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ADMISSIONS POLICY

Court: partner must file an application from the country of origin, despite caring for step-family

This case concerns a partner who came to NL with a false document and stayed. She lives with her step-family and takes care of them. She now applies for a residence permit with partner. Normally that application must be made from the country of origin, but the woman argues that returning to her country of origin would jeopardise the care responsibilities for her step-family.

The IND believes that this situation has been created by the woman herself and is therefore no reason to process the application from NL. The Court agrees. See [here](#).

Rb: on consideration of a return to the NL after the 'Belgium-route'

Under EU law, an EU citizen who settles in another EU country can legalise their partner there. For a residence permit in that EU country, the application does not have to be submitted from the country of origin, as is the case in the NL, and the 'integration requirement abroad' (the language test) also lapses. After 6 months of residence in this EU country, both partners can move back to the NL and become legal here. We call this the 'Belgium-route' because partners often move to Belgium. In practice, when returning to the NL, the IND strictly examines whether the partners have really lived in that other country and used facilities. Otherwise, it would be an abuse.

This case is about a couple who lived together in Belgium and returned. During their stay in Belgium, the GBA registration in the NL remained intact, as did the rental contract of the house in the NL. The Dutch partner continued to work in the NL. On the other hand, there were also indications of residence in Belgium, for example a rental contract there, parking permit, converted driving licence and doctor's visit. The Court found that the IND should have offered a hearing to clarify all relevant facts. See [here](#).

IB 2024/ 52: The IND will state the effective date of an EU permit, e.g. permit in case of a Dutch child

An EU permit is 'declaratory', which means that someone has this status if they meet the conditions, even if no document has yet been issued. In recent years, the IND's policy was to not mention an effective date when confirming an EU status. But because, for example, in case of applications for naturalisation or a 'long-term residence' status, 5 years of legal residence is the condition, clarity regarding the effective date of the EU status is important.

That is why the IND has changed its policy. In future, the standard effective date will be the date of the application. If someone thinks they met the conditions earlier on, they must motivate this. See [here](#).

Please note: an EU permit is, for instance, a permit for an EU citizen, a permit as partner of an EU citizen, a permit after the Belgium-route, or a permit as caring parent of Dutch child.

Rb: non-renewal of human trafficking status after 2 years does not require a test on humanitarian grounds

This case concerns a Gambian woman who received her status as a human trafficking victim in 2021. In 2022, this status was extended for another year. She asked for another extension in 2023, but in the meantime the IND finds that no criminal charges are brought against the perpetrator, so her status does not need to be extended.

According to the woman, the policy is to also weigh whether she is entitled to a status for 'non-temporary humanitarian grounds' when not renewing her status as a human trafficking victim. But the IND finds that the woman has shown insufficiently that she has strong ties to the NL, and that further investigation is too time-consuming for the IND. The Court agrees. If the woman still wants another status, she can submit a separate application for it, or, for example, apply for asylum. See [here](#).