RESEARCH FINDINGS

OCTOBER 2026

Domestic violence in Dutch return *proceedings*

under the 1980 Hague Child Abduction Convention

Findings from the published case law, 2015–2026

Nadia Rusinova

A research project supported by the MoGa Foundation · nadiarusinova.com/research

Contents

01	About this publication	2
02	The case law at a glance	4
03	Establishing the violence	5
04	Linking the violence to the child	8
05	Coercive control and structured risk tools	10
06	The separation route	12
A	Key decisions by issue, and sources	28
07	The child	14
08	Protective measures	16
09	Information from the State of return	20
10	Article 20 and human-rights arguments	22
11	The appeal	24
12	Points for lawyers	26

01 About this publication

This publication brings together what the published Dutch case law shows about allegations of domestic violence in return proceedings under the 1980 Hague Child Abduction Convention. It is written for lawyers acting for either parent, in the Netherlands and abroad, and for the professionals who prepare material for the court, such as special curators, the Raad voor de Kinderbescherming and the services that support parents and children.

It rests on all 93 published decisions of the Rechtbank Den Haag (51) and the Gerechtshof Den Haag (42), delivered between 26 January 2015 and 6 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 published as a rule, they come close to the full body of Dutch case law in this field rather than a selection of it.

The analysis records what the published reasons say. Where the reasons do not address a question, that is a finding about the reasons, not about what a court may have considered. The publication does not describe Dutch procedural law and is not legal advice. Nor does it replace the HCCH Guide to Good Practice on Article 13(1)(b) (2020), referred to here as the HCCH Guide.

Figures refer to decisions, out of 93, unless proceedings, out of 59, are mentioned. Outcomes count each proceeding once, with the result of its latest published decision. Passages from the decisions are quoted in the original Dutch, followed by an English translation by the author; words in square brackets are the anonymisations of the published text, and "r.o." (*rechtsoverweging*) refers to the numbered grounds of a decision.

THE RESEARCH PROJECT

This publication is part 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 by Nadia Rusinova from January to November 2026. The project was made possible by a research grant from the MoGa Foundation, which aims to promote academic research in the field of family law, and was carried out with the support of Centrum Internationale Kinderontvoering (Centrum IKO). Natali Dimitrova was the research associate.

The project addresses ten research questions on how Dutch courts identify, assess and respond to allegations of domestic violence in return proceedings, from the interpretation of Article 13(1)(b) to protective measures, cooperation between authorities and appellate review. Its research report (October 2026), which sets out the full analysis and the method, is published together with this publication at nadiarusinova.com/research.

02 The case law at a glance

Return was refused in 19 of the 58 proceedings that reached a final decision (33%), and in 41% of those involving partner violence, but the violence itself was decisive in only 3 refusals. Most refusals were reached by another route, above all the child's separation from the primary carer.

19 of 58
proceedings ended in refusal of return (33%)

15 of 37
refusals where violence between the parents or in the household was alleged (41%)

3 of 19
refusals in which the violence was decisive; one element among several in 8 more

13 of 93
decisions held the violence established, fully or partly; 54 held it not established

63 of 93
decisions found no sufficient link between the violence and a grave risk for the child

11 of 14
acceptances of Art. 13(1)(b) where independent material supported the allegation; 0 of 18 where it pointed the other way

1 of 36
return orders relying on protection verified its availability with a concrete source

11 of 42
first-instance outcomes were reversed on appeal

50 of 59
proceedings had the mother as the taking parent

Where only abuse of the child by the left-behind parent or household was alleged, return was refused in 3 of 16 proceedings (19%). The proceedings concern 22 identifiable States of return; 38 were governed by Brussels IIa or IIb, and 43 concerned a State that is also a party to the 1996 Hague Child Protection Convention.

03 Establishing the violence

Whether the violence can be established is usually the decisive question, and material independent of the parents' own accounts settles it. Where such material 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 there was none, in 4 of 44, each time on grounds other than the violence.

THE STANDARD APPLIED

The courts interpret Article 13(1)(b) restrictively and place the burden on the parent opposing return, citing Hoge Raad 20 January 2006, ECLI:NL:HR:2006:AU4795 (in 21 decisions). In practice this means substantiating the facts against a reasoned denial (*gemotiveerde betwisting*). The violence was held established in 3 decisions, partly established in 10, plausible but not established in 4, and not established in 54. In 11 the court left the question open, and in 10 it did not need to reach it.

There is little room for gathering evidence during the proceedings. Seven decisions expressly cite the summary nature of the procedure as a reason not to establish the facts further:

> *Voor het horen van getuigen is in een procedure als de onderhavige, gelet op het spoedeisend karakter, geen plaats.*
>
> There is no room for hearing witnesses in proceedings such as these, given their urgent nature.
>
> Hof Den Haag 18 March 2015, ECLI:NL:GHDHA:2015:586, r.o. 7

> *Het hof passeert dit aanbod nu het hier een spoedprocedure betreft … gericht op een onverwijlde teruggeleiding ingeval van kinderontvoering.*
>
> The court declines this offer [of further evidence], since this is an urgent procedure … aimed at the immediate return of the child in cases of child abduction.
>
> Hof Den Haag 5 February 2026, ECLI:NL:GHDHA:2026:188, r.o. 5.20

HOW PARTICULAR MATERIAL WAS ASSESSED

Material	How the court assessed it	Decision
Police reports or documents recording only the mother's account, without prosecution	Did not establish the violence	ECLI:NL:RBDHA:2016:4758; ECLI:NL:GHDHA:2021:1738; ECLI:NL:GHDHA:2026:2622
Two Polish "blue card" notifications, with the children's statements to the special curator	Did not establish that violence had taken place	ECLI:NL:GHDHA:2019:2530
A stay in a women's shelter, without police reports	Insufficient	ECLI:NL:RBDHA:2019:9643
A hospital record of a displaced, heavily bleeding nose	The cause could not be established "in dit geding"	ECLI:NL:RBDHA:2020:96
A MASIC risk screening carried out with the mother only	Limited weight	ECLI:NL:GHDHA:2025:1827, r.o. 5.19
Expert reports on coercive control and trauma	Set aside: "enkel gebaseerd op informatie van de moeder"	ECLI:NL:GHDHA:2026:188, r.o. 5.16
Statements of family members and friends	Generally not regarded as sufficiently objective	e.g. ECLI:NL:RBDHA:2015:1822
Criminal convictions	Weighed against what they prove: not decisive where the conviction concerned the mother's former husband, the abuse of a sibling (not yet final) or a single assault	ECLI:NL:RBDHA:2015:751; ECLI:NL:GHDHA:2020:2063; ECLI:NL:GHDHA:2017:3025
Reports of the Raad and the special curator	Supported a finding of violence	ECLI:NL:GHDHA:2020:710
Photographs, audio recordings and a partial admission by the father	Supported the mother's account	ECLI:NL:GHDHA:2025:2410, r.o. 5.14
A detailed account, contested by the father only in general terms	Accepted, assessed with the *signalenwijzer femicide en intieme terreur*	ECLI:NL:RBDHA:2025:18246
A letter of the Danish Agency of Family Law (*Familieretshuset*)	Relied on in a refusal in which the violence was decisive	ECLI:NL:RBDHA:2026:25713
The child's account, after the Gerechtshof heard the child itself	Found authentic	ECLI:NL:GHDHA:2019:3990; ECLI:NL:GHDHA:2023:2066

The independent material before the courts pointed away from the allegation more often than towards it (18 decisions against 14). Much of it came from the Dutch procedure itself: observations by the special curator or the Raad of a warm, fearless relationship between the child and the left-behind parent, or school reports without

concerns. Such material shows how the child relates to that parent; it says less about what happened between the parents abroad.

In every decision in which the violence was decisive or contributory to the acceptance of Article 13(1)(b), independent material supported the allegation, fully (10) or in part (2). No refusal in the published case law rested on the taking parent's own account alone.

WHEN THE FACTS WERE LEFT OPEN

In some decisions the court did not resolve the factual dispute and turned directly to the child's situation on return. Several of these ended in refusal:

> *kan noch vastgesteld, noch uitgesloten worden dat er sprake is geweest van huiselijk geweld*
>
> it can be neither established nor excluded that there has been domestic violence
>
> Hof Den Haag 15 June 2016, ECLI:NL:GHDHA:2016:1714, r.o. 10

The Gerechtshof then refused return because the very young, vulnerable children would have no housing or assistance in Belgium. The same approach appears in the Moroccan case of 2019 (ECLI:NL:GHDHA:2019:3990). It corresponds to the first step of the HCCH Guide, which asks whether the assertions, if true, could constitute a grave risk, without first resolving every factual dispute (para. 40).

04 Linking the violence to the child

Establishing violence is rarely enough: in 63 decisions the court found no sufficient link between the alleged violence and a grave risk for the child, and a link was accepted in 14. The courts ask what the violence means for this child on return.

THE "EVEN IF" REASONING

At least eight decisions reason that the alleged violence, even if established, would not in itself amount to a grave risk for the child:

> *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.*
>
> 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.
>
> Hof Den Haag 15 September 2021, ECLI:NL:GHDHA:2021:1738, r.o. 5.18

The other decisions in this line are Rb. Den Haag 22 February 2018, ECLI:NL:RBDHA:2018:2690; Hof Den Haag 6 November 2019, ECLI:NL:GHDHA:2019:3878; Rb. Den Haag 8 January 2020, ECLI:NL:RBDHA:2020:96; Hof Den Haag 9 February 2023, ECLI:NL:GHDHA:2023:213, r.o. 5.26; Rb. Den Haag 13 December 2023, ECLI:NL:RBDHA:2023:19616; Hof Den Haag 8 September 2025, ECLI:NL:GHDHA:2025:1827, r.o. 5.19 (applied to coercive control); and Hof Den Haag 16 July 2026, ECLI:NL:GHDHA:2026:2622. Two further decisions apply the same technique to adequate arrangements (ECLI:NL:GHDHA:2024:103, r.o. 5.23; ECLI:NL:GHDHA:2024:892, r.o. 5.17).

The clearest statement in the other direction is the Czech case of 2017, in which return was refused:

> *... niet alleen voor de veiligheid van de moeder maar ook voor die van het kind moet worden gevreesd.*
>
> ... there is reason to fear not only for the safety of the mother but also for that of the child.
>
> Rb. Den Haag 31 January 2017, ECLI:NL:RBDHA:2017:1032

That reasoning has not been developed into a general line in later decisions.

WHAT THE REASONS ADDRESS, AND WHAT THEY OFTEN LEAVE OUT

Element	How often the courts addressed it
The child's exposure to violence against a parent	Alleged in 34 decisions; a factual finding in 21 (established 6, partly 4, not established 10, not expressly determined 1); not addressed in 64 of the 93
The frequency or pattern of the violence	A repeated or structural pattern alleged in 60; characterised by the court in 19, often in limiting terms
Whether violence would continue or recur after return	Expressly addressed in 6, partly in 13, not addressed in 66
The effect of the violence on the carer's ability to care for the child	Rarely articulated in relation to the violence; present mainly in decisions on the mother's arrest, residence status or mental health

A single proven incident may not suffice. In one appeal, a Dutch criminal conviction for an assault in the child's presence, together with the mother's post-traumatic stress, was held insufficient because the material did not show violence "op structurele basis" (on a structural basis) (Hof Den Haag 18 October 2017, ECLI:NL:GHDHA:2017:3025, r.o. 19).

THE HCCH FRAMEWORK

The Dutch insistence on a link to the child matches the HCCH Guide, under which evidence of domestic violence is not sufficient "in and of itself" (para. 58). The Guide also recognises that harm to a parent may create a grave risk for the child (para. 33), that the child may be harmed through exposure to violence against the parent or through the impairment of the parent's ability to care (para. 57), and that the assessment looks forward to the situation on return (paras 35–37). The 2023 Special Commission confirmed that Article 13(1)(b) "does not require, for example, that the child be the direct or primary victim" (C&R No 25). These are the points that most often remain unaddressed in the Dutch reasons.

05 Coercive control and structured risk tools

Coercive control has entered the case law only recently: it was analysed as such in four decisions, all from 2025–2026, partly addressed in three more and mentioned without analysis in two. What decided these cases was whether the assessment rested on one parent's information alone.

Allegations of control were made far more often than they were analysed: isolation, economic control, surveillance, confiscation of passports and control over daily life. In one case a mother described being kept abroad for eighteen months with her passport withheld (ECLI:NL:RBDHA:2021:16125); in another the father was said to "decide everything" (ECLI:NL:RBDHA:2025:9894).

Case	What the court did	Outcome
Poland, 2025 (Rb. Den Haag 22 July 2025, ECLI:NL:RBDHA:2025:14296; Hof Den Haag 8 September 2025, ECLI:NL:GHDHA:2025:1827, r.o. 5.19)	The Rechtbank called the father's statements "extreem" and understood the mother's fear, but found no grave risk for the child. The Gerechtshof held coercive control not established because the MASIC screening was carried out with the mother only, and added that even established coercive control would require a risk to the child's own safety	Return ordered
Spain, 2026 (Hof Den Haag 5 February 2026, ECLI:NL:GHDHA:2026:188, r.o. 5.16 and 5.20)	Expert reports on coercive control and trauma were "enkel gebaseerd op informatie van de moeder", and the expertise of their authors was insufficiently clear; further evidence was declined in view of the urgent procedure	Return ordered
Israel, 2025 (Rb. Den Haag 25 September 2025, ECLI:NL:RBDHA:2025:18246; Hof Den Haag 13 November 2025, ECLI:NL:GHDHA:2025:2410, r.o. 5.14)	The Rechtbank used the Dutch warning-signs tool for femicide and intimate terrorism (*signalenwijzer femicide en intieme terreur*) to structure its assessment of the mother's detailed account, which the father had contested only in general terms. The Gerechtshof affirmed, relying on photographs, audio recordings and the father's partial admission	Return refused

The Gerechtshof's reasoning in the Polish case shows the concern on the other side:

> *Moviera wijst erop dat de factsheet is gebaseerd op de informatie vanuit (uitsluitend) de moeder.*
>
> Moviera points out that the factsheet is based on information from (solely) the mother.
>
> Hof Den Haag 8 September 2025, ECLI:NL:GHDHA:2025:1827, r.o. 5.19

The pattern across these decisions is consistent. A screening or expert report based only on the mother's information was given limited weight. A detailed account that the other parent did not specifically contest, supported by recordings and a partial admission, was accepted. How such tools can be used while giving the other parent an opportunity to respond is a question the case law has not yet settled.

06 The separation route

The most frequent route to refusal is not proven violence but the child's separation from the primary carer or from siblings. Of the 19 refusals, the violence was decisive in 3 and one element in a combination of circumstances in 8; in the remaining 8 it played no identifiable role or the refusal rested on another ground.

The circumstances that led to refusal through separation were:

Circumstance	Decisions
The mother's likely arrest or detention in the State of return	France 2018 (ECLI:NL:RBDHA:2018:12413; ECLI:NL:GHDHA:2018:3229); Morocco 2019 (ECLI:NL:GHDHA:2019:3990); Denmark 2026 (ECLI:NL:RBDHA:2026:25713)
The mother's inability to reside, work or house herself lawfully in the State of return	Israel 2025 (ECLI:NL:RBDHA:2025:18246; ECLI:NL:GHDHA:2025:2410); a State not disclosed, 2026 (ECLI:NL:RBDHA:2026:9891)
The mother's mental-health crisis and a young child's attachment to her	Poland 2024 (ECLI:NL:GHDHA:2024:893)
An older child's objection upheld, so that returning a younger sibling alone would separate the siblings	Six decisions, e.g. England 2018 (ECLI:NL:GHDHA:2018:296), Algeria 2023 (ECLI:NL:GHDHA:2023:2066), Iran 2025 (ECLI:NL:GHDHA:2025:2221)
Separation from a disabled half-brother who could not return	Poland 2015 (ECLI:NL:RBDHA:2015:1628)

In several of these cases the court made no finding on the violence at all:

> *De rechtbank is van oordeel dat in dit geval een (al dan niet tijdelijke) scheiding van haar moeder [minderjarige] in een ondraaglijke toestand zou brengen.*
>
> The court holds that in this case a separation from her mother, whether or not temporary, would place [minor] in an intolerable situation.
>
> Rb. Den Haag 12 October 2018, ECLI:NL:RBDHA:2018:12413 (European arrest warrant against the mother)

> *omdat zij dan feitelijk van de moeder gescheiden zullen worden*
>
> because they would then in fact be separated from the mother
>
> Rb. Den Haag 19 March 2026, ECLI:NL:RBDHA:2026:9891 (no finding on the alleged structural violence, death threats and extortion)

THE CRIMINAL-LAW DIMENSION

Criminal law played a role in at least 14 of the 59 proceedings, in 13 of them with the mother as the taking parent: a complaint for abduction by the left-behind parent, a European arrest warrant, an expected arrest on return, a requested condition of non-prosecution, or an offer to withdraw a complaint. A likely arrest of the primary carer is among the circumstances that most consistently led to refusal. An offer to withdraw a complaint does not necessarily remove that risk:

> *Het hof neemt daarbij in aanmerking dat de vader ter zitting niet heeft kunnen verduidelijken of het Marokkaanse Openbaar Ministerie niet zelfstandig tot vervolging van de moeder zal overgaan indien hij de aangifte tegen haar intrekt.*
>
> The court takes into account that the father was unable to clarify at the hearing whether the Moroccan Public Prosecution Service would refrain from prosecuting the mother of its own accord if he withdrew his complaint against her.
>
> Hof Den Haag 10 April 2019, ECLI:NL:GHDHA:2019:3990, r.o. 22

The route provides real protection, because it allows refusal without resolving contested allegations in a summary procedure. It also leaves the violence itself largely unassessed, and moves the case onto circumstances that are easier to prove: an arrest warrant, a residence permit, a medical record.

07 The child

Children are closely involved in Dutch return proceedings: a special curator was appointed in 63 decisions and the child was heard directly by the court in 49. The child's voice matters in two distinct ways, as an objection under Article 13(2) and as evidence of the violence, and the courts treat them differently.

PARTICIPATION

In 65 decisions the special curator, the Raad or another professional reported on the child; in 13 of these, all concerning very young children, the report described the child's behaviour and attachment rather than the child's views. Children were heard in chambers, sometimes by the full three-judge panel, and by telephone or video link in 11 decisions. A request for a special curator was refused in two decisions, in one with reference to the court's general practice of not appointing a curator for children under three (ECLI:NL:GHDHA:2019:3878; ECLI:NL:GHDHA:2020:2020).

THE OBJECTION UNDER ARTICLE 13(2)

A child's objection was raised in 36 decisions and upheld in 8. The children whose objection was upheld were generally between ten and fourteen; the youngest was almost ten. In six of the eight, upholding an older child's objection led the court to refuse the return of a younger sibling under Article 13(1)(b) as well. Where the objection failed (28 decisions), the courts pointed to the child's age or maturity (9), a loyalty conflict (9), a preference rather than an objection (6), or statements found not authentic or influenced (6); several decisions combine these reasons.

THE CHILD'S ACCOUNT OF VIOLENCE

Children's accounts of being hit, of witnessing violence against the mother, or of fear of the father were weighed against the possibility of a loyalty conflict or influence by the taking parent (e.g. ECLI:NL:GHDHA:2019:2530; ECLI:NL:GHDHA:2025:875). On appeal, however, a direct hearing by the Gerechtshof led more than once to the account being accepted and the outcome reversed:

> *Naar het oordeel van het hof is [minderjarige 1] authentiek in haar uitingen, …*
>
> In the court's judgment, [minor 1] is authentic in what she expresses …
>
> Hof Den Haag 27 October 2023, ECLI:NL:GHDHA:2023:2066, r.o. 5.12

In that case the full panel heard both children and accepted the eleven-year-old's consistent account of regular beatings; "anders dan de rechtbank" (unlike the Rechtbank), it refused return. The Moroccan case of 2019 followed the same pattern (ECLI:NL:GHDHA:2019:3990).

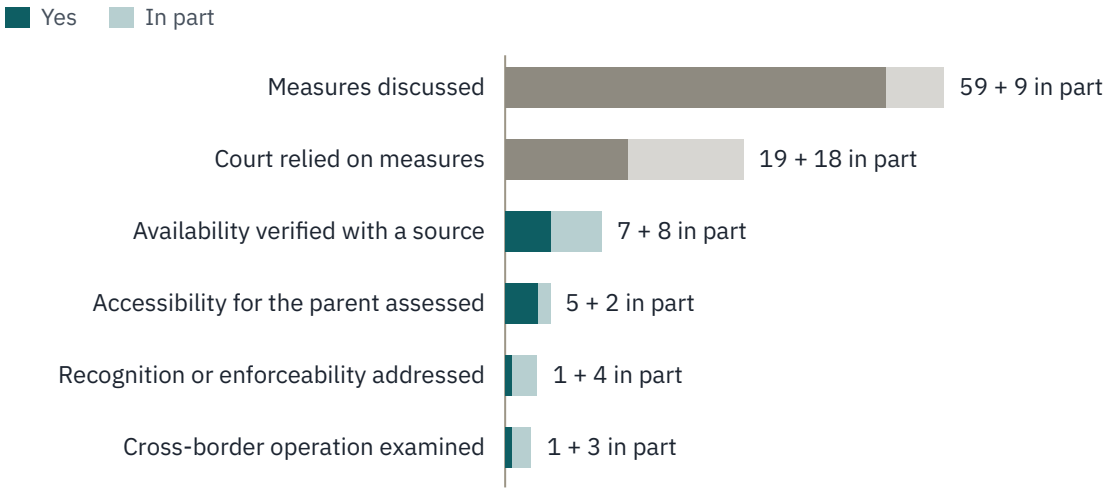
The child's present distress could be decisive on its own. The Gerechtshof refused return to Belgium because an eleven-year-old was in acute psychological distress, with death wishes at the prospect of return, and expressly left open whether his fears stemmed from real experiences with his father (Hof Den Haag 24 February 2022, ECLI:NL:GHDHA:2022:467).

08 Protective measures

Protection in the State of return is discussed often but verified rarely: of the 36 return orders that relied on protective measures, one verified their availability with a concrete source, and none recorded them in the operative part. The full, concrete assessments of effectiveness are all found in refusals.

Protection is discussed in most decisions but verified in few

Decisions addressing each element of protective measures (n = 93)



Source: research dataset, 93 decisions, 2015–2026. The one full examination of cross-border operation found that the measure could not operate.

The narrowing is steepest in return orders. Six of the seven decisions that verified availability with a concrete source refused return; all 15 full assessments of effectiveness are refusals.

RETURN ORDERS THAT RELIED ON PROTECTION

Of the 63 decisions ordering return, 36 relied on protective measures in their reasoning on Article 13(1)(b), 19 expressly and 17 in part. Thirty concerned a return to an EU Member State (Article 11(4) Brussels IIa in 18, Article 27(3) Brussels IIb in 12), five a non-EU Contracting State, and one a State not party to the Convention. In 30 of the 36 the alleged violence had been held not established, and in all 36 the court had found no sufficient link to a grave risk for the child. Protection therefore typically appears as an additional ground, which may explain why it was rarely examined in detail.

Element of the assessment (36 return orders)	Yes	In part	No / not addressed
Availability verified with a concrete source	1	8	27
Accessibility and timeliness for the returning parent	1	1	34
Recognition or enforceability in the State of return	0	2	34
Operation across the border	0	3	33
Effectiveness for this child and this parent	0	3	33
Measure implemented before return	1	8	27
Return made conditional on a measure	0	0	36
Protection recorded in the operative part	0	0	36

Where verification was recorded in part, it usually rested on material that did not come from the authorities of the State of return: a letter from a foreign agency produced by the father, a statement relayed through the applicant's lawyer, or the Raad's statement at the hearing that it would notify the foreign services. Only one return order found it established that a foreign child-protection authority was already involved with the family (Hof Den Haag 26 October 2020, ECLI:NL:GHDHA:2020:2063, r.o. 5.17–5.19).

WHAT THE PROTECTION RELIED ON CONSISTED OF

Characteristic (36 return orders; categories overlap)	Decisions
Undertakings of the left-behind parent, recorded only in the reasons	14
A care notification, "warm handover" or "soft landing" by the Raad relied on as protection	12
A general reference to protection in the State of return only	6
Withdrawal of a criminal complaint, where discontinuance depends on the prosecuting authorities	5
A State of return not party to the 1996 Convention, with protection consisting of undertakings or a general reference	3

Undertakings were generally accepted as offered:

> *Het hof gaat er van uit dat de man zijn toezeggingen gestand zal doen.*
>
> The court assumes that the husband will honour his undertakings.
>
> Hof Den Haag 6 February 2017, ECLI:NL:GHDHA:2017:246; similarly Hof Den Haag 5 February 2026, ECLI:NL:GHDHA:2026:188

Conditions requested by mothers were declined in all four decisions in which they were requested:

> *Het hof acht het niet in lijn met de geest van het HKOV om aanvullende voorwaarden te stellen aan de teruggeleiding van de minderjarige naar [land].*
>
> The court does not consider it in keeping with the spirit of the Convention to attach additional conditions to the return of the minor to [country].
>
> Hof Den Haag 18 October 2017, ECLI:NL:GHDHA:2017:3025, r.o. 26

In 2025 the Gerechtshof declined measures under Article 27(5) Brussels IIb "reeds om de reden dat … geen sprake is van een ernstig risico" (if only because there is no grave risk) (ECLI:NL:GHDHA:2025:1827, r.o. 5.27). In a case outside the dataset, conditions addressed to the Dutch and Belgian prosecuting authorities were set aside because those authorities were not parties and could not be bound (Hof Den Haag 25 May 2023, ECLI:NL:GHDHA:2023:990).

WHAT THE REFUSALS SHOW

Where protection was assessed concretely, the reasons identified the risk, the protection on offer and why it fell short:

> *… dat die voorzieningen onder deze omstandigheden en voor deze minderjarigen, niet als adequaat kunnen worden aangemerkt.*
>
> … that those arrangements cannot be regarded as adequate in these circumstances and for these minors.
>
> Hof Den Haag 14 February 2018, ECLI:NL:GHDHA:2018:296, r.o. 17

Other refusals turned on a safety plan that did not show the family would actually receive help, while the US authorities had not responded in substance (ECLI:NL:GHDHA:2020:710, r.o. 5.24); help that was not accessible because the child was not registered (ECLI:NL:GHDHA:2022:467, r.o. 5.16); and "geen enkele garantie" (no guarantee whatsoever) that the mother's prosecution would stop (ECLI:NL:GHDHA:2018:3229). In the Israeli case, the Gerechtshof noted that the father "geen enkele inzet toont om de terugkeer van moeder te faciliteren" (shows no effort whatsoever to facilitate the mother's return) (ECLI:NL:GHDHA:2025:2410, r.o. 5.14).

THREE MECHANISMS, AND WHAT EACH CAN DO

In returns within the EU, three legally distinct mechanisms are often treated as one:

Mechanism	Legal basis	Created by	Effect in the State of return
Adequate arrangements in the State of return	Art. 27(3) Brussels IIb (formerly Art. 11(4) Brussels IIa)	The authorities of that State; the return court verifies them but cannot create them	Exist under that State's law
Provisional, including protective, measures of the return court	Art. 27(5) with Art. 15 Brussels IIb	The return court	Recognised and enforceable in the other Member States, with the certificate in Annex IV
Practical or soft-landing arrangements, including the Raad's care notification	—	The court, the Raad, the parties	None of their own; they facilitate the return but do not address a grave risk

For returns to non-EU Contracting States of the 1996 Convention and to Denmark, urgent measures under Article 11 of that Convention are recognised by operation of law (Art. 23) and can be declared enforceable (Art. 26). A civil protection measure for the returning parent can circulate between EU Member States under Regulation (EU) No 606/2013. None of the 93 decisions used any of these instruments to give protection effect in the State of return.

QUESTIONS THE CASE LAW SHOWS TO BE DECISIVE

Question	Why it mattered
What exactly is offered?	General references to agencies or EU membership were accepted in return orders; refusals turned on what was specifically available (HCCH Guide, para. 43)
Who provides it, and from when?	Measures may need to be in place before the return (Guide, para. 44)
Is it accessible to this parent?	Residence status, housing and income decided several refusals
Is it enforceable there?	Voluntary undertakings are not easily enforceable (Guide, para. 47; 2023 Special Commission, C&R No 31)
Will it have effect across the border?	Undertakings and care notifications in the reasons have none of their own
Can a criminal risk actually be removed?	Withdrawal of a complaint does not bind the prosecutor (ECLI:NL:GHDHA:2019:3990, r.o. 22)

09 Information from the State of return

Material from the State of habitual residence decided cases in both directions, yet none of the 36 return orders that relied on protection records a request to that State for information about the protection available. Where such information was sought, it shaped the result.

- **Foreign findings of no concern were generally followed**, for example those of a German local court (ECLI:NL:RBDHA:2018:8810) and a Belgian social investigation (ECLI:NL:RBDHA:2025:4898).
- **A foreign authority's confirmation counted the other way.** A letter of the Danish *Familieretshuset* stating that the mother was a victim of domestic violence witnessed by the children formed part of the basis for refusal: "Uit het bericht blijkt dat de moeder slachtoffer is van huiselijk geweld" (the message shows that the mother is a victim of domestic violence) (ECLI:NL:RBDHA:2026:25713). It was produced by the mother; no information was requested by the court.
- **Attempts to reach the State of return led to refusals when they failed.** In three appeals, the Raad or the family guardian approached the foreign authorities, and the absence of cooperation, registration or a substantive response was among the reasons why adequate arrangements were held not established: Bulgaria (ECLI:NL:GHDHA:2015:586, r.o. 20), Belgium (ECLI:NL:GHDHA:2016:1714, r.o. 13) and the United States (ECLI:NL:GHDHA:2020:710, r.o. 5.24). In a German case, the absence of any contact between the Dutch and foreign youth services was itself a reason (ECLI:NL:GHDHA:2018:2254, r.o. 17–18).

> *... de raad via de Centrale Autoriteit wel contact heeft gezocht met zijn Bulgaarse tegenhanger ... de Centrale Autoriteit nog altijd geen contact heeft kunnen verkrijgen met de Bulgaarse autoriteiten ...*
>
> ... the Raad did seek contact with its Bulgarian counterpart through the Central Authority ... the Central Authority has still not been able to make contact with the Bulgarian authorities ...
>
> Hof Den Haag 18 March 2015, ECLI:NL:GHDHA:2015:586, r.o. 20

WHICH CHANNELS THE DECISIONS RECORD

No cooperation instrument is recorded in 35 of the 93 decisions. Where one is, it is mostly the Central Authority in its administrative role of transmitting the application.

Direct judicial communication, through the International Hague Network of Judges or under Article 86 Brussels IIb, is recorded in none. After a refusal concerning an EU Member State, the transmission of the decision under Article 11(6) Brussels IIa or Article 29 Brussels IIb was recorded in 8 of 11 cases.

Channel	Legal basis	What it can provide
Central Authority	Art. 13(3) 1980 Convention; HCCH Guide, paras 50–53	Information on the child's social background
Authorities of the State of habitual residence	Art. 27(4) Brussels IIb	Whether adequate arrangements exist or can be made
Court-to-court cooperation	Art. 86 Brussels IIb	Communication between courts, directly or through the European Judicial Network
International Hague Network of Judges	—	Direct judicial communication on the protection available
Requests under the 1996 Convention	Arts 32 and 34 1996 Convention	A report on the child's situation; information relevant to a measure
HCCH Country Profile, section 11.2	2023 Special Commission, C&R Nos 23 and 33	General information on provisions for safe return

10 Article 20 and human-rights arguments

Article 20 was invoked in 22 decisions and never served as an independent ground for refusal: in 19 its requirements were held not met, and in 3 it was not reached or not decided separately. Human-rights arguments carried weight only as part of the assessment under Article 13(1)(b).

An argument based on the ECHR, the CRC or the Istanbul Convention was raised or applied in 31 decisions. The courts answered it in three ways:

- **Absorbed into the Convention.** The interests protected by Article 8 ECHR and the CRC are already embodied in the Convention and its exceptions (e.g. ECLI:NL:RBDHA:2017:7335; ECLI:NL:GHDHA:2022:259, r.o. 5.20).
- **Not substantiated.** The argument was held insufficiently specified (e.g. ECLI:NL:GHDHA:2017:798; ECLI:NL:GHDHA:2019:758; ECLI:NL:GHDHA:2024:103).
- **The wrong forum.** A full assessment of the child's best interests belongs in custody proceedings in the State of habitual residence (ECLI:NL:GHDHA:2020:2063).

The case law of the European Court of Human Rights is cited in a limited number of decisions: *Neulinger and Shuruk v. Switzerland* and *X v. Latvia* in a few, *G.N. v. Poland* once (ECLI:NL:GHDHA:2017:2625), and *M.P. and Others v. Greece* (2025), on the weight of a young child's views (ECLI:NL:GHDHA:2025:2221).

THE ISTANBUL CONVENTION

The Istanbul Convention was invoked by a party in six decisions and raised by the court of its own motion in one; it did not change the outcome in any of them.

Line of reasoning	Decision
The State of return is equally bound by the Istanbul Convention, the ECHR and the CRC	ECLI:NL:GHDHA:2021:1738 (Belgium); ECLI:NL:GHDHA:2026:2622 (Portugal)
The Convention is not engaged where the violence is not established	ECLI:NL:GHDHA:2025:1827; ECLI:NL:GHDHA:2026:188, r.o. 5.17
An interpretive frame for Article 20	ECLI:NL:RBDHA:2026:17375

> *Deze bepaling 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.*
>
> This provision 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.
>
> Rb. Den Haag 27 May 2026, ECLI:NL:RBDHA:2026:17375 (the court nonetheless found the case not exceptional)

Whether return would expose the parent or the child to renewed victimisation, including through prosecution of a parent who fled, was considered in part in three decisions (ECLI:NL:GHDHA:2018:3229; ECLI:NL:RBDHA:2025:18246; ECLI:NL:GHDHA:2025:2410) and raised without success in six.

11 The appeal

The Gerechtshof reversed 11 of the 42 first-instance outcomes it reviewed, and all seven reversals towards refusal came with a new assessment of the violence, the risk or the protection available. None of the four reversals towards return did; they turned on threshold questions or the children's objections.

Appeal decision (State of return)	Direction	What changed on appeal
18 March 2015, ECLI:NL:GHDHA:2015:586 (Bulgaria)	Ordered → refused	After the Raad's report, the child's fear of his father and likely separation from his mother; no adequate arrangements could be established
15 June 2016, ECLI:NL:GHDHA:2016:1714 (Belgium)	Ordered → refused	A new Raad report; vulnerable children exposed to parental fights; no housing or assistance
22 August 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
10 April 2019, ECLI:NL:GHDHA:2019:3990 (Morocco)	Ordered → refused	The children's accounts found authentic; risk of the mother's detention
24 February 2022, ECLI:NL:GHDHA:2022:467 (Belgium)	Ordered → refused	The child heard again; acute psychological distress and death wishes
27 October 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
30 April 2024, ECLI:NL:GHDHA:2024:893 (Poland)	Ordered → refused	The mother's mental-health crisis and the young child's attachment
12 September 2017, ECLI:NL:GHDHA:2017:2625 (Iran)	Refused → ordered	The settlement exception held inapplicable; the father's allegations insufficient for a grave risk
3 April 2019, ECLI:NL:GHDHA:2019:758 (Spain)	Refused → ordered	The infants' habitual residence held to be in Spain

Appeal decision (State of return)	Direction	What changed on appeal
9 February 2023, ECLI:NL:GHDHA:2023:213 (Poland)	Refused → ordered	The children's objections not upheld; the violence not recognised by independent sources; Art. 27(3) Brussels IIb
3 December 2025, ECLI:NL:GHDHA:2025:2718 (Thailand)	Refused → ordered	New Thai court material: the father held joint custody

Two things drove the reversals towards refusal: new information, such as a fresh report of the Raad, the certified institution or the special curator, and hearing the child, in some cases by the full panel. The appeal is a full rehearing assessed *ex nunc*, so developments after the first-instance decision, including a deterioration in the child's condition, can be taken into account. In three of the seven, the Gerechtshof held that adequate arrangements under Article 11(4) Brussels IIa had not been established, on the basis of concrete information about the State of return (ECLI:NL:GHDHA:2015:586; ECLI:NL:GHDHA:2016:1714; ECLI:NL:GHDHA:2018:2254).

The depth of review varies. The Gerechtshof made a full reassessment in 17 appeals, reached its own assessment with the same conclusion in 9, and adopted the Rechtbank's reasoning in 16, often in the formula that it "neemt de gronden over en maakt deze tot de zijne" (adopts the grounds and makes them its own).

12 Points for lawyers

The findings translate into a small number of points that recur on both sides of these cases. Each rests on the decisions discussed above.

Issue	Acting for the parent opposing return	Acting for the left-behind parent
Evidence of the violence	Material independent of the mother's account decided the cases that succeeded: records of foreign authorities, police observations of their own, medical findings, recordings, an admission. Statements of family members, shelter stays and reports based only on her information were given little weight. The courts leave little room for further evidence during the proceedings	Where independent material pointed away from the allegation, Article 13(1)(b) was accepted in none of 18 decisions: foreign findings of no concern, school reports, observations of a warm relationship between the child and the left-behind parent
Contesting the account	A detailed account contested only in general terms was accepted (ECLI:NL:RBDHA:2025:18246)	In that case, a denial in general terms of a detailed account did not suffice
Facts that cannot be resolved	Some courts left the facts open and assessed the child's situation on return, in line with step one of the HCCH Guide (ECLI:NL:GHDHA:2016:1714)	The courts require a link between the violence and a grave risk for the child; at least eight decisions held that even established violence would not suffice
The link to the child	Exposure, the effect on the carer's ability to care and the likelihood of continuation were often not addressed in the reasons; they need to be argued expressly	A concrete showing that the risk will not continue, and of protection in place, answers these points
Separation from the primary carer	Arrest, residence status, mental health and siblings were the most frequent routes to refusal; each needs concrete substantiation (a claim of arrest not concretely substantiated was rejected: ECLI:NL:RBDHA:2019:2763)	Where a criminal complaint is pending, what matters is whether the prosecution can actually be stopped, not only the offer to withdraw it (ECLI:NL:GHDHA:2019:3990, r.o. 22)
Protective measures	The court can be asked to verify the specific measures relied on and, in the alternative, to take measures under Art. 27(5) Brussels IIb or Art. 11 of the 1996 Convention, and to record voluntary commitments in the order. A measure under Art. 27(5) travels with the child only if it is ordered as part of the decision, with that article as its basis, and a party applies for the certificate in Annex IV (Art. 36(1)(c)), which can also be issued in another EU language	An offer that states what will be provided, by whom, from when and how it can be enforced meets the concerns the refusals identified; in the return orders to States outside the 1996 Convention, the only documented commitment was the withdrawal of a criminal complaint, shown by a Thai lawyer's statement and a police report (ECLI:NL:GHDHA:2025:2718)

Issue	Acting for the parent opposing return	Acting for the left-behind parent
Information from abroad	Information requests to the State of return are rarely made; where the foreign authorities did not respond, adequate arrangements were held not established	The only return order resting on established involvement of a foreign child-protection authority is ECLI:NL:GHDHA:2020:2063, where the Raad confirmed at the hearing that the Jugendamt was involved
The child	A special curator and a hearing of the child can be requested, also on appeal; a hearing by the appellate panel led to reversals	The courts weigh children's statements against the possibility of loyalty conflict or influence
The appeal	New reports, new developments and a new hearing of the child drove every reversal towards refusal	Reversals towards return turned on threshold questions (habitual residence, custody rights, the settlement exception) or on the children's objections

On mediation, international guidance stresses screening for violence and power imbalances before mediation is offered (HCCH Guide to Good Practice on Mediation, 2012), and Brussels IIb notes that mediation may not be appropriate in cases of domestic violence (recital 43). The decisions do not record whether such screening took place.

A Key decisions by issue

All decisions are published in full on uitspraken.rechtspraak.nl and can be found by their ECLI number.

Issue	Decision	Point
Violence decisive	Rb. Den Haag 31 Jan 2017, ECLI:NL:RBDHA:2017:1032 (Czech Republic)	Serious assault with the child in the home, followed by threats; no protective measure in place
Violence decisive	Hof Den Haag 25 Mar 2020, ECLI:NL:GHDHA:2020:710 (United States)	Violence established on the reports of the Raad and the special curator; safety plan insufficient; the child's objection
Violence decisive	Rb. Den Haag 6 Aug 2026, ECLI:NL:RBDHA:2026:25713 (Denmark)	Letter of the Danish *Familieretshuset*; justified fear of the mother's arrest; separation from the protective parent
Coercive control and structured tools	Rb. Den Haag 25 Sep 2025, ECLI:NL:RBDHA:2025:18246; Hof Den Haag 13 Nov 2025, ECLI:NL:GHDHA:2025:2410 (Israel)	*Signalenwijzer* used to structure the assessment; account contested only in general terms; residence status; violence decisive at first instance and contributory on appeal
Coercive control: one-sided material	Hof Den Haag 8 Sep 2025, ECLI:NL:GHDHA:2025:1827	Risk screening based on the mother's information only; even established coercive control requires a risk to the child
Coercive control: expert reports	Hof Den Haag 5 Feb 2026, ECLI:NL:GHDHA:2026:188	Expert reports based only on the mother's information; further evidence declined
Facts left open	Hof Den Haag 15 Jun 2016, ECLI:NL:GHDHA:2016:1714 (Belgium)	Violence neither established nor excluded; vulnerable children without housing or assistance
"Even if established"	Hof Den Haag 15 Sep 2021, ECLI:NL:GHDHA:2021:1738 (Belgium)	r.o. 5.18: established violence would still not justify refusal
A pattern required	Hof Den Haag 18 Oct 2017, ECLI:NL:GHDHA:2017:3025	A conviction for one assault did not show violence "op structurele basis"
Arrest of the primary carer	Rb. Den Haag 12 Oct 2018, ECLI:NL:RBDHA:2018:12413 (France)	European arrest warrant; separation of a very young child from her mother
Withdrawal of a criminal complaint	Hof Den Haag 10 Apr 2019, ECLI:NL:GHDHA:2019:3990 (Morocco)	Unclear whether the prosecutor would refrain from prosecuting; children's accounts found authentic
Mental health of the carer	Hof Den Haag 30 Apr 2024, ECLI:NL:GHDHA:2024:893 (Poland)	The mother's mental-health crisis and a two-year-old's attachment

Issue	Decision	Point
Siblings	Hof Den Haag 27 Oct 2023, ECLI:NL:GHDHA:2023:2066 (Algeria)	The full panel found the elder child's account authentic; separation of the siblings
The child's distress	Hof Den Haag 24 Feb 2022, ECLI:NL:GHDHA:2022:467 (Belgium)	Acute distress and death wishes; origin of the fears left open
No adequate arrangements obtainable	Hof Den Haag 18 Mar 2015, ECLI:NL:GHDHA:2015:586 (Bulgaria)	No contact obtained with the Bulgarian authorities
Protection in the individual case	Hof Den Haag 14 Feb 2018, ECLI:NL:GHDHA:2018:296 (England)	Arrangements not adequate "onder deze omstandigheden en voor deze minderjarigen"
Foreign authority involved	Hof Den Haag 26 Oct 2020, ECLI:NL:GHDHA:2020:2063 (Germany)	The only return order resting on established involvement of a foreign child-protection authority
Conditions	Hof Den Haag 18 Oct 2017, ECLI:NL:GHDHA:2017:3025; Hof Den Haag 25 May 2023, ECLI:NL:GHDHA:2023:990 (outside the dataset)	Conditions declined; conditions addressed to non-parties set aside
Article 27(5) Brussels IIb	Hof Den Haag 8 Sep 2025, ECLI:NL:GHDHA:2025:1827, r.o. 5.27	Measures declined because no grave risk was found
Istanbul Convention	Rb. Den Haag 27 May 2026, ECLI:NL:RBDHA:2026:17375	Article 20 read together with the Istanbul Convention

SOURCES

- N. Rusinova, *Domestic Violence and the Protection of the Child in Dutch Return Proceedings under the 1980 Hague Child Abduction Convention*, research report, October 2026, nadiarusinova.com/research.
- HCCH, *Guide to Good Practice under the Hague Convention of 25 October 1980, Part VI – Article 13(1)(b)* (2020).
- HCCH, Conclusions & Recommendations of the Eighth Meeting of the Special Commission on the 1980 and 1996 Conventions (October 2023).
- HCCH, *Guide to Good Practice – Mediation* (2012).
- Regulation (EU) 2019/1111 (Brussels IIb); Council Regulation (EC) No 2201/2003 (Brussels IIa); Regulation (EU) No 606/2013; 1996 Hague Child Protection Convention.

THREE FINDINGS

01 Evidence

Material independent of the parents' accounts decides whether violence is established. Where it supported the allegation, the grave-risk exception succeeded in 11 of 14 decisions; where it pointed the other way, in none of 18.

02 Risk

In 63 of 93 decisions the court found no sufficient link between the violence and a grave risk for the child. Refusals came mostly through the child's separation from the primary carer; the violence itself was decisive in 3 of 19.

03 Protection

Of 36 return orders relying on protection in the State of return, one verified its availability with a concrete source, and none recorded it in the operative part.

ABOUT THE RESEARCH

This publication is part 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). It draws on 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 in return proceedings.

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