



Foreign employees

How to deal with employees from outside the EU / EEA

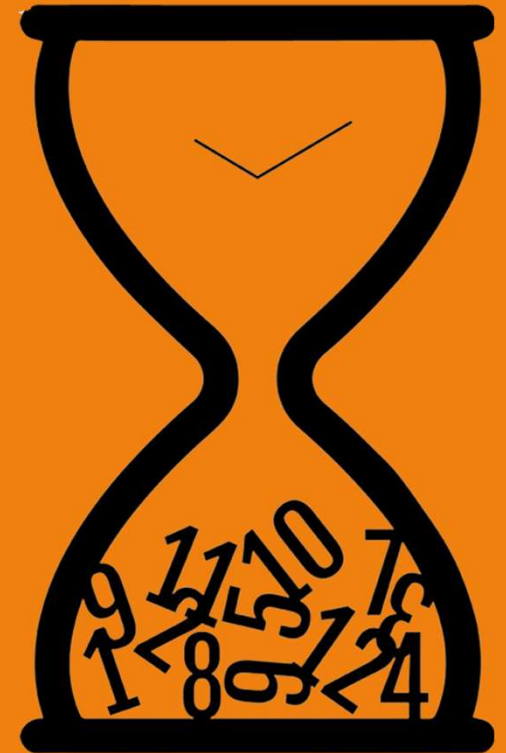
Koen Vermooten

Employers in Sports (WOS)

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Program

1. Introduction
2. General frameworks
3. Legislation
4. Types of permits
5. Employment Permit
 - a. Working Holiday Program
 - b. Combined residence and work permit
 - c. Highly skilled migrants
 - d. Partner
6. Practical Matters
7. Question Round



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Introduction

Employers' Organization in Sport (WOS).

Employers' association: being a good employer

3 core tasks

1. To create the Sport Collective Employment Agreement and direct its implementation.
 2. Being a knowledge hub for and between members and using the knowledge available in the sports and physical activity sector.
 3. Actively lobby at national and international level in the broad field of working conditions.
- +/- 100 members, consisting of national, provincial, regional sports organizations (non-profit)



What can the employers in sports signify (WOS)?

Source of information about the topic of good employment practice

Broad network inside and outside the sector

www.sportwerkgever.nl

- Lots of public information and sample documents
- Model agreements (approved by tax authorities)
- All of today's information can also be found on this website

Cooperation with IND & UWV for handling permit applications

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What is the role of the KNCB



- GOOD EMPLOYMENT PRACTICES
- TO INFORM AND TO UNBURDEN CLUBS
- PROTECTION OF CLUBS VS PROTECTION OF PERSONS
- FAIR COMPETITION: LEVEL PLAYING FIELD

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General frameworks

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Who are we (not) talking about?

Persons with the nationality or residence permit of European Economic Area (EEA) countries are subject to free movement of persons. No permit required.

EER: EU + Iceland, Liechtenstein, Norway and Switzerland.

All other nationalities:

- Residence permit required
- Work permit required



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Employees within the EER

For residents of the EER there is no visa or permit requirement based on free movement of persons. They may lawfully reside in the Netherlands with a valid travel document (passport or identity card).

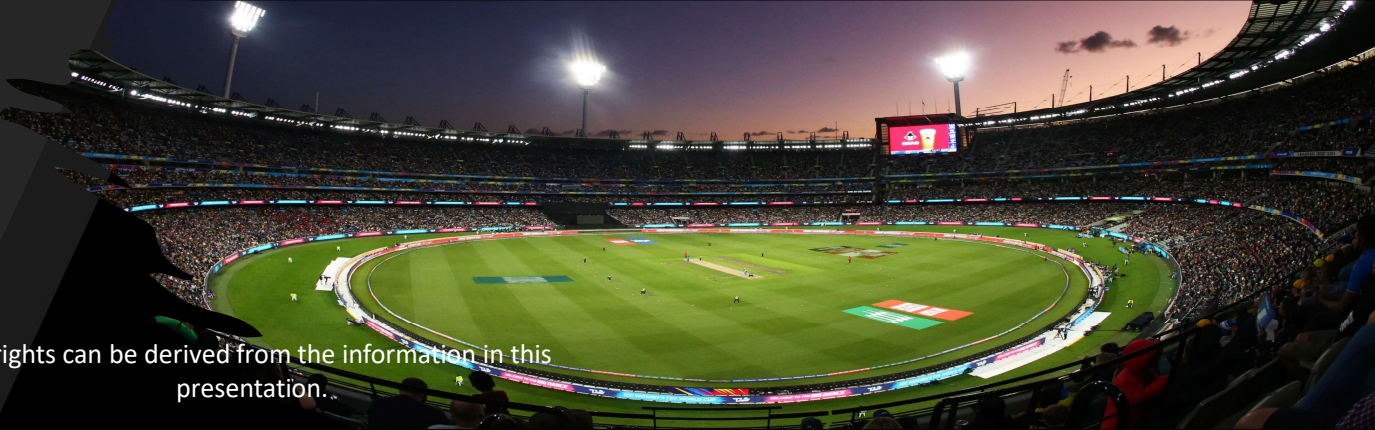
Entitlement to benefits such as sickness and unemployment benefits, pensions and allowances applies when contributions have been made.

In addition, everyone who lives in the Netherlands and works as an employee is automatically insured through their employer for the Sickness Benefits Act, WIA and WW. This also applies to foreign employees who go to live in the Netherlands and work for an employer based in the Netherlands.

Employees within the EER

Please also note that any foreign top athlete living in the Netherlands and employed by a Dutch sports employer must have health insurance. This also applies to:

- employees who do not live in the Netherlands, but pay tax here
- employees who already have health insurance abroad, but work exclusively in the Netherlands.



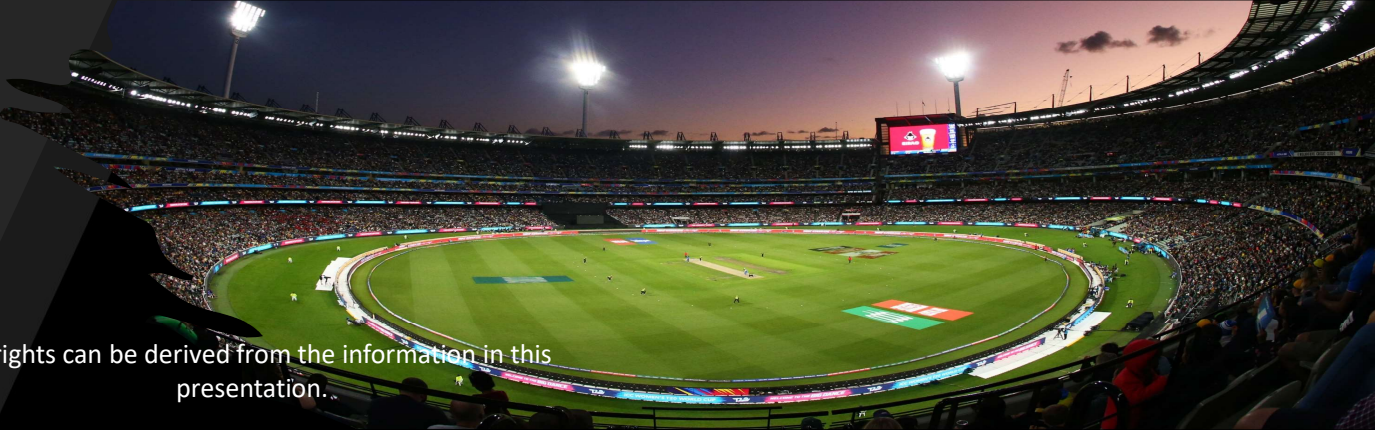
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When is no permit required?

Foreigner who possesses nationality or residence permit of one of the EER countries.

If residence in the Netherlands can take place on other grounds (e.g. study or WHP).

Foreign national holds a residence permit with an endorsement 'work freely permitted'.



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Is a permit required for elite sports?

Depends on a number of factors:

Is top-level sports practice part of the main purpose of the stay in the Netherlands?

Is the player playing in one of the highest divisions of the Dutch league?

Is there a large training load and far-reaching obligation for the club?

Are other players financially rewarded for the same activities?

In practice, a license is always required! With the exception of professional soccer, no license is granted to athletes who play at a level lower than the highest division of sports, unless recruitment efforts have been met.

Sports licensing exception

Exception to permit requirement for certain defined activities: occasional and short-term.

No permit requirement applies to the foreign national: who has his main residence outside the Netherlands and who performs occasional work consisting exclusively of (...) participating in sports competitions, or working as a permanent personal supervisor of a participant in sports competitions.

Incidental work means: Labor with a maximum duration of 6 consecutive weeks within a time frame of 13 weeks.

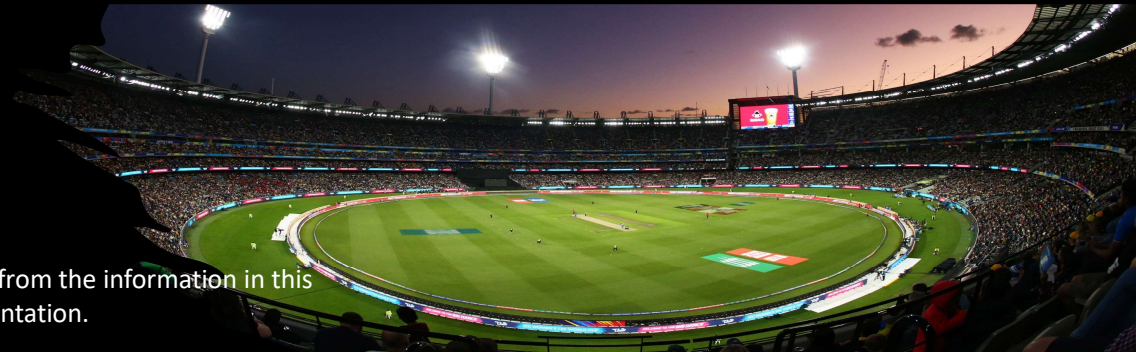
Take note of violation!

For illegal employment/residency, fine can be imposed up to €12,000 per illegal foreigner.

Additional sanction is that employer can no longer apply for permits for a period of 5 years.

Probable additional sanction: illegal foreigner must leave the Netherlands.

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In conclusion

Employees within the EER: no permit required under free movement rules

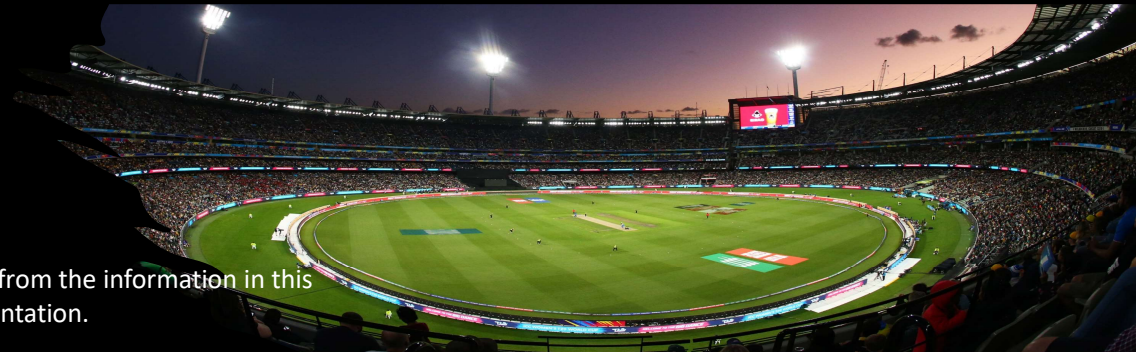
Employee from outside the EEA: always permit required! Also for sports!

Exception for tournaments (max. 6 / 13 weeks)

Beware of violations:

- High fine
- No more permit

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Questions about the general framework?

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Laws and regulations

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What does the law say?

The Netherlands and the EU have a restrictive immigration policy. Regulated in the Foreign Nationals Employment Act (Wav).

Wav prohibits employers from allowing foreigners to work in the Netherlands without a valid permit. Also applies to volunteer work!

This means that an employer in the Netherlands for a vacancy to be filled must first:

within the Netherlands;

- then within the European Economic Area (EER);
- only then has the possibility to employ a foreigner from outside the EER.

Recruitment effort required

Foreigners Employment Act:

- *Art. 9: Application rejected when priority supply is present or becomes available within reasonable time.*
- *Burden of proof lies with applicant to demonstrate that supply is not available or will not be available in the short term.*
- *Way: compulsory notification of vacancy UWV & Eures for minimum period of 5 weeks. Build up file with applicants (incl. rejection letters etc.). Only then possible to recruit foreigner from outside EEA.*

Exception recruitment effort for sports:

- *Players/athletes are exempt from recruitment effort, trainers/coaches are not!*
- *Employment in the highest division of the sport concerned*
- *Satisfy both quality and income criteria (next slides)*
- *UWV can deviate from the mandatory vacancy reporting in incidental cases if, due to the very specific nature of the work and the duration of the temporary work, it is clear that priority supply for the position in question is not available.*

Quality criteria (1/2)

The recruitment effort can only be deviated from in a few individual cases, namely if there is a very specific nature of the work and if it is clear that there is no priority supply available. In practice, this is (often) the case in top sports.

For players this may be the case when there is little or no comparable level available in the Netherlands for clubs to play at the highest (inter)national level.

For trainers/coaches this may be the case when specific (top)sports knowledge and/or skills are required to perform at the highest (inter)national level.

Quality criteria (2/2)

In order to qualify for a work permit, the employer must be able to prove, based on objective data, that the foreign national has sufficient qualities. This is the case if one of the following criteria is met:

- 1. In the season immediately preceding the employment, the foreign national has participated on a regular basis in a competition that is at least as strong as the highest division of the Dutch league.*
- 2. The foreign national has proven by other means to possess at least comparable qualities. This quality criterion is based entirely on the individual performance of the foreign national.*

Salary Criteria

Working conditions and relations are equal to what is usual in the Netherlands.

Working conditions in line with the market (top 20%) or in accordance with collective bargaining agreements.

Minimum legal minimum wage for employee 21 and older.
Also for part-time or younger employee!

Statutory minimum wage (wml) / SV wage:

- Sv wage* as of January 1, 2023 per month without vacation allowance € 1,934.40
- Sv wage* per 1 January 2023 per month with vacation allowance € 2,089.15

**Sv wage (social insurance wage) is the wage on which social insurance contributions and taxes are paid. The standard amounts are adjusted semi-annually (July and January).*

In conclusion

Recruitment effort required, 5 weeks recruiting in NL and EU.

Exception: athletes at highest level, provided requirements are met

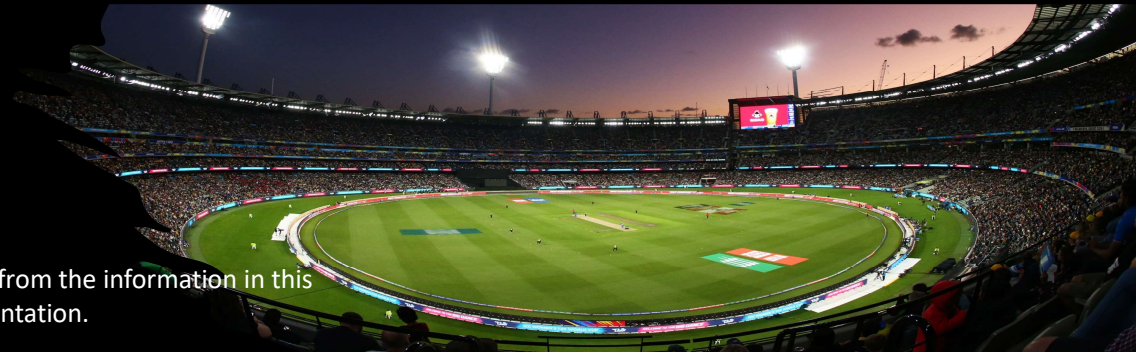
Quality criterion:

- Participated in competition at least as strong as NL, or
- Based on individual performance

Income criterion:

- Wml based on full-time
 - Also for part-time and <21 years of age

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Questions about laws and regulations?

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Types of permits

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What aspects determine licensing?

The length of stay and the country of origin determine which permit and application is required.

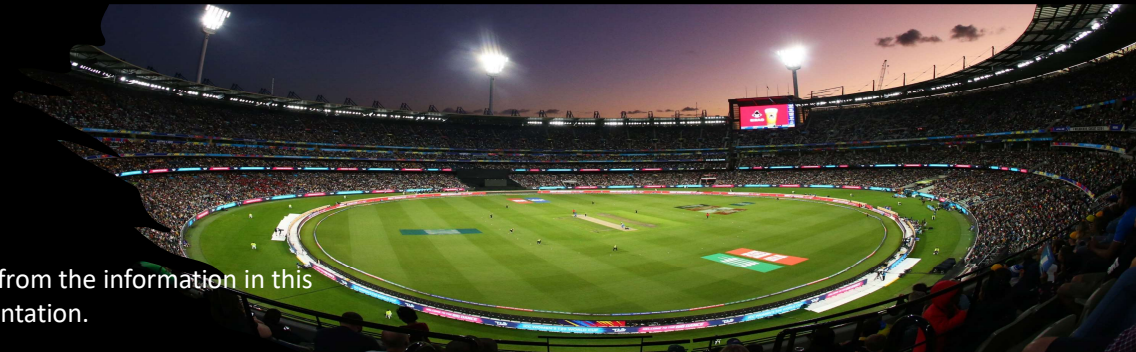
Stay & work

<90 days = short stay visa + work permit

>90 days = residence permit, mvv & work permit

Always work and residence permit!

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Short stay visa & MVV

Short stay visa / Schengen visa

- stay in all Schengen area countries for a maximum of 90 days per 180 days.
- >90 days: residence permit required (and possibly mvv)

Except for MVV: Australia, Canada, Japan, Monaco, New Zealand, Vatican City, United States of America, South Korea.

Apply at the Dutch representation before leaving for the Netherlands!

Stay <90 days = short stay visa + work permit

Stay >90 days = residence permit (& mvv) + work permit

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What permits are there?

- Work permit (twv).
- For stays shorter than 90 days, the employer only applies for a work permit. Short-stay visa (Schengen visa) is valid as a residence permit.
- Working Holiday Program (whp).
- Young people aged 18 to 30 can apply for a residence permit to live in one of the participating countries for up to 1 year to get acquainted with the culture.
- Combined residence and work permit (gvva).
- Residence for more than 90 days requires both a work and residence permit. The GVVA combines both rights.
- Knowledge Migrant Scheme
- A highly skilled migrant is a highly educated foreign national. A highly skilled migrant can come to the Netherlands from outside the EEA to work under certain conditions.

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Employment Permit

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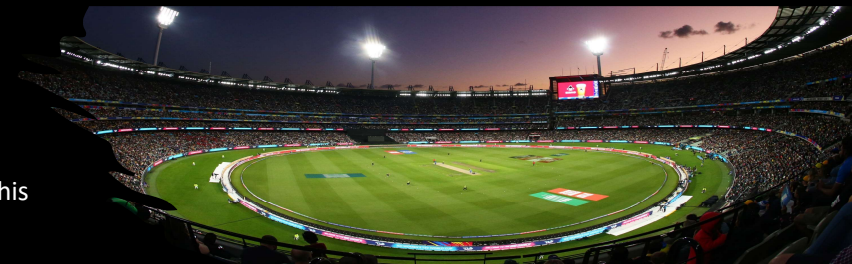
TWV is needed in one of the following situations:

1. The foreign national is coming to work in NL for less than 3 months.
2. The foreign national is already in the Netherlands and has a residence permit.
foreign students or asylum seekers
3. The foreign national is coming to work in the Netherlands for longer than 3 months, but is not coming to live here.

Employer applies for the twv at the UWV via Eherkenning, the foreign national cannot do this himself.

Valid for a maximum of 3 years, linked to employment contract (aok).

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Terms

The workers have a valid residence permit

- <3 months = short stay visa sufficient
- >3 months = residence permit required

Working conditions are adhered to

- Legal minimum wage for 21 years and older based on full-time employment
- also part-timer or <21 years of age
- WML per 01.01.2023 fixed at € 1934,40 (gross, excluding 8% holiday pay)
- Salary deposited monthly into employee's bank account
- Safe and healthy working environment

Employer did not violate labor laws

- Employer has not received a fine for violating labor laws (e.g. < wml or no work permit) up to 5 years prior to application

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Additional conditions for top-level sports (not football)

- Top athlete is older than 18

Quality criterion (Wav)

- *Athlete has participated on a regular basis in a competition at least as strong as the highest division of Dutch highest competition, or*
- *Individual performance*

Salary criterion (Wav)

- *Wage equals top 20% of highest division of the sport and amounts to at least the WML obv full-time (also for part-time or <21 years)*

Additional conditions for top-level sport (football)

- Top athlete is older than 18

Quality criterion (Wav)

- Athlete has participated on a regular basis in a competition at least as strong as the highest division of Dutch highest competition, or
- Individual performance

Salary criterion season 2022/2023

- 150% of average salary
- Players 18 & 19 years of age: € 243,245
- Players 20 years and older: € 486,490,-

Required Documents

Copy employment contract signed by employer

- Strong preference also by employee
- Verification of salary criterion against Wav

Copy of passport (including all stamped pages)

Declaration that athlete meets quality criterion

- Burden of proof on employer
- Declaration sports association participation in competition at least as strong.
- Players' CV or other documentation showing that the athlete has participated in international competitions

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Questions about the employment permit?

No rights can be derived from the information in this presentation.



Working Holiday Program

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Working Holiday Program

Also known as the Working Holiday Scheme (whs).

Cultural exchange programme for young people aged 18-30.

Residence permit for up to 1 year aimed at getting to know culture and society.

Participating countries:

Argentina, Australia, Canada, Hong Kong, Japan, Netherlands, New Zealand, Taiwan, Uruguay & South Korea

Working with a whp/whs

Foreigner may stay in the country in accordance with the main objective: acquaintance with culture.

Work allowed under conditions:

- *Only occasional work allowed:*
- *No more than 12 weeks for the same employer*
- *There is no incidental work if there is full-time annual contract.*
- *No twv required*

Note! Regular labour migrants, highly skilled migrants, students and au pairs are not allowed to use whp/whs.

No rights can be derived from the information in this presentation.

Additional conditions

Japan and South Korea: proof of pre-registration whp required.

- Apply for pre-registration at Dutch embassy in Tokyo or Seoul.

Not previously held a residence permit for exchange.

- Exchange concerns au pair, whp/whs and cultural exchange

Sufficient funds available to pay for the first period in the Netherlands.

- No general means allowed (benefit based on Dutch social security). No minimum set, own estimate.

Insurance required that covers medical expenses in NL.

Required Documents

- Return ticket; or
- Evidence showing that the foreign national has sufficient own funds to purchase a return ticket.
- Possibly proof of pre-registration (Japan & South Korea).



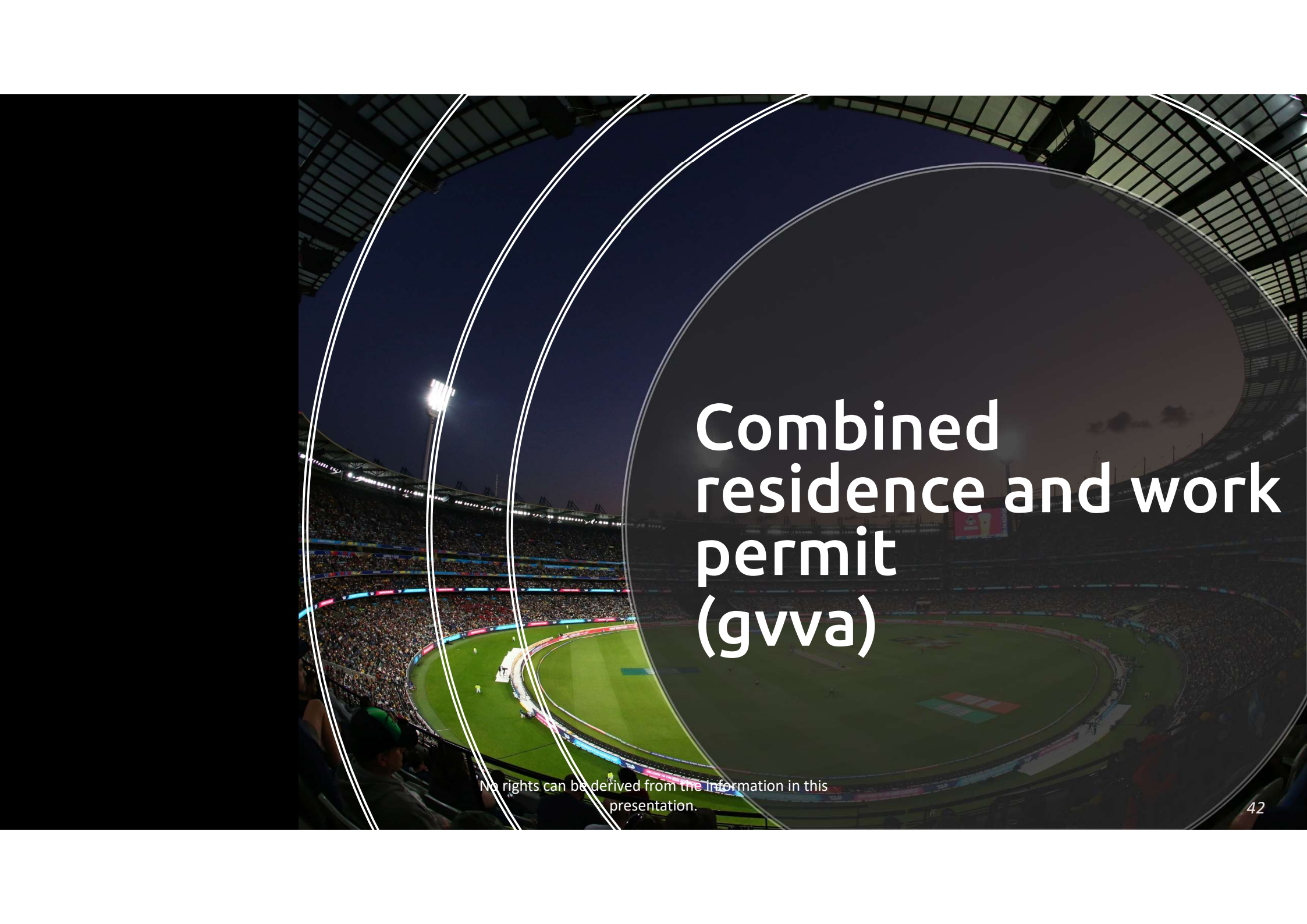
Questions about working holiday?

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Break

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Combined residence and work permit (gvva)

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Combined residence and work permit

- Combines residence and labour law in one application
 - Faster and simpler procedure (incl. mvv)
 - IND assesses right of residence
 - UWV tests against Wav for labour law
 - One permit for residence and labour
- Maximum duration of 3 years (linked to duration of AOC)
- Statutory decision period: 90 days
- Calculated from the moment of payment of fees
- Important to start the application on time!

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Recruitment effort required

Foreign Nationals Employment Act:

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- *Burden of proof lies with applicant to demonstrate that supply is not available or will not be available in the short term.*
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Exception recruitment effort for sports:

- *Players/athletes are exempt from recruitment effort, trainers/coaches are not!*
- *Employment in the highest division of the sport concerned*
- *Meet quality and income criterion (next slides)*
- *UWV may deviate from the mandatory vacancy reporting in incidental cases if, due to the very specific nature of the work and the duration of the temporary work, it is clear that priority supply for the relevant position is not available.*

Quality Criteria (1/2)

The recruitment effort can only be deviated from in a few individual cases, namely if the work is very specific in nature and if it is clear that there is no priority supply available. In practice, this is (often) the case in top-level sport.

For players, this may be the case when there is little or no comparable level available in the Netherlands for clubs to play at the highest (inter)national level.

For trainers/coaches, this may be the case when specific (top) sports knowledge and/or skills are required to perform at the highest (inter)national level.

Quality Criteria (2/2)

To be eligible for a work permit, the employer must be able to prove, based on objective data, that the foreign national has sufficient qualities. This is the case if one of the following criteria is met:

1. The foreign national has in the season immediately preceding the employment participated on a regular basis in a competition at least as strong as the highest division of the Dutch league.
2. The foreign national has otherwise proven to possess at least comparable qualities. This quality criterion is based entirely on the individual performance of the foreign national.

Income Criteria

Working conditions and relations are equal to what is usual in the Netherlands.

Working conditions in line with the market (top 20%) or in accordance with collective bargaining agreements.

Minimum legal minimum wage for employee 21 and older
Also for part-time or younger employees!

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**Sv-loon (social insurance wage) is the wage on which social insurance contributions and taxes are paid. The standard amounts are adjusted semi-annually (July and January).*

What documents are needed?

Copy of foreign national's passport (including all stamped pages)

Copy of signed employment contract

Extract from Chamber of Commerce employer (< 3 months)

Affiliated foundation => also extract from foundation + substantiation of relationship

Substantiation of quality criterion for foreign national

- Declaration by the association that immediately prior to employment, the foreign national participated on a regular basis in a competition at least as strong as the highest division of the Dutch branch of sport.
- Players' CV.



Questions about the combined residence and work permit?

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Highly Skilled Migrant

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What is a highly skilled migrant?

A highly skilled migrant is a highly educated foreign national, for example a (guest) lecturer, a (scientific) researcher or a doctor in training.

A highly skilled migrant from outside the EEA can come to the Netherlands to work under certain conditions:

1. For example, she/he must be highly educated or have specific knowledge; and
2. the employer must be a recognized sponsor .

Recognised sponsor

A sponsor is a person or organization that has an interest in the residence of a foreign national in the Netherlands. When an organization employs a foreign national, the organization is the sponsor for this foreign national.

An employer can have himself recognized as a sponsor (recognised sponsor).

Advantages of a recognized sponsor:

- faster processing of permit applications
- Submitting fewer supporting documents
- special contact person et cetera.

For specific positions, it is mandatory for an employer to be a recognized sponsor, namely highly skilled migrants and researchers.

Conditions

The foreign national has an employment contract with an employer or research institution in the Netherlands. This employer is a sponsor recognised by the IND. A recognised employer is included in the public register of recognised sponsors.

The foreign national will earn sufficient income (next slide).

The agreed salary is in line with the market.

The salary must be paid monthly in equal amounts.

The salary must be transferred to a bank account in the foreign national's name.

Income criteria for a knowledge migrant

A different income criterion applies to knowledge migrants compared to other work permits and professions.

The IND announces these standard amounts annually. For 2023, the following standard amounts apply:

- Knowledge migrant of 30 years or older € 5,008 gross per month
- Highly skilled migrant younger than 30 years of age € 3,672 gross per month

Which documents are needed?

- Copy of passport (including stamped pages)
- Copy of employment contract
- Substantiation of unique qualities of foreigner

MVV requirement and already in EEA?

- Copy of valid residence permit issued by other Schengen Member State



Questions about highly skilled migrants?

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Partner

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Bringing a partner to the Netherlands?

He/she also needs a valid permit!

Foreign national is sponsor for family members

Right of residence is linked to the foreign national's right of residence

MVV requirement also applies to the partner!

Criteria

The foreign national and partner:

- are married to each other, in a registered partnership or are unmarried and in a long-term exclusive relationship
- are both 21 years of age or older and are going to live together
- Foreign national has sufficient income (income criterion appropriate to the permit)

Lasting exclusive relationship must be demonstrated that both have such a relationship. Burden of proof in this lies with the applicant.

Which documents are needed (1/2)

Foreigner / referent

- Copy of passport (including stamped pages)
- Copy of residence permit (if already granted)
- Copy of signed employment contract

Partner

- Copy of passport (including stamped pages)

If married/registered partnership

- Copy of legalised marriage certificate
- Copy of legalised deed of registered partnership

Which documents are needed (2/2)

If unmarried

- Fully completed and signed 'relationship statement'
- Fully completed and signed 'questionnaire for residence with partner'

Unmarried foreign national / sponsor declaration

- *The unmarried declaration must originate from the country of origin and may not be older than 6 months. If the foreign national has Dutch nationality, a permanent residence permit or an asylum residence permit, this declaration does not apply.*

Unmarried partner declaration

- *The unmarried declaration must come from the country of origin and may not be older than 6 months. If the foreign national has Dutch nationality, a permanent residence permit or an asylum residence permit, this declaration is not applicable.*



Questions about the partner licence?

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Practicalities

No rights can be derived from the information in this presentation.

Translating and legalising documents (1/2)

All permit application documents must be sent in one of the modern languages, otherwise official/legalised translations must be sent along. The modern languages are

- Dutch
- English
- French
- German

Legalisation: Making an official document suitable for use in another country. Legalisation involves checking whether your document was issued by the right organisation. This is done with a stamp or sticker. The document is then ready for use in the Netherlands.

- For example, a birth certificate, marriage certificate or unmarried declaration

Legalisation can be time-consuming. So start on time!

Translating and legalising documents (2/2)

For most documents, the IND does not look at the age of legalisation. Some documents may be 'a number of years' old. The IND does not use a fixed definition of a number of years, so it is advisable to consider this on a case-by-case basis. This concerns documents whose details are so definitive that the date of issue is less important, such as:

- Birth certificate
- Marriage certificate
- Death certificate
- Divorce certificate

For other documents, the age of the document is taken into account. This concerns documents whose details are less definitive, such as:

- Unmarried declaration (not older than 6 months)
- Chamber of Commerce extract (not older than 3 months)

What counts as income?

The IND counts expense allowances and fixed allowances (such as a thirteenth month) as income. The following conditions apply:

- The allowances and surcharges are included in the employment contract
- The allowances and supplements are transferred each month to a bank account of the foreign national

The following components do not count:

- Holiday allowance
- Value of wages paid in nature
- Irregular wages that are not certain to be paid.
- For example, overtime pay, tips and benefits from funds

Free tip from the expert

1. Provide objectively measurable data.
2. All documents should be legible at all times. So take care with scanning and photographs. Not legible is no evidence!
3. Deliver all documents neatly.

The IND / UWV examiner will judge what the employer submits, so make it as easy as possible for him/her.

Kosten

	Sportvereniging	IND leges	Totaal
Working Holiday	€ 210	€ 70	€ 280
GVVA (aanvraag)	€ 840	€ 350	€ 1.190
GVVA (verlenging)	€ 630	€ 350	€ 980
Partner (aanvraag)	€ 840	€ 210	€ 1.050
Partner (verlenging)	€ 630	€ 210	€ 840
Kennismigrant (aanvraag)	€ 840	€ 350	€ 1.190
Kennismigrant (verlenging)	€ 630	€ 350	€ 980

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For all information, visit our website: www.sportwerkgever.nl

The screenshot shows the website [sportwerkgever.nl/kennisbank/hr-van-a-tot-z/](http://www.sportwerkgever.nl/kennisbank/hr-van-a-tot-z/). The navigation bar includes links for CAO Sport, Thema's, Kennisbank, Diensten, Nieuws, Agenda, Lidmaatschap, and Over WOS. The 'Kennisbank' dropdown menu is open, showing options like 'Kennisbank HR van A tot Z', 'Opleiding Sport van Morgen', 'Functieniveaumatrix', and 'Lerende netwerken'. The sidebar on the left has a search bar and a list of topics under 'Onderwerpen':

- ☐ Arbeidsovereenkomsten (8)
- ☐ Arbo & RIE (12) ☐ Belonen (3)
- ☐ Bijzondere functies (7)
- ☐ Buitenlandse werknemers (8)
- ☐ COVID (5)
- ☐ Diversiteit & Inclusie (3)
- ☐ Goed werkgeverschap (2)
- ☐ HR (20) ☐ Hybride werken (1)

The main content area features several articles:

- 30% regeling**: Buitenlandse werknemers die tijdelijk naar Nederland worden uitgezonden krijgen vaak een vergoeding voor de extra kosten van dat verblijf buiten het land van herkomst, de zogenaamde extraterritoriale kosten. Hiervoor geldt... [Lees meer >](#)
- Aan de slag met Diversiteit & Inclusie binnen je organisatie**: Naast talloze initiatieven om sporten toegankelijker te maken, is het ook essentieel dat organisaties, bonden en verenigingen divers zijn. De vraag is alleen: hoe? In dit overzicht delen we diverse... [Lees meer >](#)
- Aansprakelijkheid**: Het zal bij uw sportorganisatie maar gebeuren: een medewerker komt ernstig ten val nadat hij op die fiets enkele broodschappen is gaan halen voor de club. En hij stelt de... [Lees meer >](#)



Question Round

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Make appointments



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Thank you for your attention

Employers in Sport (WOS)
info@sportwerkgever.nl
www.sportwerkgever.nl

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