

Annex 4 Sections of law – Istanbul Convention

- **Section 254 of the Dutch Code of Civil Procedure (*Wetboek van Burgerlijke Rechtsvordering*)**

- 1 In all cases where, having regard to the interests of the parties, immediate relief is necessary as a matter of urgency, the preliminary relief judge shall have the authority to grant such.
- 2 At the interested party's request, the preliminary relief judge may order the summoning of the parties on the day and at the time, including Sundays, to be fixed for each case. The judge may also order that the hearing be held at a place other than the court building. The preliminary relief judge may attach conditions to the setting of the date which the claimant must observe. The summons must show those conditions.
- 3 The case may also be brought at a hearing before the preliminary relief judge on such working days as determined by the judge for that purpose.
- 4 Sections 127a and 128(2) and 128(6) shall not apply.
- 5 In cases whose merits are heard and ruled on by the subdistrict court judge, the subdistrict court judge shall also have the authority to grant relief within the meaning of this section. The provisions applicable to the preliminary relief judge shall also apply to the subdistrict court judge.
- 6 Where the relief sought relates to a case concerning law of persons and family law as referred to in Title 6 of Book 3, Section 803 shall apply *mutatis mutandis*.

- **Section 71(1) of Book 1 of the Dutch Civil Code (*Burgerlijk Wetboek*)**

- 1 A spouse may apply for the annulment of his or her marriage when it was entered into under duress. In addition, the Public Prosecution Service has the authority, after having given the spouses the opportunity to express their opinions on the desirability of lodging an application for annulment, at least after having duly summoned them to that end, to make the application.
- 2 A spouse who, when he or she contracted the marriage, was mistaken either in the person of the other spouse or as to the significance of the declaration made by him or her shall equally have the right to make such an application.
- 3 The right of spouses to apply for an annulment of marriage on account of a mistake shall cease to exist when the spouses have lived together for six months since the mistake was discovered, without having made any such application. The right to apply for an annulment on account of coercion shall cease to exist when the spouses have lived together for three years without any coercion aimed at preserving the marriage having been exerted, without having made any such application

- **Section 253a of Book 1 of the Dutch Civil Code**

- 1 Where two parents jointly exercise parental authority, disputes in this regard may be brought before the district court at the request of one or both parents. The district court shall hand down a decision which it sees as being in the best interests of the child.
- 2 At the request of one or both parents the district court may also lay down an arrangement for the exercise of parental authority. That arrangement may include:
 - a. allocation of responsibility for the child's care and upbringing to each parent and, with analogous application of [Section 377a\(3\)](#), a temporary ban on contact with the child for one or both parents;
 - b. the decision as to with which parent the child shall have its main residence;

- c. the way in which information concerning serious matters pertaining to the person and the property of the child is communicated to the parent with whom the child does not have its main residence or the way in which that parent is consulted;
 - d. the way in which information in the possession of third parties [pursuant to Section 377c\(1\) and 377c\(2\)](#) is communicated.
- 3 Where the parents are subject to an obligation provided for in [Section 247a](#) and have failed to meet it, the court shall of its own motion defer the decision on an application as referred to in paragraph 2 until that obligation has been met. A deferral shall be dispensed with should the interests of the child so require.
 - 4 [Sections 377e](#) and [337g](#) shall apply mutatis mutandis. The words contact or contact arrangements in these provisions should be read as: a division of responsibility for a child's care and upbringing.
 - 5 Before ruling on an application as referred to in paragraphs 1 or 2, the district court shall attempt to bring about a settlement between the parents and, if requested and also of its own motion, where no settlement is reached and unless such is contrary to the interests of the child, may impose a coercive measure permitted by law, or determine that the order or parts thereof may be enforced in application of [Section 812\(2\) of the Dutch Code of Civil Procedure](#).
 - 6 The district court shall deal with the application within six weeks.

- **Sections 254–255 of Book 1 of the Dutch Civil Code**

Section 254

For the purposes of this section, certified institution means: a certified institution as referred to in [Section 1.1 of the Youth Act \(Jeugdwet\)](#).

Section 255

- 1 The juvenile court may place a minor under the supervision of a certified institution where a minor is growing up in a manner such that his or her development is under serious threat, and:
 - a. the care required for the minor or for his or her parents or for the parent exercising parental authority in order to avert that threat is not accepted or accepted to an insufficient degree by them, and
 - b. there is a justified expectation that the parents or the parent exercising parental authority will be able to bear responsibility for the care and upbringing referred to in [Section 247\(2\)](#) within a period deemed acceptable having regard to the person and the development of the minor.
- 2 The juvenile court may place a minor under supervision on the application of the Child Care and Protection Board or the Public Prosecution Service. A parent and a person who is not the parent but cares for and is bringing up the child as part of his or her family shall also be entitled to make the application if the Child Care and Protection Board does not.
- 3 Where the Board does not submit an application for a family supervision order after having received a request for an investigation as referred to in [Section 2.4\(1\) of the Youth Act](#), it shall notify the Municipal Executive making the request of this in writing. Having received that notification, the Municipal Executive may request the opinion of the juvenile court judge as to whether it is necessary to place the minor under the supervision of a certified institution. A Child Care and Protection Board receiving such a request from the Municipal Executive shall, within two weeks of the date of that request, seek the opinion of the juvenile court as to whether a family supervision order should be issued for the minor. In that event, the juvenile court may pronounce a family supervision order of its own motion.
- 4 The juvenile court shall specify in the order the specific threats to the development of the minor, as well as the corresponding duration for which the family supervision order shall apply.

- 5 Where the application referred to in paragraph 2 does not pertain to all the minors over whom the parents or the parent are exercising parental authority, the juvenile court may supplement it at the request of the Child Care and Protection Board or of its own motion, and also place those minors under supervision, provided the grounds provided for in paragraph 1 are met.

- **Section 261 of Book 1 of the Dutch Civil Code**

- 1 The juvenile court may terminate the family supervision order where the grounds referred to [Section 255\(1\)](#) are no longer met.
- 2 It may do so at the request of the certified institution carrying out the supervision. If that certified institution does not submit an application, the Child Care and Protection Board, a parent entrusted with parental authority or a minor aged twelve years or over shall be entitled to make the application.

- **Section 266 of Book 1 of the Dutch Civil Code**

- 1 The district court may terminate a parent's parental authority where:
 - a. a minor is growing up in a manner such that his or her development is under serious threat, and the parent is unable to bear responsibility for his or her care and upbringing as referred to in [Section 247\(2\)](#) within a period considered acceptable for the person and the development of the minor, or
 - b. the parent is abusing his or her parental authority.
- 2 A parent's parental authority may also be terminated where the parental authority has been suspended, provided the provisions under paragraph 1 are met.

- **Section 269 of Book 1 of the Dutch Civil Code**

Instead of suspending both or one of the parents from the exercise of parental authority as referred to in [Section 268](#), the district court may place a child under supervision as referred to in [Section 255](#) provided the grounds for doing so are met.

- **Section 377a of Book 1 of the Dutch Civil Code**

- 1 A child shall be entitled to have contact with its parents and with the person with whom it has a close personal relationship. A parent without parental authority shall be entitled, and obliged, to have contact with his or her child.
- 2 At the request of both parents or of one of them, or at the request of a person with whom the child has a close personal relationship, the court shall order an arrangement for the exercising of the right of contact, whether or not for a specific period, or shall deny the right of contact, whether or not for a specific period.
- 3 The court shall deny the right of contact only where:
 - a. contact would be seriously detrimental to the mental or physical development of the child, or
 - b. the parent or a person with whom the child has a close personal relationship is evidently incapable or evidently not in a position to have contact with the child, or
 - c. a child aged twelve years or over has shown during interview that it has serious objections to contact with its parent or with the person with whom it has a close personal relationship, or
 - d. contact is otherwise contrary to the child's compelling interests.

- **Section 162 of Book 6 of the Dutch Civil Code**

- 1 Any person who commits a wrongful act in relation to another person which is attributable to him shall be required to compensate for the damage or loss suffered by that other person as a result of the said act.
- 2 Any infringement of a right and any act or omission contrary to a legal obligation or to the requirements of unwritten law in social and economic life shall be considered to be a wrongful act, without prejudice in each case to the existence of a ground of justification.
- 3 A wrongful act may be attributed to its perpetrator if it he or she is to blame for it or it is due to a circumstance for which he or she must answer by virtue of the law or views held by society.

Dutch Criminal Code (*Wetboek van Strafrecht*)

- **Section 5 of the Dutch Criminal Code**

- 1 The criminal law of the Netherlands shall apply to any person who commits an offence against a Dutch citizen, a Dutch public servant, or a Dutch vehicle, vessel or aircraft, in so far as that offence, by statutory definition, carries a term of imprisonment of eight years or more and is punishable by the law of the country in which it was committed.
- 2 For the purposes of paragraph 1, a foreign national having a domicile or residence in the Netherlands shall be equated with a Dutch citizen.

- **Section 7 of the Dutch Criminal Code**

- 1 The criminal law of the Netherlands shall apply to a Dutch citizen who commits an offence outside the Netherlands which is regarded as serious offence under the criminal law of the Netherlands and which is punishable by the law of the country in which it was committed.
- 2 The criminal law of the Netherlands shall also apply to a Dutch citizen who commits any of the following offences outside the Netherlands:
 - a. any of the serious offences defined in [Titles I and II of Book 2](#) and in [Sections 192a–c, 197a–c, 206, 237, 272](#) and [273](#);
 - b. any of the offences defined in [Sections 177, 178, 179, 180, 189, 200, 207a, 285a](#) and [361](#), in so far as the offence was directed against the administration of justice of the International Criminal Court;
 - c. any of the offences defined in [Sections 204b](#) and [Sections 242–250](#);
 - d. any of the offences defined in [Sections 300–303](#), in so far as the offence constitutes the genital mutilation of a person of the female sex under eighteen years of age;
 - e. the offence defined in [Section 284](#).
- 3 For the purposes of paragraphs 1 and 2(b–e), a foreign national who, after committing the offence, becomes a Dutch citizen and, for the purposes of the paragraphs 1 and 2, a foreign national having a domicile or residence in the Netherlands, shall be equated with a Dutch citizen.

- **Section 14c of the Dutch Criminal Code**

- 1 [Section 14a](#) shall apply subject to the general condition that:
 - a. the convicted person does not commit an offence before the end of the probation period, and
 - b. the convicted person, in so far as special conditions as referred to in paragraph 2 have been set for the application of [Section 14a](#):

1. cooperates with fingerprinting for the purpose of establishing his or her identity or provides an identity document as referred to in [Section 1 of the Compulsory Identification Act \(Wet op de identificatieplicht\)](#) for inspection; and
 2. cooperates with the probation service supervision, referred to in [Section 14d\(2\)](#), including cooperation with house visits.
- 2 In application of [Section 14a](#) the court may also set the following special conditions with which the convicted person must comply during the probation period, or a part thereof to be set in the sentence, or within a period to be set by the court that may not exceed the probation period:
1. full or partial compensation of the damage or loss caused by the offence;
 2. full or partial remedying of the damage or loss caused by the offence;
 3. payment of a sum of money by way of security, to be set by the court, which shall be equivalent to an amount not exceeding the difference between the fine prescribed by law for the offence and the fine imposed;
 4. payment of a sum of money, to be set by the court, to the Criminal Injuries Compensation Fund (Schadefonds Geweldsmisdrijven) or to an organisation whose purpose is to represent the interests of victims of offences. The amount may not exceed the maximum amount prescribed by law for the offence;
 5. a prohibition on contacting directly or through a third party specific persons or institutions;
 6. a prohibition on being at or in the immediate vicinity of a specific location;
 7. an obligation to be present at a specific location at specific times or during a specific period;
 8. an obligation to report to a specific agency at specific times;
 9. a prohibition on the use of drugs or alcohol and the obligation to cooperate with a blood or urine test to verify compliance with that prohibition;
 10. admission of the convicted person to a healthcare institution;
 11. an obligation to receive treatment from a professional or healthcare institution;
 12. residence in an institution for supervised accommodation or social shelter;
 13. participation in a behavioural intervention;
 14. other conditions pertaining to the convicted person's behaviour.
- 3 A special condition may include the use of electronic monitoring.
- 4 In the setting of any of the special conditions referred to in paragraph 2 (3) and (4), [Section 23\(1\) and \(2\)](#) and [Section 24](#) shall apply mutatis mutandis.

- **Section 24a of the Dutch Criminal Code**

- 1 If one or more of the fines up to an amount of at least €225 are imposed, it may be determined in the judgment or the penalty order issued by the public prosecutor that the person ordered to pay the fine may pay the amount in instalments. Each of those instalments shall be set at a minimum of €45.
- 2 In cases where paragraph 1 applies, the terms for the payment of the second – if the fine may be paid in more than two instalments – and the following instalments shall be set out in the judgment or the penalty order issued by the public prosecutor.
- 3 Those terms shall be set at a minimum of one month and a maximum of three months. In the case of a judgment, they may not exceed a period of two years in total; in the case of a penalty order issued by the public prosecutor, those terms may not exceed a period of one year.

- **Section 36f of the Dutch Criminal Code**

- 1 A person who is convicted of an offence by a decision of the court or on whom a measure or order in the meaning of Section 37 has been imposed by a decision of the court, or where the court has taken an offence into account in passing sentence and where the summons states that the defendant has admitted the offence, which will be communicated to the district court, or against whom a penalty order is issued by the public prosecutor, may be ordered to pay the Dutch State a sum of money for the benefit of the victim or his or her surviving relatives within the meaning of [Section 51f\(2\) of the Dutch Code of Criminal Procedure \(Wetboek van Strafvordering\)](#). The Dutch State shall promptly pay an amount received to the victim or the victim's surviving relatives within the meaning of Section 51f(2) of the Dutch Code of Criminal Procedure.
- 2 The order may be imposed if and to the extent that the defendant is liable to the victim under civil law for the loss or damage caused by the offence.
- 3 The order may be imposed together with penalties and other measures.
- 4 Payments made by the convicted person to the Dutch State will firstly be applied to the order and subsequently to the imposed penalty.
- 5 [Section 24a](#) and [Section 24b\(1-4\)](#) shall apply mutatis mutandis, provided that the increase in the amount owed pursuant to the order reverts to the Dutch State.
- 6 The payments made by the convicted person to the Dutch State shall firstly be applied to the order and subsequently to the increases arising pursuant to paragraph 5.
- 7 If a person convicted of a serious offence has failed to fulfil his or her obligation in full or in part within eight months of the day on which the sentence or judgment, in which the order referred to in paragraph 1 has been imposed, becomes irrevocable, the Dutch State shall pay the remaining amount to the victim not being a legal person. It may be stipulated by order in council that this compensation is limited to victims of violent and sexual offences for a period to be specified in the general administrative order. It may also be stipulated by order in council that the amounts to be paid are subject to an upper limit of €5,000 or higher, provided that the upper limit does not apply to compensation for victims of violent or sexual offences. The Dutch State will recover the amount paid as well as the increases arising pursuant to paragraph 4 from the convicted person.
- 8 [Section 24c](#) and [Section 77\(2-6\)](#) shall apply mutatis mutandis, provided that the imposition of detention or juvenile detention as a substitute penalty does not nullify the obligation to pay compensation to the victim under the compensation order.

• **Section 38v of the Dutch Criminal Code**

- 1 For the protection of society or the prevention of offences, a measure involving restriction of liberty may be imposed by the court judgment:
 1. whereby a person is convicted of an offence;
 2. whereby, pursuant to [Section 9a](#), it is determined that no punishment shall be imposed.
- 2 Under the measure the defendant may be ordered:
 - a. to stay away from a specific area,
 - b. to refrain from contact with a specific person or specific persons,
 - c. to be present at a specific location at specific times or during a specific period,
 - d. to report at specific times to the investigation officer designated for that purpose.
- 3 The measure may be imposed for a maximum period of five years.
- 4 In passing judgment, the court may order, of its own motion or on the application of the public prosecutor, the immediate enforceability of the measure if serious account must be taken of the fact that the defendant will commit a further offence or engage in behaviour causing nuisance to a specific person or specific persons.
- 5 The order referred to in paragraph 4 may be revoked by the court hearing the appeal, of its own motion, at the convicted person's request or on the application of the Public Prosecution Service.

6 The measure may be imposed together with penalties and other measures.

- **Section 45 of the Dutch Criminal Code**

- 1 An attempt to commit an offence shall be punishable where the intention of the perpetrator has become apparent through his or her having begun to commit the offence.
- 2 In the case of an attempt, the maximum of the principal penalties set for the serious offence shall be reduced by one third.
- 3 In the case of a serious offence punishable by life imprisonment, a term of imprisonment not exceeding twenty years shall be imposed.
- 4 The additional penalties for an attempt shall be the same as for a completed serious offence.

- **Section 48 of the Dutch Criminal Code**

The following persons shall be subject to punishment as accessories to a serious offence:

1. any persons who intentionally aid and abet the commission of a serious offence;
2. any persons who intentionally provide the opportunity, means or information for the commission of a serious offence.

- **Section 47(1)(2) of the Dutch Criminal Code**

- 1 The following persons shall be subject to punishment as perpetrators of an offence: ...
 2. any persons who through gifts, promises, abuse of authority, use of violence, threat or deception or by providing the opportunity, means or information, intentionally incite the commission of an offence.

- **Section 70 of the Dutch Criminal Code**

- 1 The right to prosecute shall lapse on the expiry of the period of limitation of:
 1. three years for all minor offences;
 2. six years for serious offences punishable by a fine, detention or imprisonment not exceeding three years;
 3. twelve years for serious offences punishable by a determinate term of imprisonment of more than three years;
 4. twenty years for serious offences punishable by a term of imprisonment of eight years or more.
- 2 By way of derogation from paragraph one, the right to prosecute shall not lapse:
 1. for serious offences punishable by twelve years or more;
 2. for the offences defined in [Sections 240b\(2\)](#) ,[243,245](#)and [246](#), in so far as the offence was committed in respect of a person under eighteen years of age.

- **Section 71 of the Dutch Criminal Code**

The period of limitation shall start on the day after the day on which the offence was committed, except in the following cases:

1. in the case of the serious offences defined in [Sections 173\(1\)](#), and [173b](#), the period shall start on the day after the day on which an officer charged with investigating offences learned of the offence;
2. in the case of forgery, on the day after the day on which the item in respect of which forgery was committed was used;
3. in the case of the serious offences defined in [Sections 240b\(1\)](#), [Sections 247–250](#), [273f](#), [284](#) and [285c](#), in so far as committed in respect of a person under eighteen years of age, [Sections 300–303](#), in so far as the offence constitutes the genital mutilation of a person of the female sex under eighteen years of age, or the offence defined in [Section 302](#), in so far as the offence constitutes forcing a person of the female sex under eighteen years of age to undergo an abortion or sterilisation, on the day after the one on which the person reached eighteen years of age;
4. in the case of the serious offences defined in [Section 279](#) and [Section 282\(1–2\)](#) on the day after the day of release or death of the person who was the direct subject of the serious offence committed;
5. in the case of the minor offences defined in [Sections 465](#), [466](#) and [467](#), on the day after the one on which, pursuant to the provisions laid down in or in compliance with [Section 18c of Book 1 of the Dutch Civil Code](#), the records showing such minor offence, as referred to in that section, are transferred to the central repository, referred to in [Section 8 of Chapter One of the Civil Registry Decree](#) (*Besluit burgerlijke stand*).

- **Section 82 of the Dutch Criminal Code**

- 1 The term serious bodily harm includes: an illness for which there is no prospect of a complete recovery, a long-term disability preventing the performance of duties of office or the practice of a profession, and aborting or destroying a foetus in utero.
- 2 The term serious bodily harm also includes a disorder of the mental faculties lasting for more than four weeks.

- **Section 284 of the Dutch Criminal Code**

- 1 A term of imprisonment not exceeding two years or a fine of the fourth category shall be imposed on:
 1. any person who unlawfully compels another person to act, to refrain from acting or to submit to anything by an act of violence or any other act or by threat of violence or threat of any other act, either directed against that person or against others;
 2. any person who by the threat of slander or libellous defamation compels another person to act, to refrain from acting or to submit to anything.
- 2 In the case defined in (2) prosecution of the serious offence shall take place only on complaint of the person in respect of whom it was committed.

- **Section 285 of the Dutch Criminal Code**

- 1 The threat of public violence to be jointly committed, against persons or property, the threat of violence against an internationally protected person or his or her protected property or the threat of any serious offence endangering the general safety of persons or property, of rape, of indecent assault, of any serious offence against the life of a person, of hostage taking, of aggravated assault or of arson, shall be punishable by a term of imprisonment not exceeding two years or a fine of the fourth category.
- 2 Where such threat is made in writing and under a certain condition, a term of imprisonment not exceeding four years or a fine of the fourth category shall be imposed.

- 3 Threat of a terrorist offence shall be punishable by a term of imprisonment not exceeding six years or a fine of the fifth category.
- 4 Where the offence defined in paragraphs 1, 2 or 3 is committed with the intention of preparing or facilitating a terrorist offence, the term of imprisonment prescribed for the offence shall be increased by one third.

- **Section 285b of the Dutch Criminal Code**

- 1 Any person who unlawfully, systematically and intentionally violates another person's personal privacy with the intention of compelling that other person to act or to refrain from acting or to submit to anything, or of instilling fear in that person, shall be guilty of stalking and shall be liable to a term of imprisonment not exceeding three years or a fine of the fourth category.
- 2 Prosecution shall take place only on complaint of the person against whom the serious offence was committed.

- **Section 296 of the Dutch Criminal Code**

- 1 Any person who subjects a woman to treatment when he or she knows or should reasonably suspect that by so doing pregnancy may be terminated, shall be liable to a term of imprisonment not exceeding four years and six months or a fine of the fourth category.
- 2 Where the offence results in the death of the woman, a term of imprisonment not exceeding six years or a fine of the fourth category shall be imposed.
- 3 Where the offence was committed without the woman's consent, a term of imprisonment not exceeding twelve years or a fine of the fifth category shall be imposed.
- 4 Where the offence was committed without the woman's consent and also results in her death, a term of imprisonment not exceeding fifteen years or a fine of the fifth category shall be imposed.
- 5 The offence referred to in paragraph 1 shall not be punishable where the treatment was performed by a physician in a hospital or a clinic in which such treatment may be performed under the [Termination of Pregnancy Act \(*Wet afbreking zwangerschap*\)](#).

- **Section 300 of the Dutch Criminal Code**

- 1 Assault shall be punishable by a term of imprisonment not exceeding three years or a fine of the fourth category.
- 2 Where the offence results in serious bodily harm, the offender shall be liable to a term of imprisonment not exceeding four years or a fine of fourth category.
- 3 Where the offence results in death, the offender shall be liable to a term of imprisonment not exceeding six years or a fine of the fourth category.
- 4 The intentional harming of health shall be considered equivalent to assault.
- 5 An attempt to commit this serious offence shall not be punishable.

- **Section 301 of the Dutch Criminal Code**

- 1 Premeditated assault shall be punishable by a term of imprisonment not exceeding four years or a fine of the fourth category.
- 2 Where the offence results in serious bodily harm, the offender shall be liable to a term of imprisonment not exceeding six years or a fine of fourth category.

- 3 Where the offence results in death, the offender shall be liable to a term of imprisonment not exceeding nine years or a fine of the fifth category.

- **Section 302 of the Dutch Criminal Code**

- 1 Any person who intentionally inflicts serious bodily harm on another person is guilty of aggravated assault and shall be liable to a term of imprisonment not exceeding eight years or a fine of the fifth category.
- 2 Where the offence results in death, the offender shall be liable to a term of imprisonment not exceeding ten years or a fine of the fifth category.

- **Section 304 of the Dutch Criminal Code**

The terms of imprisonment provided for in [Sections 300–303](#) may be increased by one third in the following cases:

1. where the offender commits the offence against his or her mother, legal father, spouse, life partner, child, a child over which he or she exercises parental authority or a child which he or she cares for or is bringing up as part of his or her family;
2. where the serious offence is committed against a public servant during or in connection with the lawful discharge of his or her duties;
3. where the offence is committed by administering substances harmful to life or health.

- **Section 240 of the Dutch Criminal Code**

A person shall be liable to a term of imprisonment not exceeding two months or a fine of the third category who knows or has serious reason to suspect that an image or object is offensive to decency and who:

1. publicly displays or offers that image or object in or at a place intended to be frequented by the public;
2. sends that image or object to a person other than at that person's request.

- **Section 240 of the Dutch Criminal Code**

Any person who supplies, offers or shows to a minor he or she knows or has serious reason to suspect is under the age of sixteen, an image, an object or a data carrier that contains an image, which if displayed could be considered harmful to persons under the age of sixteen, shall be liable to a term of imprisonment not exceeding one year or a fine of the fourth category.

- **Section 240 of the Dutch Criminal Code**

- 1 Any person who distributes, offers, publicly displays, produces, imports, forwards, exports, obtains, possesses or accesses by means of a computerised device or system or by use of a communication service an image – or a data carrier that contains an image – of a sexual act involving, or apparently involving, a person who is evidently under eighteen years of age, shall be liable to a term of imprisonment not exceeding four years or a fine of the fifth category.
- 2 Any person who, by profession or custom, commits any of the serious offences defined in paragraph 1 shall be liable to a term of imprisonment not exceeding eight years or a fine of the fifth category.

- **Section 242 of the Dutch Criminal Code**

Any person who by an act of violence or any other act or by threat of violence or threat of any other act compels a person to submit to acts comprising or including sexual penetration of the body shall be guilty of rape and shall be liable to a term of imprisonment not exceeding twelve years or a fine of the fifth category.

- **Section 243 of the Dutch Criminal Code**

Any person who engages in acts comprising or including sexual penetration of the body with a person whom he or she knows to be unconscious, to have diminished consciousness or to be physically unable to resist, or to be suffering from such a degree of mental defect or disease that such person is incapable or not sufficiently capable of exercising or expressing his or her will in the matter or of offering resistance, shall be liable to a term of imprisonment not exceeding eight years or a fine of the fifth category.

- **Section 244 of the Dutch Criminal Code**

Any person who engages in acts comprising or including sexual penetration of the body with a person who is under the age of twelve, shall be liable to a term of imprisonment not exceeding twelve years or a fine of the fifth category.

- **Section 245 of the Dutch Criminal Code**

Any person who, out of wedlock, engages in lewd acts comprising or including sexual penetration of the body with a person who has reached twelve years of age but is under sixteen years of age, shall be liable to a term of imprisonment not exceeding eight years or a fine of the fifth category.

- **Section 246 of the Dutch Criminal Code**

A person who by an act of violence or another act or by threat of violence or threat of another act compels another person to perform or to submit to indecent acts shall be guilty of indecent assault and liable to a term of imprisonment not exceeding eight years or a fine of the fifth category.

- **Section 247 of the Dutch Criminal Code**

Any person who engages in lewd acts with a person whom he knows to be unconscious, to have diminished consciousness or to be physically unable to resist, or to be suffering from such a degree of mental defect or disease that such person is incapable or not sufficiently capable of exercising or expressing his or her will in the matter or of offering resistance, or who engages in lewd acts, out of wedlock, with a person under the age of sixteen, or who entices the latter into engaging in or tolerating such acts, out of wedlock, with a third party, shall be liable to a term of imprisonment not exceeding six years or a fine of the fourth category.

- **Section 249 of the Dutch Criminal Code**

- 1 Any person who sexually abuses his minor child, step-child or foster child, his ward, a minor with whose care, education or supervision he or she is entrusted, or his or her employee or subordinate who is a minor, shall be liable to a term of imprisonment not exceeding six years or a fine of the fourth category.
- 2 The following persons shall be subject to the same penalty:
 1. a public servant who sexually abuses a person subject to his or her authority or entrusted to or placed under his or her supervision;
 2. a director, physician, teacher, official, supervisor or staff member of a prison, state institution for the care and protection of children, orphanage, hospital or charitable institution, who sexually abuses a person admitted to such institution;

3. a person employed in the healthcare or social care sector who sexually abuses a person who has entrusted himself or herself, as a patient or client, to his or her assistance or care.

- **Section 248a of the Dutch Criminal Code**

Any person who, by means of gifts or promises of money or goods, by abuse of the authority arising from de facto relationships or by deception, intentionally induces a person, whom he or she knows or has reasonable cause to suspect is under eighteen years of age, to engage in lewd acts or to tolerate such acts performed by him or her, shall be liable to a term of imprisonment not exceeding four years or a fine of the fourth category.

- **Section 248b of the Dutch Criminal Code**

Any person who sexually abuses a person who makes himself or herself available for the performance of sexual acts with a third party for remuneration and who has reached the twelve years of age but is under eighteen years of age, shall be liable to a term of imprisonment not exceeding four years or a fine of the fourth category.

- **Section 248c of the Dutch Criminal Code**

Any person who is intentionally present when lewd acts are performed by a person whom he or she knows or has reasonable cause to suspect is under eighteen years of age or who is intentionally present at the display of images of such acts in an establishment designated for that purpose, shall be liable to a term of imprisonment not exceeding four years or a fine of the fourth category.

- **Section 248d of the Dutch Criminal Code**

Any person who, with lewd intentions, induces another person, whom he or she knows or has reasonable cause to suspect is under sixteen years of age, to witness sexual acts, shall be liable to a term of imprisonment not exceeding two years or a fine of the fourth category.

- **Section 248e of the Dutch Criminal Code**

Any person who, by means of a computerised device or system or by making use of a communication service, arranges to meet a person whom he or she knows, or has reasonable cause to suspect is under sixteen years of age, with the intention of engaging in lewd acts with that person or of creating an image of a sexual act in which that person is involved, shall, if he or she undertakes any action intended to bring about that meeting, be liable to a term of imprisonment not exceeding two years or a fine of the fourth category.

- **Section 248f of the Dutch Criminal Code**

Any person who by coercion, an act of violence or another act or by threat of violence or threat of another act, intentionally causes or encourages an indecent act with a third party to be committed by a person whom he or she knows or has reasonable cause to suspect is under eighteen years of age, shall be liable to a term of imprisonment not exceeding ten years or a fine of the fifth category.

- **Section 266 of the Dutch Criminal Code**

- 1 Any insult, which is not of a slanderous or libellous nature, intentionally expressed either in public verbally or in writing or by means of an image, or verbally against a person in his or her presence or by other acts, or by means of written matter or an image sent or offered, shall constitute simple defamation and shall be punishable by a term of imprisonment not exceeding three months or a fine of the second category.

- 2 Acts which are intended to express an opinion about the protection of public interests and which are not at the same time designed to cause any more offence or cause offence in any other way than follows from that intent, shall not be punishable as simple defamation.

- **Section 273f of the Dutch Criminal Code**

- 1 A person is guilty of human trafficking and shall be liable to a term of imprisonment not exceeding twelve years or a fine of the fifth category if:
1. by coercion, an act of violence or any other act or threat of violence or threat of any other act, by extortion, fraud, deception or abuse of a position of authority arising from de facto circumstances, by abuse of a position of vulnerability or by giving or receiving remuneration or benefits in order to obtain the consent of a person who has control over that other person recruits, transports, transfers, harbours or receives another person, including exchanging or transferring the control over the other person, with the intention of exploiting that other person or removing his or her organs;
 2. recruits, transports, transfers, harbours or receives another person, including exchanging or transferring the control over the other person, with the intention of exploiting that other person or removing his or her organs when that person is under eighteen years of age;
 3. recruits, removes or abducts another person with the intention of inducing that person to make himself or herself available in another country for the performance of sexual acts with or for a third party for remuneration;
 4. compels or persuades another person with one of the means referred to in paragraph 1 to make himself or herself available for the performance of work or services or to make his or her organs available or in the circumstances referred to in paragraph 1, takes any action which he or she knows or has reasonable cause to suspect will lead that other person to make himself or herself available for the performance of labour or services or make his or her organs available;
 5. induces another person to make himself or herself available for the performance of sexual acts with or for a third party for remuneration or make his or her organs available for remuneration or takes any action in regard of another person which he or she knows or has reasonable cause to suspect will lead that other person to make himself or herself available for the performance of these acts or services or make his or her organs available, when that person is under eighteen years of age;
 6. intentionally profits from the exploitation of another person;
 7. intentionally profits from the removal of the organs of another person while he or she knows or has reasonable cause to suspect that his or her organs have been removed in one of the circumstances referred to in paragraph 1;
 8. intentionally profits from the sexual acts of another person with or for a third party for remuneration or the removal of his or her organs for remuneration, when that other person is under eighteen years of age;
 9. compels or induces another person by any of the means referred to in paragraph 1 to provide him or her with the proceeds of his or her sexual acts with or for a third party or of the removal of his or her organs.
- 2 Exploitation shall at least include exploitation of another person in prostitution, other forms of sexual exploitation, forced or compulsory labour or services, including begging, slavery or practices similar to slavery, servitude and exploitation of criminal activities.
- 3 The offender shall be liable to a term of imprisonment not exceeding fifteen years or a fine of the fifth category, where:
1. the offences defined in paragraph 1 are committed by two or more persons in concert;
 2. the offences defined in paragraph 1 have been committed against a person who is under eighteen years of age or another person whose vulnerable position is abused;

3. the offences defined in paragraph 1 were preceded, accompanied or followed by violence.
- 4 Where any of the offences defined in paragraph 1 results in grievous bodily harm or is likely to endanger the life of another person, a term of imprisonment not exceeding eighteen years or a fine of the fifth category shall be imposed.
- 5 Where any of the offences defined in paragraph 1 results in death, life imprisonment or a determinate term of imprisonment not exceeding thirty years a fine of the fifth category shall be imposed.
- 6 A vulnerable position shall also be understood to mean a situation where a person has no real or acceptable choice other than to submit to the abuse.
- 7 [Section 251](#) shall apply mutatis mutandis.

Sections 51aa–e of the Dutch Code of Criminal Procedure

Section 51aa of the Dutch Code of Criminal Procedure

- 1 The public prosecutor shall be responsible for ensuring that victims are treated appropriately.
- 2 The police officer, public prosecutor or other investigation officers shall be responsible for referring victims to a victim support institution where they will have access to information, advice and support.
- 3 Rules concerning the following shall be laid down by or pursuant to an order in council:
 - a. the access of victims and their family members to victim support institutions, the conditions for such access, as well as the financing, organisation and activities of victim support institutions;
 - b. a timely and individual assessment which victims must receive to determine specific protection needs and to establish whether and to what extent they would benefit from special measures, in particular, in the course of preliminary investigations and court hearings;
 - c. measures to protect victims, including, in particular, victims who are minors and their family members.
- 4 The provisions referred to in paragraph 3 include the obligation to inform a child or its legal representative of all the rights and measures specifically related to the child.

Section 51ab of the Dutch Code of Criminal Procedure

- 1 The police officer, public prosecutor or another investigation officer shall ensure that victims are provided with the information they need to enable them to access rights due to them, without delay, from the first contact with the investigation officer concerned.
- 2 Further rules concerning the content, offering and provision of information as referred to in paragraph 1 shall be laid down by or pursuant to an order in council.

Section 51ac of the Dutch Code of Criminal Procedure

- 1 The public prosecutor shall ensure that victims are notified without delay of their right to receive sufficient information about the start and progress of the proceedings following an offence committed against that victim. Victims shall be informed, in particular, of their right to receive information about:
 - a. the dispensing with or termination of a criminal investigation;
 - b. a decision not to prosecute an offence;
 - c. the forwarding of an official report in respect of a suspect;
 - d. the start and progress of the prosecution, including the issuing of a penalty order by the public prosecutor;
 - e. the nature of the charge preferred against the suspect;
 - f. the place, date and time of the hearing;

- g. the final judgment in the criminal proceedings in respect of the suspect;
 - h. the lodging of an appeal or a decision not to lodge an appeal.
- 2 Victims requesting such shall be informed of the start and progress of the proceedings as referred to in paragraph 1. In particular, the police officer, or the other investigation officer as defined in [Section 141\(c-d\)](#), shall at least provide the information as defined at (a) and the public prosecutor shall at least provide the information as referred to at (b–h) of paragraph 1.
 - 3 At their request, victims shall receive sufficient information as referred to in paragraph 2 to decide whether to submit a complaint to the court of appeal as referred to in [Section 12](#). In addition to the decision, the notifications concerning the information as referred to in paragraph 1 at (a) and (b) shall include at least the grounds or a summary of the grounds for the decision concerned.
 - 4 At their request, the public prosecutor shall notify victims without delay of the release or escape of the suspect in pre-trial detention, or of the convicted person.
 - 5 At their request, the public prosecutor shall notify victims of the measures taken for their protection if the suspect in pre-trial detention, or the convicted person, is released or has escaped.
 - 6 Where there is an identified risk of harm to the suspect or the convicted person which would result from the notification as referred to in the paragraphs 4 and 5, notification shall be dispensed with.
 - 7 Rules concerning the right of the victim to receive information about the proceedings and concerning the notification of victims about the proceedings may be laid down by ministerial order.
 - 8 Where the present Code provides for requests by a victim, written requests may be transmitted through electronic means using an electronic service designated by an order in council.

Section 51b of the Dutch Code of Criminal Procedure

- 1 At a victim's request, the public prosecutor shall grant him or her permission to inspect the case documents of relevance to him or her. During the court hearing, that leave shall be granted by the court determining questions of fact, before which the case is being prosecuted, and otherwise by the public prosecutor.
- 2 Victims may ask the public prosecutor to add to the case file documents that they consider relevant for the assessment of the case against the suspect or their claim against the suspect.
- 3 The public prosecutor may refuse to add documents or permit inspection thereof if he or she is of the opinion that the documents cannot be regarded as case documents or considers the addition of said documents or their inspection to be incompatible with the interests referred to in [Section 187d\(1\)](#).
- 4 The public prosecutor shall require written authorisation for the application of paragraph 3, to be granted by the examining magistrate on his application. The public prosecutor shall notify his or her decision in writing to victims.
- 5 The manner in which case documents are to be inspected shall be laid down by an order in council.
- 6 Victims may obtain copies of the documents they have been permitted to inspect at the court registry in accordance with the provisions by or pursuant to [Section 17 of the Criminal Cases \(Fees\) Act \(*Wet tarieven in strafzaken*\)](#). [Section 32\(2–4\)](#) shall apply mutatis mutandis.

Section 51c of the Dutch Code of Criminal Procedure

- 1 A victim may have legal representation during the preliminary investigation and at the hearing.
- 2 A victim may be assisted by a lawyer, by his or her legal representative and also by a person of his or her choice.
- 3 A victim may be represented at the hearing by a lawyer, provided the latter declares that he has been given express authorisation, or by an authorised representative who has been given a special written power of attorney for that purpose.
- 4 The police, the public prosecutor, the examining magistrate or the judge may refuse to allow a victim to be assisted by his or her legal representative or by a person of his or her choice, or refuse to allow the representation of the victim by a legal representative or authorised representative in the interests of the investigation or in the victim's interests. The reasons for any such refusal shall be given.

- 5 Where victims are not fluent or sufficiently fluent in the Dutch language, they may have the assistance of an interpreter.
- 6 Further rules concerning assistance by a lawyer, and concerning the assistance required by victims to understand or to be understood during their contact with the police, the public prosecution service and the court shall be laid down by ministerial order.

Section 51ca of the Dutch Code of Criminal Procedure

- 1 Victims who are not fluent or insufficiently fluent in the Dutch language may request that written information to which they are entitled pursuant to [Section 51ac\(2\) or \(3\)](#) be translated into a language they understand, if and in so far as they consider such information necessary to be able to exercise their rights during the criminal proceedings.
- 2 The translation with which victims are provided shall contain, in so far as their request relates to this, at least the written information referred to in [Section 51ac\(1\)\(a\), \(b\), \(d\), \(f\) and \(g\)](#), to the extent such information is necessary to enable them to exercise their rights during the criminal proceedings.
- 3 Victims who are not fluent or insufficiently fluent in the Dutch language:
 - a. may request copies of case documents which they are permitted to inspect pursuant to [Section 51b](#) to be translated into a language which they understand, if and in so far as they consider such case documents necessary to enable them to exercise their rights.
 - b. may request the assistance of an interpreter when inspecting case documents which they are permitted to inspect pursuant to [Section 51b](#) in order to obtain a verbal translation into a language they understand, if and in so far as they consider such case documents necessary to enable them to exercise their rights.
- 4 A request as referred to in paragraph 1(a) or paragraph 3(a) shall be made in writing, describe as clearly as possible the written information, case documents or parts thereof to which the request pertains and be supported by reasons.
- 5 During the preliminary investigation, the request as referred to in paragraph 1(a) and paragraph 3(a) shall be addressed to the public prosecutor. During the court hearing, the request shall be addressed to the court determining questions of fact, before which the case is being prosecuted, and after the conclusion of the court hearing, to the public prosecutor.
- 6 Where the public prosecutor refuses the request referred to in paragraphs 1 or 3, he shall notify the victim in writing. The victim may lodge a notice of objection with the examining magistrate fourteen days of the date of the notification. Before ruling, the examining magistrate shall hear the victim and the public prosecutor.
- 7 Where the court referred to in paragraph 5 refuses the request referred to in paragraphs 1 or 3, the court shall notify the victim of such in writing, if the victim so requests.
- 8 Without prejudice to the paragraph 1(a), paragraph 2(a) and paragraph 3(a), a verbal translation or summary of the written information or case documents necessary for victims to be able to exercise their rights may, by way of exception, be provided instead of a written translation, on condition that the verbal translation or summary does not affect due process.
- 9 Further rules pertaining to the translation of written information and case documents placed at the disposal of victims at their request may be laid down by ministerial order.

Section 51d of the Dutch Code of Criminal Procedure

Sections [51a–ca](#) shall, with the exception of [Section 51aa\(3\)\(b\)](#), apply mutatis mutandis to persons referred to in [Section 51f\(2\)](#).

Section 51e of the Dutch Code of Criminal Procedure

- 1 The right to address the court may be exercised if the offence as charged in the indictment is a serious offence which carries a statutory term of imprisonment of eight years or any of the serious offences referred to in [Sections 240b, 247, 248a, 248b, 249, 250, 285, 285b, 300\(2\) and \(3\), 301\(2\) and 301\(3\), 306–308](#) and [Section 6 of the Dutch Road Traffic Act 1994 \(*Wegenverkeerswet 1994*\)](#). Those entitled

to do so shall notify the public prosecutor in writing of their intention to exercise their right to address the court before the start of the court hearing so that the public prosecutor is able, in good time, to summon them to the court hearing.

- 2 Victims may make statements at court hearings.
- 3 Fathers or mothers of victims who are minors, and who have a close relationship with the latter, or persons taking care of or bringing up victims as part of their family and having a close personal relationship with the victim, may also exercise the right to address the court as referred to in paragraph 2. The right to address the court may be exercised jointly or each separately. The presiding judge may, of his or her own motion or on the application of the public prosecutor, limit or deny the right to address the court on the grounds that such would be contrary to the interests of the minor victim.
- 4 Where more than three surviving relatives have indicated that they wish to exercise their right to address the court, and they fail to agree among themselves which of them will address the court, the presiding judge shall decide which three persons may exercise that right. The presiding judge's decision shall not prevent a spouse, registered partner or other life companions to speak in exercise of their right to address the court.
- 5 Victims who may make use of the right to address the court include minors who have reached the age of twelve years. The same applies to minors under that age and who can be considered capable of a reasonable appreciation of their interests in the matter.
- 6 Where victims are under twelve years of age, the right to address the court may be exercised by their legal representatives in so far as that representation is not contrary to the interests of the minor concerned. The legal representatives may also, jointly or each separately, make a statement at the court hearing about the impact the offences referred to in paragraph 1 have had on them. The presiding judge may, of his or her own motion or on the application of the public prosecutor, decide to deny a legal representative the right to address the court on the grounds that such would be contrary to the interests of the minor.
- 7 Where a victim is actually incapable of exercising the right to address the court, the right to make a statement about the impact of the offence may be exercised by the spouse, the registered partner or another life companion and one of the victim's family members as referred to in [Section 15a\(1\)\(b\)](#).

- **Section 163 of the Dutch Code of Criminal Procedure**

- 1 Any offence shall be reported verbally or in writing to the competent officer, either by the person making the report in person or by another person who has been given a special written power of attorney for that purpose.
- 2 The verbal report shall be recorded in writing by the officer who receives it and after it has been read out shall be signed by him or her together with the person making the report or his or her authorised representative. Where that person is unable to sign, the reason for the inability shall be stated.
- 3 Where the person making the report or his or her authorised representative does not understand or speak the Dutch language, or does not understand or speak it sufficiently well, he or she shall be allowed to make the report in a language he or she understands or receive the necessary linguistic assistance.
- 4 The signed report shall be signed by the person making the report or his or her authorised representative. The report may be transmitted through electronic means using an electronic service designated by an order in council, for the offences permitted in that service.
- 5 The person making the report shall receive a copy of the report or a copy of the official record of a report.
- 6 Where the interests of the investigation so require, the person making the report shall receive written confirmation of his or her report, notwithstanding the provisions of paragraph 5.

- 7 Where the person making the report does not understand or speak the Dutch language, or does not understand or speak it sufficiently well, he or she shall, on requesting such, receive written confirmation of the report in a language he or she understands.
- 8 A written power of attorney, or, if the original has been executed before a civil-law notary, an authentic copy thereof, shall be attached to the record.
- 9 The investigation officers shall be obliged to take receipt of the reports referred to in [Section 160](#) and [Section 161](#) the officers referred to in [Section 162](#) shall be obliged to take receipt of the reports as referred to in that section.
- 10 [Section 156](#) shall apply.

- **Legal Aid Act (*Wet op de rechtsbijstand*)**

Act of 23 December 1993 regulating government-financed legal aid (*Wet van 23 december 1993, houdende regelen omtrent de door de overheid gefinancierde rechtsbijstand*).

- **Section 2 of the Temporary Domestic Exclusion Order Act (*Wet tijdelijk huisverbod*)**

- 1 The mayor may impose a domestic exclusion order on a person where facts and circumstances show that that person's presence in the home poses a serious and immediate threat to the safety of one or more persons living in the dwelling with him or her or staying there on a more than occasional basis, or where facts and circumstances give rise to a serious suspicion of that threat. The exclusion order shall apply for a period of ten days, except where the period is extended pursuant to [Section 9](#). Further rules regarding the nature of the facts and circumstances that may cause a domestic exclusion order to be imposed shall be laid down by or pursuant to an order in council.
- 2 A domestic exclusion order may only be imposed on an adult person.
- 3 Where a mayor intends to impose a domestic exclusion order because of child abuse or a serious suspicion thereof, he shall contact the Advice and Reporting Centre for Domestic Violence and Child Abuse, referred to in [Section 4.1.1 of the Social Support Act 2015 \(*Wet maatschappelijke ondersteuning 2015*\)](#) in order to discuss the intention to impose a domestic exclusion order.
- 4 A domestic exclusion order shall in any case include:
 - a. a description of the place and duration for which it is valid;
 - b. the facts and circumstances causing the imposition of a domestic exclusion order, and
 - c. the names of the persons in respect of whom the ban on contact applies.
- 5 Further rules pertaining to a domestic exclusion order may be laid down by ministerial order.
- 6 The person excluded from the home shall indicate where or how he or she can be contacted. Where the person excluded from the home is unable to provide that information immediately, he or she shall provide the mayor with the information within 24 hours of the imposition of the domestic exclusion order.
- 7 Where the situation is so urgent that the domestic exclusion order cannot be put in writing in advance, it may be announced verbally. The mayor shall be responsible for ensuring that it is drawn up in writing swiftly and publishing it. Where the place of residence of the person excluded from the home is not known, the announcement shall take place by lodging the domestic exclusion order with the municipal clerk's office.
- 8 The mayor shall inform the person with whom the person excluded from the home shares a household of the content of the domestic exclusion order and the consequences of non-compliance with it for the person excluded from the home without delay. The mayor shall also inform the agency designated by the mayor for advice or assistance of the content of the domestic exclusion order and, where the domestic exclusion order is being imposed because of child abuse or a serious suspicion thereof, the foundation referred to in paragraph 3.

- 9 The mayor may in any case withdraw the domestic exclusion order where the person excluded from the home has accepted an offer of assistance and such has been confirmed by the agency providing advice or assistance, designated pursuant to paragraph 8, and that acceptance also entails the person excluded from the home not impeding the provision of assistance to one or more persons living with the person excluded from the home or staying there on a more than occasional basis, and cooperating when asked to do so by the agency providing assistance or support.

- **Section 1a of the Equal Treatment Act (*Algemene wet gelijke behandeling*)**

- 1 The prohibition on discrimination laid down in this Act shall also include a prohibition on intimidation and a prohibition on sexual intimidation.
- 2 Intimidation as referred to in paragraph 1 means: conduct related to the characteristics or behaviour, as referred to in [Section 1\(1\)\(b\)](#), and which has the purpose or effect of violating the dignity of a person and creating an intimidating, hostile, degrading, humiliating or offensive environment.
- 3 Sexual intimidation as referred to in paragraph 1 means: any form of verbal, non-verbal or physical conduct with a sexual connotation which has the purpose or effect of violating the dignity of a person, in particular, when an intimidating, hostile, degrading, humiliating or offensive environment is created.
- 4 [Sections 2, 5\(2–6\), 6a\(2\), and 7\(2–3\)](#) shall not apply to the prohibition of intimidation and sexual intimidation laid down in the present Act.

- **Section 3.51(1) opening words and (h) of the Aliens Decree (*Vreemdelingenbesluit*)**

- 1 An ordinary fixed-period residence permit, subject to a restriction relating to non-temporary humanitarian grounds, may be granted to foreign nationals who:
...
h. for at least one year have been in possession of a residence permit as a victim of human trafficking who for compelling reasons are unable or unwilling to report such or otherwise unable or unwilling to cooperate in the criminal investigation and prosecution of the human trafficker;

- **Chapter B8(2) of the Aliens Act Implementation Guidelines (*Vreemdelingencirculaire*)**

2. Honour-based and domestic violence

2.1. Policy guidelines

Honour-based violence

Under Section 3.48(1) opening words and (e) of the Aliens Decree (Vb), the Immigration and Naturalisation Service (IND) shall grant an ordinary fixed-period residence permit to victims of honour-based violence where all the following conditions are met:

1. A threat of honour-based violence can be said to exist in the Netherlands *and* in the country of origin;
2. There is a real threat that cannot be eliminated in the short term;
3. The manner in which the honour-based violence might be expressed is sufficiently serious; and
4. The foreign national is not eligible for a residence permit for any reason other than that referred to in the present section.

Re 1. and 2. The IND grants an ordinary fixed-period residence permit where the expert opinion of the National Expertise Centre for Honour-Related Violence for the Dutch police (LEC EGG) shows that there is a real and enduring threat of honour-based violence in the Netherlands. The LEC EGG in any case includes in its opinion the possibility of averting the threat.

In addition to facing a threat in the Netherlands, victim must also face a threat in their country of origin. In this context, the victim shall demonstrate plausibly:

- whether any family members live in the country of origin;
- which family members they are; and
- where those family members reside.

Re 3. In any case, the IND defines a sufficiently serious expression of honour-based violence as:

- life-threatening offences directed at the victim or his or her children, including incitement to commit suicide to which the victim is unable to offer any resistance;
- other offences directed towards the victim or his or her children, such as mutilation, assault or unlawful deprivation of liberty;
- repudiation, resulting in the victim being unable to support himself or herself in his or her country of residence;
- child abduction; or
- where the violence leads to distressing circumstances, such as forced separation of parent and child or forced marriage.
- *Domestic violence*

Under Section 3.48(1) opening words and (f) of the Aliens Decree, the IND shall grant a residence permit to victims of domestic violence where all the following conditions are met:

1. Domestic violence or a real threat thereof can be said to exist;
2. The domestic violence has led to a breakdown of the (marital) relationship;
3. The domestic violence is not linked to honour or honour revenge (e.g. honour killings);
4. The victim cannot escape the domestic violence by settling in his or her country of origin; and
5. The victim is not eligible for a residence permit for any reason other than that referred to in the present paragraph.

Re 2. It is irrelevant who decided to break off the relationship or marriage. Only in the case of victims who are minors is it unnecessary, on account of their age, for the family relationship to have broken down.

Re 4. The foreign nationals concerned must be able to demonstrate that they would be unable to escape the violence were they to settle in their country of origin. In addition to violence or a threat of violence in the Netherlands, the foreign nationals concerned must also face a threat in their country of origin. They must be able to demonstrate that family members living in their country of origin pose a threat to the person concerned.

2.2. Extension and withdrawal

Extension

The IND shall not extend the period of validity of an ordinary fixed-period residence permit of victims of honour-based or domestic violence.

After one year, victims of honour-based or domestic violence may submit an application for a residence permit subject to a restriction relating to 'non-temporary humanitarian grounds' (see paragraph B9/11 of the Aliens Act Implementation Guidelines):

- where the threat in connection with which the ordinary fixed-period residence permit was granted continues; or
- where there are compelling reasons of a humanitarian nature.

Withdrawal

The IND shall withdraw the residence permit if, in the opinion of the LEC EGG, there is no longer a real and enduring threat of honour-based violence in the Netherlands and in the country of origin.

2.3. Evidence

Honour-based violence

The IND regards the written opinion of the LEC EGG as evidence showing that there is a threat of honour-based violence in the Netherlands and in the country of origin, that there is a real threat which cannot be eliminated in the short term and that the way in which the honour-based violence may be expressed is sufficiently serious.

Examples of what the IND regards as evidence showing that there are family members living in the country of origin, which family members those are and where they reside include a family record book, a civil registry extract or a notarial deed showing the family composition and the place of residence.

Domestic violence

The IND regards the following as evidence of domestic violence:

- recent police records in which the police are able to demonstrate that domestic violence has taken place; or
- a recent statement by the police or the Public Prosecution Service to the effect that the Public Prosecution Service has launched a prosecution of its own motion against the perpetrator.
- combined with recent medical information from the doctor or confidential doctor or a recent statement by another care provider or recent details concerning a stay in a reception facility or other objective information from a reliable source which provides sufficient evidence that domestic violence has taken place.

The IND also regards the following as evidence of domestic violence:

- an order showing that a Dutch court has annulled a marriage because it was entered into under duress as referred to in Section 71(1) of Book 1 of the Dutch Civil Code.
- **Section 3.51 of the Aliens Decree**
 1. An ordinary fixed-period residence permit, subject to a restriction relating to non-temporary humanitarian grounds, may be granted to foreign nationals who:
 - a. have resided for five years in the Netherlands as holders of a residence permit subject to the restriction referred to in (1), or who have resided for three years in the Netherlands subject to a restriction referred to in (2) or (3):
 1. residence as a family member or relative of a person with a non-temporary right of residence;
 2. medical treatment, in so far as that medical treatment will, in the opinion of Our Minister, be necessary for at least one further year in the Netherlands;
 3. temporary humanitarian grounds;
 - b. after their expulsion pursuant to [Section 64 of the Act](#) has not taken place during a one-year period, have resided in the Netherlands for two years as holders of a residence permit subject to a restriction relating to medical treatment, in so far as that medical treatment will, in the opinion of our Minister, be necessary for at least one further year in the Netherlands;

- c. were holders of a residence permit subject to a restriction relating to residence as a family member or relative of a person with a non-temporary right of residence, where the relationship between the foreign national and that person has ended owing to the latter's death;
 - d. are former Dutch nationals born and bred in the Netherlands;
 - e. are adult former Dutch nationals born outside the Netherlands, in so far as they live in a country other than the one of which they are a national and, in the opinion of Our Minister, have special ties with the Netherlands;
 - f. are minors, in so far as their shelter and legal representation is provided in the Netherlands and who:
 1. have resided legally in the Netherlands for ten years as referred to in [Section 8\(a\) to \(e\) inclusive or \(l\) of the Act](#), or as Dutch citizens, or
 2. before submitting an application, have resided legally in the Netherlands for five years as referred to in [Section 8\(a–e\) or \(l\) of the Act](#), or as Dutch citizens, in so far as, in the opinion of Our Minister, the Netherlands is the most appropriate country for the foreign national concerned;
 - g. are eligible for the return option under [Section 8 of the Return Migration Act \(Remigratiewet\)](#), provided they have not previously made use of the return option, their application for re-entry is received within one year of return migration from the Netherlands and they, immediately prior to their return migration:
 1. had migrated back from the Netherlands as returnees under the [Return Migration Act](#);
 2. as partners of a returnee returning with the returnee were legally resident for three successive years within the meaning of [Section 8 of the Act](#) or as Dutch citizens;
 3. as a minor child of a returnee returning with the returnee was legally resident within the meaning of [Section 8 of the Act](#) or as a Dutch citizen, irrespective of the duration, and applies for re-entry at the same time as the returnee, or
 4. as a minor child of a returnee returning with the returnee was legally resident within the meaning of [Section 8 of the Act](#) or as a Dutch citizen, irrespective of the duration, and independently applies for re-entry if he or she has become an adult within one year of re-entry;
 - h. for at least one year have been in possession of a residence permit as victims of human trafficking who for compelling reasons are unable or unwilling to report such or otherwise unable or unwilling to cooperate in the criminal investigation and prosecution of the human trafficker;
 - i. for at least one year have been in possession of a residence permit as a victim of honour-based violence or imminent honour-based violence as referred to in [Section 3.48\(1\)\(e\)](#);
 - j. for at least one year have been in possession of a residence permit as a victim of domestic violence or imminent domestic violence as referred to in [Section 3.48\(1\)\(f\)](#);
 - k. on account of special individual circumstances, in the opinion of Our Minister, permanent residence in the Netherlands is recommended.
- 2 Notwithstanding paragraph 1, opening words and (a)(1), a residence permit may also be granted where a foreign national:
- a. immediately before submitting the application, was legally resident in the Netherlands for two years within the meaning of [Section 8\(a\) of the Act](#) as a family member of a holder of a European blue card issued by Our Minister, and
 - b. at the time when the application was received or the decision was handed down, was legally resident for an uninterrupted period of at least five years on the territory of a State which is party to the Treaty on the Functioning of the European Union as a family member of the holder of the European blue card referred to in (a).

- 3 A residence permit may also be granted to foreign nationals other than those referred to in paragraphs 1 and 2. Rules may be set in this regard by ministerial order.
- 4 An application shall not be refused on the basis of [Section 16\(1\)\(c\) and \(k\) of the Act](#). Nor shall an application be refused on the basis of Section 16(1)(b) of the Act, where the application was submitted by a foreign national referred to in paragraph (1)(d).
- 5 [Section 3.80a](#) shall apply to the foreign nationals referred to paragraph (1)(a)(1), and (2).
- 6 To the extent a residence permit is granted, [Section 3.77](#) and [Section 3.78](#) shall not apply, while [Section 3.86](#) and [Section 3.87](#) shall apply mutatis mutandis.
- 7 For the purposes of paragraph (1)(a)(1) and (c), a person with a non-temporary right of residence shall not mean a holder of a fixed-period asylum residence permit.
- 8 A permit subject to a restriction relating to non-temporary humanitarian grounds may also be granted to foreign nationals to whom Section 13 of Decision no. 1/80 of the EC-Turkey Association Council on the development of the Association is applicable where:
 - a. the foreign national has been granted the permit referred to in [Section 3.31b](#) and, at the time the period of validity of that permit expires, has a job for a further year which provides him or her with lasting and sufficient means of support as referred to in [Sections 3.73 to 3.75 inclusive](#), or
 - b. he or she has resided in the Netherlands for three years as a holder of residence permit subject to a restriction relating to residence as a family member or relative of a person with a non-temporary right of residence, and the conditions for an extension of the period of validity of the original residence permit have been met.

- **Chapter B9(10) of the Aliens Act Implementation Guidelines**

10. Following residence as a victim of human trafficking who is unable or unwilling to report such

The IND shall grant a fixed-period residence permit subject to the restriction relating to 'non-temporary humanitarian grounds' under [Section 3.51\(1\) opening words and \(h\) of the Aliens Decree](#), where:

- The victim demonstrates that the threat on the basis of which the residence permit was granted continues, making it impossible for the victim to cooperate in the criminal proceedings; or
- recent medical information shows that a physical or mental condition is (still) preventing the victim from cooperating in the criminal proceedings.
- The IND shall grant an ordinary fixed-period residence permit, subject to a restriction relating to 'permanent humanitarian grounds' under [Section 3.51\(1\) opening words and \(k\) of the Aliens Decree](#), where:
 - a foreign national has for at least one year been in possession of a residence permit as a victim of human trafficking who for compelling reasons is unable or unwilling to report such or otherwise unable or unwilling to cooperate in the criminal investigation and prosecution of the human trafficker; and
 - a serious threat or a physical or mental limitation making it impossible for the victim to cooperate in the criminal proceedings can no longer be said to exist, and
 - there is a combination of compelling reasons of a humanitarian nature directly related to human trafficking, which mean the foreign national cannot be required to leave the Netherlands.

- **Article 3.36 of the Regulations on Aliens 2000 (*Voorschrift Vreemdelingen 2000*)**

Article 3.36.

- 1 Acts of persecution within the meaning of Article 1A of the Convention relating to the Status of Refugees must:

- a. be sufficiently serious by their nature or repetition as to constitute a severe violation of basic human rights, in particular the rights from which derogation cannot be made under Article 15(2) of the [ECHR]; or
 - b. be an accumulation of various measures, including violations of human rights which is sufficiently severe as to affect an individual in a similar manner as mentioned in (a).
- 2 Acts of persecution as qualified in paragraph 1, can, inter alia, take the form of:
- a. acts of physical or mental violence, including sexual violence;
 - b. legal, administrative, police, and/or judicial measures which are in themselves discriminatory or which are implemented in a discriminatory manner;
 - c. prosecution or punishment, which is disproportionate or discriminatory;
 - d. denial of judicial redress resulting in a disproportionate or discriminatory punishment;
 - e. prosecution or punishment for refusal to perform military service in a conflict, where performing military service would include crimes or acts falling under the exclusion clauses as set out in Article 1F of the Convention relating to the Status of Refugees;
 - f. acts of a gender-specific or child-specific nature.
- 3 There must be a connection between the reasons mentioned in Article 1A of the Convention relating to the Status of Refugees and the acts of persecution as qualified in the paragraph 1 or the absence of protection against such acts.

- **Paragraph C2/3.3 of the Aliens Act Implementation Guidelines 2000**

3.3. Serious harm within the meaning of Section 29(1), opening words and (b) of the Aliens Act

General

The IND grants fixed-period asylum residence permits under Section 29(1), opening words and (b) of the Aliens Act where the removal of a foreign national from the Netherlands would give rise to a real risk of serious harm within the meaning of Section 29(1), opening words and (b) of the Aliens Act and Article 3.37b of the Aliens Regulations.

Foreign nationals may face a real risk of serious harm upon leaving their country of origin, but such a risk may also arise following their departure from it.

The IND does not grant fixed-period asylum residence permits under Section 29(1), opening words and (b) of the Aliens Act where Article 3.105e, opening words and (e) of the Aliens Decree is applicable.

Indiscriminate violence and the human rights situation

The general situation of violence and the human rights situation are included in any analysis of Section 29(1), opening words and (b) of the Aliens Act. The graver the situation of (indiscriminate) violence or the human rights situation in a country of origin, the more readily the IND will conclude that a foreign national, having regard to the individual facts and circumstances pertaining to him or her, would face a real risk of serious harm if returned to his or her country of origin.

The IND assesses whether a situation as defined in Section 29(1), opening words and (b) of the Aliens Act can be said to exist based on the following elements:

- whether the situation in the country of origin, or in a particular area of that country, is an exceptional one where persons would, solely on account of their presence in their country of origin, face a real risk of serious harm;

- whether the foreign national belongs to a group which is systematically exposed to a real risk of serious harm, in cases where no exceptional situation can be said to exist;
- whether the foreign national, based on the policy pertaining to 'vulnerable minority groups', is eligible for a fixed-period asylum residence permit under Section 29(1), opening words and (b) of the Aliens Act, in cases where no exceptional situation and systematic exposure can be said to exist;
- whether the foreign national, based on his or her personal situation or individual account of the reasons for his or her request for asylum, has been able to demonstrate that he or she faces a real risk of serious harm, in cases where none of the foregoing situations arises.

The IND assesses whether a foreign national is eligible for a fixed-period asylum residence permit under Section 29(1), opening words and (b) of the Aliens Act, working through the elements in the order set out above.

Exceptional situation

An exceptional situation within the meaning of Article 3 of the ECHR (and Article 15(c) of Directive 2011/95/EU) can be said to exist where the general situation of violence and the human rights situation in the country of origin, or in a particular area of that country, is so exceptionally poor that any foreign national, regardless of his or her individual circumstances, would face a real risk of serious harm if returned (in the words of the ECHR: most extreme cases of general violence). The Minister has the authority to designate a situation in a country of origin as an exceptional situation.

In any case, the following elements are considered together in an assessment of whether an exceptional situation can be said to exist:

- whether parties involved in the conflict concerned use methods of warfare which increase the possibility of civilian casualties or target civilians;
- whether the use of such methods is widespread among the warring factions;
- whether the violence is widespread or local;
- the numbers of dead, injured and displaced people among the civilian population as a result of the conflict.

In such cases, the individualisation requirement is limited to the person concerned originating in the country or specific area where an exceptional situation can be said to exist.

The country-specific policy includes as a criterion a determination as to whether or not an exceptional situation can be said to exist in a specific country.

Systematic exposure

The individualisation requirement is restricted to the person concerned having to be able to demonstrate that he or she belongs to the population group or social group which systematically faces a real risk of serious harm within the meaning of Section 29(1), opening words and (b) of the Aliens Act.

The country-specific policy includes as a criterion a determination as to whether or not a population group or social group can be said to be systematically exposed to serious harm in a specific country within the meaning of Section 29(1), opening words and (b) of the Aliens Act.

Vulnerable minority groups

The Minister has the authority to designate a population in a country of origin as a vulnerable minority group. In any case, the following elements are considered together in an assessment of whether a population group can be designated as a vulnerable minority:

- whether indiscriminate violence or indiscriminate human rights violations can be said to exist in the

- country or in a particular area of that country, such as murder, rape and assault;
- the extent to which a foreign national belonging to the population group is able to avail himself or herself of effective protection against imminent violence or human rights violations (see Article 3.37c of the Aliens Regulations);
- the extent to which a foreign national belonging to the population group can escape from imminent violence or human rights violations by settling elsewhere (see Article 3.37d of the Aliens Regulations).

The country-specific policy includes as a criterion a determination as to whether or not a population can be designated as a vulnerable minority. A distinction is made between a vulnerable minority group and a risk group (see section C2/3.2 of the Aliens Act Implementation Guidelines).

A foreign national belonging to a population group designated in the country-specific policy as a vulnerable minority group may, where credible and identifiable statements have been made, be able to demonstrate with limited indications that he or she fears being subjected to such serious harm as defined here.

In such cases, the individualisation requirement is not restricted to the personal experience of the foreign national concerned. Based on the statements made by a foreign national, the IND considers what human rights violations people belonging to the vulnerable minority group, in the immediate vicinity of the foreign national, have experienced. In such cases, a foreign national is not required to be able to demonstrate that the human rights violations were prompted by membership of the vulnerable minority group concerned. Such human rights violations could also have taken place in the immediate vicinity of the foreign national in his or her country of origin after he or she had already left the country.

The IND does not grant fixed-period asylum residence permits under Section 29(1), opening words and (b) of the Aliens Act to foreign nationals belonging to a vulnerable minority where in any case:

- there has been a considerable time lag between the human rights violations and the foreign national's departure from his or her country of origin;
- the foreign national has experienced no further problems during the considerable time lag.

Distinguishing features

The individualisation requirement is applicable in all other cases. The foreign national must adduce special distinguishing features which indicate the real risk of serious harm within the meaning of Section 29(1), opening words and (b) of the Aliens Act.

Previous exposure to atrocities

Where foreign nationals have been exposed to serious harm within the meaning of Section 29(1)(b) of the Aliens Act in their country of origin, reference is made, first, to Section 31(5) of the Aliens Act.

To supplement those provisions, the IND issues foreign nationals who in the past have been exposed to traumatic events in their immediate vicinity and, owing to psychological problems resulting from the atrocities, are in a position preventing them from returning to their country of origin with an asylum residence permit pursuant to Section 29(1), opening words and (b) of the Aliens Act, under the conditions set out therein. This is a more favourable standard within the meaning of Article 3 of Directive 2011/95/EU.

The IND does not grant fixed-period asylum residence permits solely based on the fact that a foreign national has submitted a medical certificate concerning the trauma he or she has experienced.

Foreign nationals must meet all the following conditions to be eligible for a fixed-term asylum residence permit pursuant to Section 29(1), opening words and (b) of the Aliens Act.

This concerns exclusively acts caused by:

- the authorities of the country of origin;
- political or militant groups exercising actual power in the country of origin or part thereof;
- groups against which the government is unable or unwilling to provide protection.

Only the following acts may prompt the IND to grant a fixed-period asylum residence permit pursuant to Section 29(1), opening words and (b) of the Aliens Act:

- the violent death of a foreign national's close family members or members of his or her household;
- the violent death of other relatives or friends of a foreign national in so far as he or she is able to demonstrate that there was a close relationship between the deceased and him or her;
- the substantial non-criminal detention of a foreign national;
- the torture, serious assault or rape of a foreign national;
- a foreign national witnessing the torture, serious assault or rape of his or her close family members or members of his or her household;
- a foreign national witnessing the torture, serious assault or rape of other relatives or friends in so far as he or she is able to demonstrate that there was a close relationship between the relative or friend and him or her.

The IND grants fixed-period asylum residence permits pursuant to Section 29(1), opening words and (b) of the Aliens Act to foreign nationals who further meet all the following conditions:

- to foreign nationals who have been exposed to an event in their country of origin, where the perpetrators of those events have not been punished in their country of origin;
- to foreign nationals who have been able to demonstrate that that event caused them to leave their country of origin;

When testing the aforementioned conditions against the policy guideline, the IND examines whether perpetrators of atrocities are generally punished in the country of origin concerned. See Article 3.37c of the Aliens Regulations for the assessment of this criterion.

Foreign nationals must be able to demonstrate in their statements that a traumatic event took place and that that traumatic event coupled with the actual situation in their country of origin was the reason for their leaving it. The burden of proof rests with the foreign national.

The causal link between a traumatic event and the reason for leaving is accepted where a foreign national leaves his or her country of origin within six months of the traumatic event.

This does not apply to situations where foreign nationals have been able to demonstrate that there is a link between the traumatic event and their leaving their country of origin and that, through no fault of their own, they were unable to leave their country of origin within the six-month period.

In this context, the IND also grants fixed-period asylum residence permits pursuant to Section 29(1), opening words and (b) of the Aliens Act where there has been a regime change in a foreign national's country of origin before he or she leaves it.

The IND does not grant fixed-period asylum residence permits pursuant to Section 29(1), opening words and (b) of the Aliens Act where foreign nationals are able to relocate within their country of origin (see section C2/3 of the Aliens Act Implementation Guidelines). Article 3.37c of the Aliens Regulations shall apply mutatis mutandis.

The IND does not grant fixed-period asylum residence permits pursuant to Section 29(1), opening words and (b) of the Aliens Act where:

- the safe country exception within the meaning of section C2/6.1–6.3 of the Aliens Act Implementation Guidelines can be said to exist;

- a contraindication within the meaning of section C2/5–8 of the Aliens Act Implementation Guidelines can be said to exist.

Genital mutilation

Where all the following conditions are met, the IND grants fixed-period asylum residence permits pursuant to Section 29(1), opening words and under (b) of the Aliens Act to women who invoke genital mutilation:

- there is a real risk of women being subjected to genital mutilation;
- Article 3.37c of the Aliens Regulations is not applicable;
- Article 3.37d of the Aliens Regulations is not applicable.

Based on the individual statements of a foreign national, the IND assesses whether the foreign national is eligible for a fixed-period asylum residence permit pursuant to Section 29(1), opening words and (b) of the Aliens Act because there is a real risk of women being subjected to genital mutilation.

The IND also includes in its assessment general information about the genital mutilation of women in the country of origin. Such information may be found, for example, in an official country report from the Minister of Foreign Affairs.

Where there is a well-founded fear of genital mutilation, the IND grants fixed-term asylum residence permits pursuant to Section 29(1), opening words and (b) of the Aliens Act exclusively to:

- girls, including those born in the Netherlands, who face a real risk of genital mutilation if they are returned to their country of origin; and
- the parent of a girl to whom the IND has granted a fixed-period asylum residence permit pursuant to Section 29(1), opening words and (b) of the Aliens Act.

Notwithstanding the foregoing, the IND will in no circumstances grant a fixed-period asylum residence permit pursuant to Section 29(1), opening words and (b) of the Aliens Act where fear of genital mutilation has been invoked to:

- parents who have performed the genital mutilation themselves or facilitated its performance;
- parents who enter the Netherlands after their daughters have already been granted a fixed-period asylum residence permit pursuant to Section 29(1), opening words and (b) of the Aliens Act; and
- other family members.

Medical circumstances

In special circumstances, expulsion may, in connection with the medical situation of the person concerned, result in an infringement of Article 3 of the ECHR. The IND assesses the question of whether Article 3 of the ECHR has been infringed on medical grounds in the context of the ex officio assessment to establish whether postponement of departure should be granted under Section 64 of the Aliens Act. In such a situation, no asylum residence permit is granted, except in situations as defined in the transitional law laid down in A3/7.6. See paragraph A3/7 of the Aliens Act Implementation Guidelines for details of the applicable policy guidelines and transitional law. Where no ex officio assessment takes place, but the more comprehensive asylum decision must also be deemed a return decision, the IND also assesses – in the context of that return decision – whether an infringement of Article 3 ECHR can be said to have taken place on medical grounds.

• **Section 29(1)(a) and (b) of the Aliens Act 2000**

- 1 A fixed-period residence permit as referred to in [Section 28](#) may be granted to foreign nationals:
 - a. who are refugees under the terms of the Convention; or

- b.** who have been able to demonstrate that they have good grounds for believing that if they are expelled they will run a real risk of serious harm, comprising:
 - 1.** the death penalty or execution;
 - 2.** being subjected to torture or to inhuman or degrading treatment or punishment; or
 - 3.** a serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict.