

How do I get a work permit?



The preconditions and the procedure





Introduction

This leaflet is available and has been translated into several languages on the website www.fluechtlingsrat-brandenburg.de, under the heading “Tipps für den Flüchtlingsalltag” (“Tips for Refugee Everyday Life”)

ACKNOWLEDGEMENTS:

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In Germany many migrants need a work permit to be allowed to work. But many people do not know when they have to apply for a work permit and when this is unnecessary.

This leaflet is aimed at people living as refugees in Germany, either with temporary permission to stay (Aufenthaltsgestattung), residence permit (Aufenthaltserlaubnis) or temporary suspension of deportation (Duldung). It provides a summary of the pre-conditions and the procedure of filing an application for a work permit.

In case of doubt please contact one of the **independent refugee advice centres (Flüchtlingsberatungsstellen)**¹ in Brandenburg or ask a **lawyer**.

Note: The contents of this leaflet reflect the authors' legal opinion.

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¹ You can find your nearest independent refugee advice centre at www.fluechtlingsrat-brandenburg.de/beratung/fluechtlingsberatungsstellen



1. Are you permitted to work or not?

Basically there are three different possibilities:

a) **Work ban** (Arbeitsverbot)

This means that you are not allowed to work.

b) **Restricted work permit** (eingeschränkte Arbeitserlaubnis)

This means you will have to apply for a work permit at your local Foreigners' Authority (Ausländerbehörde) before you start to work. If you obtain a work permit it is only valid for a certain job in a certain enterprise.

c) **Unrestricted work permit** (uneingeschränkte Arbeitserlaubnis)

This means you can take up any work and do not need to apply for a work permit.

TIP: Even if you don't need to apply for a work permit, you should nevertheless inform the Foreigners' Authority if you take up work.

What kind of work can you be permitted?

You can be permitted to pursue an economic activity ("Erwerbstätigkeit") or to take up employment ("Beschäftigung").

"Employment permitted" ("Beschäftigung gestattet") means that you are only permitted to work in an employed position as an **employee** in a business.

"Economic activity permitted" ("Erwerbstätigkeit gestattet") means that you are permitted to work as an employee **as well as a self-employed person**, which means you are also allowed to start your own business. As a rule, you are not allowed to be self-employed if you have a temporary permission to stay

(Aufenthaltsgestaltung) or a temporary suspension of deportation (Duldung).

2. When do you need to apply for a work permit?

If your residence document indicates that the **pursuit of an economic activity is only permitted with the consent of the Foreigners' Authority** ("Ausübung einer Erwerbstätigkeit nur mit Erlaubnis der Ausländerbehörde gestattet").

Or if your residence document indicates that **employment is only permitted with the consent of the Foreigners' Authority** ("Ausübung einer Beschäftigung nur mit Erlaubnis der Ausländerbehörde gestattet").



3. What do you need a work permit for?

- I. For every job or
- II. for work-based vocational training or
- III. for an internship/work experience.

As a general rule, no work permit is required for school education.



4. Who will grant you a work permit?

The work permit must be applied for at your competent Foreigners' Authority (Ausländerbehörde). In most cases, you will be able to do this without adhering to a specific form. Some Foreigners' Authorities, however, issue a form. From the Foreigners' Authority you will also get the necessary job description ("Stellenbeschreibung") form which the employer will have to complete. On this form, he/she will need to provide exact details on his/her business, the number of hours you will have to work and the exact working times.

Depending on your residence title and your period of residence, the Foreigners' Authority does not decide on its own, but has to involve the Federal Employment Agency (Bundesagentur für Arbeit) in the decision-making. (For more information on the involvement of the Federal Employment Agency see point 7).

5. Specific characteristics of the individual residence titles

- a) If you have temporary permission to stay (Aufenthaltsgestattung):

- The first **3 months** of your stay in Germany are a so-called **waiting period** during which you are not allowed to work, after that a work permit may be issued with approval of the Foreigners' Authority. Your access to the labour market will then be restricted, and a priority review will be carried out by Federal Employment Agency. For more information on what that means see point 8.

- After an uninterrupted stay of **15 months** in Germany, you will have access to the labour market without a priority review.
- After **48 months**, your access to the labour market will be **unrestricted**².
- You may take up work-based vocational training without the approval of the Federal Employment Agency after **3 months** of stay in Germany.

Exception: Highly qualified persons with a temporary permission to stay (Aufenthaltsgestattung) are permitted to work within their field **after 3 months** without the approval of the Federal Employment Agency if they:

- have a recognised university degree or a degree comparable to a German degree and earn at least 47.600 Euros net in a year (requirement for the EU Blue Card).
- have a German university degree (income independent).

b) If your deportation has been suspended (Duldung):

- The first **3 months** of your stay in Germany are a so-called **waiting period** during which you are not allowed to work.
- After **3 months**, you can apply for a work permit at the Foreigners' Authority. Your access to the labour market will then be restricted. A priority review and a review of the working conditions will be carried out. For more information on what that means see point 8.

- After an uninterrupted stay of **15 months**, you will have access to the labour market without a priority review.
- After 48 months, your access to the labour market will be **unrestricted**².
- You may take up work-based vocational training without the approval of the Federal Employment Agency from **your first day on**.

Exception: Highly qualified persons with a temporary permission to stay (Aufenthaltsgestattung) are permitted to work within their field **after 3 months** without approval of the Federal Employment Agency if they:

- have a recognised university degree or a degree comparable to a German degree and earn at least 47.600 Euros net in a year (requirement for the EU Blue Card).
- have a German university degree (independent of income).

ATTENTION: The Foreigners' Authorities may nevertheless ban someone from working at any time (see point 6)!

TIP: Often the authorities do not grant an unrestricted work permit on their own initiative. Submit your application in good time!

IMPORTANT: YOUR WORK PERMIT IS ONLY VALID AS LONG AS YOUR RESIDENCE PERMIT AND/OR YOUR PASSPORT ARE VALID.

² "Unrestricted" means that no priority review and no review of working conditions will be carried out.



6. When will a work ban be imposed?

A general work ban can **only** be imposed **in the case of a temporary suspension of deportation (Duldung)** if the Foreigners' Authority claims that:

- You only came to Germany in order to receive social benefits, or
- you do not sufficiently cooperate with your deportation and therefore cannot be deported **for reasons for which you are responsible**.

If you are banned from working this will always be expressly stated in your identity paper/your temporary suspension of deportation paper (Duldung).

TIP: If the Foreigners' Authority bans you from working, you can contact one of the advice centres of our network, a refugee advice centre or a lawyer to have them check the work ban.

7. Will the Federal Employment Agency (Bundesagentur für Arbeit) be involved in the decision of the Foreigners' Authority?

General rule: approval is required

The Foreigners' Authority will forward your application to the Federal Employment Agency. Once all documents have been submitted, the Employment Agency must review the application within 2 weeks and inform the Foreigners' Authority of the result. The Foreigners' Authority will then grant you a work permit or issue a written notice of rejection.

Exception: no approval is required

The Foreigners' Authority can decide **without** involving the Federal Employment Agency

- a) if you apply for a work permit after **3 months** when you have a temporary permission to stay (**Aufenthaltsgestattung**) or **from the first day** on when your deportation has been suspended (Duldung) for one of the following occupational activities:
 - internship in the context of school education or a course of studies, or
 - internship in the context of an EU funded project,
 - activity as a highly skilled worker,
 - vocational training,
 - activity as a family member of the employer if you live with the employer,
 - activity which mainly supports you in your recovery, reintegration or education³, or
- b) if you have been legally and continuously residing in Germany for more than four years and have been granted temporary permission to stay (**Aufenthaltsgestattung**) or temporary suspension of deportation (**Duldung**).

³ This applies to e.g. ill or addicted persons, prisoners, etc, but not to traumatised refugees.



8. What will be examined by the Federal Employment Agency?

The Federal Employment Agency examines whether there are reasons to reject the application.

I. General rule: priority review and review of working conditions

a) Priority review (Vorrangprüfung) means:

- Each case will be examined individually and a work permit will only be granted if there are no **privileged** employees available for the particular job. Privileged employees are German citizens, nationals of EU countries and foreigners who are already in possession of a work permit.
- In addition to the case-by-case assessment mentioned above the Federal Employment Agency can specify certain occupational categories where employment is generally possible and where a case-by-case assessment is not required.

b) Review of working conditions (Arbeitsbedingungsprüfung) means:

- You may not be employed under less favourable working conditions than a comparable German employee. Therefore, the Agency examines whether the wage that is offered corresponds to the collectively agreed standard wage and complies with statutory regulations such as the laws on employee protection.

II. Exceptions:

No priority review, but a review of working conditions:

- In cases where employment with the same employer is continued after one year.
- In cases that fall under the hardship clause, the overall circumstances of the individual case will be examined. In the case of traumatised persons, the desired employment must be part of the therapy.

9. What can you do if the Foreigners' Authority rejects your application?

The Foreigners' Authority will have to notify you in writing. You can lodge an objection (Widerspruch) to the notice you receive. Be sure to pay close attention to the deadlines indicated in the information on legal remedies at the end of the notice.

If your objection has been unsuccessful you may file an action with the competent administrative court. If you expect the employer to give the job offered to you to someone else after a short time, you should also file an urgent motion (Eilantrag) when you are filing an action. The court will have to rule on this motion soon and without conducting a court hearing.



BleibNet PLUS für Brandenburg - Netzwerk

Six project partners came together to form the *BleibNet PLUS für Brandenburg* network in order to support refugees on their path to employment, training and qualifications.

Berlin-Brandenburgische Auslandsgesellschaft e.V.

Caritasverband der Diözese Görlitz e.V.

Regionalstelle Senftenberg

Song Hong e.V.

Caritasverband für das Erzbistum Berlin e.V.

Region Brandenburg Ost

IHK-Projektgesellschaft mbH Ostbrandenburg

Flüchtlingsrat Brandenburg

Our programmes are aimed at all persons entitled to stay and refugees with access to the labour market.
Participation is voluntary and free of charge.

The information contained in this leaflet only provides an overview. If you have questions relating to work permits, please contact one of the advice centres of the network.

The addresses of the network's advice centres are available on the website of the network and on the website of the Flüchtlingsrat Brandenburg. You can also get advice over the phone.

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