

دليل باللغة الإنجليزية حول تصريح الإقامة لضحايا العنف المنزلي والعنف القائم على الشرف والاتجار بالبشر



تم تحميل هذا الملف من موقع مهاجرون

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Domestic violence, honour-related violence, human trafficking, abandonment and your residence permit

This publication has been drawn up specifically for people who wish to apply for a residence permit and who have been a victim of domestic violence, honour-related violence, human trafficking or abandonment.

This publication provides you with information on:

- which conditions you must fulfil in order to obtain a residence permit;
- how you can prove that you fulfil these conditions;
- how you can apply for benefits for the time you spend in the (women's) refuge;
- how and where you can apply for an identity document.

1. Independent residence permit if you have (or have had) a residence permit

There are a number of situations where you may be eligible for an independent residence permit (permanent humanitarian residence permit) because you have already had a residence permit for a certain amount of time.

If you are not eligible for this, this publication will provide information about how victims of domestic violence, honour-related violence, human trafficking or abandonment can obtain a residence permit under certain conditions.

Partners

If you have had a residence permit for 5 years or more and this was dependent on the residence of your (marital) partner, you will be eligible for an independent residence permit (permanent humanitarian residence permit).

As of 1 January 2010, there is a supplementary condition that you have passed the civic integration exam. This condition does not apply if you can prove that your relationship came to an end as a result of domestic violence. You can see how to prove this in chapter 2. If you have an independent residence permit, you will retain this permit.

Children

If you were under 18 when you obtained a residence permit which was dependent upon the residence of your parents and you have held this residence permit for a year or longer, you will be eligible for an independent residence permit (permanent humanitarian residence permit).

If you were over 18 when you obtained a residence permit which was dependent upon the residence of your parents and you have held this residence permit for 5 years or longer, you are eligible for an independent residence permit. As of 1 January 2010, there is a supplementary condition that you have passed the civic integration exam. This condition does not apply if you can prove that your relationship with your parent(s) came to an end as a result of domestic violence. You can see how to prove this in chapter 2. If you have an independent residence permit, you will retain this permit.

2. Domestic violence

In possession of a residence permit

If you have had a residence permit which was dependent upon your (marital) partner for less than 5 years and your relationship has come to an end, the following applies.

You are eligible for an independent residence permit (permanent humanitarian residence permit) if it has been proven that there was domestic violence within the relationship. For this application it is important that you have reported or notified domestic violence to the police. The IND will obtain this information from the police.

If you were 18 years or over when you obtained a residence permit that was dependent upon the residence of your parents but have had this for less than 5 years, or you were younger than 18 when you obtained the dependent residence permit and have had this less than 1 year, the following applies if you have left the parental home as a result of domestic violence. You can apply for a permanent humanitarian residence permit as a result of domestic violence if you can prove that this has taken place. As a minor foreign national, however, you are not expected to file a report against your own parent(s) or to report domestic violence committed by your parent(s). In the application form you can read which supporting documents you must enclose with your application.

Not in possession of a residence permit

If you do not have a residence permit for the Netherlands or you have (had) a privileged status and are a victim of domestic violence, you can apply for a residence permit. You must then prove that there has been domestic violence. You must also demonstrate that you cannot escape the (threat of) domestic violence by settling in your country of origin.

You will receive a temporary residence permit (temporary humanitarian residence permit).

After 1 year, you may submit an application for a permanent humanitarian residence permit. If there is still a threat of domestic violence or you can demonstrate that there are convincing reasons of a humanitarian nature (see chapter 5), you will be eligible for a permanent humanitarian residence permit.

3. Honour-related violence

If you are threatened with honour-related violence and are not eligible for a residence permit on the basis of the previous chapters, you can submit an application for a residence permit in relation to honour-related violence. In order to be able to assess whether there is a case of (a real threat of) honour-related violence, the IND will request advice from the Dutch police's National Expertise Centre for Honour-related Violence. The IND will make their decision on the application in line with this advice.

Threats in the Netherlands and the country of origin

If there is evidence of a threat of honour-related violence in the Netherlands and in the country of origin, you could be eligible for a residence permit in relation to a threat of honour-related violence. You will receive a temporary residence permit (temporary humanitarian residence permit). This is issued for 1 year. After 1 year, you may submit an application for a permanent humanitarian residence permit. If there is still a threat of domestic violence or you can demonstrate that there are convincing reasons of a humanitarian nature (see chapter 5), you could be eligible for a permanent humanitarian residence permit.

Threat exclusive to the Netherlands

If the threat of honour-related violence relates to the Netherlands, but you could settle safely in the country of origin, a residence permit for the Netherlands on the basis of a threat of honour-related violence is unnecessary. You must then leave the Netherlands.

Threats exclusive to the country of origin

If there are threats of honour-related violence in the Netherlands, but possibly also in your country of origin, you can apply for asylum. While your application is being processed, you are entitled to accommodation in an asylum seekers centre.

4. Human trafficking

If you have been a victim of human trafficking and you have an independent residence permit, you may retain this permit. If you do not have a residence permit or have (or have had) privileged status, the following applies.

Report completed or cooperation provided

If you have completed your report of human trafficking to the police or Royal Netherlands Marechaussee (KMar), and/ or have stated that you are willing to cooperate with the police to track down and prosecute the persons who trafficked you, your report or statements can be used to apply for a residence permit. The police or Royal Netherlands Marechaussee (KMar) will then send the application onto the IND. You will receive a temporary residence permit (temporary humanitarian residence permit).

Does the Dublin Regulation applies to you?

A residence permit is only granted when the OM has indicated that your presence in the Netherlands is necessary for the investigation and prosecution of human trafficking.

This is issued for 1 year. You are entitled to this residence permit for the duration of the criminal investigation into or the trial of the suspected human trafficker about whom you made your report or with which you have cooperated. The permit's validity period will not be extended or the permit will be withdrawn if the judge issues a definitive ruling in the criminal case against the perpetrator or if the Public Prosecution Service states that there will be no prosecution (case dismissed).

Permanent humanitarian residence permit

Once the residence permit has expired, you may submit an application for a permanent humanitarian residence permit. During the validity period of your temporary residence permit, you may also submit an application for a permanent humanitarian residence permit. You may be eligible for a permanent humanitarian residence permit if:

- the perpetrator is prosecuted for human trafficking and the case ends with a sentencing;
- you have a residence permit on grounds of the policy relating to trafficking in human beings. The Public Prosecution Service has decided to prosecute in respect of the reported criminal offence;
- you have had a residence permit on the basis of the human trafficking policy. The Public Prosecution Service decided not to prosecute a criminal offense for human trafficking. You have filed a complaint with the court against this decision by the Public Prosecution Service. Your complaint has been declared well-founded and the Public Prosecution Service has been ordered by the court to initiate criminal proceedings for human trafficking;
- you have had a residence permit for at least 3 years without interruption on grounds of the policy relating to trafficking in human beings and the criminal investigation is still ongoing;
- there are exceptional, individual reasons, which are directly related to human trafficking, for you to remain in the Netherlands (such as a risk of revenge).

(Not yet) Submitted a report

If the police are of the opinion that you have been a victim of human trafficking and have offered you time to think because you are unable to decide whether to make a formal report or cooperate, then you can consider your position for a maximum of 3 months. The police will place a sticker in your passport which indicates that you may temporarily remain in the Netherlands. If you do not have a passport you can (temporarily) ask for a replacement identity document (W2) to be issued by the police. The police will also place a residence sticker on a supplementary sheet, which shows that you can stay in the Netherlands temporarily, unless you already have a residence sticker or residence permit. The police will report to the IND that you have been given thinking time. If the Dublin Regulation applies to you and the thinking time was given to you after May 18, 2023, you can make use of a 30-day thinking time. If the Dublin Regulation applies to you and the thinking time was given before May 18, 2023, you can use a thinking time of a maximum of three months.

Exceptional circumstances

There may be exceptional circumstance that mean that you are (temporarily) unable to cooperate and would like to use your thinking time. In such a case, there is also an opportunity to have your residence application checked.

You must request this option from the IND. Your adviser, the police, a doctor and/or staff at the refuge can help set out the situation you are in. You must hand over the following documents:

- a report from the police that there are indications that you have been a victim of human trafficking;
- a statement from the police that you are being threatened by human traffickers and, as a result, cannot be expected to cooperate with the criminal process;
- medical information which illustrates that a physical or psychological disorder is preventing your from cooperating with the criminal process. The medical information must come from a practitioner who is listed in the register of Professionals in Individual Healthcare or the Dutch institute of Psychologists' register.
- a statement from the police or Royal Netherlands Marechaussee (KMar) that you, in connection with being a minor, can not be expected to cooperate with the criminal proceedings.

You will receive a temporary residence permit (temporary humanitarian residence permit).

After 1 year, you may submit an application for a permanent humanitarian residence permit. You may be eligible for a permanent humanitarian residence permit if you can demonstrate that you still can not be expected to cooperate with the criminal proceedings because the threat from human traffickers still remains, or there is still a physical or psychological disorder, or related to you being a minor.

The ongoing threat by human traffickers is demonstrated via a statement from the police. Medical information can illustrate that a physical or psychological disorder is preventing you from cooperating with the criminal process. The medical information must come from a practitioner who is listed in the register of Professionals in Individual Healthcare or the Dutch Institute of Psychologists' register. A statement from the police or Royal Netherlands Marechaussee (KMar) must show that you, in connection with being a minor, cannot be expected to cooperate with the criminal proceedings.

If there is still a threat of domestic violence or you can demonstrate that there are convincing reasons of a humanitarian nature (see chapters 5), you could be eligible for a permanent humanitarian residence permit.

5. Humanitarian reasons

If you have had a residence permit that was dependent upon the residence of your (marital) partner or parent but you are not eligible for a residence permit on the grounds of the previous chapters, you can submit an application for a permanent humanitarian residence permit if you have convincing reasons of a humanitarian nature. In this case, you must make a reasonable case to prove that the Netherlands is the most suitable country in which to stay. Various factors could play a role in the evaluation.

For adults, this could involve the following factors:

- Do you have a connection with the Netherlands as a result of family, work, study or another aspect?
- Can you live as an independent person in your country of origin?
- What is the social position of women in your country of origin?
- Can you be accommodated by family members in your country of origin?
- Has there been demonstrable (sexual) violence within the family?
- Do you have children who were born in the Netherlands and/or who go to school here?
- Can your children continue their (school) education in your country of origin?
- Do your children have Dutch nationality?

For children, this could involve the following factors:

- Are you a minor or have you reached maturity?
- Can you live as an independent person in your country of origin?
- Can you be accommodated by family members in your country of origin?
- Has there been demonstrable (sexual) violence within the family?
- Are you engaged in (school) education in the Netherlands?

6. Abandoned in your country of origin

A Dutch person or a foreign national who has (had) a residence permit for the Netherlands and who is then abandoned in the country of origin by his (marital) partner or parent(s) must contact the Dutch authorities as quickly as possible. They must report that this is a case of abandonment.

If you are Dutch, the Dutch representative can issue Dutch travel documents.

If you are not Dutch, but have a valid residence permit, you may be eligible for a visa which will enable you to return to the Netherlands. After arrival in the Netherlands, you must submit an application for an independent residence permit to the IND desk in your region. You can make an appointment to do so before leaving for the Netherlands.

You may be eligible for an independent residence permit if you have had a residence permit for a long period. How this works is explained in chapter 1. If this is not the case, you could be eligible for an independent residence permit for humanitarian reasons. How this works is explained in chapter 5.

Residence permit expires

If your residence permit has expired, you must submit an application for a regular provisional residence permit (mvv) to your Dutch representative. This is the 'Access to Residence' procedure. If your application corresponds to a 'permanent humanitarian' residence objective, this application will be checked as detailed above in chapters 1, 2 and 5. With a regular provisional residence permit, you must travel to the Netherlands within 3 months. Upon arrival in the Netherlands, you can collect your residence permit within 2 weeks. The IND will let you know where and when you can collect your residence permit.

If the application for a regular provisional residence permit is turned down but you have to sort out issues in the Netherlands and to do so you have to be physically in the Netherlands, you can ask for a short stay visa which will allow you to stay in the Netherlands for a short period. You can apply for a short stay visa from the Dutch authorities in your country of origin.

7. EU nationals

If you are a national of a European Union member state, Norway, Iceland, Liechtenstein or Switzerland, you have a right to residence on the basis of the so-called Community acquis. As a Community national, you must be in possession of a valid passport or identity card, or be able to demonstrate your nationality or identity in another way. Community acquis is complicated. In order to obtain an answer regarding your residence rights, get in touch with an IND contact for foreign nationals who have suffered domestic violence, honour-related violence, human trafficking and abandonment.

8. General information about your residence in the Netherlands

Validity of residence permit

A date of expiry is given on your residence permit. If you have left your partner or parent(s) as a result of domestic violence or the threat of honour-related violence, your pass will remain valid:

- for up to 1 year after you have left, or;
- until the date given on the pass (if that is earlier).

Apply for your own, independent residence permit from the IND desk in your region a maximum of 4 weeks before your permit expires.

If your residence permit has expired, you must apply for a new permit within 2 years. If you wait too long, you must return to your country of origin in order to submit a request. The 2 years are calculated from the date on which the old permit expired.

Identity documents

Passport

You can prove your identity with a valid passport. A passport is also the document which you use to travel abroad. You can only apply for a passport from the authorities in the country of which you are a national. When applying for a residence permit, you will be asked for your passport. In order to be eligible for a residence permit, you will need a valid passport. If you do not (or no longer) have a passport, you must be able to demonstrate that you will not be able to obtain a valid passport from the authorities in your country of origin.

Residence pass

A residence pass is proof that you have a residence permit to stay in the Netherlands. If you receive a positive response to your application for a residence permit, you will receive the residence pass from the IND. If you apply for a benefit, for example a social security payment, you will be asked to show your residence pass.

Foreign Nationals Identity Document type W2

During their period of thinking-time, there is a different procedure for victims of human trafficking because they do not generally have a passport. In this case, a Foreign Nationals Identity Document type W2 can be used as a temporary replacement for the passport. If the police find that a victim does not have a valid passport, they will ask the IND to provide a Foreign Nationals Identity Document type W2.

Social security payment

You will be eligible for a payment on the basis of the Work and Social Assistance Act if:

- you have a residence permit, or;
- you have submitted an application for a permanent humanitarian residence permit, or;
- as a community national, you can show you are staying in the Netherlands longer than 3 months.

You will not lose your right to reside on the basis of the Community acquis as a result of applying for social security, provided that you can prove that you are a victim of human trafficking, domestic violence or honour-related violence. Social security can be requested from the municipality where you live.

Benefits on the basis of the Regulations for the provisions for particular categories of foreign nationals (RvB)

Are you staying in a reception centre without a residence permit but have submitted an application for a residence permit in connection with domestic violence or a threat of honour-related violence or human trafficking or you are making use of your thinking time? Then you can apply for benefits on the basis of the Regulations for the provisions for particular categories of foreign nationals (RvB).

If, as a community national, you are staying in the Netherlands for less than 3 months, or you cannot demonstrate that you have already been in the Netherlands for over 3 months, you could also be eligible for an Rvb benefit. This benefit is provided by the Central Agency for the Reception of Asylum Seekers (COA). In this case, you must submit your application to the Central Agency for the Reception of Asylum Seekers. The application form can be downloaded from the internet (www.coa.nl). The conditions that correspond to this benefit are that you stay at the reception centre and that you have submitted an application for a residence permit to the IND. The reception institution will send the form signed by you and the institution to the COA.

If you are a victim of human trafficking and are using your thinking time, the police stamp on your benefit application form which indicates that you are using your thinking time can serve as proof that you may reside in the Netherlands even though you have not submitted an application form for a residence permit. Complete the application form and then you and the reception institution where you are staying sign the application. The reception centre sends the original application to the police and, at the same time, faxes it to the Central Agency for the Reception of Asylum Seekers.

9. More information

Do you have further questions after reading this brochure?

Internet

You will find more information on the procedure and requirements for applying for a residence permit or Dutch nationality at www.ind.nl/en.

Contact with IND

Would you like to contact the IND or schedule an appointment to visit an IND desk? Or do you have another request? Please visit www.ind.nl/en/contact for the various contact options.

Questions about legalisation?

For information about the legalisation of documents (birth certificate, marriage certificate), please visit www.government.nl. Or call at number 1400 (Central government Information).

Processing of personal data

The Immigration and Naturalisation Service (IND) processes personal data when it processes your application, notification, or request. This means that if needed the IND will request data from you yourself and other organisations or persons. The IND also uses and stores data and shares them with other organisations. When doing so, the IND strictly adheres to the stipulations of privacy legislation. For instance, the IND must treat data safely and with due care. The law also gives rights. At your request, you are allowed to see which data on you the IND processes. You can also get information on why the IND does so and to whom your data have been passed on. On www.ind.nl you can read how the IND processes your data and which rights you have. You can also read how to use your rights.

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