HRK German Rectors' Conference
The Voice of the Universities

Rights of residence for researchers from non-EU countries in Germany

Overview on potential residence permits pursuant to the German Residence Act

Overview on potential residence permits

for researchers from non-EU countries pursuant to the German Residence Act

Residence permit / purpose of residence	Target group / beneficiaries	Conditions for granting a residence permit			Duration / limitation	Renewal	Employment	Approval of Federal Employment Agency / Foreigners Authority required	Residence/stay in other EU Member States
		1. Minimum income[5]	2. German language skills	3. Other					
§ 16 Higher education studies, language courses, school education	(Language) students, (prospective) students at Higher Education Institutions (HEI), doctoral candidates[2]	No[6]	In principle yes; generally, language skills assessment forms part of the university admission procedure	Resident permit is issued only after admission to the higher education institution (exception: prospective students)	Limited duration: minimum 1 year, maximum 2 years	Possible, if purpose of residence has not yet been achieved; also, after successful completion of studies for up to 18 months for job search[13]	Max. 120 days or 240 half-days p.a., as well as student secondary/part-time job at the HEI or a research institution[15]; these jobs must not jeopardize the purpose of the studies.	Yes, if employment falls outside the scope (see § 16 Employment) and if it is subject to the Agency's approval.[18] In this case, also the approval of the foreigners' authority is required.	Freedom of movement in the Schengen Area for up to 3 months
§ 18 Employment[1]	Foreign employees in general; in conjunction with § 5 Ordinance on Employment, also applicable for employment in science and research	No	Usually not necessary	Concrete job offer	Limited duration	Yes, if basic requirements are still met; also, after termination of employment for a maximum period of 6 months for searching a job suiting the qualification[14]	The residence permit contains the permission to take up the authorised economic activity.	In principle yes (see § 39 Residence Act); however, for academic personnel and scientific visitors in universities and research institutions, approval is not required (§ 5 Ordinance on Employment).	Freedom of movement in the Schengen Area for up to 3 months
§ 19 Settlement permit for highly qualified foreigners	Top-level personnel in science, research and teaching with outstanding professional qualifications, whose stay in Germany is of particular interest	No	Usually not necessary[9]	Concrete job offer	Unlimited duration	Not required (unlimited duration)	Possible without restrictions[16]	No[19]	Freedom of movement in the Schengen Area for up to 3 months
§ 19a EU Blue Card	Foreign employees with a university degree[3]	Yes[7]	Usually not necessary	German or recognized foreign tertiary degree or foreign degree comparable to a German tertiary degree[3] and actual pursuit of a highly qualified employment; concrete job offer	Maximum duration of 4 years; in case of shorter employment contract, limited to the duration of that contract plus 3 months[11]	Yes, if basic requirements are still met	Actual pursuit of highly qualified employment commensurate with qualification	No[20]. However, for each job change in the first two years of employment, permission in writing by the foreigners' authority is required.[21]	Freedom of movement in the Schengen Area for up to 3 months; EU Blue Card holders and their family members can take up residence in another EU Member State after 18 months and apply for a EU Blue Card in this country.
§ 20 Research	Foreign researchers who want to carry out a research project in an officially approved research institution in Germany; where applicable doctoral candidates[4]	Yes[8]	Usually not necessary	Approval of the research institution by the Federal Office for Migration and Refugees; hosting agreement between researcher and research institution; declaration of assumption of costs by the research institution, where applicable[10]	At least 1 year; in case of shorter residence period as researcher, limited to the duration of stay[12]	Yes, in case of prolongation of the research project or if the researcher will be assigned to a new project; also, after termination of the research project, for a maximum period of 6 months in order to search for a job suiting the qualification.	A residence permit for researchers contains the permission to carry out the activities in the research institution specified in the hosting agreement[17] as well as teaching activities.	No. Neither is the approval of the foreigners' authority required. (This also applies to joining spouses/partners and unmarried minor children.[22])	(Research-) Stay for up to 3 months in the Schengen Area; after this time, a new hosting agreement or a residence permit in the respective Member State is required.

Subsequent immigration of spouses and unmarried minor children	Access to labour market for family members	German language skills of spouse[27] and / or children[28] required on arrival	Parental benefits[32]	Child benefits[35]	Fees[38]	Alternative residence title	Settlement permit	Residence permit / purpose of residence
The general conditions for the subsequent immigration of dependents and spouses are laid down in §§ 5, 29 and 30 Residence Act.	The residence permit entitles the holder to pursue an economic activity.[26]	In general, yes[29]	No[33]	No[36]	Residence permit valid up to 1 year: 100 €; validity > 1 year: 110 €[39] Renewal of residence permit up to 3 months: 65 €; > 3 months: 80 €	Where applicable § 20 Residence Act for doctoral candidates[4]	To qualify for a settlement permit, only one-half of the residence periods pursuant to § 16 Residence Act are taken into account.[41] Graduates from HEI with appropriate employment may be granted a settlement permit after two years.[42] A residence permit for a purpose other than that specified in § 16(4) Residence Act can only be obtained after leaving Germany, unless the foreigner is entitled to obtain the residence title.	§ 16 Higher education studies, language courses, school education
The general conditions for the subsequent immigration of dependents and spouses are laid down in §§ 5, 29 and 30 Residence Act.	The residence permit entitles the holder to pursue an economic activity.[26]	In general, yes[29]	Yes, unless the residence permit was issued pursuant to § 18(2) Residence Act and the approval of the Federal Employment Agency can only be given for a certain maximum time period[34]	Yes, unless the residence permit was issued pursuant to § 18(2) Residence Act and the approval of the Federal Employment Agency can only be given for a certain maximum time period[37]	Residence permit valid up to 1 year: 100 €; validity > 1 year: 110 €[39] Renewal of residence permit up to 3 months: 65 €; > 3 months: 80 €	§§ 19, 20 Residence Act	A settlement permit and/or entitlement to EU long-term residence can be obtained in accordance with the general provisions of §§ 9 and 9(a) Residence Act. Foreigners in possession of a national tertiary degree who are pursuing an adequate economic activity can apply for the settlement permit pursuant to § 18(b) Residence Act already after a time period of two years.	§ 18 Employment[1]
The spouse is entitled to obtain a residence permit.[23]	The residence permit entitles the holder to pursue an economic activity.[26]	No[30]	Yes	Yes	250 €[40]	§ 18 Residence Act	The residence title pursuant to § 19 Residence Act already constitutes the national settlement permit.	§ 19 Settlement permit for highly qualified foreigners
The spouse is entitled to a residence permit for subsequent immigration of spouses.[24]	The residence permit entitles the holder to pursue an economic activity.[26]	No[31]	Yes	Yes	Residence permit valid up to 1 year: 100 €; validity > 1 year: 110 € Renewal of residence permit up to 3 months: 65 €; > 3 months: 80 €	§§ 18, 19, 20 Residence Act; where applicable, § 16 Residence Act for doctoral candidates	Requirements for obtaining a settlement permit: pursuit of an economic activity in accordance with § 19(a)(1) Residence Act and payment of compulsory or voluntary contributions to the statutory pension insurance schemes for at least 33 months (21 months in case of sufficient German language skills).[43] For entitlement to EU long-term residence (after at least 5 years), residence periods in other EU Member States with a EU Blue Card can be accumulated, if the residence period in the first EU Member State is at least 18 months.	§ 19a EU Blue Card
The spouse is entitled to a residence permit for subsequent immigration of spouses.[25]	The residence permit entitles the holder to pursue an economic activity.[26]	No[30]	Yes	Yes	Residence permit valid up to 1 year: 100 €; validity > 1 year: 110 € Renewal of residence permit up to 3 months: 65 €; > 3 months: 80 €	§ 18 Residence Act; where applicable, § 16 Residence Act for doctoral candidates	A settlement permit and/or entitlement to EU long-term residence can be obtained in accordance with the general provisions of §§ 9 and 9(a) Residence Act.	§ 20 Research

For further information see the explanatory notes on the back.

Notes

1. This provision covers all employment in Germany and is therefore not specifically applicable to scientific professions. Pursuant to § 18(1) Residence Act, the admission of foreign employees is geared to the requirements of the German economy, according due consideration to the situation on the labour market.
2. This applies to dissertations that are produced as part of 'doctoral studies' (see the explanation to Art. 1 § 16 of the draft law, Bundestag document 15/420, p. 74).
3. Pursuant to § 19(a) (2) sentence 1 no. 2, the Federal Ministry of Labour and Social Affairs can also determine by regulation occupations in which a qualification equivalent to a university degree may be demonstrated by at least five years of professional experience. As yet, no such measure has been adopted.
4. If they produce their dissertation as part of a research acticity for which a hosting agreement was concluded with the officially approved research institution. This does not apply to foreigners whose research activities form part of 'doctoral studies' (see § 20(7) no. 4 Residence Act and the General Administrative Regulations for the Residence Act No. 20.7). The wording of § 20(7) no. 4 Residence Act is open to interpretation, leading to inconsistent definitions of the foreigners' authorities regarding the concept of 'doctoral studies'.
5. Generally, the granting of a residence permit presupposes the proof that the foreigner's livelihood is secure including adequate health insurance coverage for the time of his or her stay in Germany (see § 5(1) (1) in conjunction with § 2(3) Residence Act).
6. With regard to a resident permit pursuant to § 16, livelihood is deemed secure in accordance with § 2(3) sentence 5 Residence Act, if the foreigner has sufficient financial resources available to cover the monthly needs pursuant to §§ 13 and 13(a)(1) Federal Law on Educational Support, presently amounting to 659 €.
7. With regard to a residence permit pursuant to § 19(a)(2) no. 1 Residence Act, § 2(1) no.2(a) Ordinance on Employment stipulates a gross income amount equivalent to two thirds of the rate of the income threshold for the statutory pension insurance schemes (annual gross income, presently 47,600 €). For shortage occupations such as STEM professionals or medical practitioners, § 2(2) sentence 1 Ordinance on Employment stipulates a minimum gross income equivalent to 52 percent of the rate of the income threshold for the statutory pension insurance schemes (annual gross income, presently 37.128 €). Because of the linkage to the income threshold for the statutory pension insurance system, the minimum income thresholds may be adjusted at the beginning of the year. For each calendar year, the Federal Ministry of the Interior announces the new minimum income threshold at the latest by 31st December of the previous year in the German Federal Gazette.
8. With regard to a residence permit pursuant to § 20 Residence Act, § 2(3) sentence 6 Residence Act provides that an amount equivalent to two thirds of the reference amount within the meaning of § 18 of the Code of Social Law IV is deemed sufficient to cover living costs (monthly net income presently 1,843.33 € for pay scale area West and 1,563.33 € for pay scale area East). In individual cases, a lower net income may be considered sufficient, if health insurance cover is adequate and if eligibility to social security payments is not applicable (see also the General Administrative Regulation No. 2.3.7 to the Residence Act). For each calendar year, the Federal Ministry of the Interior announces the new minimum income threshold at the latest by 31st December of the previous year in the Federal Gazette.
9. In practice, foreigners' authorities may require proof of basic German language skills within their margin of assessment.
10. If the activity of the research institution is mainly financed by public resources, the presentation of the cost assumption declaration should be waived (see the General Administrative Regulations for the Residence Act No. 20(2)).
11. See § 19(a)(3) Residence Act
12. See § 20(4) Residence Act
13. See § 16(4) Residence Act. For this time period, the residence permit entitles the holder to pursue an economic activity.
14. See § 18(c)(3) Residence Act. The grant of a residence permit pursuant to § 18c of the Residence Act requires that the holder has secure means of subsistence and does not entitle the holder to pursue an economic activity. Extension beyond 6 months is not possible.
15. Student secondary/part-time jobs include work limited to academic activities for university-related organisations with the subject matter relating to the studies (e.g. tutors working in halls of residence run by the student services organisation, counselling activities of university associations, student committees or the World University Service). Problems of definition should be clarified with the participation of the higher education institution (see also the General Administrative Regulation No. 16.3.3 to the Residence Act).
16. See § 9(1) Residence Act
17. See § 20(6) Residence Act
18. Graduates who have found adequate employment do not need the approval of the Federal Employment Agency.
19. See § 2(1) sentence 1, no. 1 Ordinance on Employment
20. Provided that the foreigner has the minimum income required, is in possession of a national tertiary degree or is employed as researcher by a Higher Education Institution or a research institution (see § 2(1) sentence 1 no. 2 and § 5 Ordinance on Employment).
21. See § 19(a)(4) Residence Act
22. See § 34 sentence 3 Ordinance on Residence
23. See § 30(1) sentence 1 no. 3(a) Residence Act
24. See §§ 27(4) and 30(1) sentence 1 no. 3(g) Residence Act
25. See §§ 27(4) and 30(1) sentence 1 no. 3(c) Residence Act
26. See § 27(5) Residence Act
27. In principle, proof of basic German language skills is required for spouses pursuant to § 30(1) sentence 1 no. 2 Residence Act.
28. See § 32 Residence Act
29. This requirement may be waived in cases of little need for integration measures (e.g. proof of completed studies at a Higher Education Institution; see § 30(1) sentence 3 no. 3 Residence Act).
30. If the 'principal' person is in possession of a residence permit pursuant to §§ 19, 20 or 21 Residence Act and the marriage already existed at the time when he or she established their main ordinary residence in the Federal territory, the requirement of proof of basic German language skills is waived for the spouse pursuant to § 30(1) sentence 2 no. 1 Residence Act.
31. Pursuant to § 30(1) sentence 3 no. 5, the spouse of the holder of an EU Blue Card is not required to give proof of German language skills.
32. See § 1(7) Parenting Benefit and Parental Leave Act
33. See § 1(7) sentence 1 no. 2(a) Parenting Benefit and Parental Leave Act
34. See § 1(7) sentence 1 no. 2(b) Parenting Benefit and Parental Leave Act
35. See § 62(2) Income Tax Act
36. See § 62(2) sentence 1 no. 2(a) Income Tax Act
37. See § 62(2) no. 2(b) Income Tax Act
38. See § 45 Ordinance on Residence
39. Students receiving a scholarship from public funds for their residence are exempt from fees for obtaining a visa or a residence permit pursuant to § 52(5) Ordinance on Residence.
40. See § 44 No. 1 Ordinance on Residence
41. See § 9(4) No. 3 Residence Act
42. See § 18(b) Residence Act
43. See § 19(a)(6) sentence 1 and 2 Residence Act

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