

## Legal aspects of residence and employment for international graduates

### Framework of legislation on foreigners in Germany

#### Residence

- **Students from all EU (EEA) countries** are covered by the EU Law on Freedom of Movement. They are not subject to the German Residence Act (*§ 1 Abs. 2 Aufenthaltsgesetz: Zweck des Gesetzes; Anwendungsbereich*).
- They do **not require a visa and there are no restrictions on how long they can stay or work in Germany.**

### **§16 German Residence Act (studies, language courses, school attendance)**

#### General provisions

- *§ 16 (Abs. 1)* regulates the studies of students from so-called third countries or non-member states.
- **The maximum length of residence for studying including time spent on study preparation (language courses) and doctoral courses/supplementary or postgraduate courses is ten years.**

### Granting and renewal of residence permits

#### Validity of residence permits

- A residence permit can be granted for a maximum of two years and then has to be renewed. The duration of the renewal depends on the validity of the passport, the available funding for studies, and proof of progress in studies. A renewal has to be applied for personally before the residence permit expires.
- Generally, applicants have to present proof of current enrolment (matriculation), proof of current health insurance, proof of funding, and proof of progress in studies.

## Granting and renewal of residence permits

### Proof of progress in studies:

- Regular control of study performance in relation to the average length of studies. Progress in studies is generally considered acceptable when the average amount of time taken to complete the study course is not exceeded by more than three semesters.

### Financing:

- Own funds (e.g. a blocked account in credit providing 720 € per month),
- Scholarship, or
- Funding by parents or third persons (declaration of commitment).

### Change of reason for residence permit:

- In principle, the reason for a residence permit is specific to the field of study.
- Changing the reason for a residence permit through changing one's study course is not a problem within the first 18 months after beginning to study.
- A later change of study course or subject can be granted only after examination of the individual case and when the new course of studies can be completed within a reasonable period of time.

## Employment

§ 16 (Abs. 3) regulates taking up employment while studying.

It allows employment for (within one calendar year):

- **120** days in the year, or
- **240** half days (up to 4 hours per day) in the year, and additionally
- University student assistance jobs [*studentische Hilfstätigkeiten*] (with no time restrictions and no need for a permit)

## Work placements and internships

### **Mandatory work placements:**

- If the work placement (and its corresponding duration!) is prescribed in the examination regulations, it will not be deducted from the **120 days/240 half days**.
- It can be carried out in addition to any secondary employment without any need for a permit.

### **Voluntary work placements:**

- If the work placement is not prescribed explicitly in the examination regulations, it has to be deducted from the general allowance of 120 days/240 half days.
- If the work placement should/has to be authorized in addition to the general employment days allowance, application must be made to the Foreigners' Registration Office [*Ausländerbehörde*].
- The Federal Labour Office [*Bundesagentur für Arbeit*] has to give its consent to the employment within the framework of a labour market examination.

### **Other employment**

- An employment above and beyond the allowed employment options can be authorized only in exceptional individual cases when this does not interfere with completing the study course and when the Federal Labour Office gives its consent within the framework of a labour market examination.
- An application has to be made to the Foreigners' Registration Office [*Ausländerbehörde*].

### **Self-employment**

- An independent or freelance activity can be authorized for students in individual cases (§ 21 Abs. 6 *AufenthG*).
- The activity must not impair the course of studies and should therefore not go beyond the general allowance of **120 days/240 half days**.
- Application has to be made to the Foreigners' Registration Office [*Ausländerbehörde*].
- Depending on the specific case, authorization for the self-employed activity may require consultations with expert bodies (e.g. the Chamber of Industry and Commerce [*IHK*], Chamber of Crafts, public order office [*Ordnungsamt*], or the employer service of the Federal Labour Office [*Bundesagentur für Arbeit*]).

## Job search after studying

- **§ 16 (Abs. 4)** regulates residence during time spent looking for an appropriate job after completing one's studies.
- Graduates of a degree course in Germany (BA and MA, and PhD) have the option of being granted a **residence permit for up to 18 months** directly after completing their studies in order to search for a job for which they are qualified through their study course.
- **Graduates are authorized to seek gainful employment.**
- After completing the study course, the residence permit in the passport has to be changed at the Foreigners' Registration Office [*Ausländerbehörde*], because the previous study residence permit will generally state that it becomes invalid after completion of the degree course.
- Continued resources to cover the cost of living must be assured. This can take a similar form to that during studies (blocked account, declaration of commitment), or the applicant can show that there is already a sound long-term employment.
- The period of residence commences with the completion of studies. It is not always possible to determine the exact date when studies are completed (exmatriculation, submission of written thesis, date of degree certificate). In case of doubt, confirmation must be obtained from the university.
- The 18-month time period cannot be used flexibly. It cannot be drawn on again at a later point in time (e.g. during a change to a right of residence for employment reasons or subsequent unemployment).

## Qualified employment after completing studies

### § 18 Employment

- *§18 Abs. 4 AufenthG i.V.m. § 2 BeschV*
- Regulates that a residence permit can be granted to take up an employment appropriate to the occupational qualification without having to gain the consent of the Federal Labour Office [*Bundesagentur für Arbeit*]. The Federal Labour Office needs to be consulted only in individual cases (appropriate remuneration, job for which they are qualified through the degree obtained).
- The change in the purpose of residence from studying to employment opens up the possibility of consolidating the right to stay in Germany.

### § 19 a EU Blue Card

- The residence permit can also be granted in the form of an EU Blue Card when the applicant receives a salary equal to or above a set minimum (currently 4233,33 € per month/50800 € gross salary; for shortage occupations (medical doctors, engineers, scientists, mathematicians, IT experts) 3302 €/39624 € gross salary).

- Advantages of an EU Blue Card (§ 19a) compared to a normal residence permit (§ 18):
  - Generally valid for four years or for the length of a work contract
  - Right to leave Germany for a longer period of time without losing the residence permit (one year instead of six months)
  - Unlimited extension possible after 21 months
  - Mobility within the EU after 18 months

## **§ 21 Abs. 2a Self-employment**

- A residence permit can also be granted for an independent or freelance activity.
- The intended activity must reveal some relation to the qualifications acquired at the university.
- Resources to cover the cost of living including protection through health insurance must be ensured.
- The economic viability of the business concept must be documented – generally through the presentation of a business plan or contracts.
- Depending on the case, authorization of an employment permit may require consultation with expert bodies (e.g. the Chamber of Industry and Commerce [IHK], Chamber of Crafts, public order office [*Ordnungsamt*], or the employer service of the Federal Labour Office [*Bundesagentur für Arbeit*]).
- When renewing the residence permit, the income situation will be controlled by inspecting statements from the tax office or tax adviser.

## **Residence permit prospects**

### **Job search**

- § 18c *AufenthG*
- In case of loss of employment, a residence permit can be granted **for 6 months** to search for a new job. It is not possible to take on a (non-qualified) employment during this job search period. It is also not possible to draw on § 16 Abs. 4 *AufenthG* or the 18-month ‘time allowance’ this provides.

## **Change in the purpose of residence**

- A resumption of studies (postgraduate course) is possible when the general preconditions for a residence permit (particularly funding) are met and the previous course of studies 'permits' a postgraduate continuation (maximum length of studies of ten years; positive approval for postgraduate studies from the university).

## **Permanent residence (settlement permit)**

### ***18 b AufenthG***

- Possession for two years of a residence permit granted for employment (§§ 18, 19a, or self-employment) purposes
- Continued engagement in an employment related to the university degree
- Resources to cover the cost of living
- Two years of compulsory contributions to the statutory pensions insurance scheme or a comparable source of income in old age
- Sufficient knowledge of German, sufficient living space, basic knowledge of the social regulations in Germany, no offences that may lead to deportation

### ***§ 19 a Abs. 6 AufenthG***

- Possession of an EU Blue Card for 21 months (periods covered by § 18 AufenthG can be credited)
- Continued engagement in an employment related to the university degree
- Resources to cover the cost of living
- Sufficient knowledge of German, sufficient living space, basic knowledge of the social regulations in Germany, no offences that may lead to deportation

### ***§ 9 AufenthG***

- General legal basis for a permanent settlement permit includes five year residence permit, 60 months compulsory contributions to the statutory pensions insurance scheme, sufficient knowledge of German, sufficient living space, basic knowledge of the social regulations in Germany, no offences that may lead to deportation.
- As long as all other preconditions are met, this legal basis may become applicable, because years of study can be credited at 50 per cent.

### **§ 28 Abs. 2 AufenthG**

- Long-term family relationship with German marriage partner/child together with three year residence permit in line with § 28 Abs. 1 AufenthG, resources to cover the cost of living, the 'quality' of activity and its relation to university degrees is then irrelevant.

### **Naturalization**

- Eight years of legal residence, can be shortened through proof of particular commitment to integration.

# Antrag auf Erteilung oder Verlängerung einer

Aufenthaltserlaubnis

Niederlassungserlaubnis

Duldung



## 1. Angaben zur Person

Familienname		Geburtsname / früherer Ehe name	
Vorname (n)		Staatsangehörigkeit (en)	
Geburtsort und Geburtsland		Geburtsdatum	Geschlecht <input type="checkbox"/> männlich <input type="checkbox"/> weiblich
Familienstand seit	<input type="checkbox"/> ledig <input type="checkbox"/> verheiratet	<input type="checkbox"/> verwitwet <input type="checkbox"/> geschieden	<input type="checkbox"/> getrennt lebend

## 2. Angaben zur Wohnung

Anschrift: Straße, PLZ, Ort  336 _____ Bielefeld		Weitere Wohnsitze in oder außerhalb von Deutschland?
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## 3. Angaben zum Aufenthaltszweck

<input type="checkbox"/> Erwerbstätigkeit	<input type="checkbox"/> Ausbildung, Studium	<input type="checkbox"/> Sprachkurs
<input type="checkbox"/> Familiennachzug	<input type="checkbox"/> völkerrechtliche, humanitäre, politische Gründe	
<b>Dauer des Aufenthaltes</b> <input type="checkbox"/> dauerhaft <input type="checkbox"/> befristet von _____ bis _____		Ersteinreise
Arbeitgeber, Ausbildungsstätte, Schule, Sprachschule, Universität und Studienfach		Art der Beschäftigung

## 4. Angaben zur Sicherung des Lebensunterhaltes

Aus welchen Mittel bestreiten Sie oder Personen, denen Sie zum Unterhalt verpflichtet sind, ihr Einkommen?	
<input type="checkbox"/> eigenes Einkommen aus Erwerbstätigkeit <input type="checkbox"/> Einkommen des Ehegatten <input type="checkbox"/> Einkommen der Eltern <input type="checkbox"/> Stipendium durch <input type="checkbox"/> Unterhaltszahlungen von <input type="checkbox"/> Rente, Vermögen <input type="checkbox"/> öffentliche Mittel, z.B. ALG II, Sozialhilfe o. Wohngeld. <input type="checkbox"/> es gibt Familienmitglieder im selben Haushalt, die öffentliche Mittel beziehen	<b>Euro</b>
<b>Krankenversicherung</b> <input type="checkbox"/> nein <input type="checkbox"/> ja, bei	

## 5. Angaben zum Passdokument

<input type="checkbox"/> eigener Pass	<input type="checkbox"/> Ausweisersatz	<input type="checkbox"/> Reiseausweis	
<input type="checkbox"/> im Pass der Mutter	<input type="checkbox"/> im Pass des Vaters		
Passnummer:	ausgestellt von:	ausgestellt am:	gültig bis:

## 6. Sonstiges

Sind Sie einer Person gegenüber unterhaltspflichtig?	Gegenüber wem? (bitte ein gesondertes Blatt beifügen)	<input type="checkbox"/> ja	<input type="checkbox"/> nein
Haben Sie Kinder im Inland oder Ausland?	(bitte ein gesondertes Blatt beifügen)	<input type="checkbox"/> ja	<input type="checkbox"/> nein
Haben Sie Rechtsverstöße begangen oder laufen aktuell Ermittlungsverfahren gegen Sie?	<input type="checkbox"/> nein <input type="checkbox"/> ja	welche?	
Bitte geben Sie den Namen, Vornamen und das Geburtsdatum Ihrer Eltern an:			

**Hinweis Datenschutz Aufenthaltsgesetz: § 86 Erhebung personenbezogener Daten!** Die mit der Ausführung dieses Gesetzes betrauten Behörden dürfen zum Zweck der Ausführung dieses Gesetzes und ausländerrechtlicher Bestimmungen in anderen Gesetzen personenbezogene Daten erheben, soweit dies zur Erfüllung ihrer Aufgaben nach diesem Gesetz und nach ausländerrechtlichen Bestimmungen in anderen Gesetzen erforderlich ist. Ich versichere, vorstehende Angaben nach bestem Wissen und Gewissen richtig und vollständig gemacht zu haben. Mir ist bekannt, dass falsche und unzutreffende Angaben ein Grund für den Entzug des Aufenthaltstitels sind. Außerdem kann eine Strafanzeige erstattet werden.

# Application for approval or extension of a (official translation for understanding purpose only!)

permit of residence                       settlement permit                       tolerance/short-term permit

## 1. Personal information

Last Name		Maiden Name/Birth Name	
First Name(s)		Nationality (en)	
Place of birth / native country	Date of birth	Sex <input type="checkbox"/> male <input type="checkbox"/> female	
Family status (since)	<input type="checkbox"/> single <input type="checkbox"/> married	<input type="checkbox"/> widowed <input type="checkbox"/> divorced	<input type="checkbox"/> seperated

## 2. Information on accommodation

Adresse: Str, Postal, City  336_____Bielefeld	Additional accommodation in or outside of Germany
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## 3. Information on reason of stay

<input type="checkbox"/> employment	<input type="checkbox"/> education, study	<input type="checkbox"/> language course
<input type="checkbox"/> family reunion	<input type="checkbox"/> international law, humanitarian or political reasons	
<b>Duration of stay</b> <input type="checkbox"/> permantent <input type="checkbox"/> temporarily starting                      until		First entry
Employer, training center, school, language course, university and course of study		Type of employment

## 4. Information on ensuring the means of subsistence (living costs)

Out of which resources do you or people you're legally obliged to support draw your means of subsistence (living costs)?	
<input type="checkbox"/> Personal income from employment <input type="checkbox"/> Income of husband/wife <input type="checkbox"/> Income of parents <input type="checkbox"/> scholarship from _____ <input type="checkbox"/> alimony from _____ <input type="checkbox"/> pension, capital <input type="checkbox"/> Public funds, e.g. ALG II, welfare or housing support. Are there family members within your household that receive public funds?	<b>Euro</b>
<b>Health insurance</b> <input type="checkbox"/> no <input type="checkbox"/> yes, with (name your health insurance company)	

## 5. Information on passport

<input type="checkbox"/> Personal passport	<input type="checkbox"/> Replacement identity card	<input type="checkbox"/> Travel document	
<input type="checkbox"/> Mentioned in passport of mother	<input type="checkbox"/> Mentioned in passport of father		
Passport number:	Issued by:	Date of issue:	Date of expiry:

## 6. Other information

Are you legally obliged to support someone?	To whom are you obliged to? (please add the relevant documents)	<input type="checkbox"/> yes	<input type="checkbox"/> no
Do you have children outside of Germany?	(please add the relevant documents)	<input type="checkbox"/> yes	<input type="checkbox"/> no
Have you broken the law or are there any recent investigations proceeding against you?	<input type="checkbox"/> Which?		
State the names, first names and dates of birth of your parents:			

**Note on data protection Residence Law: §86 Collection of personal data!** The authorities entrusted with the execution of this law have permission to collect personal data for the purpose of executing this law as well as regulations of other foreigner law provisions, as long as it is necessary to fulfill their duties according to this law and the other foreigner law provisions. I hereby assure you to have filled out this form correctly and in full at the best of my knowledge. I further confirm to understand that wrong or incorrect data could be reason enough to lose my residence permit. Furthermore a criminal complaint could be charged against me.

Date, Signature

If minor: Signature of a legal representative

**Nachweis zum bisherigen Verlauf des Studiums**



Familienname	Vorname
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Straße, PLZ, Ort
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Studienfach (bitte Studentendatensatz beifügen)	Matrikel-Nr.:
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Hiermit bestätige ich, folgende Leistungsnachweise erbracht zu haben (siehe Transkript).

\_\_\_\_\_  
*Datum*

\_\_\_\_\_  
*Unterschrift des / der Studenten/in*

**Bestätigung durch den Prüfungsausschuss der Hochschule**

Die **durchschnittliche Studiendauer** für das o.a. Studienfach beträgt \_\_\_\_\_ Semester.

Nach dem derzeitigen Studienverlauf ist damit zu rechnen, dass das Studium frühestens im \_\_\_\_\_ beendet sein wird.

\_\_\_\_\_

*Datum* \_\_\_\_\_

*Prüfungsausschuss für* \_\_\_\_\_

*Stempel und Unterschrift des Ausschusses* \_\_\_\_\_

**Translation of official form**

(For understanding purpose only!

Please **fill out the official German form** using this English version merely as a guideline.)

**Proof of previous course of studies**

Last Name

First Name

Street, Postal Code, City

Subject of study (please add your transcript to this form)

Matriculation Number:

I hereby confirm having achieved the following performance record as mentioned in my transcript.

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Student's signature*

**Confirmation through the examination board of University**

The **average time of study** for the above mentioned subject amounts to \_\_\_\_\_ semester.

According to the current course of study, a degree will approximately be achieved in

\_\_\_\_\_ the soonest.

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Examination board of*

\_\_\_\_\_  
*Board's stamp and signature*