

# **Femicide in Dutch legal practice: legal recognition and sentencing**

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## Summary

*Disclaimer: this English summary is based on an initial AI-assisted translation of the original Dutch summary. The content has been reviewed, edited and approved by the authors.*

### 1. Introduction

The gender-related killing of a woman or girl (femicide) is the most severe form of violence against women. In the Netherlands, an average of 43 women and girls are killed each year, 71.6% of whom by a (former) intimate partner or family member.<sup>1</sup> Under the influence of international treaties and high-profile femicide cases, the topic is currently at the forefront of public debate. Although the Netherlands has taken important steps against femicide in recent years – for example, by introducing the national action plan “Stop femicide!” in 2024<sup>2</sup> – there is no separate criminal offense of femicide. Moreover, there is limited insight into how femicide cases are handled in Dutch criminal practice. This has led to political debate in a roundtable meeting (8 June 2023), a committee debate (27 September 2023) and to parliamentary questions about the current approach to femicide cases. These discussions prompted the present study, which focused on four goals:

1. Analysing the extent to which and the way in which gender-related characteristics and femicide are explicitly or implicitly mentioned and used in judicial decisions concerning murder and manslaughter against women.
2. Mapping how gender-related characteristics play a role in sentencing in femicide cases.
3. Exploring the further legal and practical handling of femicide within the current criminal law framework, with attention to possible improvements in recognition, acknowledgment, evidentiary reasoning, and sentencing.
4. Exploring various (foreign) legal approaches to regulating femicide in criminal law, including the possibility of considering gender-related characteristics as aggravating circumstances in assessing cases of murder and manslaughter against women.

### 2. Problem statement and research questions

This study is based on the following central research question:

*To what extent is femicide recognised, acknowledged, conceptualised, and legally assessed within Dutch legal practice, and how are gender-related characteristics considered in the evidentiary reasoning and sentencing in cases of (attempted) murder and manslaughter of women?*

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<sup>1</sup> CBS, Slachtoffers moord en doodslag, 2024.

<sup>2</sup> Rijksoverheid, *Stop femicide! Plan van aanpak om dodelijk geweld tegen vrouwen en meisjes door (ex-) partner of familie te voorkomen*, 2024.

This central question was answered using various sub-questions, divided into the following five categories:

1. Questions regarding the current policy and legal framework
  - a. What is the current Dutch policy and legal framework on femicide?
2. Questions regarding the handling of femicide in legal practice
  - a. How is femicide currently handled in criminal practice regarding the recognition and acknowledgment of gender-related characteristics, in evidentiary reasoning in criminal cases, and in sentencing?
  - b. To what extent are gender-related characteristics included in the investigation phase, specifically with regard to targeted investigation practices and composing a case file?
  - c. To what extent is the term “femicide” (or an alternative) explicitly mentioned in court decisions, and if so, how is this term legally framed?
3. Questions regarding the role of gender-related characteristics in court decisions as to the proof of constituent elements
  - a. Are these characteristics legally considered and included in assessing criminal “intent” (*dolus*)? If so, how?
  - b. Are these characteristics legally considered and included in assessing “premeditation”? If so, how?
  - c. To what extent can gender-related characteristics be included in the assessment of the element of “premeditation” in murder cases?
4. Questions regarding the role of gender-related characteristics in sentencing
  - a. To what extent do sentencing reasonings explicitly refer to gender-related characteristics in cases of (attempted) murder and manslaughter against women?
  - b. To what extent are gender-related characteristics explicitly mentioned as aggravating circumstances in sentencing reasonings?
  - c. How does sentencing in femicide cases relate to the statutory maximum penalties?
5. Questions regarding the manner in which different EU countries address femicide and gender-related characteristics (in criminal law)
  - a. How are femicide and gender-related characteristics legally framed in other legal systems?
  - b. What criminal law approaches do other countries employ to define and punish femicide?
  - c. What legal and practical considerations play a role in the criminal law approaches observed in other countries, if they were to be introduced into the Dutch system?

### **3. Working definition of ‘femicide’**

To delimit the study, we first developed a working definition of femicide. In this study, we defined femicide as:

- i. the intentional and unlawful killing (homicide);
- ii. of a girl or woman;
- iii. in which a gender-related characteristic plays a (motivating) role.

We limited intentional and unlawful killing (homicide) to cases of (attempted) murder and (aggravated) manslaughter. The study did not focus solely on victims of the (biological) female sex but also included trans women. Offenders could be of any gender, not limited to men. For gender-related characteristics, we followed an operationalization developed by UNODC.<sup>3</sup> This meant that intentional killings of women by their (former) intimate partner or family members automatically fell under the definition of femicide. In other cases – intentional killings committed by (un)known persons – we looked for the presence of at least one of the following criteria:

1. the homicide victim had a previous record of physical, sexual or psychological violence/harassment by the author of the killing;
2. the homicide victim was a victim of a form of illegal exploitation, for example, in relation to trafficking in persons, forced labour or slavery;
3. the homicide victim was in a situation where she was abducted or illegally deprived of her liberty;
4. the victim was working in the sex industry;
5. sexual violence against the victim was committed before, during, and/or after the killing;
6. the killing was accompanied by mutilation of the body of the victim;
7. the body of the victim was disposed in a public place;
8. the killing of the victim constituted a gender-related hate crime, i.e., she was targeted because of a specific bias against women on the part of the perpetrator(s).

In addition to these eight criteria, and based on additional academic studies, we were also alert to the characteristics of “honour-related violence” and “pregnancy of the victim”. We were likewise open to contraindications – i.e., indications against classifying a case as a “femicide case” – given the broad scope of the UNODC operationalisation.

### **4. Research methods**

In this study, we employed several research methods:

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<sup>3</sup> UNODC and UN Women, Statistical framework for measuring the gender-related killing of women and girls (also referred to as “femicide/feminicide”).

1. Legal desk research: using legal desk research, we mapped the current Dutch criminal law framework with which femicide is presently addressed. We also provided insight into the national action plan “Stop femicide!”
2. Case law analysis: on [www.rechtspraak.nl](http://www.rechtspraak.nl), all cases of (attempted) murder and manslaughter of a female victim in the period 1 January 2021 – 31 December 2024 were reviewed. Using various inclusion and exclusion criteria, we arrived at a final selection of 282 unique cases that met our working definition of femicide. Using this selection, we examined: the use of the term “femicide” in Dutch case law; whether gender-related characteristics are always recognized; what role gender-related characteristics play in establishing “intent” and “premeditation”; and what role gender-related characteristics play in sentencing.
3. Qualitative vignette study: prior to interviews with experts, 7 public prosecutors and 5 criminal judges took part in a qualitative vignette study. Based on their responses to four fictional scenarios (intimate partner femicide; ex-partner femicide; intentional killing of a stranger; intentional killing of a sex worker), supplemented by four cue variations (reports of domestic violence; reports of intimidation and stalking; a misogynistic hate motive; a sex work context), we explored: the extent to which prosecutors and judges spontaneously use the term “femicide”; whether they identify certain gender-related characteristics; and whether they attach an aggravating effect to these characteristics.
4. Interviews with experts: to examine the delineation of femicide and the recognition and acknowledgment of gender-related characteristics in the investigation and the prosecution/adjudication phase, semi-structured interviews were conducted with 22 experts, including public prosecutors, criminal judges, criminal law scholars, police officers, and staff at Veilig Thuis and Victim Support Netherlands. These interviews also addressed the desirability and pros and cons of foreign and future initiatives in the fight against femicide.
5. Comparative law analysis: the comparative component covered seven EU Member States: Belgium, Spain, Portugal, Malta, Cyprus, Italy, and Austria. Using country reports – based on desk research and interviews with foreign experts – we mapped the (criminal law) approach to femicide and gender-related characteristics in these countries.

## 5. Results

Below we present the key findings per cluster of research questions.

### 5.1. Questions with regard to the current legal and policy framework

1. What is the current Dutch policy and legal framework on femicide?

The current Dutch legal framework on femicide is shaped by the general criminal provisions on murder, (aggravated) manslaughter and the statutory aggravating factor of a “discriminatory intent”. In policy terms, the national action plan “Stop femicide!” is important, and the Public Prosecution Service and the police have adopted internal policy rules.

Femicide cases – as defined in this study – can be prosecuted under current law as (attempted) (Article 45 of the Dutch Criminal Code [Sr]) murder (Article 289 Sr) or manslaughter (Article 287 Sr). Based on our analysis of the constituent elements, we foresaw no offense-specific issues in prosecuting femicide. Gender-related characteristics may contribute to establishing “intent” or “premeditation”. From a legal-dogmatic perspective, we expected such a role for “intent” particularly with respect to gender-related characteristics that are directly connected to or immediately precede the fatal act, such as sexual violence or hostage-taking. Gender-related characteristics that are temporally more removed from the fatal incident – such as a history of domestic violence – seem less relevant.

To establish “premeditation”, it is required that the suspect had sufficient time and opportunity to reflect on his decision. Acting from a sudden emotional impulse precludes this. Prior research by Buisman & Jansen (2023) shows that in femicide cases between (ex-)partners, acquittals for murder regularly follow due to the absence of a premeditated plan or due to a strong emotional impulse. The gender-related characteristic of “hostage-taking”, by contrast, may indicate planned action and thus contribute to establishing “premeditation”.

In addition, the aggravating factor in Article 288 Sr (aggravated manslaughter) may apply in certain femicide cases. Gender-related characteristics such as “exploitation”, “hostage-taking”, and “sexual violence” may indicate that the manslaughter was committed to prepare or facilitate another criminal offense, or to prevent its detection or prosecution. At the same time, we did not anticipate Article 288 Sr to play a central role in the criminal law response to femicide, because such cases often have a different underlying dynamic.

Since 1 July 2025, Article 44bis in conjunction with Article 90quater (2) Sr increases the maximum penalty if an offense is committed with a “discriminatory intent” or if the offense is directly related to conduct that expresses hatred of or discrimination against a group of people on various grounds of discrimination (including sex). This aggravating factor seems especially relevant in femicide cases with an explicit misogynistic hate motive. In other cases, applying Article 44bis Sr to femicide seems less obvious.

Article 304 Sr does not formally apply to femicide, as this provision only concerns increased penalties for assault committed within certain intimate partner and family relationships. The rationale behind this article – that people in a close relationship can be expected to show greater care or respect – is, however, also conceivable in cases of femicide within such relationships.

We then briefly discussed the national action plan “Stop femicide!” and the measures arising from it. The plan has no direct consequences for the criminal qualification or prosecution of femicide – i.e., when the (attempted) manslaughter or murder has already taken place – but

primarily focuses on prevention and early detection. It may thus help limit new femicide cases and foster more consistent recognition and designation of such cases as “femicide.”

Finally, in the interviews we inventoried whether organizations in the criminal justice system have specific policies on femicide. This revealed that only the Public Prosecution Service and the police have developed special policies. Within the Public Prosecution Service, this concerns: the appointment of specialized domestic violence prosecutors (national and per district); a press/spokespersons’ guideline in which the concept of “femicide” is defined as lethal offenses between (ex-)partners and in which it is agreed to explicitly label relevant cases as “femicide”; and earmarking lethal offenses with a female victim in the GPS system. Within the police (at the unit level), agreements include: assigning a forensic psychologist to the investigative team; systematically requesting information from Veilig Thuis and other chain partners in lethal offenses within relationships of dependency; and subjecting lethal offenses within relationships of dependency to a “review”. In addition, portfolio holders ‘Care and Safety’ (*Zorg & Veiligheid*) are regularly consulted in such cases.

## 5.2. Questions with regard to the treatment of femicide in legal practice

- a) How is femicide currently handled in criminal practice regarding the recognition and acknowledgment of gender-related characteristics, in evidentiary reasoning in criminal cases, and sentencing?
- b) To what extent are gender-related characteristics included in the investigation phase, specifically with regard to targeted investigation practices and composing a case file?
- c) To what extent is the term “femicide” (or an alternative) explicitly mentioned in court decisions, and if so, how is this term legally framed?

The study showed that although judgments often refer to the (ex-)partner/family relationship and/or other gender-related characteristics, differences nonetheless appear to exist in the recognition, delimitation and handling of femicide and gender-related characteristics in Dutch legal practice. Below we further explain this finding per sub-question and per research method employed.

Recognition of gender-related characteristics. The *vignette study* showed that judges and prosecutors spontaneously associate femicide primarily with lethal offenses between (ex-)partners (with and without additional gender-related characteristics). In the other scenarios (hate motive and sex work), the word “femicide” was used spontaneously far less often. Furthermore, certain features – such as “domestic violence”, “prior stalking”, and a “hate motive” – were regularly mentioned spontaneously in motivating the sentence (or sentencing demand).<sup>4</sup>

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<sup>4</sup> By contrast, the ‘bare’ (former) relationship, the occupation of sex worker, and the broader context of sex work were less frequently explicitly referred to in sentencing decisions.

For the recognition of femicide and gender-related characteristics, it matters how respondents delineate femicide and which gender-related characteristics they consider relevant in this context. The *interviews* showed that respondents delineate femicide differently, and that three approaches can be distinguished:

- a) Based on gender-related characteristics
- b) Based on (ex-)partner relationship plus gender-related characteristics
- c) Based on (ex-)partner relationship/relationship of dependency

Some respondents consider any killing of a woman by her (ex-)partner as femicide (category c). Other respondents deem additional features – such as prior domestic violence or stalking – necessary to speak of femicide (category b). Still others also include killings between (un)known persons within femicide, provided there are gender-related characteristics such as a misogynistic hate motive (category a). This last category – where femicide is delineated on the basis of gender-related characteristics – was most common among our respondents. Nevertheless, the Public Prosecution Service currently employs a definition of femicide that aligns with category c), namely “lethal offenses against women by their (ex-)partners”.

We also examined which of the UNODC’s gender-related characteristics are considered relevant by respondents for “qualifying” a case as femicide. The features most associated with femicide were: a “history of domestic violence”, “misogynistic hate motive”, “honour-related violence”, and “sexual violence before, during, or after the lethal offense”. The features “exploitation”, “sex work”, and “hostage-taking” were considered indicative of femicide by (more than) half of respondents. “Mutilation of the body” and “disposing of the body in a public place”, by contrast, were least associated with femicide.

Furthermore, most respondents include transgender women as potential victims under the definition of femicide. Most also consider it possible that persons other than men can be perpetrators of femicide. In addition, a majority considered assault resulting in death a possible manifestation of femicide.

The *case law analysis* showed that in 87% of all “femicide cases” as we defined them, judges referred in their sentencing motivation to the intimate partner or family relationship and/or other gender-related characteristics. Such elements also regularly played a role in the evidentiary reasoning: in 32% of femicide charges where “premeditation” was substantively discussed, and in 11% where “intent” was substantively addressed, a gender-related characteristic was referenced. This indicates that the family and intimate partner relationship and other gender-related characteristics are recognized in a substantial share of cases but are not incorporated in all judgments. In particular, indications of a “history of violence” are not always explicitly included in the evidentiary reasoning or sentencing rationale. One possible explanation is the distinction between signals or reports of domestic violence on the one hand, and prior criminal convictions on the other. In the vignette study, respondents were indeed more inclined to aggravate when there was a conviction or incontrovertible proof of prior domestic

violence than when there were mere reports. Another explanation may be that some judges simply do not factor the history of violence into the sentence in an aggravating manner.

Gender-related characteristics in the investigation. *Interviews* with public prosecutors and police officers showed that differences exist in the extent to which there is active steering toward investigating gender-related characteristics. Some public prosecutors explicitly point colleagues to the importance of investigating, for example, the relational context and psychological violence, but most prosecutors and police officers believe such features will come to light in the context of fact-finding anyway, and that additional steering is unnecessary: in lethal offenses within “relationships of dependency”, the police routinely request information from Veilig Thuis and other relevant partners.

Use of the term “femicide” in judgments. The *vignette study* showed that most respondents are prepared to explicitly label lethal offenses between (ex-)partners as “femicide” at the trial hearing. For some, this also depends on the presence of additional gender-related characteristics, such as a history of domestic violence. Where there is a clear misogynistic hate motive, there is also support for labelling the case as “femicide”. Reasons cited for using the term included that it aligns with internal policy of the Public Prosecution Service, that it expresses the seriousness of the conduct, and that it clarifies what type of case it is.

By contrast, the term “femicide” hardly appeared in the *case law analysis*. In only 5 cases (fewer than 2% of all femicide cases) did the court explicitly use this word. These were exclusively (ex-)partner femicide cases in which there were “red flags” prior to the fatal incident. Judges typically used the term to make clear the societal impact of the offense or to frame the case correctly. Use of the term by other parties also occurs but is even rarer. In addition, the term is not consistently included in the content summaries on [www.rechtspraak.nl](http://www.rechtspraak.nl): sometimes the word appeared without being in the judgment itself, while in other cases it was absent. The only “alternative” word encountered in the case law is the word “partner killing” (*partnerdoding*). This term was also used 5 times by the trial court, mainly in a factual sense: to note that someone killed his (ex-)partner. “Partner killing” thus does not function as a synonym for “femicide”, but as a factual indication of the relational context within which the offense occurred.

### 5.3. Questions with regard to the role of gender-related characteristics in evidential reasoning

1. Are these characteristics legally considered and included in assessing criminal “intent” (*dolus*)? If so, how?
2. Are these characteristics legally considered and included in assessing “premeditation”? If so, how?
3. To what extent can gender-related characteristics be included in the assessment of the element of “premeditation” in murder cases?

The case law analysis showed that gender-related characteristics play little role in the legal assessment of “intent”, but they are more often included in substantiating “premeditation”. Opinions differ on the question of the extent to which gender-related characteristics can (as a matter of legal dogmatics) play a role in assessing “premeditation”. Below we offer a more detailed explanation by research method.

The role of gender-related characteristics in evidentiary reasoning was examined first through the *case law analysis*. It showed that these characteristics were only sparingly included in substantiating “intent”: in 26 of the 239 femicide charges in which this element was substantively addressed (11%), we encountered a gender-related characteristic. In 18 of these 26 cases, it was a factual mention – for example, to establish a partner relationship between suspect and victim – without using the feature to substantiate intent to kill. Only in 3 cases were gender-related characteristics explicitly used as arguments in the evidentiary reasoning.

Gender-related characteristics played a larger role in establishing “premeditation” than “intent”. In 53 of the 166 femicide charges in which premeditation was substantively discussed (32%), a gender-related characteristic was included in assessing this element. For instance, the relationship (breakup) between suspect and victim was regularly cited to contextualize the fatal act and infer a motive, such as that the suspect killed his ex-partner because of the termination of the relationship. That said, in this context gender-related characteristics play a supporting role in the sense that other facts and circumstances are always needed to establish premeditation, such as the passage of time or concrete preparatory acts indicative of a plan to commit murder.

The *interviews* showed that most of the prosecutors saw room to include gender-related characteristics in establishing intent and/or premeditation. Some emphasized, however, that such features are not decisive in themselves and must always be assessed in conjunction with other evidence. Judges were more cautious. They saw particular scope for the characteristics “hate motive”, “sexual violence”, or prior death threats, as these may indicate a motive or volitional decision. Other judges, however, referred to the prevailing legal-dogmatic interpretation of the elements and did not see how gender-related characteristics could contribute to establishing intent or premeditation under the current interpretation of the law.

#### 5.4. *Questions with regard to the role of gender-related characteristics in sentencing*

1. To what extent do sentencing reasonings explicitly refer to gender-related characteristics in cases of (attempted) murder and manslaughter against women?
2. To what extent are gender-related characteristics explicitly mentioned as aggravating circumstances in sentencing reasonings?
3. How does sentencing in femicide cases relate to the statutory maximum penalties?

In sentencing rationales for the intentional killing of women, there is already very frequent explicit reference to the presence of an (ex-)partner/family relationship and other gender-related characteristics, and such a relationship/characteristics are also regularly awarded an aggravating effect. Compared to other gender-related characteristics, indications of prior domestic violence and references to the “bare” (ex-)partner/family relationship are mentioned less frequently in sentencing rationales. Moreover, the “bare” (ex-)partner/family relationship is less often given an aggravating effect. In most cases, the sentence imposed remains below the statutory maxima, and respondents do not see the sentencing maxima as a constraint. Below we again provide further explanation by research method.

The *vignette study* showed that judges and prosecutors in particular weigh “prior stalking”, a “hate motive”, and the “bare (ex-)partner relationship” in an aggravating manner in the sentence (or sentencing demand). Indications of prior “domestic violence” were weighed as aggravating to a lesser extent. One possible explanation is that in the scenarios presented, these were only reports – not prior convictions – and that the precise context of the violence was insufficiently clear to respondents. The occupation of “sex worker” and the broader sex work context were not initially influential on the sentence (or demand), unless a concrete link was assumed between the victim’s occupation and the lethal offense.

In the *interviews*, 9 out of 10 judges and prosecutors stated that all gender-related characteristics can in principle have an aggravating effect. Some respondents did mention exceptions, such as for the “bare” relationship; “disposing of the body in a public place”; and the occupation of “sex worker”. In addition, 7 out of 10 judges and prosecutors thought that “femicide cases” are nowadays punished more severely than other, “regular” lethal offenses.

The *case law analysis* likewise confirmed the prominent role of gender-related characteristics in sentencing reasonings. In 258 of the 295 femicide cases we defined, the partner or family relationship and/or other gender-related characteristics were explicitly included in the sentencing reasoning. This occurred predominantly in an aggravating sense: in 74% of femicide cases between (ex-)partners and in 64% of femicide cases between family members, the “bare” relationship was weighed aggravatingly. Indications of “prior (domestic) violence” were not always explicitly mentioned in the sentencing reasoning, but when they were, the prior violence was always weighed in an aggravating manner. The other gender-related characteristics were usually included in the sentencing rationale and almost always had an aggravating influence on the sanction.

Finally, the current maximum statutory penalties do not pose a constraint in femicide cases in legal practice. In the case law analysis, there were only 5 cases in which the then-applicable maximum prison sentence for (attempted) manslaughter (respectively 10 or 15 years) was imposed. These cases concerned facts committed before 1 July 2023, when the old maximum still applied. In the meantime, the maximum penalty for manslaughter was increased to 25 years. In most cases, the sentences imposed remained well below the statutory maxima for (attempted) murder and manslaughter.

The *interviews* with prosecutors and judges likewise indicated that the current maximum penalties provide sufficient scope for adequate sentencing in femicide cases. Although some

respondents favour making gender-related characteristics explicit as aggravating circumstances or a broader application of Article 304 Sr to lethal offenses, this is not linked to a sense that existing maxima are inadequate. According to respondents, the current margins offer sufficient room for sentencing.

#### *5.5. Questions regarding other countries' (criminal justice) approaches to tackling femicide*

1. How are femicide and gender-related characteristics legally framed in other legal systems?
2. What criminal law approaches do other countries employ to define and punish femicide?
3. What legal and practical considerations play a role in the criminal law approaches observed in other countries, if they were to be introduced in the Dutch system?

The comparative analysis showed that the countries studied frame femicide and gender-related characteristics in divergent ways. Broadly speaking, five different models can be distinguished:

1. Countries with a legal definition of femicide, without that definition pertaining to substantive criminal law (Belgium, Spain);
2. Countries with a separate criminal offense for femicide (Cyprus, Italy);
3. Countries where femicide and gender-related characteristics are included as statutory gender-specific aggravating factors (Malta);
4. Countries with family/partner relationships and hate/discrimination as statutory gender-neutral aggravating factors (Spain, Portugal, Belgium); and
5. Countries where other characteristics are also included in a statutory gender-neutral aggravating factor (Italy, Austria).

Despite the variation in approaches, certain aspects recur in virtually all legal systems. For example, (ex-)partner relationships, family relationships, and hate motives form an anchor point in all countries studied for defining femicide and/or statutory sentence aggravation. Other UNODC gender-related characteristics – such as domestic violence, exploitation, sex work, sexual violence, or honour-related violence – were encountered less frequently. The characteristics “hostage-taking”, “mutilation of the body”, and “disposition of the body in a public place” are not mentioned in any of the countries studied as statutory aggravating circumstances and/or as features of femicide. Notably, several countries have included the killing of a “pregnant woman” as a statutory aggravating factor in their criminal codes. Pregnancy is not an explicit femicidal characteristic in the UNODC operationalisation but is identified in social science research as a risk factor for femicide. Nonetheless, sentence aggravation pertaining to pregnancy in these countries need not be (only) linked to the gender-related context of the killing but may have more to do with the fact that two “persons” lose their lives.

It also emerged that countries with specific arrangements for femicide (such as a legal definition or a separate offense) usually understand it as a form of violence against women. In some countries it is evident that trans women are included; in others this is less clear. The comparative analysis also showed that perpetration is often understood as gender-neutral (with the exception of Spain and possibly Cyprus). Femicide is seen as an intentional lethal offense, such as murder and manslaughter, but (the foreign equivalent of) assault resulting in death is also often included. Only Cyprus also includes negligent offenses under the femicide provision.

The study also inventoried the pros and cons of different criminal law approaches, if we were to introduce them in the Netherlands. This inventory was based on findings from the comparative analysis and the interviews with Dutch experts.

The first option was to introduce a separate criminal offense of femicide (cf. Cyprus and Italy). Half of the respondents interviewed (7 of 14) are in principle positive about this. An important advantage of an autonomous offense is that it can contribute to greater visibility of the gender-related dimension of the phenomenon and to more systematic and reliable registration of femicide cases. It can also make preventive measures more effective and counteract misogynistic norms in society. In addition, respondents pointed to the symbolic value of a separate offense and the chance that this would generate extra capacity and prioritization within the criminal justice system.

Other respondents believe a separate offense is unnecessary, since femicide can already be prosecuted under the existing provisions on murder and manslaughter, and the concept can also be used within this framework to denote the phenomenon. Some fear that a separate offense would be largely symbolic in practice. Legal objections were also raised: delineating the concept can be complex and may raise problems with the principle of legality. Potential evidentiary problems were also noted if specific motives are included as elements. It was further argued that the goals pursued with a separate offense could also be achieved by less intrusive means. Finally, some respondents pointed to a possible tension with the principles of gender neutrality, equality, and non-discrimination, in that a gender-specific offense could give the impression that lethal offenses with female victims are more serious than those with male victims.

A similar application of the aggravating factors in Article 304 Sr to lethal offenses was supported by more respondents: 10 of 14 respondents spoke positively about this. The main argument cited was that the rationale behind Article 304 Sr – respect and care among close relations – can also be considered relevant in lethal offenses in the interest of statutory consistency. It was also assumed that such an extension could contribute to combating femicide. Critical remarks included: the question of whether the rationale of Article 304 Sr still applies unreservedly in 2026; that the Dutch Criminal Code would become less clear; and that current maximum penalties already provide sufficient room for sentencing. Moreover, such an extension would not solve the large share of femicide cases between ex-partners.

The introduction of (certain) gender-related characteristics as separate statutory aggravating factors found support from 8 of 14 respondents. Proponents expect that codification can contribute to greater visibility of femicide and encourage criminal justice actors to

systematically consider the characteristics in practice. Opponents, by contrast, pointed to the fact that the current statutory maxima provide sufficient room for adequate sentencing, and that extending aggravating factors could further complicate the systematics and clarity of the Dutch Criminal Code.

Most respondents argued for *gender-neutrally* formulated aggravating factors that can be applied regardless of the victim's gender. A gender-specific formulation was seen as problematic, inter alia due to potential tensions with the principles of equality and non-discrimination, the gender-neutral structure of Dutch Criminal Code, and questions surrounding the position of non-binary and agender victims. Conversely, other respondents argued that a gender-specific approach more clearly expresses what the phenomenon of femicide concerns – namely the killing of women in a gender-related context – and underscore the need for a gender-sensitive approach.

Some respondents also expressed a need for an explicit (legal) definition of femicide. Such a definition could, in their view, contribute to more clarity and consistency within the criminal justice system and to a shared conceptualization of the phenomenon. It would also increase the visibility and recognizability of femicide.

In addition to the legislative changes discussed above, respondents made various other suggestions to improve the approach to femicide. These ranged from strengthening knowledge and awareness (for example in the training of police, prosecutors, and judges) to further specialization within the criminal justice system (such as specialized criminal law chambers) and promoting knowledge sharing with family law and support organizations. More substantive and preventive measures were also cited, including separate criminalization of non-fatal strangulation, submitting cases with “red flags” to a judge earlier, systematically considering and responding to signals of “foreseeable unsafety”, and conducting (forensic) reviews of femicide cases. Finally, some respondents advocated a broader, more holistic approach, with attention to the phenomenon in the media and in (primary) education.

The “best practices” identified in the country reports spanned both legal and organizational and preventive measures. They ranged from developing a comprehensive policy framework to combat gender-based violence and establishing integrated systems for monitoring and risk analysis, to setting up specialized courts and improving statistical registration and monitoring of femicide. Institutional reinforcements were also found, such as establishing a scientific advisory or expert committee, targeted training of police and magistrates, and conducting systematic reviews of femicide cases. A concrete example is a pilot with an inter-institutional database that brings together information from ten different agencies.

## **6. Discussion, recommendations, and future research**

The report concluded with several points for discussion, recommendations and suggestions for future research. The first discussion point concerned whether – and if so, how – “femicide” should be provided with a legal definition in the Netherlands. Given the identified differences in the delineation of femicide in legal practice and the differences in the (aggravating) role

attributed to gender-related characteristics, developing a clear legal definition seems a good idea. This is our first recommendation. A shared view on how to deal with indications of prior domestic violence and on whether family/partner relationships should be structurally considered in an aggravating sense could also contribute to even more consistency in addressing femicide cases.

In developing a legal definition, certain aspects must be taken into account. A narrow and relatively simple definition – comparable to the current definition used by the Public Prosecution Service – has the advantage that it is easy to implement within the criminal justice system and poses fewer risks of interpretive differences and delineation questions. The downside of such a narrow definition is that other cases, which are perceived by next of kin or in public debate as femicide cases, may fall out of scope. This can lead to differences in recognition and framing and thus to (perceptions of) inequality.

If it is decided to introduce a broader legal definition of femicide and/or to introduce statutory aggravating factors, account must likewise be taken of the perceptions of those involved in the criminal justice system, as well as of professional practice within the criminal justice system, and the Dutch criminal law culture and legislative system. This qualitative study does not yet show broad support for a separate femicide offense or for gender-specific statutory aggravating factors. These options also fit less well with the current systematics of the Dutch Criminal Code. There appears to be broader support for gender-neutrally formulated aggravating factors and for a possible extension of Article 304 Sr (although additional quantitative research could examine this further). The gender-specific background of the phenomenon could in that case be expressed in secondary legislation, policy documents, or a non-criminal definition (cf. Belgium and Spain).

In addition to developing a legal definition of femicide, we recommend the following:

1. further exploring possibilities for additional specialization in the field of domestic violence, violence in relationships of dependency and femicide within criminal law practice, for example through the deployment of specialized judges or the establishment of specialised criminal chambers;
2. more consistently labelling relevant criminal cases as “femicide cases”, including in published judgments, as this can contribute to greater visibility of the phenomenon and public awareness. Prosecutors, court clerks, judges, and the editorial team of [www.rechtspraak.nl](http://www.rechtspraak.nl) can play a role in this;
3. future research into other forms of fatal violence against women – such as assault resulting in death or negligent homicide – and their legal disposition. This can contribute to a better understanding of the scope of the femicide phenomenon and how criminal law responds to it.