Kinderontvoering (Centrum IKO), the Dutch expertise centre on international child abduction. This framework provides a valuable

[4] Bernasconi, opening remarks, Fortaleza 2025 (above), pp. 3–4.

[5] HCCH, *1980 Child Abduction Convention: Guide to Good Practice. Part VI – Article 13(1)(b)* (The Hague, 2020) (hereafter: *Guide to Good Practice*), paras 43–48, available at https://assets.hcch.net/docs/225b44d3-5c6b-4a14-8f5b-57cb370c497f.pdf.

[6] HCCH, Forum on Domestic Violence and the Operation of Article 13(1)(b) of the 1980 Child Abduction Convention (18–21 June 2024), https://www.hcch.net/en/news-archive/details/?varevent=980; HCCH, Second Forum on Domestic Violence and the 1980 Child Abduction Convention – with a focus on the Operation of Article 13(1)(b) (Fortaleza, 27–30 October 2025), https://www.hcch.net/en/news-archive/details/?varevent=1114.

[7] HCCH, Council on General Affairs and Policy, *Conclusions & Decisions* (March 2026), C&D Nos 22–25 and 38, https://assets.hcch.net/docs/02477490-2f8a-47ff-b17c-fed725e6ff3b.pdf.

basis for examining how the internationally identified questions present themselves in Dutch judicial practice.

1.3 Aim of the project and research questions

This practice-oriented research project examines how Dutch courts deal with these tensions in return proceedings under the 1980 Convention in which domestic violence is alleged. It focuses on how domestic violence is identified, assessed and legally qualified; how protection interests are accommodated within a procedure that is urgent and cross-border by nature; and how consistent the case law is. The project aims to contribute to consistent, transparent and child-centred decision-making, and to make its findings accessible to lawyers, courts and other professionals in the Netherlands and abroad through publications in Dutch and English. The ten research questions of the project are set out in Table 1, together with the chapters of this report in which they are answered.

Table 1. Research questions and where they are answered

No.	Research question	Answered in
1	How do Dutch courts interpret and apply Article 13(1)(b) in return proceedings in which domestic violence is alleged?	Chapter 6; Chapter 5 (outcomes)
2	Does the concept of "protective removal" appear, explicitly or implicitly, in Dutch case law?	Chapter 7
3	How do Dutch courts assess allegations of domestic violence within the expedited and summary character of return proceedings?	Chapter 8
4	How is the child's perspective taken into account?	Chapter 9
5	How do Dutch courts use protective or mitigating measures to enable a safe return?	Chapter 10
6	To what extent do courts assess whether protective measures in the State of habitual residence are actually effective?	Chapter 10; Chapter 14
7	To what extent do courts use cooperation and communication tools to assess safety on return?	Chapter 11
8	What role does Article 20 play, and how do the ECHR, the CRC and the Istanbul Convention influence the assessment?	Chapter 12
9	How do appellate courts review the assessment of domestic violence, risk and protective measures?	Chapter 13
10	How does Dutch practice relate to recent international developments?	Chapters 14 and 15

The research questions are abbreviated; their sub-questions are addressed within the respective chapters.

1.4 Approach and contribution

The report is based on a systematic analysis of all published Dutch return decisions from January 2015 to August 2026 in which domestic violence or child abuse was at issue, together with every published decision in the same procedural chain: 93 decisions in 59 return proceedings. Beyond descriptive statistics, the analysis draws throughout on the reasoning of the judgments themselves, which were read in full.

The report answers the ten research questions and, in addition, draws attention to several patterns that emerge from the case law and that are of direct relevance to practice: the central role played by the child's *separation from the primary carer* in decisions refusing return (Chapter 6.7); the decisive weight of evidence that is *independent* of the parents' own accounts (Chapter 8); the relationship between the depth of the assessment of protective measures and the outcome of the case (Chapter 10); the pattern of

appellate reversals (Chapter 13); the potential of the 1996 Child Protection Convention (Chapter 14); and the criminal-law dimension that accompanies many cases (Chapter 16).

1.5 Structure of the report

Chapter 2 sets out the legal framework and places the study in its practical and policy context — the operation of the Convention worldwide, Dutch practice and institutions, the EU framework and the international policy debate — and Chapter 3 sets out the methodology. Chapter 4 describes the case law studied, and Chapter 5 the outcomes of the 59 proceedings. Chapters 6 to 13 address research questions 1 to 9 in turn. Chapter 14 is devoted to the 1996 Child Protection Convention, and Chapter 15 places Dutch practice alongside the HCCH Guide to Good Practice. Chapter 16 discusses further patterns in the case law. Chapter 17 draws conclusions and sets out recommendations, and introduces the publications that accompany it. The annexes list the decisions analysed, describe the analytical framework and bring together the sources used.

2 Legal framework and policy context

2.1 The 1980 Convention: the return mechanism and its exceptions

Where a child under the age of sixteen has been wrongfully removed or retained within the meaning of Article 3 — that is, in breach of rights of custody actually exercised under the law of the State of habitual residence — the authority of the requested State must order the return of the child forthwith (Article 12). Return may be refused only on the limited grounds set out in the Convention: the expiry of one year combined with the child's settlement in the new environment (Article 12(2)); the non-exercise of custody rights, or consent or acquiescence (Article 13(1)(a)); a grave risk that return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation (Article 13(1)(b)); the objection of a child who has attained an age and degree of maturity at which it is appropriate to take account of its views (Article 13(2)); and the fundamental principles of the requested State relating to the protection of human rights and fundamental freedoms (Article 20). The Explanatory Report emphasises that the exceptions must be applied restrictively if the Convention is not to become a dead letter.[8]

The exceptions do not transform the return procedure into a custody procedure. The return court decides only whether the child is to be returned to the State of habitual residence, where the courts remain competent to decide on custody and residence (Article 16). The question under Article 13(1)(b) is therefore not what arrangement would best serve the child in the long term, but whether return itself — pending a decision by the courts of the State of habitual residence — would expose the child to a grave risk.

In Dutch case law, the restrictive approach is anchored in the case law of the Supreme Court (Hoge Raad), notably its judgment of 20 January 2006, which is cited in 21 of the 93 decisions studied.[9] Two elements recur in the reasoning: Article 13(1)(b) is to be interpreted restrictively — some decisions add that it is reserved for "extreme situations" — and the burden of establishing the exception rests on the parent who opposes return. As later chapters show, the latter is applied as a requirement to substantiate the alleged facts against the reasoned denial (*gemotiveerde betwisting*) of the left-behind parent.

2.2 The EU layer: from Brussels IIa to Brussels IIb

Where the child is to be returned to another EU Member State (other than Denmark), the 1980 Convention is supplemented by EU law. Under Article 11(4) of the Brussels IIa Regulation, a court could not refuse return on the basis of Article 13(1)(b) "if it is established that adequate arrangements have been made to secure the protection of the child after his or her return".[10] Since 1 August 2022, the Brussels IIb Regulation applies. Article 27(3) maintains and refines this rule: a court considering refusal *solely* on the basis of Article 13(1)(b) shall not refuse return where the party seeking return satisfies the court, or the court is otherwise satisfied, that adequate arrangements have been made to secure the protection of the child after return. Article 27(4) enables the court to communicate with the competent authorities of the Member State of habitual residence, and Article 27(5) allows the court ordering return to take provisional, including protective, measures under Article 15 in order to protect the child from the

[8] Pérez-Vera, *Explanatory Report* (1982), para. 34.

[9] Supreme Court 20 January 2006, ECLI:NL:HR:2006:AU4795. Other frequently cited Supreme Court (Hoge Raad) judgments are Supreme Court 9 December 2011, ECLI:NL:HR:2011:BU2834 (23 decisions), Supreme Court 28 September 2007, ECLI:NL:HR:2007:BB3193 (6 decisions, on Article 20 and Article 8 ECHR) and Supreme Court 17 June 2011, ECLI:NL:HR:2011:BQ4833.

[10] Council Regulation (EC) No 2201/2003 of 27 November 2003 (Brussels IIa), Art. 11(4); see also Art. 11(6)–(8) on the procedure following a non-return order.

grave risk. Measures so taken circulate within the Union. Article 29 governs the procedure following a non-return order, and Article 86 provides for cooperation and communication between courts.[11]

Of the 59 proceedings studied, 38 (64%) concerned return to an EU Member State and were governed by Brussels IIa (26) or Brussels IIb (12). A further 11 concerned non-EU Contracting States of the 1980 Convention (including Denmark), and 8 concerned States that are not parties to the Convention; in 2 cases the State was not disclosed in the publication.

2.3 Dutch implementation

The International Child Abduction Implementation Act (Uitvoeringswet internationale kinderontvoering) concentrates jurisdiction over return applications at the District Court of The Hague. The court deals with the application as a matter of priority; appeal lies to the Court of Appeal of The Hague and must be lodged within two weeks. The appeal is a full rehearing on the facts and the law, assessed *ex nunc*. Since the revision of the Act in 2012, no ordinary remedy lies against the decision of the Court of Appeal, so that cassation to the Supreme Court is, in principle, excluded.[12] The Supreme Court has held that this exclusion does not apply where the Court of Appeal declares that the Dutch courts lack jurisdiction, and has clarified that, in cases concerning States that are not party to the Convention, jurisdiction is determined by the general rules of the Code of Civil Procedure.[13] In such non-Convention cases, the Dutch courts apply the criteria of the Convention by analogy or as a point of orientation.

The procedure typically includes an early hearing at which cross-border mediation through the Mediation Bureau of Centrum IKO is offered — mediation is mentioned in 30 of the 93 decisions — and frequently the appointment of a special curator (*bijzondere curator*) to represent the child's interests. The Child Care and Protection Board may be asked to report and, where return is ordered, may notify the child-protection authorities in the State of return (*zorgmelding*). These features explain several of the patterns documented in this report, notably the high level of child participation (Chapter 9) and the reliance on care notifications as a protective arrangement (Chapter 10).

2.4 The human-rights layer

Three human-rights instruments are regularly invoked in return proceedings. Under Article 8 ECHR, as interpreted by the Grand Chamber in *X v. Latvia*, courts must genuinely consider arguable allegations of a grave risk to the child and give a specifically reasoned decision on them; the mechanical application of the Convention is incompatible with Article 8.[14] The UN Convention on the Rights of the Child requires the best interests of the child to be a primary consideration (Article 3), guarantees the child's right to be heard (Article 12) and protects the child against all forms of violence (Article 19). The Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) requires States to take incidents of violence into account when determining custody and visitation rights and to ensure that the exercise of such rights does not jeopardise the rights and safety of the victim or children (Article 31). It also requires the protection and support of child witnesses (Article

[11] Council Regulation (EU) 2019/1111 of 25 June 2019 (Brussels IIb), Arts 2(1), 15, 26, 27(3)–(5), 29 and 86.

[12] International Child Abduction Implementation Act (Uitvoeringswet internationale kinderontvoering), Art. 13(7) and (8), as revised by the Act of 2011 (Bulletin of Acts and Decrees (Staatsblad) 2011, 530). The exclusion followed the advice of the Standing Government Committee on Private International Law (Staatscommissie voor het Internationaal Privaatrecht), *Knelpunten bij de uitvoering van het Haags Kinderontvoeringsverdrag 1980 in Nederland* [Problems in the implementation of the 1980 Hague Child Abduction Convention in the Netherlands] (2008), Parliamentary Papers II (Kamerstukken II) 30072, no. 15, annex.

[13] Supreme Court 5 July 2019, ECLI:NL:HR:2019:1085.

[14] ECtHR (GC) 26 November 2013, *X v. Latvia*, no. 27853/09, §§ 106–107; see also ECtHR (GC) 6 July 2010, *Neulinger and Shuruk v. Switzerland*, no. 41615/07.

26) and an assessment of the risk of lethality, the seriousness of the situation and the risk of repeated violence (Article 51).[15]

2.5 International soft law and policy developments

The HCCH Guide to Good Practice on Article 13(1)(b), approved by the HCCH Members in December 2019 and published on 9 March 2020, is the principal international reference point for the interpretation of the grave-risk exception.[16] It recommends a step-by-step analysis. The court first considers whether the assertions are of such a nature, and of sufficient detail and substance, that they *could* constitute a grave risk. If so, it determines whether the grave risk is established, taking into account the circumstances as a whole, including the protective measures available in the State of habitual residence. The Guide also addresses domestic violence and protective measures specifically.[17] Its content is set alongside Dutch practice in Chapter 15.

The 1996 Hague Child Protection Convention, in force for the Netherlands since 1 May 2011, complements the 1980 Convention. It allows the authorities of the State where the child is present to take urgent protective measures (Article 11), which are recognised by operation of law in the other Contracting States (Article 23) and may be declared enforceable there (Article 26), and it provides an elaborate framework for cooperation between authorities.[18] Its role in Dutch return proceedings is examined in Chapter 14.

2.6 The Convention in global practice

The 1980 Convention is among the most widely ratified instruments of the HCCH, with 103 Contracting Parties.[19] Its operation is monitored through periodic statistical surveys of the applications received by Central Authorities in a given year, carried out for the HCCH by Nigel Lowe and Victoria Stephens. The fifth and most recent survey, covering applications received in 2021, documents both the profile of contemporary cases and a marked shift in their outcomes.[20]

The profile of the cases has become more pronounced over time. In the return applications received in 2021, 75% of the taking persons were mothers, 23% fathers and 2% other relatives, and 94% of the taking mothers were the primary or joint-primary carer of the child (91% in 2015). The Dutch case law examined in this report, in which the mother was the taking parent in 50 of the 59 proceedings (Chapter 4), mirrors this global profile closely.

The outcomes have shifted as well. The overall return rate fell to 39%, the lowest figure in the five surveys (45% in 2015). Of the applications decided by a court, 59% ended in an order for return and 35%

[15] Council of Europe Convention on preventing and combating violence against women and domestic violence, CETS No. 210 (Istanbul, 11 May 2011), Arts 26, 31 and 51.

[16] HCCH, 'Publication of the Guide to Good Practice under the Child Abduction Convention: Part VI – Article 13(1)(b)', 9 March 2020, https://www.hcch.net/en/news-archive/details/?varevent=725.

[17] *Guide to Good Practice*, paras 38–48 and 57–59.

[18] Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children, Arts 7, 11, 16, 23, 26 and 30–37; status table: https://www.hcch.net/en/instruments/conventions/status-table/?cid=70 (Netherlands: ratification 31 January 2011, entry into force 1 May 2011).

[19] N.V. Lowe & V. Stephens, 'Global Trends in the Operation of the 1980 Hague Abduction Convention: The 2021 Statistics', *Family Law Quarterly* 59(1) (2025) (103 Contracting States as at 1 August 2025), https://www.americanbar.org/groups/family_law/resources/family-law-quarterly/2025-december/global-trends-operation-1980-hague-abduction-convention-2021-statistics; HCCH status table of the 1980 Convention, https://www.hcch.net/en/instruments/conventions/status-table/?cid=24.

[20] Lowe & Stephens (2025), above. The survey covers 2,191 return applications received in 2021 by the Central Authorities of 77 of the then 101 Contracting States.

in a refusal, against 65% and 28% in 2015. Article 13(1)(b) has become the most frequently applied ground for refusal: it was relied on in 45% of judicial refusals, up from 25% in 2015, followed by the child's objection (23%), settlement after more than a year (20%) and the finding that the child was not habitually resident in the requesting State (19%). Proceedings have also become longer: applications decided by a court took on average 220 days from their receipt by the Central Authority (179 days in 2015), and the share of court cases that went to appeal rose from 31% to 42%.[21] The statistics do not record whether domestic violence was alleged, but the growth in grave-risk refusals is consistent with the increasing prominence of such allegations that the HCCH itself has acknowledged (Chapter 1.2).

The global figures and the findings of this study are not directly comparable. The surveys count applications, including those resolved by voluntary return or withdrawn, and cover every ground of refusal, whereas this study counts judicial proceedings in which violence or child abuse was raised. The comparison is nonetheless instructive: the share of refusals in the Dutch proceedings studied (19 of 58; 33%) is close to the global share of refusals among judicially decided applications in 2021 (35%), and in Dutch proceedings involving partner violence, it is higher (41%; Chapter 5).

Empirical research has long documented the overlap between parental child abduction and domestic violence. Weiner's analysis of 2000 was among the first to show that many 'abducting' mothers were escaping violence, and to question whether the return mechanism served them and their children.[22] The Hague Domestic Violence Project in the United States, based on interviews with 22 mothers and an analysis of 47 published decisions, found that most of the mothers had faced serious physical and sexual assaults; that the children had often been assaulted themselves or exposed to extensive violence against their mothers; that most children were nonetheless returned; and that almost half of the women and children who returned experienced renewed violence or threats. Only in one of the mothers' cases did a court explicitly recognise the child's exposure to violence as potentially harmful.[23] In Europe, the EU-funded POAM project examined how mothers who abduct their children because of domestic violence can be protected in return proceedings, including through the EU instruments on the cross-border circulation of protection measures.[24] These studies converge on the three questions at the centre of this report: how the child's exposure to violence is assessed, how violence can be established within a summary procedure, and whether the protection relied on upon return is real.

2.7 The Netherlands: caseload and institutions

The Netherlands has been a party to the 1980 Convention since 1 September 1990. Central Authority functions are performed by the Central Authority for International Child Matters (Centrale autoriteit Internationale Kinderaangelegenheden, Ca IKA), part of the Ministry of Justice and Security, which receives and transmits return applications. Centrum Internationale Kinderontvoering (Centrum IKO) is the national expertise centre that advises parents and professionals free of charge, works on prevention and, through its Mediation Bureau, organises cross-border mediation within return proceedings.[25]

[21] Lowe & Stephens (2025), above. A refusal may rest on more than one ground; 24% of the judicial refusals in 2021 cited more than one.

[22] M.H. Weiner, 'International Child Abduction and the Escape from Domestic Violence', *Fordham Law Review* 69 (2000), p. 593.

[23] J.L. Edleson, T. Lindhorst, G. Mehrotra, W. Vesneski, L. Lopez & S. Shetty, *Multiple Perspectives on Battered Mothers and Their Children Fleeing to the United States for Safety: A Study of Hague Convention Cases*, Final Report to the National Institute of Justice (2010), pp. vii–xi, https://www.ojp.gov/pdffiles1/nij/grants/232624.pdf.

[24] K. Trimmings, A. Dutta, C. Honorati & M. Župan (eds), *Domestic Violence and Parental Child Abduction. The Protection of Abducting Mothers in Return Proceedings*, Intersentia 2022; project information at https://research.abdn.ac.uk/poam/book/.

[25] Centrum Internationale Kinderontvoering, *Jaarverslag 2025* [Annual Report 2025] (June 2026), sent to the Senate (Eerste Kamer) on 23 June 2026, https://www.eerstekamer.nl/nonav/brief_in/20260623/jaarverslag_centrum_iko_2025/f=/

Centrum IKO's annual figures give an indication of the caseload. The number of children involved in international child abduction cases with a Dutch connection was 292 in 2022, 260 in 2023, 200 in 2024 and 270 in 2025. In 2025, these figures concerned 190 cases: 137 outgoing cases involving 188 children and 42 incoming cases involving 65 children, together with 11 cases involving 17 children that had a Dutch connection but took place outside the Netherlands (2024: 88 outgoing and 42 incoming cases). In 75% of the cases in 2025, the taking parent was the mother (77% in 2023).[26] Incoming cases — in which a child has been brought to or retained in the Netherlands — are the ones that can lead to return proceedings before the District Court of The Hague. Many of them are resolved without a judicial decision, through voluntary return, agreement or withdrawal, and this study includes only proceedings in which violence or child abuse was raised. The 59 proceedings studied over eleven and a half years should be read against this background.

Mediation is an integral part of the Dutch procedure, but its results in abduction cases are modest. In 2025, the Mediation Bureau received 27 requests in abduction cases; 16 mediations started, of which one ended in a full agreement.[27] This corresponds with the finding in Chapter 11.5 that, in the decisions studied, mediation had in most cases not led to an agreement. Brussels IIb itself recognises that mediation "might not always be appropriate, especially in cases of domestic violence".[28]

Dutch policy on domestic violence has developed alongside, but largely separately from, the abduction framework. The Istanbul Convention entered into force for the Netherlands on 1 March 2016. In its baseline evaluation of 2020, GREVIO observed that Dutch family courts frequently take the view that violence ends after separation and that there were no guidelines on how to take into account domestic violence directed at the mother in decisions on custody and contact, and it called for past behaviour to be taken into account.[29] The same questions — whether past violence is relevant to the future, and how violence against the mother bears on the child — recur in return proceedings (Chapters 6.4 and 6.6). The attention given within Centrum IKO in 2025 to coercive control and intimate terrorism, and the use of the warning-signs tool for femicide and intimate terrorism (*signalenwijzer femicide en intieme terreur*) in a return decision of the same year (Chapter 6.5), indicate that expertise on domestic violence is beginning to connect with abduction practice.[30]

2.8 The EU layer in practice: Brussels IIb and the wider EU framework

The recast of the Brussels IIa Regulation was prompted in large part by the operation of its child-abduction rules. The Commission's 2014 report on the application of Brussels IIa identified the length of return proceedings, including non-compliance with the six-week time limit, and the enforcement of return orders as problem areas.[31] The recast proposal of 2016 aimed to make the return procedure faster

vmyodq4od67r.pdf.

[26] Centrum IKO, *Jaarverslag 2025*, above. For 2022 and 2023: 'Aantal internationale kinderontvoeringen Nederland gedaald in 2023' [Number of international child abductions in the Netherlands fell in 2023], *NJB*, 2 April 2024, https://www.njb.nl/nieuws/aantal-internationale-kinderontvoeringen-nederland-gedaald-in-2023/.

[27] Centrum IKO, *Jaarverslag 2025*, above.

[28] Brussels IIb (above), recital 43.

[29] GREVIO, *Baseline Evaluation Report: Netherlands*, GREVIO/Inf(2019)19, published 20 January 2020, executive summary and the section on Article 31, https://rm.coe.int/09000016809a61f1.

[30] Centrum IKO, *Jaarverslag 2025*, above. District Court The Hague 25 September 2025, ECLI:NL:RBDHA:2025:18246.

[31] Report from the Commission on the application of Council Regulation (EC) No 2201/2003, COM(2014) 225 final, 15 April 2014.

and more effective,[32] and Regulation (EU) 2019/1111 (Brussels IIb) applies to proceedings instituted on or after 1 August 2022.[33] Its main features for return proceedings are summarised in Box 1.

Box 1. Brussels IIb and the return procedure: main features

- **Speed.** Courts at first instance and on appeal must, except where exceptional circumstances make this impossible, give their decision within six weeks of being seised (Article 24); the enforcement of a return order is likewise to take place expeditiously, with a six-week benchmark (Article 28).
- **Concentration.** Member States are encouraged to concentrate jurisdiction for abduction cases (recital 41), as the Netherlands has done since 2012.
- **Mediation.** As early as possible, the court is to invite the parties to consider mediation or other alternative dispute resolution, unless this is contrary to the best interests of the child, is not appropriate or would unduly delay the proceedings (Article 25); recital 43 notes that mediation may not be appropriate in cases of domestic violence.
- **The child's voice.** The child must be given a genuine and effective opportunity to express his or her views (Articles 21 and 26).
- **Adequate arrangements and protective measures.** Return may not be refused solely on the basis of Article 13(1)(b) if adequate arrangements have been made to secure the child's protection after return (Article 27(3)); the court may communicate with the authorities of the State of habitual residence (Article 27(4)) and may take provisional, including protective, measures under Article 15 to protect the child from the grave risk (Article 27(5)), which circulate in the other Member States (Article 2(1)).
- **Provisional enforceability.** A return order may be declared provisionally enforceable notwithstanding an appeal (Article 27(6)).
- **After a refusal.** Where return is refused on the basis of Article 13(1)(b) or 13(2), the courts of the State of habitual residence may examine the question of custody; a resulting decision requiring the return of the child circulates with a certificate (Article 29).
- **Cooperation.** Central Authorities cooperate in specific cases (Articles 76–84), and courts may cooperate and communicate directly or through the European Judicial Network (Article 86).

The recitals give concrete content to the notion of adequate arrangements. Recital 45 mentions, by way of example, a court order of the State of habitual residence prohibiting the applicant from coming close to the child, a provisional measure of that State allowing the child to stay with the abducting parent who is the primary carer until a decision on custody has been taken after the return, and the demonstration that medical facilities are available for a child in need of treatment. The emphasis lies on concrete measures in the individual case rather than on the general availability of protection in the State of return — a point of direct relevance to the findings in Chapter 10.

The Court of Justice has interpreted the EU abduction rules in a series of urgent preliminary rulings. Three lines are relevant here. First, the system rests on mutual trust: the courts of the requested State may not review a certified decision of the State of habitual residence requiring the return of the child, and alleged shortcomings, including in hearing the child, must be raised in the State of origin.[34] Second, threshold questions such as habitual residence receive an autonomous interpretation that focuses on the child's actual situation.[35] Third, the requirement of speed extends to the enforcement of return decisions: a national rule allowing enforcement to be suspended automatically and without judicial review is

[32] Proposal for a Council Regulation on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction (recast), COM(2016) 411 final, 30 June 2016.

[33] Brussels IIb (above), Art. 100(1); text at https://eur-lex.europa.eu/eli/reg/2019/1111/oj.

[34] CJEU 11 July 2008, C-195/08 PPU, *Rinau*; CJEU 1 July 2010, C-211/10 PPU, *Povse*; CJEU 22 December 2010, C-491/10 PPU, *Aguirre Zarraga*.

[35] CJEU 8 June 2017, C-111/17 PPU, *OL v PQ*; CJEU 17 October 2018, C-393/18 PPU, *UD v XB*.

incompatible with EU law.[36] None of these rulings concerns domestic violence as such, but together they define the context in which Article 27(3) operates: a strong presumption in favour of prompt return between Member States, tempered by the requirement that protection be secured in the individual case.

The EU also has instruments that protect the returning parent rather than the child. Regulation (EU) No 606/2013, applicable since 11 January 2015, provides that a protection measure ordered in civil matters in one Member State — for instance a prohibition on contacting or approaching the protected person — is recognised in the other Member States without any special procedure and is enforceable there without a declaration of enforceability, on the basis of a standard certificate; the effects of recognition are limited to twelve months. Measures within the scope of the Brussels Regulation on parental responsibility fall outside it, but a measure protecting the returning parent does not.[37] The criminal-law counterpart is the European protection order under Directive 2011/99/EU.[38] Neither instrument is referred to in any of the 93 decisions studied, although the POAM research has pointed to their potential in return cases (section 2.6).

Directive (EU) 2024/1385 on combating violence against women and domestic violence, which the Member States must transpose by 14 June 2027, adds obligations of direct relevance. Its definition of 'victim' expressly includes children who have suffered harm because they have witnessed domestic violence (Article 2(c)). It requires an individual assessment of victims' protection needs (Article 16) and the availability of emergency barring orders, restraining orders and protection orders (Article 19). Article 32 requires Member States to ensure that the competent authorities have access to information on violence against women or domestic violence involving children, so that it can inform the assessment of the child's best interests in civil proceedings concerning those children, and to provide safe places for contact between a child and a parent who is an offender or suspect.[39] Return proceedings are civil proceedings concerning children. The Directive thus points in the same direction as the HCCH Guide: information about violence should be available to, and used by, the court deciding on the child's return.

The European Parliament, in its resolution of 6 October 2021 on the impact of intimate partner violence and custody rights on women and children, welcomed the revised rules of Brussels IIb as enhancing cooperation between judicial systems, and called for their effective implementation and for a swifter resolution of cross-border family cases.[40]

2.9 The international policy debate and comparative responses

Within the HCCH, the relationship between domestic violence and the Convention has moved from the margins to the centre of the agenda. At the Eighth Meeting of the Special Commission on the practical operation of the 1980 and 1996 Conventions (10–17 October 2023), the Special Commission stressed that the Guide to Good Practice must be read as a whole and that the Article 13(1)(b) exception does not require that the child be the direct or primary victim (C&R No 25). It stated that protective measures

[36] CJEU 16 February 2023, C-638/22 PPU, *Rzecznik Praw Dziecka and Others*; see the commentary at https://conflictoflaws.net/2023/the-cjeu-on-procedural-rules-in-child-abduction-cases-private-international-law-and-childrens-rights-law/.

[37] Regulation (EU) No 606/2013 of the European Parliament and of the Council of 12 June 2013 on mutual recognition of protection measures in civil matters, Arts 2(3), 3(1), 4(1), 4(4) and 22, https://eur-lex.europa.eu/eli/reg/2013/606/oj.

[38] Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order.

[39] Directive (EU) 2024/1385 of the European Parliament and of the Council of 14 May 2024 on combating violence against women and domestic violence, Arts 2(c), 16, 19, 31, 32 and 49, https://eur-lex.europa.eu/eli/dir/2024/1385/oj.

[40] European Parliament resolution of 6 October 2021 on the impact of intimate partner violence and custody rights on women and children (2019/2166(INI)); report A9-0254/2021, paras 47–48, https://www.europarl.europa.eu/doceo/document/A-9-2021-0254_EN.html.

should be considered or ordered only where necessary, that their efficacy depends on whether they can be made enforceable in the State of habitual residence, that voluntary undertakings are not easily or always enforceable, that undertakings should, where possible, be included in the return order, and that information on the measures of protection available in the State of habitual residence should be obtained (C&R Nos 28 and 30–33). It also invited authorities to describe measures taken under the 1996 Convention, and the grounds of their jurisdiction, carefully in the decision (C&R Nos 74–78), and it supported the proposal to hold a forum on domestic violence (C&R No 26), which led to the fora of Sandton (2024) and Fortaleza (2025) described in Chapter 1.2.[41] In March 2026, the Council on General Affairs and Policy established a Working Group on a possible convention on the cross-border recognition and enforcement of protection orders (Chapter 14.4).

At the level of the United Nations, the Special Rapporteur on violence against women and girls devoted her 2023 report to custody, violence against women and violence against children. She observed that the Convention "does not mention domestic violence, neither does it include protections for abused mothers", that around three quarters of the cases are brought against mothers, many of whom are fleeing abuse, and that courts have been reluctant to treat domestic violence as a reason not to return children. She recommended that the Convention be revised to provide a stronger defence where family and domestic violence is present, to recognise that a return order may send a survivor back to violence, and to require courts to consider family and domestic violence.[42]

The European Court of Human Rights has given the procedural standard of *X v. Latvia* concrete content in a case involving violence. In *O.C.I. and Others v. Romania* (2019), it found a violation of Article 8 where the national courts had ordered the return of two children to Italy despite allegations that the father had been violent towards them: return under the Convention cannot be ordered automatically or mechanically; the courts should have given greater consideration to the risk of ill-treatment, and they should at least have ensured that specific arrangements were made to safeguard the children.[43] The judgment underlines that reliance on protection in the State of return must rest on concrete arrangements, a point that connects directly with the findings in Chapter 10.

The Second Forum, co-hosted by the HCCH and the Government of Brazil in Fortaleza from 27 to 30 October 2025, had almost 500 registered participants, more than 150 of whom attended in person. Its ten sessions covered prevention, the assessment of allegations and of grave risk, evidence, protective measures, the effects of return and non-return decisions, and the Guide to Good Practice five years after its publication.[44] Dutch practice was represented among the moderators — the session on legal mechanisms and access to justice was moderated by the author of this report, and the session on protective measures by a senior judge of the District Court of The Hague who is a member of the International Hague Network of Judges — and Centrum IKO's Mediation Bureau was mentioned as having added to its mediator training a module comparing the approaches of the Istanbul Convention and the 1980 Convention to mediation.[45]

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[41] HCCH, *Conclusions & Recommendations of the Eighth Meeting of the Special Commission on the Practical Operation of the 1980 Child Abduction Convention and the 1996 Child Protection Convention* (10–17 October 2023), C&R Nos 23–34 and 74–78, https://assets.hcch.net/docs/5b48f412-6979-4dc1-b4c1-782fe0d5cfa7.pdf.

[42] Human Rights Council, *Custody, violence against women and violence against children. Report of the Special Rapporteur on violence against women and girls, its causes and consequences, Reem Alsalem*, A/HRC/53/36 (2023), paras 36–39 and 74(k), https://digitallibrary.un.org/record/4010556.

[43] ECtHR 21 May 2019, *O.C.I. and Others v. Romania*, no. 49450/17; summary at https://www.incadat.com/en/case/1435.

[44] HCCH, *Report on the Second Forum on Domestic Violence and the Operation of Article 13(1)(b) of the 1980 Child Abduction Convention, October 2025, Brazil*, Prel. Doc. No 8B of January 2026 (CGAP 2026; restricted access, on file with the author) (hereafter: Forum Report 2025), paras 2 and 5.

[45] HCCH, Forum Report 2025 (above), Annex, paras 27, 74 and 117.

Several contributions bear directly on the findings of this report. A judge of the Court of Appeal of England and Wales described the assessment under Article 13(1)(b) as "risk assessment and risk management – not risk elimination", warning against underestimating the risk of harm as well as overestimating the efficacy of protective measures.[46] Judges from England and Wales and from Scotland reported that fact sheets on the protective measures available in their jurisdictions had recently been published (the Scottish one in October 2025), and participants were encouraged to develop their own.[47] In the closing session, participants observed that protective measures do not always mitigate grave risks and that the Guide should reflect this, and called for data on the effectiveness of protective mechanisms and for accessible, trauma-informed legal aid to counter inequality of arms.[48] The Secretary General indicated that a revision of the Guide, or a separate guide on cases involving domestic violence, depends on decisions of the Council on General Affairs and Policy informed by a Special Commission and cannot realistically begin within the next five years, while the development of practice guidance, protocols or model laws by the Contracting Parties themselves is welcome.[49]

Views on the way forward differ. The UN Special Rapporteur has called for a revision of the Convention (above). At the Second Forum, by contrast, a number of participants stressed that the Convention is a legal instrument operating within a broader framework, that systemic deficiencies beyond its scope cannot be addressed by the Convention alone, and that national standards of proof and procedural rules are not within the mandate of the HCCH to change; others called for the Guide to be viewed as a living instrument that requires periodic updating.[50] The Guide itself has meanwhile been translated into all official languages of the European Union.[51] For Dutch practice, the consequence is that the Guide in its current form will remain the principal common point of reference for the foreseeable future, and that national guidance and practice-oriented publications — such as those developed within this project — are the level at which practice can be developed in the meantime.

National systems have responded in different ways. Four examples illustrate the range.

- **United Kingdom.** In *Re E (Children)* (2011), the Supreme Court held that, where disputed allegations cannot be resolved in summary proceedings, the court should ask whether, if they are true, there would be a grave risk to the child and, if so, how the child can be protected against it — an approach later reflected in the step-by-step analysis of the HCCH Guide.[52]
- **United States.** In *Golan v. Saada* (2022), the Supreme Court held that a court which has found a grave risk is not categorically required to examine all possible ameliorative measures before refusing return; it retains discretion, and any consideration of such measures must prioritise the child's physical and psychological safety.[53]
- **Australia.** Amendments to the Family Law (Child Abduction Convention) Regulations 1986, in force since 10 December 2022, allow the court to attach conditions to a return order to reduce a risk of family violence, require it to consider a proposed protective condition raised by a party or an independent children's lawyer, and allow it to take family-violence risks into account whether or not violence has already occurred.[54]

[46] HCCH, Forum Report 2025 (above), Annex, para. 96.
[47] HCCH, Forum Report 2025 (above), Annex, paras 30 and 133.
[48] HCCH, Forum Report 2025 (above), Annex, paras 175–176.
[49] HCCH, Forum Report 2025 (above), Annex, paras 179–180.
[50] HCCH, Forum Report 2025 (above), Annex, paras 174–175.
[51] HCCH, Forum Report 2025 (above), Annex, para. 166.
[52] *Re E (Children) (Abduction: Custody Appeal)* [2011] UKSC 27.
[53] *Golan v. Saada*, 596 U.S. 666 (2022), decided 15 June 2022.
[54] Family Law (Child Abduction Convention) Amendment (Family Violence) Regulations 2022 (Cth), F2022L01611, regs 15(5)–(6) and 16(6)–(7), https://legislation.gov.au/F2022L01611/asmade.

- **Brazil.** A Protocol for Judicial Decisions from a Gender Perspective in 1980 Convention cases involving possible domestic violence, approved by a Brazilian working group formed after the first regional meeting of the International Hague Network of Judges in Rio de Janeiro in May 2024, clarifies that the child does not need to be a direct victim for a grave risk to be established, treats coercive control as relevant and warns that protective measures alone do not eliminate risk. The Federal Supreme Court has held that Article 13(1)(b) must be interpreted from a gender perspective, allowing its application where there are objective indications of domestic violence even if the child is not a direct victim; according to Brazil's National Solicitor for International Affairs, once the exception is established, Brazilian courts may not use protective measures to mitigate the risk.[55]

These developments differ in emphasis but share a common direction. They treat domestic violence (including its effect on the child through exposure and through the carer) as relevant to the grave-risk assessment; they require that reliance on protection in the State of return rest on concrete, enforceable and effective measures rather than on general availability; and they favour a structured assessment supported by information from the State of habitual residence and by instruments that allow protection to travel across borders. The findings on Dutch practice in Chapters 4 to 16 are read against this background, and the recommendations in Chapter 17 take it into account.

[55] HCCH, Forum Report 2025 (above), Annex, paras 6–7 and 153.

3 Methodology

3.1 Design

The study is a systematic analysis of published Dutch case law, combining quantitative and qualitative methods. Each decision was analysed against a structured framework of 79 variables covering the procedural setting, the allegations, the court's findings, the evidence, the analysis under Article 13(1)(b), protective measures, cooperation between authorities, the child's participation, human-rights arguments, the outcome and — for appeals — the relationship with the first-instance decision (Annex A). The quantitative results show how often particular issues arise and how they are resolved; the qualitative reading of the reasons shows how the courts reason and why.

3.2 Scope and inclusion

A decision was included if it was a decision of the District Court of The Hague or the Court of Appeal of The Hague on an application for the return of a child — under the 1980 Convention or, for non-Convention States, by analogy — in which domestic violence or child abuse was expressly raised, together with every published decision in the same procedural chain. The period covered runs from 26 January 2015 to 6 August 2026. Procedural chains were completed based on the relations between decisions published on rechtspraak.nl. Decisions in the same chain in which no allegation of violence was analysed, and one outgoing case in which return *to* the Netherlands was sought, were retained so that each proceeding could be followed from beginning to end; they are identified where relevant.

The domestic-violence relevance of each decision was classified in five categories: **A** — violence between the parents or within the household (with or without direct abuse of the child); **B** — abuse or neglect of the child by the left-behind parent or household, without partner violence; **C** — a marginal or unspecified allegation of violence; **D** — no allegation of violence analysed in the decision (typically a linked decision in the same chain); **E** — a reverse constellation, in which violence was reported by the left-behind parent.

3.3 The publication of return decisions

The value of a case-law study depends on the relationship between the published decisions and the decisions actually given. In this respect, return proceedings under the 1980 Convention occupy a special position. The Decree on the selection criteria for the Rechtspraak.nl decisions database (Besluit selectiecriteria uitsprakendatabank Rechtspraak.nl), which determines which decisions of the Dutch courts are published on rechtspraak.nl, generally leaves the selection of first-instance and appellate decisions to the courts (Article 6). For a number of categories, however, publication is mandatory. Article 4(1), point 6, provides that decisions on return applications under the 1980 Hague Child Abduction Convention are always published. In addition, a decision is always published if a decision in an earlier or later instance of the same proceedings has been published (Article 4(2), point 2), and if an appeal to the ECHR or the CRC has been upheld or rejected with more than a standard reasoning (Article 4(2), point 1). With limited exceptions, all decisions of the Supreme Court are published (Article 3).[56]

For Convention cases, the published case law therefore approaches the full body of decisions rather than a selection of them. This has two important consequences for this study. First, the findings can be read as a description of Dutch judicial practice in return cases involving domestic violence, and not merely of a

[56] Decree on the selection criteria for the Rechtspraak.nl decisions database (Besluit selectiecriteria uitsprakendatabank Rechtspraak.nl) 2024 (as most recently adopted on 23 June 2026), Arts 3, 4(1), point 6, 4(2), points 1–2, and 6, https://www.rechtspraak.nl/uitspraken/selectiecriteria. Published decisions are pseudonymised in accordance with the pseudonymisation guideline (Pseudonimiseringsrichtlijn) (Art. 7).

selection of noteworthy cases. Second, the proportions reported — for instance the share of proceedings in which return was refused — are not the product of a publication filter favouring particular outcomes, but reflect the practice itself, within the limits of the inclusion criterion (cases in which violence was raised).

Three qualifications apply. The mandatory publication rule covers return applications *under the 1980 Convention*; decisions concerning non-Convention States, which are decided by analogy, fall under the general rule of Article 6 and are published as far as possible. For eight appeal decisions, the corresponding first-instance decision could not be found on rechtspraak.nl; in those proceedings the first-instance outcome is taken from the appeal decision. Furthermore, pseudonymisation occasionally extends to the State of return, which in two proceedings could not be identified.

3.4 Analysis and verification

The analysis followed a strict rule of objectivity: only allegations, evidence, findings, reasoning, measures and outcomes *stated in the published judgment* were recorded. The categories "no", "not addressed", "not reached", "not stated" and "determination avoided" were kept distinct, so that the absence of a statement in the reasons is never treated as a negative finding by the court. The analysis was supported by digital text-analysis tools, and every decision was verified against its official full text in two complete review rounds.

In addition, the full texts of the judgments were read for four specific purposes: to identify every reference to the 1996 Child Protection Convention (all 93 decisions); to identify references to international soft-law instruments, including the HCCH Guide to Good Practice, in the decisions delivered after its publication (52 decisions); to identify decisions reasoning on the assumption that the alleged violence was established (Chapter 6.4); and to confirm the basis of the refusal in decisions in which Article 13(1)(b) was accepted on grounds other than the violence itself (Chapter 6.7). Quotations from judgments are taken from the published texts.

For the analysis of evidence (Chapter 8), evidence that is independent of the parents' own accounts — reports of the Child Care and Protection Board or the special curator, police observations, medical findings, criminal convictions, reports of foreign authorities, school information — was further classified according to whether it supported the allegation of violence, pointed in the opposite direction, or concerned a different question.

3.5 Units of analysis

Three units of analysis are used (Table 2). Statements about outcomes and prevalence ("in x% of cases return was refused") count each *proceeding* once, with its legally operative outcome: that of the latest published decision. Statements about judicial reasoning count *decisions*, because each court gives its own reasons; where a finding occurs at both instances of one proceeding, this is indicated where relevant. Appellate review is analysed on the basis of first-instance/appeal *pairs*.

Table 2. Units of analysis

Unit	N	Used for
Decision	93	How the courts reason: evidence, findings, the link between violence and risk, protective measures, the child's views, human rights (51 first-instance and 42 appeal decisions).
Proceeding	59	Outcomes and prevalence, on the basis of the final published decision of each proceeding (34 with both instances published, 17 with a first-instance decision only, 8 with an appeal decision only).

Unit	N	Used for
Pair	42	Appellate review: the first-instance outcome (as published, or as reported in the appeal decision) compared with the appeal outcome.

3.6 Scope of the findings

The findings should be read with the following considerations in mind.

- **What the judgment says.** The analysis captures the reasons as published. A court may have considered material that is not reflected in its reasons; conversely, where the reasons do not address a question - for instance, the enforceability of a protective measure, this is a finding about the reasons, not necessarily about the court's deliberations. As the reasons are what the parties, the appellate court and the authorities of the other State rely on, this is also what matters for transparency and consistency.
- **Recent proceedings.** Where only a first-instance decision has been published, no appeal decision has been published by the cut-off date; the most recent decisions may still be under appeal.
- **Evaluative categories.** Some variables, e.g. whether violence was material to the outcome, whether a link between violence and risk was accepted, how the gravity of the conduct was assessed, necessarily involve interpretation. They were assessed with particular care and illustrated by the reasoning of the decisions themselves.
- **The courts covered.** The study covers the District Court and the Court of Appeal of The Hague. Because jurisdiction over return applications under the Convention is concentrated at these two courts (Chapter 2.3), they are the only Dutch courts deciding such applications; requests for the return of a child to a State that is not a party to the Convention may fall to other courts under the general rules of jurisdiction, and decisions of those courts fall outside this study. Owing to the exclusion of cassation in return proceedings since 2012, the Supreme Court does not, as a rule, rule on return applications under the Convention; its earlier case law enters the analysis through its citation by the two courts.
- **Identification of the decisions.** The decisions were identified on rechtspraak.nl, and procedural chains were completed on the basis of the links between published decisions. The search was designed to be exhaustive; should an individual decision nonetheless not have been captured, this would not alter the patterns reported, although individual counts could differ marginally.
- **Sources.** The analysis in this report rests on the published decisions and on documentary sources; information on institutional practice is drawn from those sources, in particular the reports of the HCCH fora, the annual reports of Centrum IKO and the other materials cited.
- **The literature.** A systematic comparison with the existing legal literature falls outside the scope of this project, which is an empirical analysis of the case law set against the relevant legal instruments and the HCCH's own guidance. The Dutch literature on international child abduction nonetheless provides an important background to the questions examined here. It includes, among others, the handbook edited by *Ibili* and the accompanying annotated collection of case law; *Ruitenberg*'s doctoral study of the application of the Convention in the Netherlands and the best interests of the child; the comparative study of the handling of incoming cases by Jonker, Abraham, Jeppesen de Boer, Van Rossum and Boele-Woelki; the earlier WODC study by Verwers, Van der Knaap and Vervoorn; the advice of the Standing Government Committee on Private International Law (Staatscommissie voor het Internationaal Privaatrecht) that led to the concentration of jurisdiction

and the exclusion of cassation; and the study by Bruning and others on the right of children to be heard in family and youth proceedings.[57] These works are listed in Annex B.

[57] F. Ibili (ed.), *Handboek internationale kinderontvoering* [Handbook on international child abduction], 2nd edn, Deventer: Wolters Kluwer 2024; F. Ibili, L.A.J. Brouwer & A.J. Nederveen, *Rechtspraak internationale kinderontvoering* [Case law on international child abduction], Deventer: Wolters Kluwer 2025; G. Ruitenberg, *De toepassing van het Haags Kinderontvoeringsverdrag in Nederland en het belang van het kind* [The application of the Hague Child Abduction Convention in the Netherlands and the best interests of the child] (PhD thesis), The Hague: Boom Juridische uitgevers 2015; M. Jonker, M. Abraham, C. Jeppesen de Boer, W. van Rossum & K. Boele-Woelki, *Internationale kinderontvoering. De uitvoeringspraktijk van inkomende zaken in Nederland, Engeland & Wales, Zweden en Zwitserland* [International child abduction. The practice in incoming cases in the Netherlands, England & Wales, Sweden and Switzerland], The Hague: Boom Juridische uitgevers 2015; C. Verwers, L.M. van der Knaap & L. Vervoorn, *Internationale kinderontvoering. Onderzoek naar de uitvoering van het Haags Kinderontvoeringsverdrag vanuit Nederlands perspectief* [International child abduction. A study of the implementation of the Hague Child Abduction Convention from a Dutch perspective] (WODC Cahier 2006-1), The Hague: WODC 2006; Standing Government Committee on Private International Law (Staatscommissie voor het Internationaal Privaatrecht), *Knelpunten bij de uitvoering van het Haags Kinderontvoeringsverdrag 1980 in Nederland* [Problems in the implementation of the 1980 Hague Child Abduction Convention in the Netherlands] (2008), Parliamentary Papers II (Kamerstukken II) 30072, no. 15, annex; M.R. Bruning et al., *Kind in proces: van communicatie naar effectieve participatie. Het hoorrecht en de procespositie van minderjarigen in familie- en jeugdzaken* [Child in proceedings: from communication to effective participation. The right to be heard and the procedural position of minors in family and youth cases], The Hague: WODC 2020.

4 The case law studied

4.1 Decisions and proceedings

The study covers 93 published decisions: 51 of the District Court of The Hague and 42 of the Court of Appeal of The Hague. They belong to 59 return proceedings. In 34 proceedings both the first-instance and the appeal decision are published; in 17 only a first-instance decision is available; in 8 only the appeal decision could be found. One proceeding is known only through an interim decision, in which the District Court ordered a handwriting examination to establish whether the father had consented to the removal and reserved its decision on return.[58] The decisions are spread across the whole period studied, with between four and thirteen decisions per year and a peak in 2025 (Figure 1).

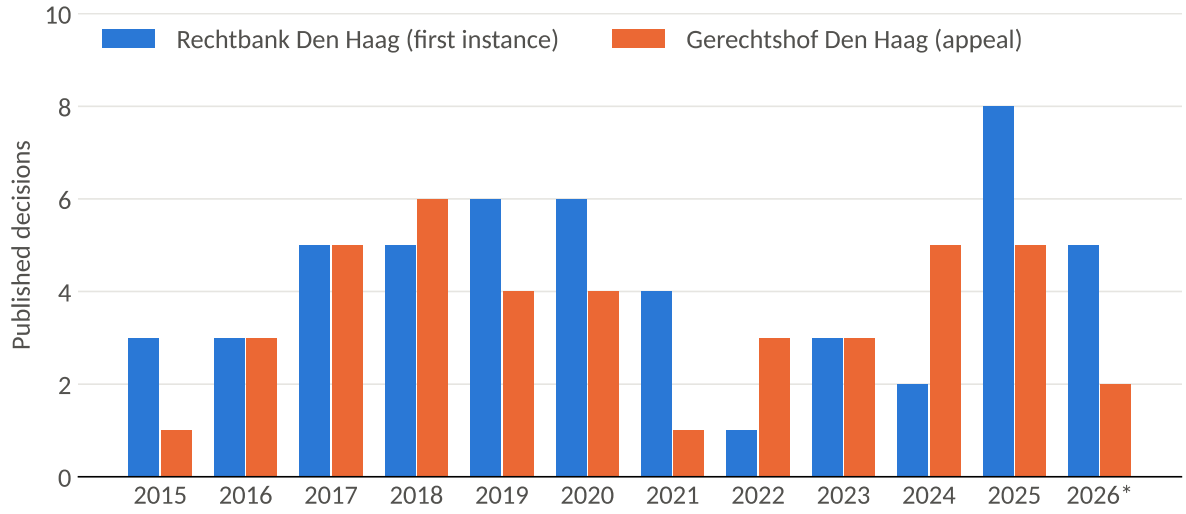

Figure 1. Published decisions per year, by court (n = 93). *2026: decisions up to 6 August 2026.

4.2 Who takes the child, and what is alleged

The constellation described in the international debate is clearly reflected in the Dutch case law. In 50 of the 59 proceedings (85%), the parent who removed or retained the child was the mother, and in 8 the father. In one case, the child had stayed with relatives in the Netherlands after a holiday, and the father and stepmother sought return.[59]

The domestic-violence profile of the proceedings is summarised in Table 3. Violence between the parents or within the household (category A) is alleged in 37 proceedings, and in 36 of these the taking parent is the mother. Allegations of abuse of the child by the left-behind parent or household without partner violence (category B, 16 proceedings) present a more mixed picture: the mother was the taking parent in 10 and the father in 6. Where fathers are the taking parent, the allegation is typically that the mother, her new partner or her family maltreats or neglects the child.[60]

[58] District Court The Hague 7 October 2021, ECLI:NL:RBDHA:2021:16125.

[59] Court of Appeal The Hague 25 March 2020, ECLI:NL:GHDHA:2020:710.

[60] See e.g. Court of Appeal The Hague 10 August 2018, ECLI:NL:GHDHA:2018:2098; Court of Appeal The Hague 30 January 2024, ECLI:NL:GHDHA:2024:292; Court of Appeal The Hague 30 May 2024, ECLI:NL:GHDHA:2024:892.

Table 3. Nature of the violence alleged, by taking parent (proceedings)

Nature of the allegation	Mother	Father	Other	Total
A. Violence between the parents or within the household (with or without direct abuse of the child)	36	0	1	37
B. Abuse or neglect of the child by the left-behind parent or household, without partner violence	10	6	0	16
C. Marginal or unspecified allegation of violence	3	0	0	3
D. No allegation of violence analysed	1	1	0	2
E. Violence reported by the left-behind parent (reverse constellation)	0	1	0	1
Total	**50**	**8**	**1**	**59**

A proceeding is classified according to the most specific allegation made in any of its decisions (A before B before E before C before D).

At the level of the individual decisions, the allegations are frequently serious and varied. Direct abuse of the child was alleged, fully or in part, in 53 of the 93 decisions; the child's exposure to violence between the parents in 34; and a repeated, sustained or structural pattern of violence in 60. The forms of abuse alleged include physical assault — in several cases during pregnancy — threats, including death threats, sexual violence, psychological abuse, isolation and coercive control, economic control, the confiscation of passports and forced residence abroad, harassment and stalking. In 56 decisions, the taking parent explained the removal or retention, in whole or in part, as a step taken to secure safety.

4.3 States of return and legal frameworks

The 59 proceedings concern 22 identifiable States of return, together with one outgoing case in which return *to* the Netherlands was sought from the United Arab Emirates and two cases in which the State was pseudonymised in the publication (Table 4). Belgium (11) and Poland (8) together account for a third of the proceedings. Nearly two-thirds (38) were governed by Brussels IIa or IIb. Forty-three of the 59 proceedings concerned a State that is also a party to the 1996 Child Protection Convention — a point of significance for Chapter 14.

Table 4. States of return (proceedings)

State of return	Cases	Legal framework and status under the 1996 Convention
Belgium	11	EU (Brussels IIa/IIb); party to the 1996 Convention
Poland	8	EU; party to the 1996 Convention
Spain; France (incl. French Guiana)	5 each	EU; party to the 1996 Convention
Germany	4	EU; party to the 1996 Convention
Iran	3	Not party to the 1980 or the 1996 Convention
Czech Republic	2	EU; party to the 1996 Convention
Australia; United States; Chile	2 each	1980 Convention (non-EU); Australia party to the 1996 Convention, the United States a signatory only, Chile not a party
Bulgaria; Portugal	1 each	EU; party to the 1996 Convention
Denmark; United Kingdom; Serbia; Morocco	1 each	1980 Convention (non-EU; the United Kingdom case predates its withdrawal from the EU and was governed by Brussels IIa); party to the 1996 Convention
Israel; Thailand	1 each	1980 Convention; not party to the 1996 Convention
Algeria; The Gambia; Suriname; United Arab Emirates	1 each	Not party to the 1980 Convention (Convention applied by analogy or as a point of orientation); not party to the 1996 Convention
Netherlands (outgoing case from the United Arab Emirates)	1	Not party to the 1980 Convention

State of return	Cases	Legal framework and status under the 1996 Convention
Not disclosed in the publication	2	Unknown
Total	**59**	

Status under the 1996 Convention according to the HCCH status table (consulted 28 September 2026).

4.4 The children

Forty-seven of the 93 decisions concerned one child, 34 concerned two children, and 12 concerned three to five children. The children ranged from infants to teenagers. Where more than one child was involved, the position of the siblings frequently became a central question — in particular where an older child's objection to return was upheld, and the court had to consider whether the younger siblings could be returned without them (Chapter 6.7).

5 Outcomes of the return proceedings

5.1 Overall outcome

Of the 59 proceedings, 39 ended — at the last published instance — in an order for return and 19 in a refusal; one proceeding is known only through an interim decision. Leaving that case aside, return was refused in **19 of the 58 decided proceedings (33%)**. At the level of the final decision, Article 13(1)(b) was accepted in 16 proceedings, rejected in 40 (including the proceeding known only through an interim decision) and not reached in 3. Throughout this chapter, the unit of analysis is the proceeding.

As explained in Chapter 3.3, return decisions under the Convention are published as a rule, so that this proportion reflects Dutch practice itself rather than a selection of published cases. It must nevertheless be read in context: the proceedings studied are those in which domestic violence or child abuse was raised, and the grave-risk exception is, by its nature, more often successful in that group than in return proceedings generally. What the figure does show is that allegations of violence are not without consequence in Dutch practice: in one in three proceedings in which they are raised, the child is not returned. The more interesting question is *how* such allegations translate into refusals — and here the case law presents a more nuanced picture.

5.2 Outcome by type of allegation and by taking parent

Proceedings in which violence between the parents or within the household was alleged (category A) ended in refusal in 15 of 37 cases (41%), against 3 of 16 (19%) where only abuse of the child by the left-behind parent or household was alleged (category B) and 1 of 6 in the remaining categories (Figure 2). Allegations of violence against the primary carer are thus associated with roughly twice the refusal rate of allegations of child abuse alone. As category A consists almost entirely of cases in which the mother is the taking parent (Table 3), the refusal rate in proceedings with a taking mother (17 of 50; 34%) is correspondingly higher than in proceedings with a taking father (1 of 8).

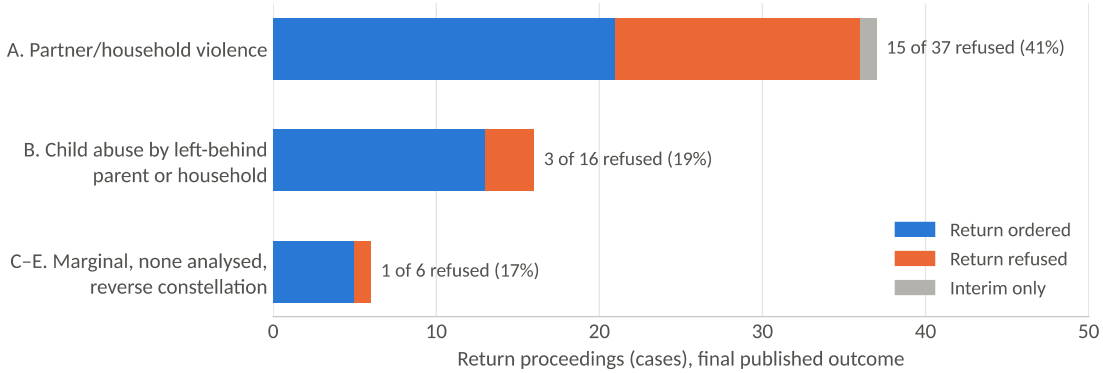

Figure 2. Final outcome of the 59 proceedings, by the nature of the violence alleged.

5.3 How refusals come about

The higher refusal rate in category A does not mean that proven violence is the usual route to refusal. Figure 3 shows the role that violence played in the operative reasoning of the final decision in each of the 19 refusals. In 3 proceedings violence was *decisive* for the acceptance of Article 13(1)(b). In 8 it was *contributory*: it formed part of a combination of circumstances that together amounted to a grave risk or an intolerable situation. In the remaining 8 refusals, violence either played no identifiable role in the reasons (5) or the refusal rested on a different ground altogether — the child's objection under Article

13(2), the left-behind parent's consent to the relocation, or the absence of custody rights actually exercised (3).[61]

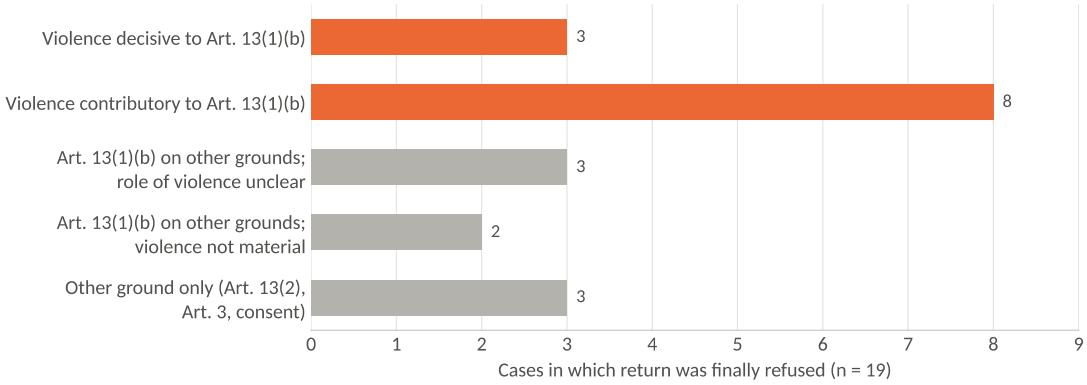

Figure 3. The route to refusal: the role of violence in the final decision of the 19 proceedings in which return was refused.

The refusals are listed in Table 5. Two features stand out. First, in several of the eleven refusals in which violence mattered, the violence is combined with a separate and more readily verifiable circumstance — typically the likelihood that the mother would be arrested or detained, or could not lawfully reside, in the State of return, so that return would in practice separate the child from the primary carer. Second, the proceedings in which violence was decisive are few and spread over the period: 2017 (Czech Republic), 2020 (United States) and 2026 (Denmark). The Danish case of 2026 and the Israeli case of 2025, in which violence was decisive at first instance and contributory on appeal, show a notably explicit engagement with the dynamics of intimate-partner violence (Chapter 6.5).

Table 5. The 19 proceedings in which return was refused (final published decision)

Final decision	State of return	Role of violence	Basis of the refusal
Court of Appeal The Hague 18 Mar 2015, ECLI:NL:GHDHA:2015:586	Bulgaria	Contributory	The child's fear of his father and the likelihood of separation from his mother; no adequate arrangements (Art. 11(4) Brussels IIa) could be established because the Bulgarian authorities could not be reached
District Court The Hague 5 Feb 2015, ECLI:NL:RBDHA:2015:1628	Poland	Not material	Separation from the mother and from an autistic half-brother who could not return
Court of Appeal The Hague 15 Jun 2016, ECLI:NL:GHDHA:2016:1714	Belgium	Contributory	Vulnerable children exposed to parental fights; no housing or assistance in place
Court of Appeal The Hague 31 Aug 2016, ECLI:NL:GHDHA:2016:2675	Belgium	Not reached	Consent to the relocation
District Court The Hague 31 Jan 2017, ECLI:NL:RBDHA:2017:1032	Czech Republic	Decisive	Serious assault on the mother with the child present, followed by threats; no protective measure in place
Court of Appeal The Hague 14 Feb 2018, ECLI:NL:GHDHA:2018:296	United Kingdom	Contributory	Objections of the two eldest children; a family history burdened by violence; separation of the siblings

[61] Court of Appeal The Hague 22 March 2022, ECLI:NL:GHDHA:2022:472 (Art. 13(2)); Court of Appeal The Hague 31 August 2016, ECLI:NL:GHDHA:2016:2675 (consent); District Court The Hague 5 February 2026, ECLI:NL:RBDHA:2026:4629 (no actual exercise of custody rights).

Final decision	State of return	Role of violence	Basis of the refusal
Court of Appeal The Hague 22 Aug 2018, ECLI:NL:GHDHA:2018:2254	Germany	Contributory	Child seriously affected; unsafe and unstable household of the mother; no adequate arrangements.
Court of Appeal The Hague 27 Nov 2018, ECLI:NL:GHDHA:2018:3229	France	Contributory	Real likelihood of the mother's detention under a European arrest warrant; very young child; no guarantees
Court of Appeal The Hague 10 Apr 2019, ECLI:NL:GHDHA:2019:3990	Morocco	Contributory	Vulnerable children with authentic, alarming accounts; risk of the mother's detention on the father's complaint
Court of Appeal The Hague 25 Mar 2020, ECLI:NL:GHDHA:2020:710	United States	Decisive	Violence between the (step)parents and against the child established; safety plan insufficient; the child's objection
Court of Appeal The Hague 24 Feb 2022, ECLI:NL:GHDHA:2022:467	Belgium	Unclear	The child's acute psychological distress and death wishes; no adequate arrangements
Court of Appeal The Hague 22 Mar 2022, ECLI:NL:GHDHA:2022:472	Spain	Not reached	Objections of both children (Art. 13(2))
Court of Appeal The Hague 27 Oct 2023, ECLI:NL:GHDHA:2023:2066	Algeria	Contributory	The elder child's authentic objection, based on regular beatings; separation of the siblings
Court of Appeal The Hague 30 Apr 2024, ECLI:NL:GHDHA:2024:893	Poland	Unclear	A two-year-old's attachment to a mother in a mental-health crisis; no adequate arrangements
Court of Appeal The Hague 13 Oct 2025, ECLI:NL:GHDHA:2025:2221	Iran	Not material	The elder child's objection (Art. 13(2)); separation of the siblings
Court of Appeal The Hague 13 Nov 2025, ECLI:NL:GHDHA:2025:2410	Israel	Contributory	Credible account of serious violence, supported by photographs, audio recordings and a partial admission; the mother could not reside, work or house herself
District Court The Hague 5 Feb 2026, ECLI:NL:RBDHA:2026:4629	Chile	Not reached	No actual exercise of custody rights (Art. 3)
District Court The Hague 19 Mar 2026, ECLI:NL:RBDHA:2026:9891	Not disclosed	Unclear	The mother could not lawfully return or support herself; separation from the primary carer
District Court The Hague 6 Aug 2026, ECLI:NL:RBDHA:2026:25713	Denmark	Decisive	A Danish authority confirmed violence witnessed by the children; risk of the mother's arrest; separation from the protective parent

5.4 Outcome by legal framework and over time

Refusals were distributed unevenly across the legal frameworks: 10 of 26 proceedings under Brussels IIa (38%), but only 1 of 12 under Brussels IIb (8%), against 5 of 11 in non-EU Convention States and 2 of 7 decided non-Convention cases (including the outgoing case). The contrast between the two EU regimes must be read with caution — the numbers are small and the Brussels IIb cases all date from 2022 onwards — but it is consistent with the stricter wording of Article 27(3) Brussels IIb, which one decision relied on to assume that adequate arrangements were available in the State of return.[62] Over time, the refusal rate has been broadly stable: 9 of 26 proceedings with a final decision in 2015–2019, 3 of 11 in 2020–2022 and 7 of 21 in 2023–2026.

[62] Court of Appeal The Hague 9 February 2023, ECLI:NL:GHDHA:2023:213, para. 5.26.

5.5 Outcome and the 1996 Convention status of the State of return

Return was refused in 13 of the 43 proceedings concerning a State that is a party to the 1996 Child Protection Convention (30%), and in 5 of the 13 proceedings concerning States that are not. That two-thirds of the proceedings concern a 1996 Convention State is relevant because, in those cases, the protective instruments of that Convention — or, within the EU, their counterparts in Brussels IIb — were legally available (Chapter 14).

6 Article 13(1)(b): interpretation and application

6.1 Invocation and result

Article 13(1)(b) was invoked in 87 of the 93 decisions. It was accepted in 21 decisions and rejected in 63; in 8 it was not reached because the case was decided on another ground, and in one it did not apply. Of the 21 acceptances, violence was *decisive* in 4 and *contributory* in 8. In the other 9, the acceptance rested on other circumstances; the violence either played no part in the reasons (6) or its role cannot be determined from the published reasons (3). Put differently, domestic violence was an operative element of the acceptance of Article 13(1)(b) in 12 of the 87 decisions in which the exception was invoked.

Key findings — Article 13(1)(b)

- The alleged violence was held established, fully or partly, in 13 of the 93 decisions; in 54 it was held not established, in 11 the court left the question open, in 10 it did not need to be reached, and in the remaining 5 the violence was described as plausible without a finding (4) or no express finding was made (1).
- The reasoning centres on the link between violence and risk to the child: 63 decisions found no sufficient link. At least eight decisions reasoned that, *even if* the violence were established, it would not in itself amount to a grave risk.
- The child's exposure to violence against a parent was alleged in 34 decisions and addressed as a question of fact in 21.
- Patterns of coercive control were analysed as such in four decisions, all from 2025–2026.
- The most frequent route to acceptance is the child's *separation from the primary carer or from siblings* — through arrest, detention, loss of residence status, a mental-health crisis or the separation of siblings.

6.2 The threshold: a restrictive interpretation

The decisions consistently present Article 13(1)(b) as an exception to be interpreted restrictively, with reference to the case law of the Supreme Court. Where the court expressed a view on the gravity of the alleged or established conduct, the assessment was usually that the threshold was not met: this was the conclusion in 53 decisions, against 11 in which the situation was held to be sufficiently serious — and in 6 of these 11 only in combination with other circumstances, such as the prospect of separation from a parent or from siblings, or the child's need for rest and stability. In 21 decisions, the gravity of the conduct was not assessed, generally because the facts had not been established. Several decisions add that only "extreme situations" qualify.[63]

The allegations were nonetheless engaged with seriously. In 69 decisions the allegation of violence was examined as part of the risk assessment; in 6 it was mentioned without being used in the reasoning, and in 6 it was considered legally insufficient on its face. The central questions, as the following sections show, concern the standards that are applied once allegations are examined: the standard of proof, the required link between violence and risk to the child, and the place of protective measures.

6.3 Establishing the facts

Figure 4 shows how the courts resolved the factual question whether violence had occurred. In 54 of the 93 decisions (58%), the allegation was held *not established*. Violence was fully established in 3 decisions, partly established in 10 — typically where isolated incidents were acknowledged, but a structural pattern was not — and described as plausible but not established in 4. In 11 decisions the court expressly left the

[63] E.g. District Court The Hague 10 December 2020, ECLI:NL:RBDHA:2020:12813.

question open, and in 10 it did not need to be reached. In one appeal decision, the Court of Appeal adopted the unpublished grounds of the District Court without making an express finding of its own.

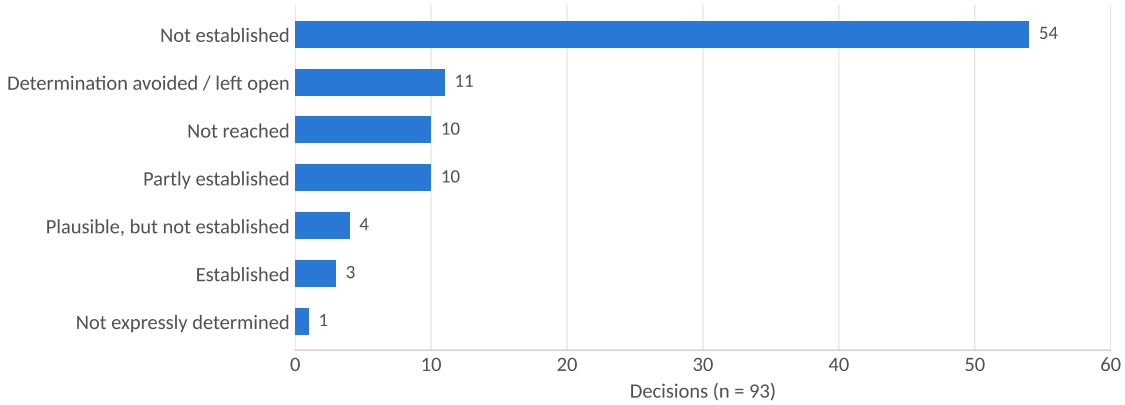

Figure 4. The court's factual conclusion on the alleged violence or abuse (decisions, n = 93). "Partly established" includes decisions acknowledging isolated incidents while finding a structural pattern not established.

The prevailing standard is that of substantiation against a reasoned denial (*gemotiveerde betwisting*). Where an allegation rested essentially on the taking parent's own statements — including police reports and service records that reproduce her account — it was generally held insufficient to establish the facts (Chapter 8). The weight of this standard is illustrated by a Belgian case of 2021. The District Court found sufficient indications that domestic violence had occurred, including a kick in the abdomen during pregnancy and a fractured arm. On appeal, the Court of Appeal considered that domestic violence had not been established, because the documents recorded only the mother's account and no prosecution had followed. At both instances, return was ordered.[64]

The eleven decisions in which the court left the facts open are instructive in the opposite direction. Several of them are refusals: the court considered that it need not decide whether violence had occurred, because the child's situation on return would in any event be intolerable. The Court of Appeal took this approach where it held the violence "neither established nor excluded" but found the children highly vulnerable and without housing or assistance in Belgium, and where it found the children's alarming accounts authentic and the mother at real risk of detention in Morocco.[65] This approach — moving to the assessment of the risk without resolving every factual dispute — is in keeping with the step-by-step analysis recommended by the HCCH Guide to Good Practice (Chapter 15).

6.4 The link between violence and risk to the child

The central doctrinal question in the Dutch case law concerns the link between violence and a grave risk for the child. In 63 decisions the court found that no such link had been established; a link was accepted — as a direct risk to the child, an indirect risk through the effect on the parent, or a risk arising from the child's exposure to violence — in 14. The reasoning frequently takes the form of an explicit assumption: *even if* the alleged violence were established, it would not amount to a grave risk *for the child*. At least eight decisions reason in this way (Table 6), and two further decisions apply the same technique to the availability of adequate arrangements.

[64] District Court The Hague 5 July 2021, ECLI:NL:RBDHA:2021:6977; Court of Appeal The Hague 15 September 2021, ECLI:NL:GHDHA:2021:1738.

[65] Court of Appeal The Hague 15 June 2016, ECLI:NL:GHDHA:2016:1714; Court of Appeal The Hague 10 April 2019, ECLI:NL:GHDHA:2019:3990. See also Court of Appeal The Hague 30 April 2024, ECLI:NL:GHDHA:2024:893, para. 5.18–5.20, in which the Court of Appeal made no finding on the alleged violence and based the refusal on the mother's mental-health crisis and the young child's attachment.

Table 6. Decisions reasoning on the assumption that the alleged violence was established

Decision	Reasoning
District Court The Hague 22 Feb 2018, ECLI:NL:RBDHA:2018:2690	*"Even if the domestic violence alleged by the woman has taken place, it does not follow that this would constitute a threat for [the minor] (...) within the meaning of Article 13(1)(b) of the Convention" ("Ook indien het door de vrouw gestelde huiselijk geweld heeft plaatsgevonden, dan volgt hieruit nog niet dat dit voor [minderjarige] (...) een bedreiging als bedoeld in artikel 13 lid 1 sub b van het Verdrag zou vormen")*; agencies and legal measures for victims of domestic violence are available in Australia.
Court of Appeal The Hague 6 Nov 2019, ECLI:NL:GHDHA:2019:3878	Even if violence against the mother were proven, it would still have to be substantiated that the child itself would be exposed to danger.
District Court The Hague 8 Jan 2020, ECLI:NL:RBDHA:2020:96	*"If and in so far as the father (...) did commit violence against the mother, that violence against the mother alone is insufficient" ("Indien en voor zover de vader (...) wel geweld jegens de moeder zou hebben gepleegd, dan is dat geweld jegens de moeder alleen onvoldoende").*
Court of Appeal The Hague 15 Sep 2021, ECLI:NL:GHDHA:2021:1738	para. 5.18: *"Moreover, even if the domestic violence alleged by the mother were established, that would be insufficient ground to refuse the return of the children to Belgium." ("Indien het door de moeder gestelde huiselijke geweld al zou komen vast te staan, is dat bovendien onvoldoende grond om de teruggeleiding van de kinderen naar België te weigeren.")*
Court of Appeal The Hague 9 Feb 2023, ECLI:NL:GHDHA:2023:213	para. 5.26: even if the violence alleged by the mother had occurred, this would be insufficient in view of Art. 27(3) Brussels IIb.
District Court The Hague 13 Dec 2023, ECLI:NL:RBDHA:2023:19616	*"Even if there was domestic violence in the parents' relationship in the past, that does not necessarily mean that the children are not safe in France." ("Ook als in het verleden in de relatie van de ouders sprake zou zijn geweest van huiselijk geweld, betekent dat niet zonder meer dat de kinderen niet veilig zijn in Frankrijk.")*
Court of Appeal The Hague 8 Sep 2025, ECLI:NL:GHDHA:2025:1827	para. 5.19: *"even if the coercive control alleged by the mother were present, that would not mean that the defence succeeds" ("ook indien van de door de moeder gestelde dwingende controle sprake zou zijn, dan is daarmee nog geen sprake van een geslaagd beroep")* on Art. 13(1)(b).
Court of Appeal The Hague 16 Jul 2026, ECLI:NL:GHDHA:2026:2622	Even if the violence had occurred, the case concerns return to an EU Member State that is a party to the same treaties as the Netherlands.
Court of Appeal The Hague 25 Jan 2024, ECLI:NL:GHDHA:2024:103; Court of Appeal The Hague 30 May 2024, ECLI:NL:GHDHA:2024:892	Variant: even if the Art. 13(1)(b) ground were assumed to exist, adequate arrangements in the State of return would preclude a refusal (para. 5.23 and 5.17 respectively).

Extracts reproduced from the published decisions; ellipses indicate omissions. Translations by the author; the Dutch original is given in brackets.

The clearest statement of a different approach is found in a 2017 decision refusing return to the Czech Republic. The District Court reasoned that where a father has assaulted a mother so seriously while their child was in the home, and has subsequently threatened her repeatedly and seriously, *"there is reason to fear not only for the safety of the mother but also for that of the child" ("niet alleen voor de veiligheid van de moeder maar ook voor die van het kind moet worden gevreesd")*.[66] No appeal decision was published, and the reasoning has not been developed into a general line in later case law.

The prevailing approach is consistent with the HCCH Guide to Good Practice, which states that evidence of domestic violence "in and of itself" is not sufficient to establish a grave risk, and that the analysis must focus on the effect of the violence on the child upon return.[67] The Guide also recognises, however, that harm to the taking parent may create a grave risk to the child where it may significantly impair the parent's ability to care for the child, and that the child's exposure to violence against a parent may itself harm the child.[68] In the Dutch decisions, the step from the proposition that violence against the mother is

[66] District Court The Hague 31 January 2017, ECLI:NL:RBDHA:2017:1032.

[67] *Guide to Good Practice*, para. 58.

[68] *Guide to Good Practice*, paras 33 and 57.

not sufficient in itself to an examination of *how* the violence would affect the child and the mother's capacity to care for the child on return is not often made explicit. This is notable because the Special Commission confirmed in 2023 that the Article 13(1)(b) exception "does not require, for example, that the child be the direct or primary victim".[69]

This is most visible in relation to the child's **exposure** to violence. Exposure was alleged in 34 decisions. The court made a factual finding on it in 21 decisions — establishing it in 6, partly in 4, and finding it not established in 10 (in one decision the question was not expressly determined). In 64 of the 93 decisions, the question of exposure was not addressed. Given the broad international recognition that witnessing violence against a parent can harm a child, an explicit finding on exposure — and on its likely effect on the child upon return — would strengthen the reasoning, whichever way the case is decided.

6.5 Incidents, patterns and coercive control

A repeated or sustained pattern of violence was alleged in 60 decisions: 36 described the violence as sustained or structural, and 24 as repeated. The court characterised the frequency or duration of the violence in 19 decisions; in 74 the question was not addressed. Where the court did characterise the violence, it often did so in limiting terms — as a single incident or as isolated conduct, with structural violence held not established. In one appeal, a Dutch criminal conviction for an assault committed in the child's presence, taken together with the mother's post-traumatic stress, was held insufficient because the material did not show *"domestic violence on a structural basis" ("huiselijk geweld op structurele basis")*.[70]

Coercive or controlling behaviour — isolation, economic control, surveillance, the confiscation of documents, control over daily life — was alleged in a significant number of cases, for instance where a mother described being kept abroad for eighteen months with her passport withheld, or where the father was said to "decide everything".[71] Such behaviour was analysed *as such* in four decisions, all from 2025–2026; in three further decisions it was partly addressed, and in two it was mentioned without analysis. The four decisions show both the arrival of the concept in Dutch return case law and the evidential questions it raises.

- In a Polish case of 2025, the District Court accepted that the father's statements were *"extreme" ("extreem")* and expressed understanding for the fear they caused the mother, but held that a grave risk for the child had not been shown.[72] On appeal, the Court of Appeal held coercive control not established because the MASIC risk screening had been carried out with the mother only — the domestic-violence service itself pointing out that its factsheet was based *solely ("uitsluitend")* on her information — and added that even established coercive control would require a showing that the child's own safety was at risk.[73]
- In a Spanish case of 2026, the Court of Appeal held coercive control and psychological violence not established because the expert reports *"[are] based solely on information from the mother" ("enkel gebaseerd [zijn] op informatie van de moeder")* and it had insufficient insight into the expertise of their authors; it declined to allow further evidence in view of the urgent nature of the procedure.[74]

[69] HCCH, *Conclusions & Recommendations* of the Eighth Meeting of the Special Commission (2023) (above), C&R No 25.

[70] Court of Appeal The Hague 18 October 2017, ECLI:NL:GHDHA:2017:3025, para. 19.

[71] E.g. District Court The Hague 7 October 2021, ECLI:NL:RBDHA:2021:16125; District Court The Hague 20 May 2025, ECLI:NL:RBDHA:2025:9894.

[72] District Court The Hague 22 July 2025, ECLI:NL:RBDHA:2025:14296.

[73] Court of Appeal The Hague 8 September 2025, ECLI:NL:GHDHA:2025:1827, para. 5.19.

[74] Court of Appeal The Hague 5 February 2026, ECLI:NL:GHDHA:2026:188, para. 5.16 and 5.20.

- In an Israeli case of 2025, by contrast, the District Court used the Dutch warning-signs tool for femicide and intimate terrorism — an instrument that identifies warning signs such as rapid attachment, control, escalation, threats, violence during pregnancy and extreme fear on the part of the victim — to structure its assessment of the mother's detailed account, which the father had contested only in general terms. Together with her uncertain residence status and a criminal complaint against her in Israel, this led the court to conclude that return would place the child in an intolerable situation. The Court of Appeal affirmed, relying on photographs, audio recordings and the father's partial admission.[75]

These decisions illustrate a genuine methodological challenge. Coercive control is, by its nature, a pattern that leaves few external traces, and structured risk-assessment tools have been developed precisely to recognise it. At the same time, a summary procedure must respect the equality of the parties, and an assessment based on one parent's account alone raises legitimate concerns. How these considerations can be reconciled — for instance by using structured tools while giving the other parent the opportunity to respond, or by obtaining information from the authorities of the State of habitual residence — is a question on which the case law is still developing.

6.6 A forward-looking assessment

Article 13(1)(b) is forward-looking: it concerns the risk *upon return*, although past conduct is relevant to predicting that risk.[76] Whether violence is likely to continue or recur after return was expressly addressed in 6 decisions and partly in 13; in 66 decisions the question was not addressed. Where it was addressed, the reasoning concerned the left-behind parent's continuing hostility or criminal complaints, the absence of safeguards, or, conversely, the help available in the State of return. Because many decisions end at an earlier stage of the analysis — the facts are not established, or no link to the child is shown — the predictive question is often not reached. An explicit statement on the likelihood of continued violence, and on the circumstances in which the parent and child would find themselves on return, would give the assessment a firmer basis.

6.7 The separation pathway

Table 7 lists the 21 decisions in which Article 13(1)(b) was accepted, grouped by the route to acceptance. A clear pattern emerges. Decisions in which proven violence is decisive in itself are the exception. The most frequent route is the child's separation from the primary carer or from siblings: because the mother is likely to be arrested or detained in the State of return (France, Morocco, Denmark), cannot lawfully reside or support herself there (Israel and a State not disclosed in the publication), is in a mental-health crisis, or because an older sibling's objection has been upheld and returning a younger child alone would separate the siblings.

Table 7. The 21 decisions accepting Article 13(1)(b), by route to acceptance

Decision	Role of violence	Route to acceptance
Violence decisive		
District Court The Hague 31 Jan 2017, ECLI:NL:RBDHA:2017:1032	Decisive	Serious assault with the child present, followed by threats; no protective measure in place
Court of Appeal The Hague 25 Mar 2020, ECLI:NL:GHDHA:2020:710	Decisive	Violence established on the basis of Board and curator reports; safety plan insufficient; the child's objection

[75] District Court The Hague 25 September 2025, ECLI:NL:RBDHA:2025:18246; Court of Appeal The Hague 13 November 2025, ECLI:NL:GHDHA:2025:2410, para. 5.14.

[76] *Guide to Good Practice*, paras 35–37.

Decision	Role of violence	Route to acceptance
District Court The Hague 25 Sep 2025, ECLI:NL:RBDHA:2025:18246	Decisive	Detailed account assessed with a structured risk instrument; uncertain residence status; criminal complaint against the mother
District Court The Hague 6 Aug 2026, ECLI:NL:RBDHA:2026:25713	Decisive	A Danish authority confirmed violence witnessed by the children; risk of arrest; separation from the protective parent
Violence contributory, combined with separation or instability		
Court of Appeal The Hague 18 Mar 2015, ECLI:NL:GHDHA:2015:586	Contributory	The child's fear of his father; likely separation from his mother; no arrangements obtainable
Court of Appeal The Hague 15 Jun 2016, ECLI:NL:GHDHA:2016:1714	Contributory	Exposure to parental fights; vulnerability; no housing or assistance
Court of Appeal The Hague 14 Feb 2018, ECLI:NL:GHDHA:2018:296	Contributory	A family history burdened by violence; the children's objections; separation of the siblings
Court of Appeal The Hague 22 Aug 2018, ECLI:NL:GHDHA:2018:2254	Contributory	Child seriously affected; unsafe household of the mother (taking parent: the father)
Court of Appeal The Hague 27 Nov 2018, ECLI:NL:GHDHA:2018:3229	Contributory	The mother's likely detention; the father's conviction for violence as context
Court of Appeal The Hague 10 Apr 2019, ECLI:NL:GHDHA:2019:3990	Contributory	The mother's likely detention; the children's authentic, alarming accounts
Court of Appeal The Hague 27 Oct 2023, ECLI:NL:GHDHA:2023:2066	Contributory	The elder child's objection, based on regular beatings; separation of the siblings
Court of Appeal The Hague 13 Nov 2025, ECLI:NL:GHDHA:2025:2410	Contributory	Credible account supported by photographs, audio recordings and a partial admission; the mother could not reside or house herself
Other circumstances		
District Court The Hague 5 Feb 2015, ECLI:NL:RBDHA:2015:1628	Not material	Separation from the mother and an autistic half-brother
District Court The Hague 27 Dec 2017, ECLI:NL:RBDHA:2017:16123	Not material	Objections of the two eldest children; separation of the siblings
District Court The Hague 12 Oct 2018, ECLI:NL:RBDHA:2018:12413	Not material	The mother's likely arrest under a European arrest warrant; very young child
District Court The Hague 1 Feb 2022, ECLI:NL:RBDHA:2022:747	Not material	The elder child's objection; separation from the family unit
Court of Appeal The Hague 24 Feb 2022, ECLI:NL:GHDHA:2022:467	Not determinable	The child's acute psychological distress and death wishes
Court of Appeal The Hague 30 Apr 2024, ECLI:NL:GHDHA:2024:893	Not determinable	The mother's mental-health crisis; attachment of a two-year-old
District Court The Hague 2 Sep 2025, ECLI:NL:RBDHA:2025:18248; Court of Appeal The Hague 13 Oct 2025, ECLI:NL:GHDHA:2025:2221	Not material	The elder child's objection; separation of the siblings (no violence alleged)
District Court The Hague 19 Mar 2026, ECLI:NL:RBDHA:2026:9891	Not determinable	The mother could not lawfully return or support herself

"Not determinable": the role of the alleged violence in the acceptance cannot be determined from the published reasons.

A reading of the full texts confirms that, in these decisions, the refusal indeed rested on the separation of the child. In the Polish case of 2015, the District Court reasoned that return *"would therefore mean that he would be separated from his mother and his half-brother" ("zou daarom betekenen dat hij zou worden gescheiden van zijn moeder en zijn halfbroer")*; the violence alleged against the father played no part in

that conclusion.[77] In the French case of 2018, in which a European arrest warrant had been issued against the mother, the District Court held that *"a separation from her mother, whether or not temporary, would place [the minor] in an intolerable situation" ("een (al dan niet tijdelijke) scheiding van haar moeder [minderjarige] in een ondraaglijke toestand zou brengen")*, even though the father had himself been convicted in France of violence against her.[78] In a case of 2026, the court made no finding on the alleged structural violence, death threats and extortion; it held that the children would be placed in an intolerable situation *"because they would then in fact be separated from the mother" ("omdat zij dan feitelijk van de moeder gescheiden zullen worden")*.[79]

Two observations follow. First, the separation pathway provides real protection. It enables courts to refuse return in cases with a background of domestic violence without having to resolve contested allegations of violence within a summary procedure, and it is firmly anchored in the child's attachment to the primary carer. Second, it leaves the violence itself largely unassessed and shifts the focus to external circumstances that are easier to establish — an arrest warrant, a withdrawn residence permit, a medical record. A recurring feature of these cases is their **criminal-law dimension**: in a number of cases the left-behind father had filed a criminal complaint for abduction, and a commitment to withdraw it was offered as a protective arrangement. In the Moroccan case, the Court of Appeal held such a commitment insufficient, because the father could not clarify whether the Moroccan public prosecutor would refrain from prosecuting the mother of its own accord if he withdrew his complaint.[80] For a mother who has fled violence, the risk of prosecution in the State of return is thus both a source of risk for the child and an obstacle that arrangements on paper cannot always remove (see further Chapter 16.1).

6.8 Consistency

The case law shows a stable core — a restrictive interpretation, substantiation against a reasoned denial, and a demanding requirement of a link between the violence and a risk for the child — together with differing strands at the margins. The contrast between the 2018 Australian case, in which repeated violence was held insufficient in view of the protection available in the State of return, and the 2016 Belgian appeal, in which domestic conflict and instability were held to amount to a grave risk, illustrates the range.[81] The 2017 Czech decision and the line of decisions listed in Table 6, and the different approaches to coercive control described in Chapter 6.5, point in the same direction. Consistency between the two instances is discussed in Chapter 13.

[77] District Court The Hague 5 February 2015, ECLI:NL:RBDHA:2015:1628.

[78] District Court The Hague 12 October 2018, ECLI:NL:RBDHA:2018:12413.

[79] District Court The Hague 19 March 2026, ECLI:NL:RBDHA:2026:9891.

[80] Court of Appeal The Hague 10 April 2019, ECLI:NL:GHDHA:2019:3990. Commitments to withdraw a criminal complaint appear, for example, in Court of Appeal The Hague 20 January 2016, ECLI:NL:GHDHA:2016:67, Court of Appeal The Hague 6 February 2017, ECLI:NL:GHDHA:2017:246 and District Court The Hague 25 September 2025, ECLI:NL:RBDHA:2025:18246.

[81] District Court The Hague 22 February 2018, ECLI:NL:RBDHA:2018:2690; Court of Appeal The Hague 15 June 2016, ECLI:NL:GHDHA:2016:1714; compare Court of Appeal The Hague 15 September 2021, ECLI:NL:GHDHA:2021:1738 (emphasis on concrete and current evidence of danger).

7 Protective removal

7.1 Is the concept recognised?

The notion of a "protective removal" (*beschermende ontvoering*) does not appear as a legal category in the decisions studied, and no decision treats a protective motive as affecting the wrongfulness of the removal or retention. This is in keeping with the structure of the Convention: wrongfulness under Article 3 is established first, and the reasons for the removal become relevant only within the exceptions.[82] The substance of the concept is nevertheless very present in the case law. The taking parent's account of having left in order to secure her own and the child's safety forms the factual backbone of most Article 13(1)(b) defences in cases of partner violence.

A protective motive was expressly or partly advanced in 56 of the 93 decisions. In seven of these, the taking parent was a father who relied on the child's safety in the mother's household.[83] In the cases involving mothers, the motive is typically expressed in terms of having fled domestic violence, having left after a violent incident, having gone to a crisis centre and been advised by the police to leave, having fled via a women's shelter, or being unable to guarantee her own and the child's safety in the State of habitual residence.

7.2 How the courts respond

Table 8 shows how the courts responded to an alleged protective motive. In 35 of the 56 decisions, the motive was not accepted — in practice because the underlying violence was held not established or not relevant to the risk for the child. In 14 decisions, the court acknowledged the motive but did not treat it as decisive for the outcome, and in 3 it was not addressed. In 4 decisions, the court accepted the protective motive as part of its reasoning; in three of them violence was decisive for the refusal of return — the Czech case of 2017, the Israeli first-instance decision of 2025 and the Danish case of 2026 — and in the fourth, the Israeli appeal, it was contributory.[84]

Table 8. The court's response to an alleged protective motive, and the Article 13(1)(b) result

Court's response to the motive	Decisions	Art. 13(1)(b) accepted	Art. 13(1)(b) rejected	Not reached
Accepted as part of the reasoning	4	4	0	0
Acknowledged, not decisive for the outcome	14	9	5	0
Not accepted	35	0	35	0
Not addressed	3	1	1	1
Total (motive advanced)	**56**	**14**	**41**	**1**

Decisions in which a protective motive was expressly or partly advanced.

Two conclusions can be drawn. First, the protective motive has no independent weight in the Dutch case law. It matters to the extent that the violence underlying it is established and linked to a risk for the child; where it is not substantiated by evidence independent of the parent's own account, it is treated as part of that account. Second, the fourteen decisions in which the motive was acknowledged without being

[82] Bernasconi, opening remarks, Fortaleza 2025 (above), pp. 3–4.

[83] E.g. Court of Appeal The Hague 22 August 2018, ECLI:NL:GHDHA:2018:2254; District Court The Hague 22 December 2023, ECLI:NL:RBDHA:2023:21093; District Court The Hague 16 April 2024, ECLI:NL:RBDHA:2024:5733.

[84] District Court The Hague 31 January 2017, ECLI:NL:RBDHA:2017:1032; District Court The Hague 25 September 2025, ECLI:NL:RBDHA:2025:18246; Court of Appeal The Hague 13 November 2025, ECLI:NL:GHDHA:2025:2410; District Court The Hague 6 August 2026, ECLI:NL:RBDHA:2026:25713.

decisive include nine in which return was nevertheless refused, typically through the separation pathway described in Chapter 6.7. In these cases the court accepted, at least implicitly, that the mother had reasons to leave, but grounded the refusal in the consequences of return for the child rather than in the reasons for the departure. This is the form that the recognition of protective removal takes in Dutch law: not a legal category, but a background against which the consequences of return for the relationship between the child and the primary carer are assessed.

7.3 Implications

The Convention does not require courts to assess the motive for the removal, and the Dutch approach is orthodox in this respect. The case law does show, however, that the reasons for the flight and the risk on return are closely connected. The circumstances that motivated a parent to leave — continuing violence, threats, control — are often the very circumstances that determine whether return would expose the child to a grave risk. Where the violence is held not established within a summary procedure, those circumstances may remain unexamined. An explicit assessment of the risk that motivated the departure, as part of the forward-looking analysis discussed in Chapter 6.6, would ensure that this connection is visible in the reasons.

8 Evidence and fact-finding in a summary procedure

8.1 The evidence before the court

Table 9 gives an indication of the types of evidence referred to in the decisions. The evidential picture is dominated by the parties' own statements, the reports of the special curator and the Child Care and Protection Board, and statements of the child. Material that could independently corroborate an allegation of violence — police records reflecting the police's own observations, medical findings, photographs, audio recordings, criminal convictions, reports of foreign authorities — is present considerably less often.

Table 9. Types of evidence referred to in the decisions

Type of evidence	Decisions	Remarks
Statements of the parties	55	Usually confronted with a reasoned denial
Report of the special curator	59	Mainly concerned with the child's views and wellbeing
Report or observation of the Child Care and Protection Board	54	Rarely drawn up to assess the violence as such
Statements of the child (to the court, curator or Board)	50	Weighed against the possibility of a loyalty conflict
Messages (text messages, WhatsApp, e-mail)	23	Threats; authorship sometimes disputed
Police reports or notifications	22	Frequently record the mother's account
Foreign court decisions	14	Custody, protection or criminal proceedings
Medical, general-practitioner or hospital records	13	Often without attribution of the cause of injuries
Reports of foreign child-protection or social services	13	E.g. the German youth welfare office (Jugendamt), the Czech child-protection authority (OSPOD), a Belgian social investigation
School information	10	Typically no concerns reported
Statements of family members and friends	9	Generally regarded as not independent
Photographs of injuries	8	
Expert or psychological reports	7	Weight limited where based on one parent's information
Reports of Veilig Thuis (the Dutch advice and reporting centre for domestic violence and child abuse)	6	
Criminal convictions	at least 4	Of the father, a former partner, or concerning a sibling
Audio recordings	2	

Indicative frequencies based on a classification of the evidence referred to in each decision; categories overlap.

8.2 The decisive role of independent evidence

For each decision, it was established whether evidence independent of the parents' own accounts was available and, if so, whether that evidence supported the allegation of violence, pointed in the opposite direction, or concerned a different question. The result, shown in Figure 5, is one of the clearest findings of the study.

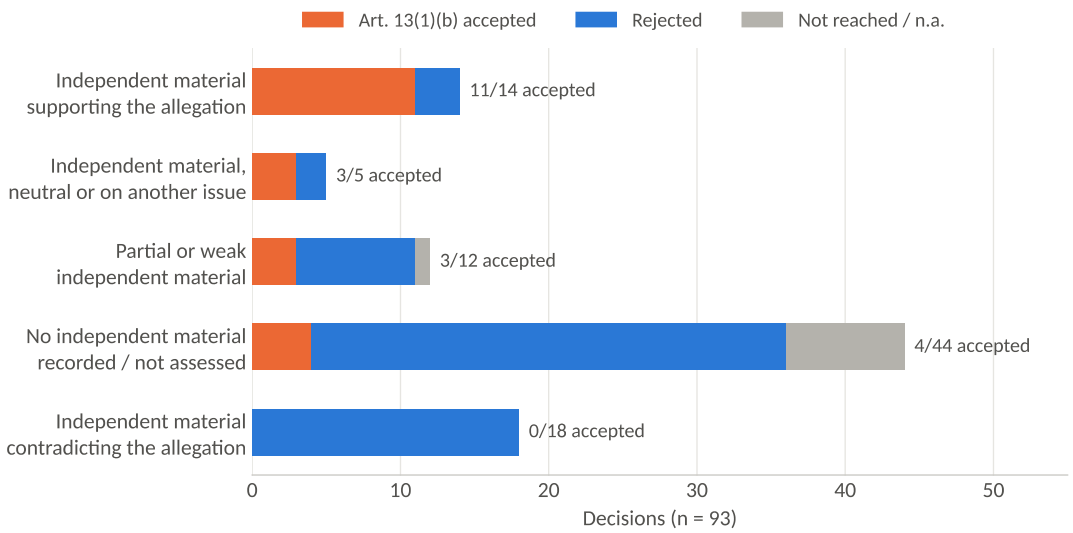

Figure 5. Independent evidence and the Article 13(1)(b) result (decisions, n = 93).

- Where independent evidence **supported** the allegation, Article 13(1)(b) was accepted in 11 of 14 decisions. The three exceptions are instructive: in one the conviction concerned the mother's former husband rather than the applicant father; in another the conviction concerned the abuse of a sibling and was not yet final; and in the third a conviction for a single assault was held not to show a structural pattern of violence.[85]
- Where independent evidence **pointed the other way** — a special curator or the Board observing a warm and fearless relationship between the child and the allegedly abusive parent, a foreign court or child-protection authority finding no concerns, school reports without concerns — Article 13(1)(b) was accepted in none of 18 decisions.
- Where **no** independent evidence was available, the exception succeeded in 4 of 44 decisions, each time on grounds other than the violence itself: the separation of the child from the mother and a disabled half-brother, a child's objection combined with the separation of siblings, and the mother's inability to reside lawfully in the State of return.[86] The one decision in which violence was decisive without full independent corroboration is the Israeli first-instance decision, in which the Dutch police had assessed mother and child as unsafe, and the father had contested the mother's detailed account only in general terms.[87]

In each of the twelve decisions in which violence was decisive or contributory to the acceptance of Article 13(1)(b), independent evidence supported the allegation, fully (ten) or partly (two). In the published Dutch case law, an allegation of violence resting solely on the taking parent's own account has not, in itself, led to the refusal of return.

This is not a matter of disbelief. It reflects the combination of a burden of proof resting on the parent who opposes return, a standard of substantiation against a reasoned denial, and a procedure in which there is little room to gather evidence. It does, however, have a structural consequence. Domestic violence — and coercive control in particular — often leaves no independent trace, and the outcome of a case may therefore depend on whether such a trace happens to exist and can be produced in time. It is also worth noting that the independent evidence available to the Dutch courts more often pointed away

[85] District Court The Hague 26 January 2015, ECLI:NL:RBDHA:2015:751; Court of Appeal The Hague 26 October 2020, ECLI:NL:GHDHA:2020:2063; Court of Appeal The Hague 18 October 2017, ECLI:NL:GHDHA:2017:3025.

[86] District Court The Hague 5 February 2015, ECLI:NL:RBDHA:2015:1628; District Court The Hague 2 September 2025, ECLI:NL:RBDHA:2025:18248; Court of Appeal The Hague 13 October 2025, ECLI:NL:GHDHA:2025:2221; District Court The Hague 19 March 2026, ECLI:NL:RBDHA:2026:9891.

[87] District Court The Hague 25 September 2025, ECLI:NL:RBDHA:2025:18246.

from the allegation than towards it (18 decisions against 14). This is partly because the evidence generated within the Dutch procedure itself — the observations of the special curator and the Board of the child's contact with the left-behind parent — is well suited to showing whether the child is at ease with that parent, but less suited to establishing what happened between the parents abroad.

8.3 How particular kinds of evidence are weighed

The reasons given for the weight attached to the evidence recur across the case law.

Police reports and service records reflecting the mother's account. Two police reports resting on the mother's own statements, without subsequent prosecution, were held insufficient; documents that recorded only the mother's account did not establish domestic violence; and a Portuguese prosecutor's document based on the mother's statements did not show a long-term pattern of violence.[88] Two Polish "blue card" notifications — registrations of domestic-violence interventions — together with the children's statements to the special curator, were held not to establish that domestic violence had actually taken place.[89]

Shelter stays and specialised services. A stay in a women's shelter did not suffice in the absence of police reports, and a MASIC risk screening by a specialised domestic-violence service was given limited weight because it had been carried out with the mother only.[90]

Medical evidence. A hospital record of a displaced and heavily bleeding nose did not assist the mother, because the court considered that the cause of the injuries could not be established "in these proceedings" ("in dit geding").[91]

Expert reports. Reports on coercive control and trauma were set aside because they were based solely on the mother's information and the expertise of their authors was insufficiently clear.[92]

Statements from the mother's circle. Statements of family members and friends were generally regarded as not sufficiently objective.[93]

Children's statements. Children's accounts of violence were often weighed against the possibility of a loyalty conflict or influence by the taking parent (Chapter 9). In several cases, however, the Court of Appeal heard the children itself, found their accounts authentic and reversed the first-instance decision.[94]

Findings of foreign authorities. Where a foreign court or child-protection authority had examined the allegations and found no cause for concern, the Dutch courts generally followed that finding. Conversely, a letter of the Danish Agency of Family Law (Familieretshuset) confirming that the mother was a victim of domestic violence witnessed by the children was decisive in one of the most recent refusals.[95] Material

[88] District Court The Hague 2 May 2016, ECLI:NL:RBDHA:2016:4758; Court of Appeal The Hague 15 September 2021, ECLI:NL:GHDHA:2021:1738; Court of Appeal The Hague 16 July 2026, ECLI:NL:GHDHA:2026:2622.

[89] Court of Appeal The Hague 5 September 2019, ECLI:NL:GHDHA:2019:2530.

[90] District Court The Hague 17 July 2019, ECLI:NL:RBDHA:2019:9643; Court of Appeal The Hague 8 September 2025, ECLI:NL:GHDHA:2025:1827, para. 5.19.

[91] District Court The Hague 8 January 2020, ECLI:NL:RBDHA:2020:96.

[92] Court of Appeal The Hague 5 February 2026, ECLI:NL:GHDHA:2026:188, para. 5.16.

[93] E.g. District Court The Hague 27 January 2015, ECLI:NL:RBDHA:2015:1822; District Court The Hague 28 February 2019, ECLI:NL:RBDHA:2019:2763; District Court The Hague 17 July 2019, ECLI:NL:RBDHA:2019:9643.

[94] Court of Appeal The Hague 10 April 2019, ECLI:NL:GHDHA:2019:3990; Court of Appeal The Hague 27 October 2023, ECLI:NL:GHDHA:2023:2066.

[95] District Court The Hague 13 July 2018, ECLI:NL:RBDHA:2018:8810 (German local court, Amtsgericht); District Court The Hague 18 March 2025, ECLI:NL:RBDHA:2025:4898 (Belgian social investigation); District Court The Hague 6 August 2026, ECLI:NL:RBDHA:2026:25713 (Danish Agency of Family Law, Familieretshuset).

from the State of habitual residence can thus be decisive in either direction — which underlines the value of obtaining it in a structured way (Chapter 11).

8.4 Fact-finding within the summary procedure

The Dutch courts actively seek additional information. In 74 of the 93 decisions, some further fact-finding step was taken — most often the appointment of a special curator or a request to the Child Care and Protection Board, occasionally an expert examination. These steps are, however, primarily oriented towards the child's views and present wellbeing in the Netherlands, rather than towards establishing what happened between the parents abroad. Seven decisions expressly identify the limits of the summary procedure as a reason for not establishing the facts further — for instance that there was no room for hearing witnesses in view of the urgent nature of the procedure, that an investigation by the Board does not fit return proceedings, or that *"in these urgent proceedings (…) there [is] no room for further evidence" ("in deze spoedprocedure (…) geen plaats [is] voor nadere bewijslevering")*.[96] In most decisions, the absence of further evidence is attributed to insufficient substantiation by the parent rather than to the limits of the procedure.

The HCCH Guide to Good Practice encourages courts to limit the evidence to what is relevant to the question of return and to proceed expeditiously, while also pointing to the information on the child's social background that the Central Authority can provide under Article 13(3) of the Convention.[97] Information from the State of habitual residence — which can both corroborate allegations and help to assess the risk on return — offers an avenue for strengthening the factual basis of decisions without prolonging the procedure unduly (Chapter 11).

[96] Court of Appeal The Hague 18 March 2015, ECLI:NL:GHDHA:2015:586, para. 7; Court of Appeal The Hague 20 January 2016, ECLI:NL:GHDHA:2016:67, para. 19; District Court The Hague 25 September 2025, ECLI:NL:RBDHA:2025:18246; Court of Appeal The Hague 5 February 2026, ECLI:NL:GHDHA:2026:188, para. 5.20.

[97] *Guide to Good Practice*, paras 50–53.

9 The child's perspective

9.1 Participation of the child

Dutch return proceedings involve the child to a high degree (Figure 6). A special curator was appointed to represent the child's interests in 63 of the 93 decisions (68%), and in 65 decisions the special curator, the Child Care and Protection Board or, occasionally, a psychologist or family counsellor reported to the court on the child — in 52 of them conveying the child's own views, and in 13, all concerning very young children, only observations of the child's behaviour and attachment. The child was heard directly by the court in 49 decisions (and in part in one more), both at first instance (28 of 51 decisions) and on appeal (21 of 42). Children were heard in chambers, sometimes by the full three-judge panel, often with an interpreter and with the special curator present, and — particularly during the Covid-19 period and for children staying abroad — by telephone or video link (11 decisions). A request for the appointment of a special curator was refused in two decisions, in one of them with reference to the court's general practice of not appointing a curator for children under the age of three.[98]

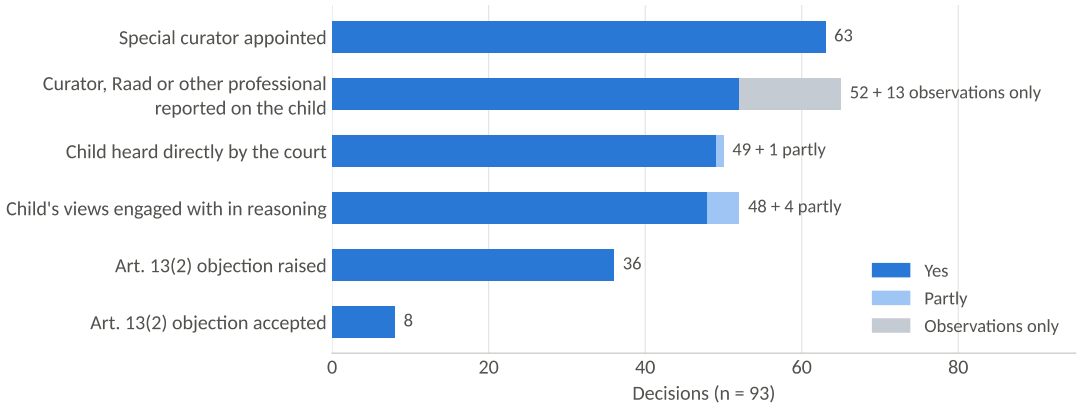

Figure 6. Participation of the child and use of the child's views (decisions, n = 93). "Observations only": the curator or the Board reported on a very young child without conveying the child's views.

9.2 The use of the child's views

The child's own views — expressed at a direct hearing or relayed by the special curator, the Board or another professional — were engaged with in the reasoning in 48 decisions, whatever weight the court ultimately gave them, and only in passing or indirectly in a further 4. In 9 decisions the child was heard, or the child's views were reported, but the reasons did not engage with them. In 32 decisions the judgment records no views of the child at all, mostly because the children were very young; in 13 of these a special curator or the Board was involved but reported only observations of the child's behaviour and attachment, which the courts used as evidence rather than as the child's views. The child's views play two distinct roles in the reasoning.

As an objection under Article 13(2). A child's objection was raised in 36 decisions and upheld in 8 (22%). The children whose objection was upheld were generally between ten and fourteen years old; the youngest was almost ten. In six of the eight decisions, upholding an older child's objection led the court to refuse the return of a younger sibling under Article 13(1)(b) as well, in order not to separate the

[98] Court of Appeal The Hague 6 November 2019, ECLI:NL:GHDHA:2019:3878; Court of Appeal The Hague 19 October 2020, ECLI:NL:GHDHA:2020:2020.

siblings.[99] In the 28 decisions in which the objection was not upheld, the court referred to the child's age or insufficient maturity (9), to a loyalty conflict (9), to the finding that the child expressed a preference or wish rather than an objection (6), or to the view that the child's statements were not authentic or had been influenced (6); several decisions combine more than one of these reasons.

As evidence of violence. Children's accounts of violence — of being hit, of witnessing violence against the mother, of fear of the father — were carefully weighed against the possibility of a loyalty conflict or influence by the taking parent. In one case, an eldest child's objection was attributed to a loyalty conflict despite two domestic-violence notifications and the children's statements that their father had hit them; in another, a child's strong resistance to return was understood mainly in the context of a loyalty conflict in which he had taken on the role of a "rescuer".[100] In a number of decisions, however, the Court of Appeal heard the children itself and reached a different conclusion, accepting their accounts as authentic — in the Moroccan case of 2019 and the Algerian case of 2023, both reversals of first-instance return orders. In the latter case, the full panel heard both children and accepted the eleven-year-old's consistent account of regular beatings and a restricted life; *"unlike the District Court" ("anders dan de rechtbank")*, it refused return.[101] A direct hearing by the appellate panel thus proves to be an important means by which a child's account of violence can be given its full weight.

9.3 The child's exposure and wellbeing as independent considerations

The research question of whether the child's exposure to violence is assessed independently can be answered only in part in the affirmative. As Chapter 6.4 showed, exposure was addressed as a question of fact in 21 decisions and not addressed in 64. The child's present psychological state was, however, occasionally decisive in its own right. In a Belgian case, the Court of Appeal refused return because the eleven-year-old was in acute psychological distress, with death wishes at the prospect of return; it expressly left open whether his fears stemmed from real experiences with his father.[102] In the Algerian case, the child's authentic account of beatings formed the basis of a serious objection.[103] These decisions show that the child's own experience can carry decisive weight where it is heard directly and found authentic, and that this weight tends to attach to the child's present distress rather than to a finding on the violence itself.

9.4 Participation and protection

The high rate of special-curator appointments and direct hearings reflects a strong commitment in Dutch practice to the child's right to be heard under Article 12 CRC. For children who have witnessed or experienced violence, participation must be balanced against the risk of placing a further burden on the child. The decisions do not, as a rule, discuss this balance explicitly, nor do they indicate whether the child's views influenced the choice or design of protective arrangements. Two refinements would enrich the reasons in this respect: a distinct treatment of the child's objection under Article 13(2) and of the

[99] District Court The Hague 27 December 2017, ECLI:NL:RBDHA:2017:16123; Court of Appeal The Hague 14 February 2018, ECLI:NL:GHDHA:2018:296; Court of Appeal The Hague 25 March 2020, ECLI:NL:GHDHA:2020:710; District Court The Hague 1 February 2022, ECLI:NL:RBDHA:2022:747; Court of Appeal The Hague 22 March 2022, ECLI:NL:GHDHA:2022:472; Court of Appeal The Hague 27 October 2023, ECLI:NL:GHDHA:2023:2066; District Court The Hague 2 September 2025, ECLI:NL:RBDHA:2025:18248; Court of Appeal The Hague 13 October 2025, ECLI:NL:GHDHA:2025:2221.

[100] Court of Appeal The Hague 5 September 2019, ECLI:NL:GHDHA:2019:2530; Court of Appeal The Hague 30 April 2025, ECLI:NL:GHDHA:2025:875. See also District Court The Hague 28 February 2019, ECLI:NL:RBDHA:2019:2763 and District Court The Hague 30 December 2019, ECLI:NL:RBDHA:2019:14658.

[101] Court of Appeal The Hague 10 April 2019, ECLI:NL:GHDHA:2019:3990; Court of Appeal The Hague 27 October 2023, ECLI:NL:GHDHA:2023:2066.

[102] Court of Appeal The Hague 24 February 2022, ECLI:NL:GHDHA:2022:467.

[103] Court of Appeal The Hague 27 October 2023, ECLI:NL:GHDHA:2023:2066.

evidential value of the child's account of violence, and — where protective arrangements are relied on — an indication of how the child's perspective has been taken into account in assessing them.

10 Protective measures and safety on return

10.1 From discussion to verification

Protective measures were discussed, fully or in part, in 68 of the 93 decisions. The further the analysis moves from *identifying* protection to *verifying* it, however, the fewer decisions remain (Figure 7). The court expressly relied on protective measures in 19 decisions (in part in 18). It verified with a concrete source that a measure was actually available in 7 decisions (in part in 8); it assessed whether the returning parent could obtain protection promptly in practice in 5 (in part in 2); it addressed the recognition or enforceability of a measure in the State of return in 1 (in part in 4); and it examined whether a measure would operate across the border in 1 decision — in which it found that it would not (in part in 3). Return orders were not made conditional on the implementation of a protective measure.

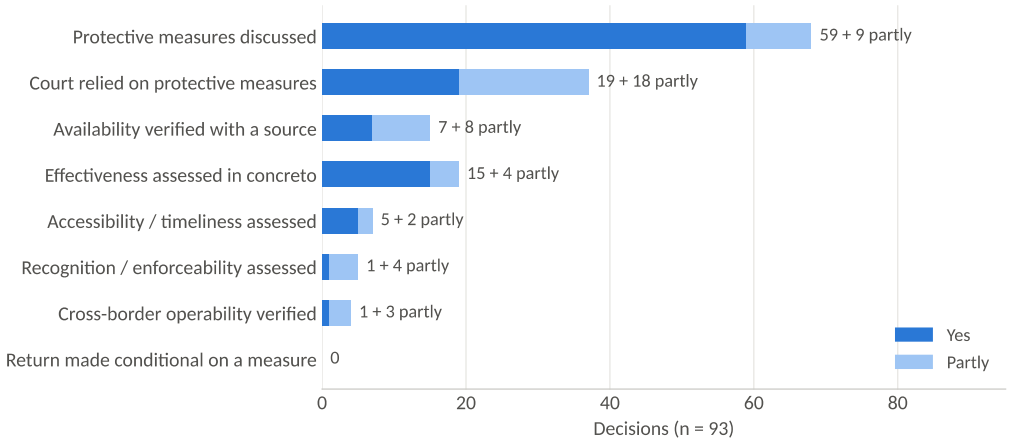

Figure 7. The depth of the assessment of protective measures (decisions, n = 93). The single "Yes" for cross-border operability is a finding that the measure could *not* operate, because no cooperation could be established with the authorities of the State of return.

These figures are calculated across all 93 decisions, including the 29 decisions refusing return, in which most of the verification took place: six of the seven decisions in which the availability of a measure was verified with a concrete source refused return. The decisions ordering return in which the court relied on protection are therefore examined separately in Chapter 10.2.

Key findings — protective measures

- Protective measures are discussed often (68 decisions); their availability was verified with a concrete source in 7 decisions, their accessibility in 5, and their enforceability and cross-border operability in one decision each.
- All 15 decisions containing a full, concrete assessment of the effectiveness of measures are decisions refusing return; in decisions ordering return, protection is generally relied on in more general terms.
- Return orders have not been made conditional on protective measures; conditions requested by mothers were declined in four decisions.
- The arrangements most often relied on are voluntary commitments of the left-behind parent and a care notification by the Child Care and Protection Board to the authorities of the State of return.
- Of the 63 return orders, 36 relied on protective measures in whole or in part. In most of them, the court had already concluded that a grave risk had not been shown, and the protection relied on was addressed in general terms; its availability was verified, fully or in part, in nine.
- The voluntary commitments relied on in 14 return orders are recorded in the reasons; return orders have not so far included such commitments, conditions, contact arrangements or Article 27(5) measures in their operative part.
- The judgments seldom specify the risk that the protection is intended to address. Exposure of the child to violence between adults was alleged in 12 of the 36 return orders relying on protection; it was held partly established in one, not established in five and not addressed in six. In all 36, the court found no sufficient link between the alleged violence and a grave risk for the child.
- Several arrangements described as “adequate arrangements” under Article 11(4) Brussels IIa or Article 27(3) Brussels IIb are, by their function, practical “soft-landing” arrangements.
- The instruments that can give protection effect in the State of return — the certificate for Article 27(5) measures, the 1996 Convention and Regulation (EU) No 606/2013 — have not yet been used for that purpose.
- Article 27(5) Brussels IIb, which allows protective measures to accompany a return order, was invoked once.

10.2 Return orders that rely on protection

Of the 63 decisions ordering return, 36 relied on protective measures or arrangements in their reasoning on Article 13(1)(b) — 19 expressly and 17 in part.[104] Thirty of them concerned a return to another EU Member State, in which Article 11(4) Brussels IIa (18 decisions) or Article 27(3) Brussels IIb (12 decisions) applied; five concerned a non-EU Contracting State and one a State not party to the Convention. Table 11 shows how far the protection relied on in these decisions was examined.

Returns within the EU. In the 30 returns to EU Member States, Article 11(4) Brussels IIa or Article 27(3) Brussels IIb applied: return may not be refused under Article 13(1)(b) if adequate arrangements have been made to secure the protection of the child after return. Under Article 27(3) Brussels IIb, the party seeking return must satisfy the court of this by providing sufficient evidence, or the court must be otherwise satisfied. The literature emphasises that such arrangements should be concrete and specific to the family concerned, rather than a general reference to the protection system of the State of return.[105] In one of the 30 EU decisions, the arrangements relied on were verified with a concrete source; in eight, they were verified in part.

[104] Not counted is one decision in which the court relied on the mother's commitments only in rejecting the defence under Article 20: Court of Appeal The Hague 23 September 2024, ECLI:NL:GHDHA:2024:1981, r.o. 5.27.

[105] Art. 11(4) Brussels IIa; Art. 27(3) and recital 45 Brussels IIb; N. Rusinova, Practical Handbook on EU Family Law, Part 2 (above), Chapter 5.9; see also European Commission, Practice Guide for the Application of the Brussels IIb Regulation (2023), § 4.3.6.

Table 11. Return orders relying on protective measures: how far the protection was examined (decisions, n = 36)

Element of the assessment	Yes	In part	No / not addressed
Availability verified with a concrete source	1	8	27
Accessibility and timeliness for the returning parent assessed	1	1	34
Recognition or enforceability in the State of return assessed	0	2	34
Operation across the border verified	0	3	33
Effectiveness assessed *in concreto* (this child, this parent, this place)	0	3	33
Measure implemented before return	1	8	27
Return made conditional on implementation of a measure	0	0	36
Voluntary commitment, condition, contact arrangement or Art. 27(5) measure recorded in the operative part	0	0	36

Decisions ordering return in which the court relied, fully or in part, on protective measures. Source: dataset, Cases sheet (protective-measures variables); the operative parts were checked against the published text of all 63 return orders.

Verification in part typically rested on material that did not come from the authorities of the State of return: a letter from a foreign agency or centre addressed to, or produced by, the left-behind father (two decisions), a statement relayed through the applicant's lawyer, read together with a decision of a foreign court (one), an inference from an earlier response of the foreign authorities (one), or a statement by the Child Care and Protection Board at the hearing that it would notify or contact the services of the State of return (four).[106] Only in one decision, discussed below, did the court find it established that a foreign child-protection authority was already involved with the family.

Protection as an additional ground. In 30 of the 36 decisions, the court held that the alleged violence had not been established, and in all 36 the Article 13(1)(b) defence was rejected. In these decisions, protection typically appears as an additional ground: the alleged violence has not been established and, in addition, protection is available in the State of return. Because the court had already concluded that a grave risk had not been shown, the protection relied on did not determine the outcome, which may explain why it was seldom examined in detail. The HCCH Guide places the consideration of protective measures within the determination whether a grave risk is established, rather than after it.[107]

The risk to which the protection relates. The judgments seldom specify the risk that the protection relied on is intended to address. In all 36 decisions, the court found no sufficient link between the alleged violence and a grave risk for the child, and in most of them its view of the risk on return follows from its finding on past violence: once the alleged violence was held not established or insufficiently substantiated, the court concluded that a grave risk on return had not been shown, and referred to protection in the State of return in general terms. Whether violence would continue or recur after return was expressly addressed in one of the 36 decisions and in part in eight; in the German case of 2020 discussed below, for example, the Court of Appeal found no real danger of ill-treatment of the child.[108] The child's exposure to violence between adults was alleged in 12 of the 36 decisions. It was held partly

[106] Letter addressed to the father by the Bulgarian Agency for Social Assistance: District Court The Hague 27 January 2015, ECLI:NL:RBDHA:2015:1822; letter of a Belgian centre produced by the father at the hearing: District Court The Hague 23 October 2018, ECLI:NL:RBDHA:2018:13030. Statement relayed by the applicant's lawyer, with a German court decision: District Court The Hague 13 July 2018, ECLI:NL:RBDHA:2018:8810. Earlier response of the foreign authorities: Court of Appeal The Hague 16 July 2026, ECLI:NL:GHDHA:2026:2622. Statement of the Board: District Court The Hague 22 December 2023, ECLI:NL:RBDHA:2023:21093; Court of Appeal The Hague 25 January 2024, ECLI:NL:GHDHA:2024:103; Court of Appeal The Hague 30 May 2024, ECLI:NL:GHDHA:2024:892; Court of Appeal The Hague 30 April 2025, ECLI:NL:GHDHA:2025:875.

[107] Guide to Good Practice, paras 40–42.

[108] Court of Appeal The Hague 26 October 2020, ECLI:NL:GHDHA:2020:2063, r.o. 5.17.

established in one, not established in five and not addressed in the remaining six.[109] Article 27(5) Brussels IIb links protective measures to "the grave risk referred to in point (b) of Article 13(1)"; the risk identified is the reference point against which the protection relied on can be assessed.

The operative part. The operative parts of all 63 return orders were checked against the published judgments. They set the return date, require the child to be handed over with travel documents if the taking parent does not bring the child back, and deal with costs, immediate enforceability and the discharge of the special curator. Six also place the child under a Dutch provisional guardianship — in two of them expressly until the return has been carried out — and one of these, a Bulgarian case of 2015, adds a one-year supervision order whose transfer to Bulgaria the court assumed.[110] None of the 63 records a voluntary commitment, a condition attached to the return, a residence, contact or no-contact arrangement, or a measure under Article 27(5) Brussels IIb. The voluntary commitments of the left-behind parent relied on in 14 of the 36 decisions appear only in the reasons, and therefore do not form part of what the court orders.

Characteristics of the protection relied on. Table 12 groups the protection relied on in the 36 decisions according to characteristics that the HCCH Guide and the case law treat as relevant to its effectiveness: reliance on voluntary commitments of the left-behind parent, whose enforceability the Guide identifies as a concern;[111] reliance on a step that depends on authorities that are not party to the proceedings, such as the discontinuance of a prosecution (Chapters 10.3, 10.5 and 16.1); a general reference to the protection system of the State of return; reliance on a practical arrangement as protection (Chapter 10.5); and the absence of a route under the 1996 Convention or Brussels IIb through which the protection can take effect in the State of return (Chapter 10.6).

Table 12. Characteristics of the protection relied on in return orders (decisions, n = 36)

Characteristic	Decisions	Illustration
Voluntary commitment of the left-behind parent, recorded only in the reasons	14	Withdrawal of a criminal complaint; housing, a car, maintenance; leaving the family home; visa sponsorship; cooperation with assistance
Withdrawal of a criminal complaint offered to avert the prosecution of the mother; discontinuance depends on the prosecuting authorities	5	Whether a prosecution is discontinued is for the public prosecutor, not for the complainant (Chapter 16.1)
General reference to protection in the State of return only	6	"Agencies and legal measures for victims of domestic violence"; unspecified child-protection provisions
Practical arrangement relied on as protection: care notification, "warm handover" or "soft landing"	12	In five decisions part of the basis for a finding — in one, a presumption — that adequate arrangements under Art. 11(4) Brussels IIa or Art. 27(3) Brussels IIb existed

[109] Partly established: District Court The Hague 26 January 2015, ECLI:NL:RBDHA:2015:751. Not established: District Court The Hague 26 June 2017, ECLI:NL:RBDHA:2017:7335; District Court The Hague 28 February 2019, ECLI:NL:RBDHA:2019:2763; Court of Appeal The Hague 15 September 2021, ECLI:NL:GHDHA:2021:1738; District Court The Hague 27 May 2026, ECLI:NL:RBDHA:2026:17375; Court of Appeal The Hague 16 July 2026, ECLI:NL:GHDHA:2026:2622. Not addressed: District Court The Hague 22 February 2018, ECLI:NL:RBDHA:2018:2690; Court of Appeal The Hague 3 April 2019, ECLI:NL:GHDHA:2019:758; District Court The Hague 22 December 2023, ECLI:NL:RBDHA:2023:21093; Court of Appeal The Hague 30 January 2024, ECLI:NL:GHDHA:2024:292; Court of Appeal The Hague 30 April 2025, ECLI:NL:GHDHA:2025:875; Court of Appeal The Hague 5 February 2026, ECLI:NL:GHDHA:2026:188.

[110] District Court The Hague 27 January 2015, ECLI:NL:RBDHA:2015:1822 (with a one-year supervision order); Court of Appeal The Hague 26 April 2018, ECLI:NL:GHDHA:2018:1012; Court of Appeal The Hague 12 February 2020, ECLI:NL:GHDHA:2020:279; District Court The Hague 5 July 2021, ECLI:NL:RBDHA:2021:6977 (until the return has been carried out); District Court The Hague 3 July 2025, ECLI:NL:RBDHA:2025:23149; Court of Appeal The Hague 3 December 2025, ECLI:NL:GHDHA:2025:2718 (until the return has been carried out). In two further appeal decisions, a provisional guardianship ordered at first instance continued through the affirmation of that decision.

[111] Guide to Good Practice, para. 47; see Chapter 10.3.

Characteristic	Decisions	Illustration
State of return not party to the 1996 Convention; protection consisting of voluntary commitments or a general reference	3	United States (2019), United Arab Emirates (2025), Thailand (2025)

Categories overlap; a decision may show more than one characteristic. Eight of the 36 decisions show none of them. Classification for this report is based on the judgments and on the coded description of the measures relied on (dataset, Cases sheet, "Type of protective measure / arrangement"). The counts relate to these 36 decisions only and are therefore not directly comparable with the indicative frequencies across all decisions in Table 10.

Decisions with a more specific basis. Two decisions illustrate a more specific basis for the protection relied on. In a German case of 2020, the Child Care and Protection Board confirmed at the hearing that the German youth welfare office (*Jugendamt*) was already involved with the family. The Court of Appeal, which accepted that the father had been convicted — not yet finally — of abusing a sibling but held that this did not establish a grave risk for this child, relied on that monitoring, on a care notification to the *Jugendamt*, on housing assistance for the mother and on the father's commitment to cooperate with assistance, as adequate arrangements under Article 11(4) Brussels IIa.[112] It is the only return order in the dataset in which the court found it established that a foreign child-protection authority was already involved with the family. In one other decision, the court relied on a decision of a Polish court that had provisionally entrusted the children to the mother, so that they would not have to return to the father's care.[113] Such an order operates under the law of the State of return and requires no recognition. In that case, the court presumed that adequate protection was available ("it must be assumed" ("aangenomen moet worden")).

Developments since 2022. Since Brussels IIb entered into application on 1 August 2022, verification is recorded more often: it is recorded, in part, in five of the 14 return orders relying on protection, against four (one of them in full) of the 22 before that date. In four of the five, however, it consists of the Board's statement that it would notify, or hand over to, the services of the State of return — a practical arrangement whose content had not itself been confirmed by those services (Chapter 10.3).

Information from the State of return. The Dutch procedure gathers a great deal of information about the child: in most of the 36 decisions a special curator was appointed, the Board reported or advised at the hearing, or the child was heard. None of the 36 judgments, however, records a request by the court, the Board or the Central Authority to the authorities of the State of return for information on the protection that would be available on return. In two, information on the involvement of the foreign child-protection services was before the court; in the Thai case, the Board stated that it had no contacts in Thailand.[114] In some refusals, the position was different. In three of them, the Board or the family guardian did approach the State of return — through the Central Authority, by contacting local institutions, or by repeated requests to the child-protection services — and the absence of any cooperation, registration or substantive response was among the reasons why adequate arrangements were held not to be established; in a fourth, the absence of any contact between the Dutch and the foreign youth services was itself a reason.[115]

[112] Court of Appeal The Hague 26 October 2020, ECLI:NL:GHDHA:2020:2063, r.o. 5.17–5.19.

[113] Court of Appeal The Hague 9 February 2023, ECLI:NL:GHDHA:2023:213, r.o. 5.26–5.27.

[114] Court of Appeal The Hague 26 October 2020, ECLI:NL:GHDHA:2020:2063, r.o. 5.19 (Jugendamt involvement, established through the Board); District Court The Hague 9 July 2026, ECLI:NL:RBDHA:2026:22227 (an earlier notification by the Czech child-protection authority through the Central Authorities, and a Czech police report, concerning the concerns about the children); Court of Appeal The Hague 3 December 2025, ECLI:NL:GHDHA:2025:2718, r.o. 5.24.

[115] Court of Appeal The Hague 18 March 2015, ECLI:NL:GHDHA:2015:586, r.o. 20; Court of Appeal The Hague 15 June 2016, ECLI:NL:GHDHA:2016:1714, r.o. 13; Court of Appeal The Hague 25 March 2020, ECLI:NL:GHDHA:2020:710, r.o. 5.24; Court of Appeal The Hague 22 August 2018, ECLI:NL:GHDHA:2018:2254, r.o. 17–18.

10.3 Types of protective arrangements

Table 10 shows the types of measures and arrangements referred to in the decisions. They fall into three broad groups: arrangements in the State of return (adequate arrangements under EU law, the general availability of protection, existing foreign orders), commitments of the parties (voluntary commitments and requested conditions), and Dutch measures and practices (provisional guardianship, supervision orders and care notifications).

Table 10. Types of protective measures and arrangements referred to in the decisions

Type	Decisions	Characteristics
"Adequate arrangements" under Art. 11(4) Brussels IIa or Art. 27(3) Brussels IIb	23	Usually a finding that such arrangements exist or may be assumed; occasionally that none could be established
Voluntary commitments of the left-behind parent	17	Withdrawal of a criminal complaint, housing, financial support, separate accommodation, facilitating contact
Dutch provisional guardianship or supervision order	c. 20	Mainly to secure the return itself (handover of the child and travel documents); occasionally to ensure continuity of assistance
Care notification (*zorgmelding*) or "warm handover" by the Child Care and Protection Board	11	A regular feature of return orders since around 2019
General availability of protection in the State of return (police, shelters, courts, child protection)	at least 8	Referred to in general terms
Conditions requested by the mother (non-prosecution, housing, contact via the court, costs)	4	Declined
Existing foreign orders (protection order, custody or contact order, family therapy)	several	E.g. a Belgian restraining order; Polish and French interim orders; Spanish protection orders
Mirror agreement reached in mediation	1	Not submitted to the court for a decision

Indicative frequencies; categories overlap.

Voluntary undertakings are the classic instrument of practice under the 1980 Convention. In the Dutch decisions, they take the form of voluntary commitments (toezeggingen). These perform a function close to that of undertakings in English practice: they are promises by the left-behind parent intended to address the risks of return. Unlike undertakings, however, they are not given as formal promises to the court, they are not recorded in the order, and they carry no sanction if they are not honoured. They typically concern the left-behind father's commitment to withdraw a criminal complaint for abduction, to provide housing or financial support, or to leave the family home for a period. The courts generally accept such commitments as offered — in two cases the Court of Appeal expressly assumed that the father would honour his commitments: *"The court assumes that the husband will honour his commitments" ("Het hof gaat er van uit dat de man zijn toezeggingen gestand zal doen")*.[116] In the Moroccan case, the Court of Appeal examined the effect of such a commitment more closely and noted that the father had been unable to clarify whether the Moroccan public prosecutor would refrain from prosecuting the mother of its own accord if he withdrew his complaint, and that he had not yet withdrawn it.[117] The HCCH Guide observes that voluntary undertakings are not easily enforceable and may therefore not be effective in many cases, and recommends that their efficacy be assessed with this in mind.[118]

[116] Court of Appeal The Hague 6 February 2017, ECLI:NL:GHDHA:2017:246; Court of Appeal The Hague 5 February 2026, ECLI:NL:GHDHA:2026:188. See also District Court The Hague 26 June 2017, ECLI:NL:RBDHA:2017:7335 and District Court The Hague 20 May 2025, ECLI:NL:RBDHA:2025:9894.

[117] Court of Appeal The Hague 10 April 2019, ECLI:NL:GHDHA:2019:3990.

[118] *Guide to Good Practice*, para. 47.

The care notification by the Child Care and Protection Board has become a regular feature of return orders since around 2019. The Board undertakes to notify the child-protection authorities of the State of return, through the Central Authority, and in some cases to arrange a "warm handover" or a "soft landing" (*zachte landing*) with local services.[119] This is a valuable practice that promotes continuity of care. Its protective reach is, however, limited by its nature: it is a notification rather than a measure. It does not oblige the foreign authorities to act, and it is directed at the child's welfare rather than at the safety of the returning parent.

Measures already in force: a protective or child-protection measure was in force at the time of the decision in 30 decisions (in part in 5) — most often a Dutch provisional guardianship or supervision order, occasionally a foreign protection, custody or contact order. The Dutch measures serve mainly to secure the execution of the return, and occasionally to ensure continuity of assistance through transfer of the case to the foreign authorities.[120]

Function rather than label. The labels used in the decisions do not always correspond to the function of the arrangement. This report distinguishes three legally distinct mechanisms (Chapter 10.5): adequate arrangements that exist or will be put in place in the State of return (Article 27(3) Brussels IIb), protective measures taken by the return court itself (Article 27(5) read with Article 15), and practical arrangements that organise the journey and arrival. Classified by function, the 36 return orders relying on protection give the following picture. Arrangements actually existing in the State of return and identified with some specificity were relied on in four decisions: a restraining order against the mother's former husband; the involvement of the German youth welfare office — established at the hearing in one case, and relayed through the applicant's lawyer in another; and a Polish court decision provisionally entrusting the children to the mother.[121] No decision records a protective measure taken by the Dutch return court under Article 27(5). The other decisions rest, alone or in combination, on voluntary commitments of the left-behind parent (14 decisions in total), on practical arrangements such as care notifications and warm handovers (12), or on a general reference to the protection system of the State of return (6). In five appeal decisions, a care notification or handover by the Board formed part of the basis on which the court found — or, in one case, presumed — that adequate arrangements under Article 11(4) Brussels IIa or Article 27(3) Brussels IIb existed; apart from the German case of 2020, none of them records any confirmation from the services of the State of return of what they would do.[122]

No decision relies on a protection order against the left-behind parent in force in the State of return. In one case, a restraining order imposed in criminal proceedings was in force against the mother's former husband — not the applicant father — from whom the threat on return was said to come; the court held that the Belgian authorities could offer the mother and the children sufficient protection.[123] In another, the mother relied on Spanish decisions of 2011, which she said had been given because of domestic violence, to claim sole custody; the court found that the translated decisions did not bear this out.[124]

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[119] E.g. Court of Appeal The Hague 6 November 2019, ECLI:NL:GHDHA:2019:3878; Court of Appeal The Hague 25 January 2024, ECLI:NL:GHDHA:2024:103; Court of Appeal The Hague 30 April 2025, ECLI:NL:GHDHA:2025:875; Court of Appeal The Hague 3 December 2025, ECLI:NL:GHDHA:2025:2718; District Court The Hague 27 May 2026, ECLI:NL:RBDHA:2026:17375.

[120] E.g. District Court The Hague 27 January 2015, ECLI:NL:RBDHA:2015:1822; District Court The Hague 19 April 2017, ECLI:NL:RBDHA:2017:4043.

[121] District Court The Hague 26 January 2015, ECLI:NL:RBDHA:2015:751; District Court The Hague 13 July 2018, ECLI:NL:RBDHA:2018:8810; Court of Appeal The Hague 26 October 2020, ECLI:NL:GHDHA:2020:2063; Court of Appeal The Hague 9 February 2023, ECLI:NL:GHDHA:2023:213.

[122] Court of Appeal The Hague 26 October 2020, ECLI:NL:GHDHA:2020:2063; 15 September 2021, ECLI:NL:GHDHA:2021:1738; 25 January 2024, ECLI:NL:GHDHA:2024:103; 30 May 2024, ECLI:NL:GHDHA:2024:892; 30 April 2025, ECLI:NL:GHDHA:2025:875.

[123] District Court The Hague 26 January 2015, ECLI:NL:RBDHA:2015:751.

[124] District Court The Hague 1 February 2022, ECLI:NL:RBDHA:2022:747 (return refused on other grounds).

Dutch child-protection measures, by contrast, were frequent: a Dutch provisional guardianship or (provisional) supervision order was in force in 25 of the 93 decisions. These measures show that the Dutch courts already take provisional measures concerning the child in the course of return proceedings. Their purpose, however, was mainly to secure the execution of the return — the handover of the child and the travel documents — rather than to protect the child or the returning parent after arrival (Chapters 10.5 and 10.6).

10.4 Where effectiveness is assessed

A striking pattern concerns the relationship between the depth of the assessment of protection and the outcome of the case. All 15 decisions in which the court made a full, concrete assessment of whether the measures on offer would protect *this* child and *this* parent in *this* place are decisions refusing return. In each of them the assessment was negative: no arrangement could prevent the separation of mother and child through arrest, the father offered no concrete guarantees, the safety plan was insufficient, the authorities of the State of return could not be reached, no housing or assistance was in place, or the protection available was not adequate *"in these circumstances and for these minors" ("onder deze omstandigheden en voor deze minderjarigen")*.[125] In the 63 decisions ordering return, the protection available was generally relied on in more general terms; a partial assessment of its effectiveness is found in three of them.

Where return is ordered, the courts frequently refer to the fact that the State of return is an EU Member State, that it is bound by the same human-rights treaties, or that it has agencies and legal measures for victims of domestic violence.[126] This reflects the mutual trust on which the Convention and the EU instruments are built, and in most cases it will be well founded. Where violence is alleged, however, the HCCH Guide encourages courts to consider not only whether protection exists in the State of return, but also whether it is accessible to the returning parent, can be obtained in time, is enforceable and is likely to be effective in the circumstances of the case.[127] Between the two outcomes — a return in reliance on general availability and a refusal on the basis of a concrete finding that protection is lacking — lies an intermediate option that is envisaged both by the Guide and by Article 27(5) Brussels IIb: a return *accompanied by* specific, verified and enforceable protective measures. This option has, so far, rarely been used.

What the refusals show. In the refusals in which protection was assessed concretely, two situations can broadly be distinguished. In the first, the risk was one that, in the court's assessment, no measure in the State of return could address: the separation of the child from the primary carer — because she could not or would not return, faced arrest or prosecution, lacked a residence status, or was in a mental-health crisis — or the separation of siblings. The courts said so in terms: the situation “cannot be prevented by an arrangement” (“is niet te voorkomen door een voorziening”) in the State of return.[128] In the second, protection was examined against a risk connected with the violence or with the child's condition, and

[125] Court of Appeal The Hague 14 February 2018, ECLI:NL:GHDHA:2018:296. The four decisions containing a partial assessment include three return orders.

[126] E.g. District Court The Hague 22 February 2018, ECLI:NL:RBDHA:2018:2690 (Australian agencies and legal measures); Court of Appeal The Hague 15 September 2021, ECLI:NL:GHDHA:2021:1738 (Belgium bound by the Istanbul Convention); Court of Appeal The Hague 9 February 2023, ECLI:NL:GHDHA:2023:213 (Art. 27(3) Brussels IIb); Court of Appeal The Hague 16 July 2026, ECLI:NL:GHDHA:2026:2622 (Portugal party to the Istanbul Convention, the ECHR and the CRC).

[127] *Guide to Good Practice*, paras 43–47 and 59.

[128] E.g. District Court The Hague 5 February 2015, ECLI:NL:RBDHA:2015:1628 (Poland); District Court The Hague 27 December 2017, ECLI:NL:RBDHA:2017:16123 (England); District Court The Hague 12 October 2018, ECLI:NL:RBDHA:2018:12413 (France: arrest warrant); District Court The Hague 1 February 2022, ECLI:NL:RBDHA:2022:747 (Spain); Court of Appeal The Hague 30 April 2024, ECLI:NL:GHDHA:2024:893, r.o. 5.19–5.21 (Poland: mental health and separation).

found insufficient on concrete grounds: no child-protection measure in the State of return and no relevant help on offer, where violence in the child's presence was held "sufficiently plausible" ("voldoende aannemelijk"); a safety plan that did not show that the family would actually receive non-optional help, while the United States authorities had not responded in substance to the Board's requests; help that was not accessible because the child was not registered; or assurances unsupported by evidence, with "no guarantee whatsoever" ("geen enkele garantie") that the prosecution of the mother would stop, where the father had been convicted of violence against her.[129] In these decisions, the reasons identify the risk, the protection on offer and why it did or did not address that risk.

10.5 Conditions, adequate arrangements and protective measures: Articles 27(3) and 27(5) Brussels IIb

In four decisions the mother asked the court to attach conditions to the return — non-prosecution, housing and maintenance, contact only through the courts of the State of return, a contribution to travel and housing costs — and in each case the request was declined. In 2017 the Court of Appeal considered it *"not in keeping with the spirit of the Convention to attach additional conditions to the return" ("niet in lijn met de geest van het HKOV om aanvullende voorwaarden te stellen aan de teruggeleiding")*.[130] In 2023 the Court of Appeal saw no reason to attach safe-return conditions under Article 27(3) Brussels IIb.[131] In 2025 the District Court saw *"no basis" ("geen grondslag")* for the conditions requested, and on appeal the Court of Appeal declined to take measures under Article 27(5) Brussels IIb because it had not found a grave risk.[132]

A decision outside the dataset — the case did not involve an allegation of domestic violence — illustrates the limits of conditions. The District Court had attached conditions under Article 27 Brussels IIb to an order for return to Belgium, requiring the Dutch and Belgian prosecuting authorities to adjust the mother's probation conditions and not to detain her on return. On appeal, the Court of Appeal upheld the return order but set the conditions aside: they were addressed to authorities that were not parties to the proceedings and could not be bound by them, the father had no power to bring them about, and they conflicted with the Convention's aim of providing clarity as quickly as possible on whether the children were to return.[133]

The last decision raises a question of interpretation that deserves attention. Article 27(5) allows the court ordering return to take provisional, including protective, measures "in order to protect the child from the grave risk referred to in point (b) of Article 13(1)". If the provision were available only where a grave risk *has been established*, while return is refused whenever such a risk is established and not adequately mitigated, it would have little room for application. A reading that is consistent with the Guide's approach — which treats protective measures as part of the grave-risk assessment itself — is that Article 27(5) serves precisely those cases in which return can be ordered *because* specific protective measures reduce

[129] District Court The Hague 31 January 2017, ECLI:NL:RBDHA:2017:1032 (Czech Republic); Court of Appeal The Hague 25 March 2020, ECLI:NL:GHDHA:2020:710, r.o. 5.24 (United States); Court of Appeal The Hague 24 February 2022, ECLI:NL:GHDHA:2022:467, r.o. 5.16 (Belgium); Court of Appeal The Hague 27 November 2018, ECLI:NL:GHDHA:2018:3229, r.o. 13–14 and 17 (France).

[130] Court of Appeal The Hague 18 October 2017, ECLI:NL:GHDHA:2017:3025, para. 26.

[131] Court of Appeal The Hague 25 July 2023, ECLI:NL:GHDHA:2023:1400.

[132] District Court The Hague 22 July 2025, ECLI:NL:RBDHA:2025:14296; Court of Appeal The Hague 8 September 2025, ECLI:NL:GHDHA:2025:1827, para. 5.27.

[133] Court of Appeal The Hague 25 May 2023, ECLI:NL:GHDHA:2023:990, para. 5.26–5.28; see also N. Rusinova, *Practical Handbook on EU Family Law, Part 2: Litigating International Child Abduction Cases under the 1980 Hague Convention in the EU* (2026), p. 327.

the risk below the threshold.[134] On that reading, Article 27(5) offers Dutch courts a legal basis for the intermediate option described above, in every return to another EU Member State.

In applying these provisions, it helps to keep apart three legally distinct mechanisms, which may be used separately or together: adequate arrangements in the State of return (Article 27(3)), which the return court must verify but cannot itself create; provisional, including protective, measures taken by the return court (Article 27(5) read with Article 15), which are treated as decisions for the purposes of recognition and enforcement and can therefore accompany the child across the internal EU border; and practical or "soft-landing" arrangements, which facilitate the implementation of the return but do not, as such, address a grave risk and acquire no cross-border effect of their own.[135] In that typology, the care notifications and "soft landings" arranged by the Child Care and Protection Board (Chapter 10.3) are practical arrangements unless they are relied upon to neutralise an identified risk, and no decision studied records a measure taken under Article 27(5).

The Dutch practice of provisional guardianship and supervision orders during return proceedings (Chapter 10.3) is relevant to this provision. It shows that the Dutch courts already take provisional measures concerning the child while return proceedings are pending, mainly to secure the execution of the return. Measures under Article 27(5) read with Article 15 would differ in purpose: they would be directed at the grave risk identified — for example, the child's residence with the returning parent until the court in the State of return has decided, a prohibition on approaching the child or that parent, or supervised contact — and, as decisions within the meaning of the Regulation, they could accompany the child to the State of return (Chapter 10.6). Which measures are available depends on Dutch law (Article 15 Brussels IIb).

The situation addressed by the two provisions. Articles 27(3) and 27(5) address the same situation: a case in which return would otherwise be refused under Article 13(1)(b), but in which the protection of the child after return can be secured. Article 27(3) concerns arrangements that have been made to secure that protection, and for that purpose the court may communicate with the competent authorities of the State of habitual residence (Article 27(4)); Article 27(5) allows the court ordering return to take provisional, including protective, measures itself. Recital 46 describes these as measures which the court considers necessary "to protect the child from the grave risk of physical or psychological harm entailed by the return which would otherwise lead to a refusal of return", and gives as examples that the child should continue to reside with the primary care giver, or how contact with the child should take place after return, until the court of the habitual residence has taken the measures it considers appropriate.[136] The provision thus presupposes an assessment of the risk the child would face without protection and of the extent to which a measure would prevent it. In the decisions ordering return, that assessment is seldom reached. In all 36 return orders that relied on protection, the court found no sufficient link between the alleged violence and a grave risk for the child, and protection appeared as an additional ground (Chapter 10.2). Refusals rest most often on the separation of the child from the primary carer or from siblings, a risk that, in the courts' assessment, no measure in the State of return could address (Chapter 10.4). The cases studied thus tend to fall on either side of the situation for which Articles 27(3) and 27(5) were designed. Where protective measures are considered as part of the assessment of whether a grave risk exists, as the HCCH Guide suggests, that situation may arise precisely in cases in which the facts cannot be resolved within the summary procedure (Chapter 15.3).[137]

[134] *Guide to Good Practice*, paras 41 and 44–45.

[135] N. Rusinova, *Practical Handbook on EU Family Law, Part 2: Litigating International Child Abduction Cases under the 1980 Hague Convention in the EU* (2026), pp. 322–336 (Chapter 5.9), with references to the European Commission's Practice Guide for the Application of the Brussels IIb Regulation.

[136] Art. 27(3)–(5) and recital 46 Brussels IIb.

[137] *Guide to Good Practice*, paras 41 and 44–45.

Why Article 27(5) Brussels IIb has not been used. The decisions do not state why Article 27(5) Brussels IIb was not applied, but several features of the case law help to explain it. First, the opportunity has been limited: the Regulation applies to proceedings instituted on or after 1 August 2022, and since then twelve return orders to another Member State relied on protection in the State of return.[138] Second, Article 27(5) is linked to "the grave risk referred to in point (b) of Article 13(1)", and in the return orders the court had found no sufficient link between the violence and a grave risk for the child; in the one decision in which the provision was invoked, the Court of Appeal declined to take measures for that reason.[139] Third, protection appears in these decisions as an additional ground, after the court has concluded that a grave risk has not been shown, so that the question of which measure would address the risk does not arise. Fourth, the courts often rely on the protection system of the State of return, referring to its membership of the European Union and its obligations under the same human-rights treaties, which reflects the mutual trust on which the Regulation is built (Chapter 10.4). Fifth, the courts have been cautious about attaching conditions to a return, and the requests that were made took that form rather than that of protective measures; recital 46 itself requires that measures under Article 27(5) neither delay the return proceedings nor undermine the jurisdiction of the court of habitual residence. Finally, the measures and arrangements that the courts do use (Dutch provisional guardianships and supervision orders, care notifications and voluntary commitments recorded in the reasons) take forms that do not accompany the child across the border.

Measures with similar features. Some measures in the decisions studied share features of Article 27(5) measures without being ordered as such. The Dutch provisional guardianships and supervision orders in force in 25 of the 93 decisions were ordered by, or in the course of, the return proceedings; they are provisional and concern the child, and in some cases they were accompanied by supervised contact. Their purpose, however, was mainly to secure the handover of the child and the travel documents, and their legal basis is Dutch child-protection law. They have effect in the Netherlands and end, or remain confined to the Netherlands, once the child has returned. In four decisions, all delivered before Brussels IIb applied, the intended transfer of such a measure to the authorities of the State of return was announced, assumed or said to be possible in principle, without the legal basis for its continuation being identified (Chapter 10.6). Two questions follow from Article 27(5). The first concerns function: whether a measure addresses the grave risk the child would face after return, or only facilitates or secures the return itself; the same arrangement may fall on either side, depending on its role in the case. The second concerns form: a measure that addresses the grave risk can accompany the child only if it is ordered in accordance with Article 27(5) in conjunction with Article 15. The Dutch measures studied mostly serve the return; the protection directed at the risk after return, such as the voluntary commitments relied on, has not been given the form that would allow it to travel.

The form a measure must take. Under the Regulation, provisional, including protective, measures are decisions that are recognised and enforced in the other Member States only where they are ordered by a court with jurisdiction as to the substance of the matter, or "in accordance with Article 27(5) in conjunction with Article 15"; a provisional measure taken under Article 15 alone by a court without such jurisdiction does not circulate under the Regulation.[140] For a measure to accompany the child, it must therefore be ordered as such, which in Dutch practice means that it forms part of what the court decides rather than a consideration or an expectation in the reasons, and its legal basis must be identifiable as

[138] Art. 100(1) Brussels IIb; Chapter 10.2.

[139] Court of Appeal The Hague 8 September 2025, ECLI:NL:GHDHA:2025:1827, para. 5.27.

[140] Art. 2(1), second subparagraph, point (b), Brussels IIb; V. Lazić, 'Recognition and enforcement of decisions in the revised Brussels IIbis Regulation', *NIPR* 2021, p. 729, at pp. 740–741; C. Benini, 'Child Abduction Caused by Domestic Violence: How Private International Law Makes the Best of both the Child Abduction Convention/Brussels II-ter Regulation and the Istanbul Convention', *The Italian Review of International and Comparative Law* 2025/2, p. 167, at p. 199.

Article 27(5). The court issues the certificate in Annex IV, for the return decision and any measures under Article 27(5) accompanying it, upon application by a party; on request, the certificate may also be issued in another official language of the institutions of the European Union.[141] None of these elements appears in the decisions studied; since 1 August 2022, one return order to another Member State has included a measure in its operative part, a provisional guardianship to secure the return to Poland.[142] Where the protection relied on rests on voluntary commitments of the left-behind parent, which are recorded in the reasons, ordering a measure under Article 27(5), such as the continued residence of the child with the returning parent or supervised contact until the court of habitual residence has acted, would be one way of giving that protection effect in the State of return. The wording of Article 27(5) does not make such measures dependent on a request, and the parties, the special curator and the Child Care and Protection Board can each draw the court's attention to the provision.

10.6 Recognition and cross-border effect of protection

Article 27(3) Brussels IIb refers to arrangements made "to secure the protection of the child after his or her return"; whether the protection relied on can take effect in the State of return is therefore part of the assessment. Recognition and cross-border operation are the elements addressed in the fewest decisions (Figure 7). The recognition or enforceability of a measure in the State of return was addressed in five of the 93 decisions, in four of them only in part (Chapter 10.1). The decisions concerned show the following. In four decisions, the question concerned the intended transfer of a Dutch supervision order or provisional guardianship to the authorities of the State of return — Bulgaria, Germany and Belgium. In each, the transfer was announced, assumed ("the court assumes" ("de rechtbank gaat ervan uit")) or said to be possible in principle, rather than verified, and none of the decisions identifies the legal basis on which the Dutch measure would continue to have effect, or would be taken over, after the child's return.[143] In the fifth, the Moroccan case, the Court of Appeal examined whether the father's commitment to withdraw his criminal complaint would in fact prevent the prosecution of the mother — a question of legal effectiveness rather than recognition — and found that this had not been shown.[144]

None of the decisions uses, for the protection relied on, the instruments that exist to give protection cross-border effect: the certificate for provisional, including protective, measures accompanying a return order (Article 36(1)(c) and Annex IV Brussels IIb), the recognition and enforcement of such measures under Articles 30 and 34 Brussels IIb, the recognition and enforceability of urgent measures under Articles 23 and 26 of the 1996 Convention, or the certificate under Regulation (EU) No 606/2013 for a civil protection measure in favour of the returning parent.

The route by which protection can operate in the State of return depends on the mechanism and on the State concerned:[145]

- **Arrangements in the State of return** (Article 27(3) Brussels IIb) operate under the law of that State and need no recognition. The questions that arise concern their existence, whether they cover the

[141] Art. 36(1)(c) and (2) Brussels IIb.

[142] District Court The Hague 3 July 2025, ECLI:NL:RBDHA:2025:23149.

[143] District Court The Hague 27 January 2015, ECLI:NL:RBDHA:2015:1822; Court of Appeal The Hague 18 March 2015, ECLI:NL:GHDHA:2015:586; District Court The Hague 19 April 2017, ECLI:NL:RBDHA:2017:4043; Court of Appeal The Hague 10 August 2018, ECLI:NL:GHDHA:2018:2098.

[144] Court of Appeal The Hague 10 April 2019, ECLI:NL:GHDHA:2019:3990, para. 22.

[145] Arts 2(1), second subparagraph, point (b), 15, 27(3)–(5), 30, 34 and 36(1)(c) and Annex IV Brussels IIb; Arts 11, 23 and 26 of the 1996 Convention; European Commission, Practice Guide for the Application of the Brussels IIb Regulation (2023), pp. 44–47 and 121–122; N. Rusinova, Practical Handbook on EU Family Law, Part 2 (above), Chapters 5.9 and 6.1.D.

child and the parent concerned, their accessibility from the day of return, and their duration until the court with jurisdiction on the substance can act.[146]

- **Measures of the return court in returns to EU Member States** (Article 27(5) read with Article 15 Brussels IIb) are decisions within the meaning of the Regulation. They are recognised without any special procedure (Article 30), are enforceable without a declaration of enforceability (Article 34), circulate with the certificate in Annex IV, and lapse once the court with jurisdiction on the substance has taken the measures it considers appropriate (Article 15(3)).
- **Urgent measures in returns to non-EU Contracting States of the 1996 Convention** (and Denmark) can be taken under Article 11 of that Convention. They are recognised by operation of law (Article 23), can be declared enforceable or registered for enforcement (Article 26), and lapse when the authorities of the State of habitual residence have taken the measures required by the situation (Article 11(2)).
- **Returns to States not party to the 1996 Convention** offer no route under that Convention or under Brussels IIb. Protection can be given legal effect there only if it consists of measures that already exist in that State, or if it is given effect there — for instance through a mirror order or a recognition procedure — before the return takes place.[147]
- **Voluntary commitments and practical arrangements** recorded only in the reasons have no cross-border effect of their own.

In the three return orders to States not party to the 1996 Convention that relied on protection — the United States (2019), the United Arab Emirates (2025) and Thailand (2025) — the protection relied on consisted of a general reference to the legal protective measures available in the United States; of the father's offers of separate housing, a visa application and maintenance in the United Arab Emirates, relied on “assuming” (“ervan uitgaand”) that he would honour them; and, in the Thai case, of the father's promises of financial support and help with housing, together with a care notification described as a safety net, although the Board stated that it had no contacts in Thailand. Only the withdrawal of the father's criminal complaint in the Thai case was documented, by a statement of a Thai lawyer and a police report.[148] None of these decisions considers how those commitments could be relied on in the State of return.

10.7 The 1996 Convention as an available instrument

Two thirds of the proceedings concerned a State that is a party to the 1996 Child Protection Convention. Article 11 of that Convention enables the court of the State where the child is present to take urgent protective measures that are recognised by operation of law in the State of return (Article 23) and can be declared enforceable there (Article 26). This instrument has not so far been used in Dutch return proceedings as a means of protection (Chapter 14). Together with Article 27(5) Brussels IIb, it offers a legal basis for making protective arrangements travel with the child.

[146] N. Rusinova, Practical Handbook on EU Family Law, Part 2 (above), Chapter 5.9; Guide to Good Practice, paras 43–47.

[147] See, for England and Wales, S v Q [2025] EWHC 2381 (Fam), paras 48–50 (return to Mauritius, which is not party to the 1996 Convention): the return order was stayed until the protective measures had been made enforceable in Mauritius by exequatur or an equivalent process.

[148] District Court The Hague 30 December 2019, ECLI:NL:RBDHA:2019:14495 (United States); District Court The Hague 20 May 2025, ECLI:NL:RBDHA:2025:9894 (United Arab Emirates); Court of Appeal The Hague 3 December 2025, ECLI:NL:GHDHA:2025:2718, r.o. 5.24–5.26 (Thailand). On the 1996 Convention status of these States, see Chapter 14.2.

10.8 Practical return arrangements

Beyond protective measures in the strict sense, the decisions regularly contain practical arrangements that help to make a return workable: a return date deferred to allow preparation and professional support, the obligation to hand over the child with travel documents, a contribution to travel costs, interim contact arrangements, and recommendations for professional help in both States. Implementation of a measure *before* the return was recorded in one decision (and in part in 11); in 38 decisions it was not required because no measure was relied on. The practice of deferring the return date to allow preparation shows that the courts are attentive to the circumstances of the return; the same attentiveness could be extended to the verification of the protective arrangements that are relied upon.

11 Cooperation and communication

11.1 Instruments used

The 1980 Convention, the Brussels Regulations and the 1996 Convention together offer an extensive toolbox for cooperation between authorities: Central Authorities, information on the child's social background (Article 13(3) of the 1980 Convention), direct communication between judges through the International Hague Network of Judges, communication between courts under Article 86 Brussels IIb, and the cooperation provisions of the 1996 Convention. Table 13 shows which instruments are recorded in the decisions. In 35 of the 93 decisions (38%), no cooperation instrument is mentioned. Where an instrument is mentioned, it is predominantly the Central Authority channel — in most cases in its administrative function of receiving, registering and transmitting the return application.

Table 13. Cooperation and communication instruments recorded in the decisions

Instrument	Decisions	Share
No cooperation instrument recorded	35	38%
Central Authority channel only (application, registration, transmission)	32	34%
Central Authority channel and a care notification by the Board	10	11%
Care notification by the Board only	8	9%
Central Authority channel and a Brussels instrument (Art. 11(6) Brussels IIa / Art. 29 Brussels IIb)	6	6%
Brussels instrument only	2	2%
Total	**93**	**100%**
Direct judicial communication (International Hague Network of Judges, Art. 86 Brussels IIb)	0	0%

11.2 Information about protection in the State of return

A small number of decisions record an attempt to obtain information from the State of return about the availability of protection, and these attempts proved significant. In the Bulgarian case of 2015, the Child Care and Protection Board sought, through the Central Authority, to contact its Bulgarian counterpart, without success; the absence of any response was one of the reasons why the Court of Appeal held that adequate arrangements under Article 11(4) Brussels IIa had not been established.[149] In a Belgian case of 2016, a family guardian contacted Belgian institutions and found that mother and children had not been registered for housing or assistance.[150] In an American case of 2020, the US child-protection authorities were approached but did not respond in substance.[151] In a German case of 2020, the Board confirmed at the hearing that the German youth welfare office (Jugendamt) was involved with the family.[152]

In most other decisions in which protection in the State of return was relied on, the court based its assessment on the material submitted by the parties and on general information about the State concerned. In several decisions with serious allegations — including the Israeli case, in which return was refused, and the Danish case, in which the court relied on a letter from the Danish Agency of Family Law

[149] Court of Appeal The Hague 18 March 2015, ECLI:NL:GHDHA:2015:586.
[150] Court of Appeal The Hague 15 June 2016, ECLI:NL:GHDHA:2016:1714.
[151] Court of Appeal The Hague 25 March 2020, ECLI:NL:GHDHA:2020:710.
[152] Court of Appeal The Hague 26 October 2020, ECLI:NL:GHDHA:2020:2063.

produced by the mother — no information was requested from the authorities of the State of return.[153] Structured information requests — through the Central Authority, under Articles 32 and 34 of the 1996 Convention, or through judicial communication — offer a means of placing both the allegations and the available protection on a firmer factual footing, in either direction. The Special Commission has encouraged Contracting Parties to complete Section 11.2 ("Provisions for safe return") of the Country Profile for the 1980 Convention, and has underlined the importance of obtaining information on the measures of protection available in the State of habitual residence before such measures are ordered.[154]

11.3 Direct judicial communication

Direct judicial communication — through the International Hague Network of Judges, a liaison judge or Article 86 Brussels IIb — is not recorded in the decisions as a means of establishing facts relevant to the violence allegations or to the availability and effectiveness of protective measures. Judicial communication may of course take place without being mentioned in the reasons. Where it is used to verify the availability of protection, recording its outcome in the decision would strengthen the transparency of the assessment and assist the courts of the State of return.

11.4 After a refusal: Article 11(6) Brussels IIa and Article 29 Brussels IIb

Where return to an EU Member State was refused, the courts in most cases — eight of the eleven refusals concerning EU Member States — recorded the transmission of the decision and related documents to the State of habitual residence under Article 11(6) Brussels IIa or Article 29 Brussels IIb, so that the courts of that State could examine the question of custody.[155] Cooperation thus functions well *after* a refusal; its use *before* the decision, to inform the assessment of risk and protection, offers further potential.

11.5 Mediation

Cross-border mediation is mentioned in 30 decisions; in 16 of these it had not led to an agreement, and in others it had been declined or not started. In one case, mediation produced a "mirror agreement" covering both the scenario of return and that of non-return; as neither parent had asked the court to rule on it, the court did not do so.[156] Mediation can be of great value in abduction cases. Where domestic violence is alleged, international guidance stresses the importance of screening for violence and power imbalances before mediation is offered and of adapting the process accordingly.[157] The decisions do not indicate whether such screening took place; recording it would help to show that the offer of mediation has been adapted to the circumstances of the case.

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[153] District Court The Hague 25 September 2025, ECLI:NL:RBDHA:2025:18246; District Court The Hague 6 August 2026, ECLI:NL:RBDHA:2026:25713.

[154] HCCH, *Conclusions & Recommendations* of the Eighth Meeting of the Special Commission (2023) (above), C&R Nos 23 and 33.

[155] Court of Appeal The Hague 18 March 2015, ECLI:NL:GHDHA:2015:586; Court of Appeal The Hague 15 June 2016, ECLI:NL:GHDHA:2016:1714; Court of Appeal The Hague 14 February 2018, ECLI:NL:GHDHA:2018:296; Court of Appeal The Hague 22 August 2018, ECLI:NL:GHDHA:2018:2254; Court of Appeal The Hague 27 November 2018, ECLI:NL:GHDHA:2018:3229; Court of Appeal The Hague 24 February 2022, ECLI:NL:GHDHA:2022:467; Court of Appeal The Hague 22 March 2022, ECLI:NL:GHDHA:2022:472; Court of Appeal The Hague 30 April 2024, ECLI:NL:GHDHA:2024:893. The three refusals without a recorded transmission are District Court The Hague 5 February 2015, ECLI:NL:RBDHA:2015:1628; Court of Appeal The Hague 31 August 2016, ECLI:NL:GHDHA:2016:2675; and District Court The Hague 31 January 2017, ECLI:NL:RBDHA:2017:1032.

[156] District Court The Hague 19 March 2026, ECLI:NL:RBDHA:2026:9891.

[157] HCCH, *Guide to Good Practice under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction – Mediation* (The Hague, 2012), in particular its discussion of mediation in cases involving allegations of domestic violence.

12 Human rights and Article 20

12.1 Article 20: a residual safeguard

Article 20 was invoked in 22 of the 93 decisions. In 19, the court held that its requirements were not met; in the remaining three, the ground was not reached or not separately decided. Article 20 has thus not served as an independent ground for refusing return in the period studied. This confirms that, in Dutch practice, protection against the risks associated with domestic violence is realised through Article 13(1)(b), and that Article 20 functions as an exceptional, residual safeguard — as the drafters of the Convention intended. Arguments raised under Article 20 were regularly treated as coinciding with the grave-risk assessment. In a Czech case of 2026, for example, the District Court considered that arguments based on Articles 3 and 8 ECHR and Article 19 CRC, raised under Article 20, were covered by its assessment under Article 13(1)(b).[158]

12.2 ECHR and CRC

An argument based on the ECHR, the CRC or the Istanbul Convention was raised or applied in 31 decisions. The courts' responses follow three main lines.

- **Integration into the Convention framework.** The interests protected by Article 8 ECHR and the CRC are already embodied in the Convention and its exceptions, so that no separate assessment is required alongside them.[159]
- **Substantiation.** The argument was held insufficiently specified or substantiated.[160]
- **The appropriate forum.** A full assessment of the child's best interests belongs in the custody proceedings in the State of habitual residence.[161]

The case law of the European Court of Human Rights is referred to in a limited number of decisions: *Neulinger and Shuruk* and *X v. Latvia* in a few, *G.N. v. Poland* once and — as a recent example — *M.P. and Others v. Greece* (2025), which the Court of Appeal relied on in 2025 when assessing the weight to be given to a young child's views.[162] The Dutch decisions generally give specific reasons on the allegations raised, in line with the procedural standard set in *X v. Latvia*; an explicit reference to that standard — that arguable allegations of grave risk must be genuinely examined and specifically reasoned — could usefully frame the assessment in cases involving domestic violence.

[158] District Court The Hague 9 July 2026, ECLI:NL:RBDHA:2026:22227.

[159] District Court The Hague 26 June 2017, ECLI:NL:RBDHA:2017:7335; see also Court of Appeal The Hague 16 February 2022, ECLI:NL:GHDHA:2022:259, para. 5.20 (return under the Convention is not as such contrary to Art. 3(1) CRC, with reference to the opinion of Advocate General Strikwerda).

[160] E.g. Court of Appeal The Hague 22 March 2017, ECLI:NL:GHDHA:2017:798; Court of Appeal The Hague 3 April 2019, ECLI:NL:GHDHA:2019:758; Court of Appeal The Hague 12 February 2020, ECLI:NL:GHDHA:2020:279; Court of Appeal The Hague 25 January 2024, ECLI:NL:GHDHA:2024:103.

[161] Court of Appeal The Hague 26 October 2020, ECLI:NL:GHDHA:2020:2063.

[162] District Court The Hague 26 January 2015, ECLI:NL:RBDHA:2015:751 and Court of Appeal The Hague 22 March 2022, ECLI:NL:GHDHA:2022:472 (*Neulinger*); Court of Appeal The Hague 31 May 2017, ECLI:NL:GHDHA:2017:1666 (*X v. Latvia*, invoked by the mother); Court of Appeal The Hague 12 September 2017, ECLI:NL:GHDHA:2017:2625 (*G.N. v. Poland*); Court of Appeal The Hague 13 October 2025, ECLI:NL:GHDHA:2025:2221 (ECtHR 9 September 2025, *M.P. and Others v. Greece*, no. 2068/24).

12.3 The Istanbul Convention

The Istanbul Convention was invoked by a party in six decisions and referred to by the court of its own motion in one; seven further decisions note that it had not been relied on.[163] In the decisions studied, its invocation did not lead to a different outcome. Three lines of reasoning can be distinguished.

- **The State of return is equally bound.** The plea was rejected because the State of return is itself bound by the Istanbul Convention (Belgium), or is a party to the Istanbul Convention, the ECHR and the CRC, like the Netherlands (Portugal).[164] In the Belgian case, the Court of Appeal also rejected the mother's argument that the restrictive interpretation of Article 13(1)(b) is in itself incompatible with the Istanbul Convention.
- **The facts must first be established.** Where the violence is not established, the Convention's provisions are not engaged.[165] In a Spanish case, the Court of Appeal dismissed a plea based on Article 31 of the Istanbul Convention with the observation that return "will thus not amount to a breach of the international treaties" ("zal aldus geen schending van de internationale verdragen opleveren"), as the mother could return with the child, adequate facilities existed in Spain, and the Board would notify the Spanish authorities.[166]
- **An interpretive frame.** In 2026, the District Court observed of its own motion that Article 20 *"must be seen in conjunction with the Istanbul Convention, which obliges States to prevent violence against women and domestic violence, to protect victims and to prosecute perpetrators" ("moet worden gezien in samenhang met het Verdrag van Istanbul dat staten verplicht om geweld tegen vrouwen en huiselijk geweld te voorkomen, slachtoffers te beschermen en daders te vervolgen")*, while finding that the case was not exceptional.[167]

The last of these approaches points to the added value that the Istanbul Convention can offer in return proceedings — not as an independent ground for refusal, but as an interpretive frame for the assessment under Article 13(1)(b). Articles 31 and 51 of the Istanbul Convention call for incidents of violence to be taken into account when decisions affecting custody and contact are taken, and for an individual assessment of the risk of repeated violence. The fact that the State of return is bound by the same obligations provides a sound basis for mutual trust; the Istanbul Convention's emphasis on individual risk assessment suggests that this trust can best be given concrete content by looking at the protection that will actually be available to the parent and child concerned (Chapter 10.4).

12.4 Positive obligations and secondary victimisation

Whether return would expose the returning parent or the child to renewed victimisation — including through the criminal prosecution of a parent who fled violence — was expressly considered, in part, in three decisions: the French case, in which the mother faced arrest and the father offered no guarantees, and the Israeli case, in both instances, in which the risk of renewed violence without effective legal protection was considered.[168] In six decisions, the argument was raised without being accepted; in one

[163] Invoked by a party: Court of Appeal The Hague 6 November 2019, ECLI:NL:GHDHA:2019:3878; Court of Appeal The Hague 15 September 2021, ECLI:NL:GHDHA:2021:1738; District Court The Hague 22 July 2025, ECLI:NL:RBDHA:2025:14296; Court of Appeal The Hague 8 September 2025, ECLI:NL:GHDHA:2025:1827; Court of Appeal The Hague 5 February 2026, ECLI:NL:GHDHA:2026:188; Court of Appeal The Hague 16 July 2026, ECLI:NL:GHDHA:2026:2622. Referred to by the court of its own motion: District Court The Hague 27 May 2026, ECLI:NL:RBDHA:2026:17375.

[164] Court of Appeal The Hague 15 September 2021, ECLI:NL:GHDHA:2021:1738; Court of Appeal The Hague 16 July 2026, ECLI:NL:GHDHA:2026:2622.

[165] Court of Appeal The Hague 8 September 2025, ECLI:NL:GHDHA:2025:1827.

[166] Court of Appeal The Hague 5 February 2026, ECLI:NL:GHDHA:2026:188, para. 5.17.

[167] District Court The Hague 27 May 2026, ECLI:NL:RBDHA:2026:17375.

[168] Court of Appeal The Hague 27 November 2018, ECLI:NL:GHDHA:2018:3229; District Court The Hague 25 September 2025, ECLI:NL:RBDHA:2025:18246; Court of Appeal The Hague 13 November 2025, ECLI:NL:GHDHA:2025:2410.

Spanish case, for instance, the mother pointed to the risk of re-traumatisation of herself and the elder child.[169] In the remaining decisions, the question did not arise in the reasons. The prevention of secondary victimisation is a central concern of the Istanbul Convention, and giving it explicit attention in the risk assessment would help to connect the return decision with the State's positive obligations towards victims of violence.

[169] Court of Appeal The Hague 5 February 2026, ECLI:NL:GHDHA:2026:188.

13 Appellate review

13.1 Outcomes on appeal

Forty-two proceedings reached the Court of Appeal of The Hague. Comparing the first-instance outcome — as published, or as reported in the appeal decision where the first-instance decision is not available — with the outcome on appeal gives the picture shown in Table 14. The Court of Appeal affirmed the outcome in 31 appeals and reversed it in 11 (26%).

Table 14. First-instance outcome and appeal outcome (pairs, n = 42)

First instance	Appeal: return ordered	Appeal: return refused	Total
Return ordered	24	**7**	31
Return refused	**4**	7	11
Total	28	14	42

Reversals in bold. The affirmed decisions include four with modifications (costs, return date, guardianship, or on different grounds).

13.2 The pattern of reversals

The eleven reversals show a clear pattern. All seven reversals from *return ordered* to *return refused* coincided with a new assessment of the violence, the risk or the adequacy of protection; none of the four reversals from *return refused* to *return ordered* did (Table 15).

Table 15. The eleven appellate reversals

Appeal decision (State of return)	Direction	What changed on appeal
Court of Appeal The Hague 18 Mar 2015, ECLI:NL:GHDHA:2015:586 (Bulgaria)	Ordered → refused	Following the Board's report, the Court of Appeal found that the child feared his father and would be separated from his mother; no adequate arrangements could be established
Court of Appeal The Hague 15 Jun 2016, ECLI:NL:GHDHA:2016:1714 (Belgium)	Ordered → refused	A new Board report; the children's vulnerability, exposure to parental fights, and absence of housing or assistance
Court of Appeal The Hague 22 Aug 2018, ECLI:NL:GHDHA:2018:2254 (Germany)	Ordered → refused	A new report of the certified institution; the child seriously affected and the mother's household unsafe
Court of Appeal The Hague 10 Apr 2019, ECLI:NL:GHDHA:2019:3990 (Morocco)	Ordered → refused	Unlike the District Court, the Court of Appeal found the children's accounts authentic; risk of the mother's detention
Court of Appeal The Hague 24 Feb 2022, ECLI:NL:GHDHA:2022:467 (Belgium)	Ordered → refused	The child heard again; acute psychological distress and death wishes
Court of Appeal The Hague 27 Oct 2023, ECLI:NL:GHDHA:2023:2066 (Algeria)	Ordered → refused	The children heard by the full panel; the elder child's account of beatings found authentic
Court of Appeal The Hague 30 Apr 2024, ECLI:NL:GHDHA:2024:893 (Poland)	Ordered → refused	The mother's mental-health crisis and the young child's attachment (first-instance decision not published)

Appeal decision (State of return)	Direction	What changed on appeal
Court of Appeal The Hague 12 Sep 2017, ECLI:NL:GHDHA:2017:2625 (Iran)	Refused → ordered	The settlement exception (Art. 12(2)) not applicable; the father's allegations (that the mother had hit the child; risks linked to the child's conversion) held insufficient to establish a grave risk
Court of Appeal The Hague 3 Apr 2019, ECLI:NL:GHDHA:2019:758 (Spain)	Refused → ordered	The habitual residence of the infants held to be in Spain
Court of Appeal The Hague 9 Feb 2023, ECLI:NL:GHDHA:2023:213 (Poland)	Refused → ordered	The children's objections not upheld; the alleged violence not recognised by independent sources; Art. 27(3) Brussels IIb (first-instance decision not published)
Court of Appeal The Hague 3 Dec 2025, ECLI:NL:GHDHA:2025:2718 (Thailand)	Refused → ordered	New Thai court material: the father held joint custody (Art. 3)

Two mechanisms account for the reversals towards refusal. The first is **new information**: a new report of the Child Care and Protection Board or of the certified institution, or new reports of the special curator. Because the appeal is a rehearing *ex nunc*, developments after the first-instance decision — including a deterioration in the child's condition — can be taken into account. The second is **hearing the child**: in several reversals the Court of Appeal heard the children itself, in some cases with the full panel, and reached a different view of the authenticity of their accounts.[170] The reversals towards return, by contrast, turned on threshold questions — habitual residence, custody rights, the settlement exception — or on the children's objections, rather than on a different view of the alleged violence.

Protection itself plays a part in three of the seven reversals towards refusal. In each, the Court of Appeal held that it had not been established that adequate arrangements within the meaning of Article 11(4) Brussels IIa had been made: in a Bulgarian case of 2015, after the Board's attempt to reach its Bulgarian counterpart through the Central Authority had produced no cooperation; in a Belgian case of 2016, after the family guardian had found that mother and children were not registered for housing and that a crisis-shelter place was uncertain; and in a case of 2018, because there had been no contact between the Dutch and the foreign youth services and no measure had been taken in the State of return. In two of the three, the District Court had relied on protection in the State of return — a letter from the Bulgarian social-assistance agency together with the assumed transfer of a Dutch supervision order, and the German youth welfare office's readiness to act, relayed through the applicant's lawyer; in the third it had not addressed the question.[171] In these appeals, the assessment of protection rested on concrete information about the State of return (see also Chapter 10.2).

13.3 Scope of review

Appellate review takes three forms, in roughly comparable proportions: a full reassessment, often *ex nunc* and on the basis of new material (17 appeals); an own assessment reaching the same conclusion as the District Court (9); and the adoption of the District Court's reasoning, frequently in the formula that the Court of Appeal *"adopts the grounds and makes them its own" ("neemt de gronden over en maakt*

[170] Court of Appeal The Hague 10 April 2019, ECLI:NL:GHDHA:2019:3990; Court of Appeal The Hague 24 February 2022, ECLI:NL:GHDHA:2022:467; Court of Appeal The Hague 27 October 2023, ECLI:NL:GHDHA:2023:2066.

[171] Court of Appeal The Hague 18 March 2015, ECLI:NL:GHDHA:2015:586, r.o. 20 and 24 (first instance: ECLI:NL:RBDHA:2015:1822); Court of Appeal The Hague 15 June 2016, ECLI:NL:GHDHA:2016:1714, r.o. 13 (first instance: ECLI:NL:RBDHA:2016:4758); Court of Appeal The Hague 22 August 2018, ECLI:NL:GHDHA:2018:2254, r.o. 17–18 (first instance: ECLI:NL:RBDHA:2018:8810).

deze tot de zijne") (16).[172] The assessment of the violence, the risk or the protection available changed on appeal in 9 appeals: the seven reversals towards refusal, one appeal in which the Court of Appeal affirmed a refusal on different and more extensive grounds, and one in which the Court of Appeal took a stricter view of the facts than the District Court — finding domestic violence not established where the District Court had found sufficient indications of it — without changing the outcome.[173]

13.4 The appellate court and the development of the law

The appellate case law provides the doctrinal backbone of the Dutch approach: the reliance on the case law of the Supreme Court, the restrictive interpretation of Article 13(1)(b), the requirement of a link between the violence and a risk for the child, and the reasoning on the assumption that violence was established are all firmly established at appellate level (Table 6). At the same time, the appeal functions as a genuine corrective in the direction of protection where new facts emerge or where the child's voice is heard anew.

As cassation is, in principle, excluded in return proceedings under the Convention, the Court of Appeal of The Hague is in practice the court that shapes the development of the law in this field. Several questions identified in this report — how exposure to violence is to be assessed, how coercive control can be established within a summary procedure, what degree of verification of protective measures is required, and what role Article 27(5) Brussels IIb and the 1996 Convention can play — lend themselves to guiding statements of principle at appellate level, which would further promote the consistency and predictability of first-instance decisions.

[172] E.g. Court of Appeal The Hague 31 May 2017, ECLI:NL:GHDHA:2017:1666; Court of Appeal The Hague 10 August 2018, ECLI:NL:GHDHA:2018:2098; Court of Appeal The Hague 6 November 2019, ECLI:NL:GHDHA:2019:3878 (on Art. 13(1)(b)).

[173] Court of Appeal The Hague 25 March 2020, ECLI:NL:GHDHA:2020:710; Court of Appeal The Hague 15 September 2021, ECLI:NL:GHDHA:2021:1738.

14 The 1996 Child Protection Convention: an instrument with untapped potential

14.1 What the 1996 Convention offers in return cases

The 1996 Child Protection Convention was designed in part to complement the 1980 Convention. Four sets of provisions are directly relevant to return proceedings involving domestic violence:[174]

- **Jurisdiction.** Jurisdiction on the merits of parental responsibility remains with the State of habitual residence after a wrongful removal (Article 7), so that the return court does not decide custody.
- **Urgent protective measures.** In all cases of urgency, the authorities of the State where the child is present may take the necessary measures of protection (Article 11). Such measures lapse as soon as the authorities of the State of habitual residence have taken the measures required by the situation.
- **Recognition and enforcement.** Measures taken under Article 11 are recognised by operation of law in all other Contracting States (Article 23), their recognition may be established in advance (Article 24), and they may be declared enforceable in the State of return (Article 26).
- **Cooperation.** Central Authorities cooperate and facilitate communications (Articles 30–31); a report on the situation of the child may be requested from the State of habitual residence (Article 32); authorities contemplating a measure may request relevant information from another State (Article 34); and where a child is exposed to serious danger, authorities must inform the other State of the danger and of the measures taken (Article 36).

Article 50 provides that the 1996 Convention does not affect the 1980 Convention, but that nothing precludes its provisions being invoked for the purpose of obtaining the return of a child or of organising access. The HCCH Guide to Good Practice expressly points to Articles 11, 23 and 26 as a means of facilitating the prompt and safe return of the child through protective measures.[175] Protective measures under the 1996 Convention were a session topic at both HCCH fora on domestic violence (2024 and 2025).[176]

Between EU Member States (except Denmark), the Brussels IIb Regulation takes precedence over the 1996 Convention. The functional equivalent is Article 27(5) read with Article 15 Brussels IIb: the court ordering return may take provisional, including protective, measures to protect the child from the grave risk, and such measures circulate under the Regulation. For returns to non-EU Contracting States and to Denmark, the 1996 Convention applies directly.[177]

14.2 Availability in the proceedings studied

The legal basis for cross-border protective measures was available in the large majority of the proceedings studied. Of the 59 proceedings, 43 concerned a State of return that is a party to the 1996 Convention. Of these, 38 concerned EU Member States, where the Brussels IIa or IIb regime applied, and five concerned non-EU Contracting States of the 1996 Convention — Australia (two), Serbia, Morocco and Denmark — where the 1996 Convention applied directly. Thirteen proceedings concerned States that are

[174] 1996 Child Protection Convention (above), Arts 7, 11, 23, 24, 26, 30–36 and 50.

[175] *Guide to Good Practice*, para. 48; see also para. 5.

[176] HCCH Forum 2024, programme, session 7 ("Risk assessment and protective measures (incl. benefits of the 1996 Convention)"), https://assets.hcch.net/docs/ea0289ae-5164-4e21-9a17-b2870e209050.pdf; HCCH Second Forum 2025 (above).

[177] Brussels IIb (above), Arts 2(1), 15, 27(5) and 97.

not a party to the 1996 Convention (Iran, the United States, Chile, Suriname, Israel, Thailand, Algeria, The Gambia and the United Arab Emirates).[178]

14.3 The 1996 Convention in the decisions

The 1996 Convention is referred to in three of the 93 decisions (Table 16). In all three, it was applied for the same purpose: to determine, under Article 16, the law governing parental responsibility, and thus whether the removal or retention was wrongful under Article 3 of the 1980 Convention. Its provisions on jurisdiction, urgent protective measures (Article 11), recognition and enforceability (Articles 23–26) and cooperation have not so far featured in the reasoning of the decisions.

Table 16. References to the 1996 Child Protection Convention in the decisions

Decision	Provision	Use
District Court The Hague 31 Jan 2017, ECLI:NL:RBDHA:2017:1032 (Czech Republic; return refused)	Art. 16	Applied by the court to determine that Czech law governs who holds parental authority: *"Article 16 of the 1996 Hague Child Protection Convention, to which the Czech Republic is a party, provides that the question of who holds parental authority (...) must be answered under Czech law" ("Artikel 16 van het Haags Kinderbeschermingsverdrag 1996 (HKV), waarbij Tsjechië partij is, bepaalt dat de vraag wie belast is met het gezag (...) moet worden beantwoord aan de hand van het Tsjechisch recht").*
District Court The Hague 26 Jun 2017, ECLI:NL:RBDHA:2017:7335 (Australia; return ordered)	Art. 16	The court noted that Art. 16 of the 1996 Convention *"does not lead to a different conclusion" ("niet tot een ander oordeel leidt")*: Australian law governs the question of joint custody.
Court of Appeal The Hague 19 Oct 2020, ECLI:NL:GHDHA:2020:2020 (outgoing case from the United Arab Emirates; return ordered)	Art. 16(4)	Applied by the Court of Appeal (para. 5.10): when the children's habitual residence moved to the Netherlands, the mother acquired joint parental authority under Dutch law, so that the father could not rely on Syrian law to claim sole authority.

Extracts reproduced from the published decisions. Translations by the author; the Dutch original is given in brackets.

14.4 The potential of the 1996 Convention

The 1996 Convention offers a response to one of the central questions identified in Chapter 10: how protection in the State of return can be made concrete, verifiable and enforceable. In a case in which a grave risk is arguable but might be mitigated, Article 11 would allow the Dutch court to take urgent measures — for instance, a measure prohibiting contact with or approach to the returning parent and child, or providing that the child is to remain in the care of the returning parent pending a decision by the courts of the State of habitual residence. Such measures are recognised by operation of law in the State of return and can be declared enforceable there. The Convention also provides the channels through which the Dutch court or the Child Care and Protection Board can request a report on the child's situation (Article 32) or information relevant to the child's protection (Article 34), and through which a serious danger to the child can be formally communicated to the authorities of the other State (Article 36). The last of these provides a firm legal basis for the existing practice of care notifications.

Three qualifications are in order. First, measures under Article 11 are temporary and lapse once the authorities of the State of habitual residence have taken the measures required by the situation; they bridge the period of transition, which is precisely the period of greatest risk for a parent who returns after fleeing violence. Second, recognition does not in itself guarantee effective enforcement, which continues to depend on the authorities of the State of return. Third, for returns within the EU, the corresponding route runs through Article 27(5) read with Article 15 Brussels IIb (Chapters 10.5 and 10.6). The 1996 Convention is therefore not a complete answer, but it provides the legal infrastructure through

[178] HCCH status table of the 1996 Convention (consulted 28 September 2026).

which protective arrangements can travel with the child — and, where such arrangements are considered unnecessary or unsuitable, a framework for explaining why.

The international agenda is moving in the same direction. In March 2026, the HCCH Council on General Affairs and Policy established a Working Group on a possible future convention on the cross-border recognition and enforcement of protection orders, and approved a recommended model form for cooperation requests under the 1996 Convention.[179] With its specialised courts, its Central Authority and the Child Care and Protection Board, the Netherlands is well placed to make full use of the instruments that already exist.

[179] HCCH, CGAP, *Conclusions & Decisions* (March 2026) (above), C&D Nos 22–25 (REPO Working Group); see also the conclusions on the 1996 Convention in the same document.

15 Dutch practice and the HCCH Guide to Good Practice

15.1 The Guide as a common point of reference

The HCCH Guide to Good Practice on Article 13(1)(b), published on 9 March 2020, was developed by a working group of judges, Central Authority experts and other specialists from a wide range of legal systems. It aims to promote a consistent application of the grave-risk exception across Contracting States, and it was the reference point against which the 2025 Fortaleza Forum reviewed five years of judicial practice.[180] The Guide is not binding, and it expressly leaves room for the procedural traditions of each State. Its value lies in offering a shared vocabulary and a shared analytical structure for a question that every Contracting State must answer in the same Convention terms.

The Dutch decisions situate their reasoning primarily within the framework developed by the Supreme Court — above all its judgments of 20 January 2006 and 9 December 2011 — and, in some cases, the Explanatory Report of Pérez-Vera and the case law of the European Court of Human Rights and the Court of Justice of the European Union. None of the 93 decisions refers to the Guide by name. Elsewhere, the Guide has become a regular point of reference: in England and Wales it was referred to in 58 reported cases between 2020 and 2025, and the courts there follow its step-by-step analysis; in Argentina, courts have been making increasing use of it.[181] Much of this reasoning is consistent with the Guide. Drawing on the Guide more explicitly — for instance in standard considerations on the structure of the Article 13(1)(b) assessment — would make that consistency visible, would connect Dutch case law with the international development of the law, and would provide a ready framework for the questions on which the case law is still developing.

15.2 Point-by-point comparison

Table 17 sets the Guide's main recommendations alongside Dutch practice as documented in this report.

Table 17. The HCCH Guide to Good Practice and Dutch practice

Recommendation of the Guide	Guide para.	Dutch practice	Assessment
The level of risk must be "grave"; the exception is applied restrictively	34	Consistently restrictive, on the basis of Supreme Court case law; some decisions refer to "extreme situations"	Aligned
The burden of establishing the exception rests on the person opposing return	51	Applied as substantiation against a reasoned denial	Aligned
Step 1: consider whether the assertions are of such a nature, and of sufficient detail and substance, that they *could* constitute a grave risk	40	Reflected in decisions reasoning on the assumption that the violence was established (Table 6), and in decisions leaving contested facts open; in many decisions the analysis starts with the question whether the facts are established	Largely aligned; scope for a more explicit structure
Step 2: determine whether the grave risk is established, considering the circumstances as a whole, including protective measures	41–42	Protective measures are generally considered in general terms when return is ordered and concretely when return is refused	Scope for further development

[180] HCCH, Second Forum 2025 (above), programme sessions on the application of the Guide to Good Practice over five years.

[181] HCCH, Forum Report 2025 (above), Annex, paras 119 and 155.

Recommendation of the Guide	Guide para.	Dutch practice	Assessment
Harm to the taking parent may create a grave risk to the child where it significantly impairs the parent's ability to care for the child	33	Functionally present in decisions focusing on the child's separation from the primary carer (arrest, detention, residence, mental health); less often articulated in relation to violence	Partly aligned
Domestic violence may harm the child directly or through exposure to violence against the parent	57	Exposure alleged in 34 decisions and addressed as a question of fact in 21	Scope for further development
Evidence of domestic violence alone is not sufficient; the focus is on the effect on the child upon return	58	Strongly reflected in the requirement of a link between violence and risk for the child	Aligned; an explicit assessment of exposure and caring capacity would complete it
Where violence is established, consider whether legal protection and police and social services are available and adequate, e.g. in view of earlier breaches of protection orders	59	Availability generally inferred from EU membership, treaty obligations or the existence of services	Scope for further development
The grave-risk exception is forward-looking; past conduct informs the prediction	35–37	The likelihood of continued violence expressly addressed in 6 decisions and in part in 13	Scope for further development
Protective measures in a broad sense: legal, housing, financial, health, shelters, police	43	Measures mainly consist of voluntary commitments, care notifications and Dutch guardianship to secure the return	Partly aligned
Measures must be available and readily accessible; they may need to be put in place before the return	44	Accessibility assessed in 5 decisions; implementation before return recorded in 1	Scope for further development
Efficacy depends on enforceability; voluntary undertakings are not easily enforceable	47	Voluntary commitments generally accepted as offered; enforceability addressed in 1 decision	Scope for further development
The 1996 Convention may facilitate the prompt and safe return of the child through protective measures (Arts 11, 23, 26)	48	Applied so far only to determine the law governing parental responsibility (Art. 16)	Untapped potential
Evidence limited to what is relevant; expeditious procedure; information on the child's social background through the Central Authority	50–53	Expeditious procedure with intensive child participation; information from the State of return occasionally sought	Largely aligned; scope for more structured information requests

Paragraph numbers refer to the Guide to Good Practice.

15.3 Assessment

Three conclusions emerge from the comparison. First, on the **threshold and the burden of proof**, Dutch practice is fully aligned with the Guide. Second, on the **structure of the analysis**, the alignment is partial. The Guide's two-step model is designed to ensure that, where assertions are sufficiently detailed and serious, the court proceeds to a concrete assessment of the protection available, rather than deciding the case on facts that cannot be resolved within the summary procedure. Several Dutch decisions follow this path — for instance by leaving contested facts open and turning to the child's situation on return — while others decide the case at the stage of establishing the facts or the link to the child, so that protective

measures are considered only in general terms. Third, on **protective measures**, the Guide's emphasis on accessibility, enforceability and efficacy, its guidance on undertakings and its reference to the 1996 Convention offer considerable scope for further development of Dutch practice.

Several recent decisions point in the direction the Guide and the international fora have taken: the Israeli case of 2025, in which both instances examined the specific offers made for the mother's protection, residence and housing and explained why they would not be effective; the explicit engagement with coercive control and the use of a structured risk-assessment instrument (Chapter 6.5); and return orders in which the Child Care and Protection Board arranged a concrete handover to identified services. Making the Guide an explicit point of reference — in the reasoning of decisions and in practice-oriented publications such as those developed within this project — would help to consolidate these developments and to make them part of a consistent approach.

16 Further patterns in the case law

The case law allows several further observations which go beyond the research questions of the project but bear directly on them.

16.1 The criminal-law dimension of return

In at least 14 of the 59 proceedings, criminal law played a role: a criminal complaint for abduction filed by the left-behind parent, a European arrest warrant, an expected arrest or detention on return, a condition of non-prosecution requested by the taking parent, or a commitment by the left-behind parent to withdraw a complaint. In 13 of these proceedings the taking parent was the mother.[182] In one case the mother had been arrested in the Netherlands at the request of the French authorities during the return proceedings; in another, the mother's police custody in the Netherlands had been suspended on condition that she did not leave the country.[183]

The criminal-law dimension works in two directions. Where arrest or detention on return is likely, it is one of the circumstances that most consistently lead to a refusal, because it would separate the child from the primary carer (Chapter 6.7). Where the left-behind parent offers to withdraw a complaint, the offer is typically treated as a protective arrangement — although, as the Moroccan case shows, such a commitment does not necessarily remove the risk of prosecution, which depends on the prosecuting authorities.[184] For a mother who has fled violence, the risk of prosecution is at once a consequence of the flight and a practical obstacle to a safe return. It deserves explicit attention in the risk assessment and, where relevant, in the choice of protective measures and in communication with the authorities of the State of return. The same concern was voiced at the Second HCCH Forum, where a representative of the Permanent Bureau observed that left-behind parents and competent authorities should consider the adverse effect that criminal proceedings may have on the taking parent and their feeling of safety, and a Scottish judge referred to a 2025 decision refusing return because an arrest warrant against the taking parent would place the child in an intolerable situation.[185]

16.2 When fathers take the child

In the eight proceedings in which the father was the taking parent, the allegations concerned abuse or neglect of the child by the mother, her new partner or her family, or the mother's alleged inability to care for the child. Return was ordered in seven. The one refusal concerned a German case in which, on the basis of new information from the certified institution, the Court of Appeal found the child seriously affected and the mother's household unsafe, with an aggressive new partner.[186] The single case of a reverse constellation is instructive: the father had retained the child in the Netherlands after the mother had reported domestic violence to the German police and moved to a women's shelter. His plea that the mother could not care for the child was rejected, and return was ordered with provisional guardianship

[182] E.g. Court of Appeal The Hague 20 January 2016, ECLI:NL:GHDHA:2016:67; Court of Appeal The Hague 6 February 2017, ECLI:NL:GHDHA:2017:246; Court of Appeal The Hague 18 October 2017, ECLI:NL:GHDHA:2017:3025; Court of Appeal The Hague 27 November 2018, ECLI:NL:GHDHA:2018:3229; Court of Appeal The Hague 10 April 2019, ECLI:NL:GHDHA:2019:3990; Court of Appeal The Hague 25 July 2023, ECLI:NL:GHDHA:2023:1400; Court of Appeal The Hague 3 December 2025, ECLI:NL:GHDHA:2025:2718; District Court The Hague 6 August 2026, ECLI:NL:RBDHA:2026:25713.

[183] Court of Appeal The Hague 27 November 2018, ECLI:NL:GHDHA:2018:3229; Court of Appeal The Hague 16 February 2022, ECLI:NL:GHDHA:2022:259.

[184] Court of Appeal The Hague 10 April 2019, ECLI:NL:GHDHA:2019:3990.

[185] HCCH, Forum Report 2025 (above), Annex, paras 133 and 139.

[186] Court of Appeal The Hague 22 August 2018, ECLI:NL:GHDHA:2018:2254.

and a care notification to the German youth-protection authorities.[187] The standards applied to fathers' allegations — substantiation against a reasoned denial and the weight of independent observations — are the same as those applied to mothers' allegations. In these cases, the independent material, such as the Board's observation of a warm relationship between the child and the mother, and school reports, generally pointed away from the allegations.

16.3 States not party to the Convention

Seven incoming proceedings concerned States that are not party to the 1980 Convention: Iran (three), Suriname, The Gambia, Algeria and the United Arab Emirates. The courts applied the Convention's criteria by analogy or as a point of orientation and, in substance, the same standards as in Convention cases. Arguments specific to these States — the legal position of divorced women, religious pressure, the risk of the mother's arrest, the security situation — were raised, sometimes under Article 20. They led to refusal when combined with a child's authentic objection and the separation of siblings.[188] In these cases, the assessment of protection in the State of return is particularly demanding: neither the cooperation mechanisms of the Convention and the 1996 Convention nor EU instruments are available, and information on the legal position of the returning parent may be difficult to obtain.

16.4 Siblings

Sibling relationships played a decisive role in a notable share of refusals. In six decisions, upholding an older child's objection led to the refusal of the return of a younger sibling in order not to separate them, and in one case the separation of a child from an autistic half-brother who could not return was decisive (Chapter 6.7). As almost half of the decisions (46 of 93) concern two or more children, the sibling dimension provides an important route to refusal that is independent of the allegation of violence.

16.5 Domestic-violence expertise in return proceedings

The most recent decisions show domestic-violence expertise from the Dutch system entering return proceedings: reports of Veilig Thuis, a MASIC risk screening by a specialised domestic-violence service, expert reports on coercive control and trauma, and the warning-signs tool for femicide and intimate terrorism.[189] The courts' responses vary, from using the instrument to structure the assessment to giving limited weight to screenings and reports because they are based on the information of one parent. This development is promising. Its full value can be realised if such instruments are used in a way that respects the adversarial character of the procedure — for instance by giving the other parent the opportunity to respond, and by combining the instruments with information from the State of habitual residence.

16.6 Other grounds for refusal

Consent or acquiescence was raised in 39 decisions and accepted at both instances of one proceeding; the habitual residence of the child was contested in several cases and was decisive in one reversal on

[187] Court of Appeal The Hague 26 April 2018, ECLI:NL:GHDHA:2018:1012.

[188] Court of Appeal The Hague 27 October 2023, ECLI:NL:GHDHA:2023:2066 (Algeria); Court of Appeal The Hague 13 October 2025, ECLI:NL:GHDHA:2025:2221 (Iran). For return orders see e.g. District Court The Hague 8 January 2020, ECLI:NL:RBDHA:2020:96 (Iran) and District Court The Hague 20 May 2025, ECLI:NL:RBDHA:2025:9894 (United Arab Emirates).

[189] Court of Appeal The Hague 8 September 2025, ECLI:NL:GHDHA:2025:1827; District Court The Hague 25 September 2025, ECLI:NL:RBDHA:2025:18246; Court of Appeal The Hague 5 February 2026, ECLI:NL:GHDHA:2026:188; District Court The Hague 9 July 2026, ECLI:NL:RBDHA:2026:22227.

appeal; and the settlement exception was applied once at first instance and reversed on appeal.[190] In cases involving domestic violence these threshold questions are of particular importance, because they may determine the outcome before the allegations of violence are examined.

[190] District Court The Hague 30 June 2016, ECLI:NL:RBDHA:2016:7893 and Court of Appeal The Hague 31 August 2016, ECLI:NL:GHDHA:2016:2675 (consent); Court of Appeal The Hague 3 April 2019, ECLI:NL:GHDHA:2019:758 (habitual residence); District Court The Hague 28 July 2017, ECLI:NL:RBDHA:2017:8480 and Court of Appeal The Hague 12 September 2017, ECLI:NL:GHDHA:2017:2625 (settlement).

17 Conclusions and recommendations

17.1 Answers to the research questions

How do Dutch courts interpret and apply Article 13(1)(b)? Dutch courts apply Article 13(1)(b) restrictively and in line with the core of the HCCH Guide to Good Practice: domestic violence does not in itself establish a grave risk, and the assessment focuses on the child. Violence is held established, fully or partly, in a limited number of decisions (13 of 93), and where it is assumed, the link to a grave risk for the child is frequently held insufficient; at least eight decisions reason expressly that the alleged violence, *even if* established, would not suffice. The child's exposure to violence against a parent is not often addressed as a question of fact, and patterns of coercive control have entered the case law since 2025. Refusals are most often reached through the child's separation from the primary carer or from siblings.

Does the concept of protective removal appear in the case law? The concept is not used as a legal category, in keeping with the structure of the Convention. A protective motive, advanced in 56 decisions, carries weight where the underlying violence is established and linked to the child; it was accepted as part of the reasoning in four decisions, all of them refusals; violence was decisive in three of them and contributory in one. In practice, protective removal is recognised as a background against which the consequences of return for the child's relationship with the primary carer are assessed.

How are allegations of domestic violence assessed within the summary procedure? Evidence independent of the parents' own accounts is decisive. Where it supported the allegation, Article 13(1)(b) was accepted in 11 of 14 decisions; where it pointed in the opposite direction, in none of 18; where there was none, in 4 of 44, each time on grounds other than the violence. The fact-finding instruments of the Dutch procedure — the special curator and the Child Care and Protection Board — are well suited to establishing the child's views and wellbeing, and less suited to establishing violence between the parents abroad.

How is the child's perspective taken into account? Children are involved to a high degree: a special curator was appointed in 63 decisions, and the child was heard directly in 49. The child's own views were engaged with in the reasoning in 48 decisions; in 32, the judgment records no views of the child, mostly because the children were very young. Children's accounts of violence are carefully weighed against the possibility of a loyalty conflict; a direct hearing by the appellate panel has on several occasions led to such accounts being accepted as authentic and to a different outcome.

How are protective measures used, and is their effectiveness in the State of habitual residence assessed? Protective measures are frequently discussed, but their availability, accessibility, enforceability and cross-border operability are verified in a small number of decisions. The fullest assessments of effectiveness are found in decisions refusing return; where return is ordered, protection is generally relied on in more general terms. Return orders have not been made conditional on specific measures, and the arrangements relied on consist mainly of voluntary commitments and care notifications. In most of the 36 return orders that relied on protection, a grave risk had already been found not to be established and the protection was addressed in general terms; it is recorded in the reasons rather than in the operative part, and the question of its recognition or enforcement in the State of return has not yet been addressed. Several arrangements described as adequate arrangements are, by their function, practical arrangements for the journey and arrival. The protection relied on is thus provided in forms (national measures, voluntary commitments recorded in the reasons, care notifications) that do not accompany the child across the border; Article 27(5) Brussels IIb offers the form that does, but its link to a grave risk that the return orders do not find has left it unused.

Are cooperation and communication tools used to assess safety on return? The Central Authority channel is used routinely for the transmission of applications and decisions. Information requests to the State of return about the availability of protection, and direct judicial communication, feature rarely in the reasons. The 36 return orders that rely on protection do not record a request to the authorities of the State of return for information on protection; in three appeal decisions refusing return, information obtained through such contacts, or the lack of it, was among the reasons why adequate arrangements were held not to be established.

What role do Article 20, the ECHR, the CRC and the Istanbul Convention play? Article 20 functions as a residual safeguard and has not served as an independent ground for refusal. Arguments based on the ECHR and the CRC are integrated into the Article 13(1)(b) assessment. The Istanbul Convention was invoked in seven decisions; its principal potential lies in providing an interpretive frame for an individual assessment of the risk of repeated violence.

How do appellate courts review the assessment of domestic violence, risk and protective measures? The Court of Appeal reversed about a quarter of first-instance outcomes. Reversals towards refusal are driven by new information and by hearing the child; reversals towards return turn on threshold questions. As cassation is in principle excluded, the Court of Appeal plays a central role in the development of the law in this field.

How does Dutch practice relate to recent international developments? Dutch practice is closely aligned with the HCCH Guide on the threshold and the burden of proof. The Guide's step-by-step analysis and its guidance on protective measures, as well as the protective instruments of the 1996 Convention and Article 27(5) Brussels IIb, offer considerable scope for further development — in line with the direction of the HCCH fora of 2024 and 2025. Developments elsewhere — the structured approach of the UK Supreme Court, the Australian family-violence regulations, the recommendations of the UN Special Rapporteur and Directive (EU) 2024/1385 — point in the same direction (Chapter 2.9).

17.2 Overall assessment

The Dutch courts apply Article 13(1)(b) with care, within a procedure that involves children to a high degree and that provides meaningful appellate review. The case law shows that allegations of domestic violence can and do lead to non-return: in published cases involving partner violence, return was refused in 41% of the proceedings. The route to protection, however, often runs *alongside* the violence rather than through it — through the child's separation from the primary carer, through the child's objection, through the absence of adequate arrangements. The violence itself is frequently held not established, or not linked to a risk for the child. At the same time, the protection on which a return relies is often described in general terms.

The two questions that matter most for the safety of a returning child — *what happened, and is it likely to continue?* and *what will protect the child and the carer upon return?* — are therefore not always answered explicitly in the reasons. A refusal grounded in a clear assessment of the violence and its effect on the child, and a return accompanied by concrete, verified and enforceable protection, are both fully consistent with the Convention and its object. The recommendations below concern the space between these two outcomes.

17.3 Recommendations

The recommendations below are addressed to all those involved in Dutch return proceedings — the District Court and the Court of Appeal in The Hague, the Child Care and Protection Board, the Central Authority, special curators and lawyers — and, where indicated, to the legislature and the authorities

concerned. They build on practices already present in the case law studied, and are offered as a contribution to the further development of a practice that applies Article 13(1)(b) with care (Chapter 17.2).

1. **A structured assessment along the lines of the HCCH Guide.** The Guide's step-by-step analysis — first whether the assertions, if true, could constitute a grave risk, including through the child's exposure to violence and its effect on the carer's capacity to care for the child, and then a concrete assessment of the protection available — offers a framework for cases in which the facts cannot be resolved within the summary procedure. Several decisions already take the first step, by reasoning on the assumption that the alleged violence is established (Table 6). Referring to the Guide in standard considerations would make this structure visible, promote consistency, connect Dutch case law with international practice and support the development of the law on the open questions identified in this report. The Guide is available in all official languages of the European Union, including Dutch (Chapter 2.9).
2. **The violence, its effect on the child and the risk on return.** Where the child's exposure to violence against a parent is alleged, an express finding on that exposure, and on its likely effect on the child on return, would make this part of the assessment more transparent (Chapters 6.4, 9.3 and 10.2). An express statement of whether, and on what basis, violence, threats or control are likely to continue after return would identify the risk against which the protection relied on is assessed (Chapters 6.6 and 10.2). Where the taking parent faces prosecution or arrest on return, express attention to that risk in the grave-risk assessment, in the choice of measures and in communication with the authorities of the State of return would address one of the circumstances that most consistently lead to a refusal (Chapter 16.1).
3. **Coercive control and the child's account of violence.** Structured risk-assessment instruments can help to recognise patterns of control; their use can be combined with the opportunity for the other parent to respond and with information from the State of habitual residence. Distinguishing between the assessment of the child's objection under Article 13(2) and the evidential value of the child's account of violence would give that account its own place in the reasoning.
4. **The protection relied on.** Where return is ordered in a case with arguable allegations of violence, the reasons could identify the specific measures relied on and address their availability, accessibility, enforceability and cross-border operation, taking into account the Guide's observations on voluntary undertakings. Distinguishing adequate arrangements in the State of return, measures of the return court and practical arrangements by their function, and recording the measures and commitments relied on in the operative part — what is to happen, who is to do it, when it takes effect, and what follows if it does not take place — would give them a clearer legal status.[191]
5. **The existing legal instruments and channels of communication.** Urgent protective measures under Article 11 of the 1996 Convention (non-EU Contracting States and Denmark) and under Article 27(5) read with Article 15 Brussels IIb (EU Member States) are available to the court, and Articles 32, 34 and 36 of the 1996 Convention and Article 86 Brussels IIb provide channels for obtaining information and communicating risks. Where protection is to accompany the child, its effect in the State of return can be secured through the certificate in Annex IV Brussels IIb, through Articles 23 and 26 of the 1996 Convention or — for States not party to that Convention — through a mirror order or a recognition procedure in the State of return before the return takes place. The parties and their lawyers can ask the court to make use of these instruments.[192] Direct judicial

[191] Chapters 10.2–10.5; Guide to Good Practice, paras 43–47 and 59; N. Rusinova, Practical Handbook on EU Family Law, Part 2 (above), Chapters 5.9 and 6.1.D.

[192] Chapter 10.6; Arts 15, 27(5), 30, 34 and 36(1)(c) and Annex IV Brussels IIb; Arts 11, 23 and 26 of the 1996 Convention; S v Q [2025] EWHC 2381 (Fam), paras 48–50.

communication through the International Hague Network of Judges is a further means of obtaining information on protection in the State of return; recording its outcome in the decision would make that information visible to the parties and to the courts of the State of return. In returns to another EU Member State, it may also be considered whether a civil protection measure for the returning parent — already in existence or obtainable — can accompany the return under Regulation (EU) No 606/2013. The obligation under Article 32 of Directive (EU) 2024/1385 to make information on domestic violence involving children available in civil proceedings concerning them is also relevant to return proceedings; its implementation is a matter for the legislature and the authorities concerned.

6. **A Dutch fact sheet on protective measures.** At the Second HCCH Forum, Lord Justice Cobb (England and Wales) presented the recently published fact sheet on protective measures of the Judiciary of England and Wales, which is designed to give those deciding abduction cases quick access to accurate and practical information on protective measures, including their recognition and enforcement, domestic abuse legislation and the role of local authorities, and he encouraged participants to develop fact sheets for their own jurisdictions; a Scottish fact sheet was published in October 2025. A comparable fact sheet on the protective measures available in the Netherlands, and on the recognition and enforcement of foreign measures here, would assist foreign courts in outgoing cases — 137 in 2025. To carry weight with foreign courts, it would best be prepared or endorsed by the Central Authority or the judiciary.[193]

17.4 Publications accompanying this report

The findings of this report are made accessible in two publications, each available in English and Dutch and published together with this report at nadiarusinova.com/research. Both are based exclusively on the findings set out in this report.

- *Domestic violence in Dutch return proceedings: Findings from the published case law under the 1980 Hague Child Abduction Convention, 2015–2026* (Dutch: *Huiselijk geweld in Nederlandse teruggeleidingsprocedures: bevindingen uit de gepubliceerde rechtspraak onder het Haags Kinderontvoeringsverdrag 1980, 2015–2026*). Written primarily for lawyers acting for either parent, in the Netherlands and abroad, and for the professionals who prepare material for the court, it sets out issue by issue what the published decisions show — on establishing the violence, the link between the violence and the child, coercive control, the separation route, the child, protective measures, information from the State of return, Article 20 and the appeal — with figures and quotations from the decisions and a selection of key decisions by issue.
- *Protective measures in Dutch return proceedings: Assessment, form and cross-border effect in the case law under the 1980 Hague Child Abduction Convention, 2015–2026* (Dutch: *Beschermende maatregelen in Nederlandse teruggeleidingsprocedures: beoordeling, vorm en grensoverschrijdende werking in de rechtspraak onder het Haags Kinderontvoeringsverdrag 1980, 2015–2026*). This research note sets out, for each element of the framework on protective measures, the applicable international and European standards alongside the findings from the published decisions: protection within the grave-risk assessment, the three mechanisms of adequate arrangements, measures of the return court and practical arrangements, voluntary commitments and the operative part, cross-border effect and information from the State of return. It concludes with observations that may be of use in the work within the Hague Conference on the cross-border recognition and enforcement of protection orders.

[193] HCCH, Forum Report 2025 (above), Annex, paras 30 and 133; Centrum IKO, *Jaarverslag 2025* (above).

Annex A — Analytical framework

Each decision was analysed on the basis of 79 variables, grouped in eleven themes. The framework distinguishes consistently between what was alleged by the parties and what the court found or decided, and between an express negative finding and the absence of a finding in the reasons.

Table 18. Themes and variables of the analytical framework

Theme	Variables
Identification and procedure	ECLI and link to the published decision; proceeding; case number; court; date of decision; instance; position of the decision in the proceeding; final decision in the proceeding; related decisions; procedural relationship; type of case (incoming Convention, incoming non-Convention, outgoing)
Setting of the case	Relevance of domestic violence (categories A–E); State of return; applicable framework (Brussels IIa/IIb, 1980 Convention, non-Convention); number and ages of the children; taking parent; timeline of removal and application
Allegations	Forms of violence alleged; alleged victims; direct abuse of the child; exposure of the child to violence between the parents; alleged pattern and duration; protective motive for the removal
Findings of the court on the violence	Forms of violence addressed; factual conclusion on the violence; factual conclusion on exposure; pattern and duration as characterised by the court; assessment of seriousness; legal relevance of the violence; link between violence and risk to the child; continuation or recurrence; response to the protective motive; coercive or controlling behaviour
Evidence and fact-finding	Types of evidence; independent corroboration (and its direction); assessment of the evidence; additional fact-finding; limitations of the summary procedure expressly stated
Article 13(1)(b)	Invocation; result; materiality of the violence to the result; basis of acceptance or reasons for rejection
Protective measures	Measures discussed; type of measure or arrangement; measures already in force; availability verified and source; accessibility and timeliness; recognition and enforceability; cross-border operability; effectiveness assessed in the concrete case; reliance on measures; implementation before return; return conditional on implementation; practical return arrangements
Cooperation and communication	Use of cooperation instruments; mechanism, purpose and result
The child's perspective	Direct hearing by the court; appointment of a special curator; views obtained through other routes; use of the child's views in the reasoning; objection under Article 13(2)
Human rights and other grounds	Article 20; ECHR, CRC and Istanbul Convention; positive obligations and secondary victimisation; guidance and case law cited; consent or acquiescence; other grounds and threshold questions
Outcome and appeal	Outcome at this instance; decisive legal ground; return terms and safeguards; appellate disposition; change in the assessment of the violence on appeal; first-instance outcome; scope of appellate review; summary of the reasoning; paragraph references

Annex B — Sources

Treaties and legislation

- Convention on the Civil Aspects of International Child Abduction, The Hague, 25 October 1980.
- Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children, The Hague, 19 October 1996.
- Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), Rome, 4 November 1950.
- United Nations Convention on the Rights of the Child, New York, 20 November 1989.
- Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), CETS No. 210, Istanbul, 11 May 2011.
- Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility (Brussels IIa).
- Council Regulation (EU) 2019/1111 of 25 June 2019 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction (recast) (Brussels IIb).
- Regulation (EU) No 606/2013 of the European Parliament and of the Council of 12 June 2013 on mutual recognition of protection measures in civil matters.
- Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order.
- Directive (EU) 2024/1385 of the European Parliament and of the Council of 14 May 2024 on combating violence against women and domestic violence.
- Family Law (Child Abduction Convention) Amendment (Family Violence) Regulations 2022 (Australia), F2022L01611.
- International Child Abduction Implementation Act (Uitvoeringswet internationale kinderontvoering), as revised by the Act published in the Bulletin of Acts and Decrees (Staatsblad) 2011, 530.
- Decree on the selection criteria for the Rechtspraak.nl decisions database (Besluit selectiecriteria uitsprakendatabank Rechtspraak.nl) 2024 (as most recently adopted on 23 June 2026), https://www.rechtspraak.nl/uitspraken/selectiecriteria.

Case law

- The 93 decisions of the District Court of The Hague and the Court of Appeal of The Hague analysed in this report, available at https://uitspraken.rechtspraak.nl.
- Supreme Court 20 January 2006, ECLI:NL:HR:2006:AU4795.
- Supreme Court 28 September 2007, ECLI:NL:HR:2007:BB3193.
- Supreme Court 17 June 2011, ECLI:NL:HR:2011:BQ4833.
- Supreme Court 9 December 2011, ECLI:NL:HR:2011:BU2834.
- Supreme Court 5 July 2019, ECLI:NL:HR:2019:1085.
- ECtHR (GC) 6 July 2010, *Neulinger and Shuruk v. Switzerland*, no. 41615/07.

- ECtHR (GC) 26 November 2013, *X v. Latvia*, no. 27853/09.
- ECtHR 19 July 2016, *G.N. v. Poland*, no. 2171/14.
- ECtHR 9 September 2025, *M.P. and Others v. Greece*, no. 2068/24.
- ECtHR 21 May 2019, *O.C.I. and Others v. Romania*, no. 49450/17.
- CJEU 11 July 2008, C-195/08 PPU, *Rinau*; CJEU 1 July 2010, C-211/10 PPU, *Povse*; CJEU 22 December 2010, C-491/10 PPU, *Aguirre Zarraga*.
- CJEU 8 June 2017, C-111/17 PPU, *OL v PQ*; CJEU 17 October 2018, C-393/18 PPU, *UD v XB*; CJEU 16 February 2023, C-638/22 PPU, *Rzecznik Praw Dziecka and Others*.
- UK Supreme Court, *Re E (Children) (Abduction: Custody Appeal)* [2011] UKSC 27.
- US Supreme Court, *Golan v. Saada*, 596 U.S. 666 (2022).

HCCH documents

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ABOUT THIS REPORT

This report examines how Dutch courts deal with allegations of domestic violence in return proceedings under the 1980 Hague Child Abduction Convention. It analyses all 93 published decisions of the Rechtbank Den Haag and the Gerechtshof Den Haag, delivered between January 2015 and August 2026, in which domestic violence or child abuse was raised, and sets the findings against the HCCH Guide to Good Practice on Article 13(1)(b), the Brussels IIb Regulation and the 1996 Child Protection Convention.

ABOUT THE RESEARCH

This report is the main output of the research project *Domestic Violence and the Protection of the Child in Dutch Return Proceedings under the 1980 Hague Child Abduction Convention*, carried out from January to November 2026 with a research grant from the MoGa Foundation and the support of Centrum Internationale Kinderontvoering (Centrum IKO).

Accompanying publications

Domestic violence in Dutch return proceedings — Findings from the published case law under the 1980 Hague Child Abduction Convention, 2015–2026

Protective measures in Dutch return proceedings — Research note on assessment, form and cross-border effect

The report and all project publications: **nadiarusinova.com/research**