

Part 4  
Residence for the purpose of economic activity

**Section 18**  
**Principle of skilled immigration; general provisions**

(1) The admission of foreign employees is geared to the requirements associated with making Germany an attractive place to conduct business and research, giving due consideration to the labour market situation. The opportunities given to foreign skilled workers serve to guarantee the supply of skilled workers and to strengthen the social security systems. They are intended to promote the lasting integration of skilled workers into society and the labour market, with due consideration of public security interests.

(2) A temporary residence permit to take up employment is granted subject to the following conditions:

1. the foreigner has a concrete job offer,
2. the Federal Employment Agency has given its approval under section 39; this does not apply if it has been determined by law, intergovernmental agreement or pursuant to the Ordinance on the Employment of Foreigners that employment is permissible without the approval of the Federal Employment Agency; in this case, the residence title may also be denied if one of the conditions stipulated in section 40 (2) or (3) exists,
3. permission to practise a profession has been granted or promised, if necessary,
4. the equivalence of the qualification has been established or the foreigner has a foreign higher education qualification which is recognised or otherwise comparable to a German higher education qualification to the extent that this is a condition for being granted the residence title, and
5. where a foreigner who is 45 years of age or older and has been granted a residence title for the first time under sections 18a or 18b, has a salary corresponding to at least 55 per cent of the earnings ceiling of the general pension scheme, unless the foreigner can prove that he or she possesses adequate provision for old age. The requirements stipulated in sentence 1 may only be waived in justified exceptional cases where there is a public interest in employing the foreigner, in particular under regional, economic or labour market policy aspects. The Federal Ministry of the Interior, Building and Community announces

the minimum salaries in the Federal Gazette annually by 31 December for the following calendar year.

(3) For the purposes of this Act, a skilled worker means a foreigner who

1. has successfully completed quality vocational training in Germany or has a foreign quality vocational qualification which is equivalent to one acquired in Germany (skilled worker with vocational training qualification), or

2. has a German university degree, a recognised foreign university degree or a foreign university degree comparable to a German one (skilled worker holding a university degree).

(4) Skilled workers under sections 18a and 18b are granted residence titles for a period of four years or for a shorter period if the employment relationship or the approval by the Federal Employment Agency is limited to a shorter period. The EU Blue Card is issued or extended so that it is valid for the duration of the employment contract plus an extra three months if the employment contract is for less than four years.

### **Section 18a**

#### **Skilled workers with vocational training qualification**

Skilled workers with vocational training qualification may be granted a temporary residence permit to perform skilled work for which their training qualifies them.

### **Section 18b**

#### **Skilled workers holding a university degree**

(1) Skilled workers holding a university degree may be granted a temporary residence permit to perform skilled work for which their training qualifies them.

(2) Skilled workers holding a university degree are granted an EU Blue Card without the consent of the Federal Employment Agency for employment commensurate with their qualification, if they have a salary corresponding to at least two-thirds of the annual earnings ceiling of the general pension scheme and if none of the reasons for refusal regulated in section 19f (1) and (2) exist. In derogation from sentence 1, skilled workers who hold a university degree and who practise a profession included in groups 21, 221 or 25 as defined in the Commission Recommendation of 29 October 2009 on the use of the International Classification of Occupations (ISCO-08) (OJ L 292, 10.11.2009, p. 31) are granted an EU Blue Card with consent of the Federal Employment Agency, if their salary corresponds to at least 52 per cent of the annual earnings ceiling of the general

pension scheme. The Federal Ministry of the Interior announces the minimum salaries in the Federal Gazette annually by 31 December for the following calendar year. In derogation from section 4a (3) sentence 3, holders of an EU Blue Card wishing to change jobs need permission from the foreigners authority only during the two first years of employment, provided they meet the requirements for an EU Blue Card.

### **Section 18c**

#### **Permanent settlement permit for skilled workers**

(1) Skilled workers are to be granted a permanent settlement permit without the consent of the Federal Employment Agency, if

1. they have held a residence title pursuant to sections 18a, 18b or 18d for four years,
2. have a job in compliance with the requirements stipulated in sections 18a, 18b or 18d,
3. they have paid compulsory or voluntary contributions into the statutory pension insurance scheme for at least 48 months or furnish evidence of an entitlement to comparable benefits from an insurance or pension scheme or from an insurance company, and
4. they have a sufficient command of the German language, and
5. the requirements of section 9 (2) sentence 1 nos. 2, and 4 to 6, 8 and 9 are met; section 9 (2) sentences 2 to 4 and 6 applies accordingly.

The period stipulated in sentence 1 no. 1 is reduced to two years and the period stipulated in sentence 1 no. 3 is reduced to 24 months if the skilled worker has successfully completed vocational training or a course of study in Germany.

(2) In derogation from subsection (1) holders of an EU Blue Card are to be granted a permanent settlement permit, if they have been employed in accordance with section 18b (2) for at least 33 months and have paid mandatory or voluntary contributions to the statutory pension insurance scheme for that period, or if they furnish evidence of an entitlement to comparable benefits from an insurance or pension scheme or from an insurance company and if the requirements of section 9 (2) sentence 1 nos. 2 and 4 to 6, 8 and 9 are met and if they have basic German language skills. Section 9 (2) sentences 2 to 4 and 6 applies accordingly. The period referred to in sentence 1 is reduced to 21 months if the foreigner has a sufficient command of the German language.

(3) In special cases, a highly skilled worker holding a university degree may be granted a permanent settlement permit without the consent of the Federal Employment Agency if there is reason to assume that integration into the way of life in the Federal Republic of Germany and the foreigner's subsistence without state assistance are assured and if the requirements of section 9 (2) sentence 1 no. 4 are met. The Land government may stipulate that granting the permanent settlement permit pursuant to sentence 1 requires the approval of the supreme Land authority or a body designated by it. Highly skilled workers as referred to in sentence 1 include in particular the following persons, provided that they have several years of work experience:

1. researchers with special technical knowledge or
2. teaching personnel in prominent positions or scientific personnel in prominent positions.

### **Section 18d**

#### **Research**

(1) A foreigner is granted a temporary residence permit for research purposes in accordance with Directive 2016/801/EU without the consent of the Federal Employment Agency if

1. the foreigner
  - a) has concluded an effective hosting agreement or an equivalent contract to carry out a research project with a research organisation which is recognised for the implementation of the special approval procedure for researchers in the federal territory, or
  - b) has concluded an effective hosting agreement or an equivalent contract with a research organisation which conducts research, and
2. the research organisation has undertaken in writing to bear the costs incurred by public bodies up to six months after termination of the hosting agreement for
  - a) the foreigner's subsistence during an unlawful stay in a member state of the European Union, and
  - b) deporting the foreigner.

In the cases covered by sentence 1 no. 1 (a) the temporary residence permit is to be granted within 60 days of the application being made.

(2) As a general rule, the requirement stipulated in subsection (1) no. 2 is to be

waived where the activities of the research organisation are financed primarily from public funds. The requirement may be waived where there is a special public interest in the research project. Section 66 (5), section 67 (3) and section 68 (2) sentences 2 and 3 and (4) as well as section 68 (2) sentences 2 and 3 apply accordingly to the declarations furnished pursuant to subsection 1 no. 2.

(3) The research organisation may also submit the declaration pursuant to subsection (1) no. 2 to the body responsible for its recognition as a general declaration for all foreigners to whom a temporary residence permit is issued on the basis of a hosting agreement concluded with it.

(4) The temporary residence permit is issued for at least one year. If the foreigner takes part in a Union or multilateral programme that comprises mobility measures, the temporary residence permit is granted for at least two years. By way of derogation from sentences 1 and 2, where the research project is completed in a shorter period, the term of the temporary residence permit is limited to the duration of the research project; in the cases covered by sentence 2, the period is at least one year.

(5) A temporary residence permit pursuant to subsection (1) entitles the holder to take up research at the research organisation specified in the hosting agreement and to take up teaching activities. Changes to the research project during the stay do not cause this entitlement to expire.

(6) A foreigner who has international protection status in a member state of the European Union may be granted a temporary residence permit for research purposes, if the requirements of subsection (1) are met and the foreigner has stayed in this member state for at least two years after being granted protection. Subsection (5) applies accordingly.

## **Section 18e**

### **Short-term mobility for researchers**

(1) In derogation from section 4 (1), a foreigner does not require a residence title for stays for research purposes not exceeding 180 days in a 360-day period, if the host research organisation in the federal territory has notified the Federal Office for Migration and Refugees and the competent authority of the other member state that the foreigner intends to carry out part of the research in the federal territory, submitting the following to the Federal Office for Migration and Refugees at the same time:

1. evidence that the foreigner possesses a valid residence title for research

purposes issued by another member state in accordance with Directive 2016/801/EU,

2. the hosting agreement or an equivalent contract concluded with the host research organisation in the federal territory,
3. a copy of the foreigner's recognised and valid passport or passport substitute, and
4. evidence that the foreigner's subsistence is secure.

The host research organisation is to make the notification when the foreigner applies for a residence title in the scope of Directive 2016/801/EU in another member state of the European Union. If, at the time of application, the host research organisation is not yet aware of the foreigner's intention to carry out part of the research in the federal territory, it must make the notification as soon as it becomes aware of this intention. If the residence title pursuant to sentence 1 no. 1 has been issued by a non-Schengen state, and if the foreigner enters the federal territory via a non-Schengen state, the foreigner must carry a copy of the notification and present it to the competent authorities at their request.

(2) If the notification was made at the time referred to in subsection (1) sentence 2, and if the foreigner has not been denied entry and residence under section 19f (5), the foreigner may enter the federal territory at any time during the validity of the residence title and stay there for research purposes. If the notification was made at the time referred to in subsection (1) sentence 3, the foreigner may enter the federal territory at any time after the notification is received and during the validity of the residence title issued by the other member state as referred to in subsection (1) sentence 1 no. 1 and stay there for research purposes.

(3) Foreigners who fulfil the requirements stipulated in subsection (1) are entitled to take up research in the host research organisation and to take up teaching activities.

(4) If a foreigner is denied entry and residence pursuant to section 19f (5), the foreigner must cease the research activities immediately. The exemption from the obligation to hold a residence title under subsection (1) sentence 1 ceases to exist.

(5) If the foreigner is not denied entry and residence in line with section 19f (5), the Federal Office for Migration and Refugees issues the foreigner with a certificate confirming the entitlement to enter and stay in the federal territory for research purposes as part of short-term mobility.

(6) Once a foreigner has been denied entry and residence under section 19f (5) or the Federal Office for Migration and Refugees has issued a certificate within the meaning of subsection (5), responsibility for further measures and decisions under residence law rests with the foreigners authority, as set out in section 71 (1). (4) The foreigner and the host research organisation are required to inform the foreigners authority of any changes to the requirements stipulated in subsection (1).

## **Section 18f**

### **Temporary residence permit for mobile researchers**

(1) Foreigners are granted a temporary residence permit without the consent of the Federal Employment Agency for stays for research purposes which last more than 180 days but no more than one year, if

1. the foreigner holds a residence title issued by another member state in accordance with Directive 2016/801/EU for the duration of the procedure,
2. a copy of the foreigner's recognised and valid passport or passport substitute is submitted, and
3. the hosting agreement or an equivalent contract concluded with the host research organisation in the federal territory is submitted.

(2) If the application for a temporary residence permit is filed at least 30 days prior to the beginning of the stay in the federal territory and if the residence title issued by the other member state continues to be valid, the foreigner's residence and economic activity is permitted for up to 180 days in a 360-day period until the foreigners authority decides on the application.

(3) Section 18d (5) applies accordingly to the entitlement to take up research and teaching activities.

(4) The foreigner and the host research organisation are required to inform the foreigners authority of any changes to the requirements stipulated in subsection (1).

(5) The application will be rejected if it was filed at the same time as a notification under section 18e (1) sentence 1. Applications which were filed during the stay pursuant to section 18e (1), but not in their entirety at least 30 days prior to the end of this stay, will also be rejected.

## **Section 19**

### **ICT Card for intra-corporate transferees**

(1) An ICT Card is a residence title for the purpose of an intra-corporate transfer of a foreigner. An intra-corporate transfer is the temporary secondment of a foreigner

1. to a national entity belonging to the undertaking by which the foreigner is employed, if the undertaking is located outside the European Union, or
2. to a national entity of another undertaking of the group of undertakings to which the undertaking located outside the European Union belongs and by which the foreigner is employed.

(2) A foreigner is granted an ICT Card if

1. the foreigner will work as a manager or specialist in the host entity,
2. the foreigner has been employed by the undertaking or group of undertakings for at least six months immediately prior to the transfer and will be employed without interruption by the undertaking or group of undertakings during the transfer period,
3. the intra-corporate transfer will exceed 90 days,
4. the foreigner provides a work contract valid for the duration of the intra-corporate transfer and, if necessary, an assignment letter stating
  - a) specific information regarding the place and kind of work, remuneration and other terms and conditions of employment during the intra-corporate transfer, as well as
  - b) evidence that the foreigner will be able to return to an entity belonging to the same undertaking or group of undertakings established outside the European Union after completing the intra-corporate transfer, and
5. the foreigner provides evidence of his or her professional qualifications.

A manager within the meaning of this Act is a person holding a senior position, who primarily directs the management of the host entity, receiving general supervision or guidance principally from the board of directors or shareholders of the business or equivalent. This position includes directing the host entity or a department or subdivision of the host entity; supervising and monitoring work of the other supervisory, professional or managerial employees; and having the authority to recommend hiring, dismissing or other personnel action. A specialist within the meaning of this Act is a person who possesses specialised knowledge essential to the host entity's areas of activity, techniques or management, a high level of qualification and appropriate professional experience.

(3) A foreigner is also to be granted an ICT Card if



1. the foreigner will work as a trainee employee in the context of an intra-corporate transfer, and
2. the conditions referred to in subsection (2) sentence 1 nos. 2 to 4 are met.

A trainee employee within the meaning of this Act is a person with a university degree completing a traineeship for career development purposes or in order to obtain training in business techniques or methods, and is paid during the transfer.

(4) The ICT Card is granted

1. for the duration of the transfer but no more than three years, for managers and specialists,
2. for the duration of the transfer but no more than one year, for trainee employees.

The maximum periods stipulated in sentence 1 may not be exceeded by extending the ICT Card.

(5) The ICT Card is not granted to foreigners who

1. owing to treaties between the European Union and its member states on the one hand and third countries on the other, enjoy rights of free movement equivalent to those of Union citizens,
2. are employed by an undertaking located in one of those third countries, or
3. are completing a training programme as part of their studies.

(6) Furthermore, the ICT Card is not granted if

1. the foreigner, in the context of the possible entry and stay in several member states of the European Union will spend more time in another member state than in the federal territory during the transfer, or
2. the application is filed within six months of the end of the foreigner's last stay in the federal territory for the purpose of an intra-corporate transfer.

(7) This provision serves to implement Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer (OJ L 157, 27.5.2014, p. 1).

## **Section 19a**

### **Short-term mobility for intra-corporate transferees**

(1) In derogation from section 4 (1), a foreigner is not required to have a residence title for stays for intra-corporate transfers not exceeding 90 days within a 180-day

period, provided the host entity in the other member state has notified the Federal Office for Migration and Refugees and the competent authority of the other member state that the foreigner intends to take up employment in the federal territory, submitting the following at the same time:

1. evidence that the foreigner possesses a valid residence title issued by another member state of the European Union in accordance with Directive 2014/66/EU,
2. evidence that the national host entity belongs to the same undertaking or group of undertakings as the undertaking established outside the European Union by which the foreigner is employed,
3. a work contract or, if necessary, an assignment letter as stipulated in section 19 (2) sentence 1 no. 4, which have already been presented to the competent authorities of the other member state, and
4. a copy of the foreigner's recognised and valid passport or passport substitute,
5. evidence that permission to practise a profession has been granted or promised, if necessary.

The host entity must make the notification when the foreigner applies for a residence title in the scope of Directive 2014/66/EU in another member state of the European Union. If, at the time of application, the host entity in the other member state is not yet aware of the foreigner's intention to be transferred to an entity in the federal territory, it is to make the notification as soon as it becomes aware of this intention. If the residence title pursuant to sentence 1 no. 1 has been issued by a non-Schengen state, and if the foreigner enters the federal territory via a non-Schengen state, the foreigner must carry a copy of the notification and present it to the competent authorities at their request.

(2) If the notification was made at the time referred to in subsection (1) sentence 2, and if the foreigner has not been denied entry and residence under subsection (4), the foreigner may enter the federal territory at any time during the validity of the residence title issued by the other member state as referred to in subsection (1) sentence 1 no. 1 and stay there for the purpose of the intra-corporate transfer. If the notification was made at the time referred to in subsection (1) sentence 3, the foreigner may enter the federal territory at any time after the notification is received and during the validity of the residence title issued by the other member state as referred to in subsection (1) sentence 1 no. 1 and stay there for the purpose of the intra-corporate transfer.

(3) The Federal Office for Migration and Refugees denies the foreigner entry and

residence if

1. the remuneration the foreigner will be granted during the intra-corporate transfer is less favourable than that granted to comparable German employees,
2. the conditions of subsection (1) sentence 1 nos. 1, 2, 4 and 5 are not met,
3. the documents presented pursuant to subsection (1) were fraudulently acquired, falsified or tampered with,
4. the foreigner has been staying in the European Union for more than three years, or, in the case of a trainee employee, for more than a year, or
5. there is a public interest in expelling the foreigner.

In the cases covered by sentence 1 nos. 1 to 4, entry and residence are to be denied no later than 20 days after the Federal Office for Migration and Refugees receives the complete information pursuant to subsection (1) sentence 1. In cases covered by sentence 1 no. 5, the foreigners authority may deny entry and residence at any time during the foreigner's stay; section 73 (3c) applies accordingly. The foreigner and the competent authority of the other member state as well as the host entity in the other member state are to be informed of the denial. Where entry and residence are denied within the allotted time, the foreigner must cease the economic activity without delay; the exemption from the obligation to hold a residence title pursuant to subsection (1) sentence 1 ceases to exist.

(4) If, within 20 days of receiving the notification referred to in subsection (1) sentence 1, the foreigner has not been denied entry and residence in accordance with subsection (3), the Federal Office for Migration and Refugees is to issue the foreigner with a certificate confirming the entitlement to enter and stay in the federal territory for the purpose of an intra-corporate transfer in the context of short-term mobility.

(5) Once a foreigner has been denied entry and residence under subsection (3) or the Federal Office for Migration and Refugees has issued a certificate within the meaning of subsection (4), responsibility for further measures and decisions under residence law rests with the foreigners authority, as set out in section 71 (1). The foreigner must inform the foreigners authority without delay if the other member state extends the residence title in accordance with subsection (1) sentence 1 no. 1.

(1) A Mobile ICT Card is a residence title in accordance with Directive 2014/66/EU for the purpose of an intra-corporate transfer within the meaning of section 19 (1) sentence 2, if the foreigner possesses a residence title which is valid for the duration of the application procedure and has been issued by another member state in accordance with Directive 2014/66/EU.

(2) A foreigner is granted a Mobile ICT Card if

1. the foreigner will work as manager, specialist or trainee employee in the host entity,
2. the intra-corporate transfer will exceed 90 days,
3. the foreigner provides a work contract valid for the duration of the transfer and, if necessary, an assignment letter stating
  - a) specific information regarding the place and kind of work, remuneration as well as other terms and conditions of employment during the transfer, and
  - b) evidence that the foreigner will be able to return to an entity belonging to the same undertaking or group of undertakings established outside the European Union after completing the transfer.

(3) If the application for a Mobile ICT Card is filed at least 20 days prior to the beginning of the stay in the federal territory and if the residence title issued by the other member state continues to be valid, the foreigner's residence and employment are deemed permitted for up to 90 days in a 180-day period until the foreigners authority decides on the application.

(4) The application is denied if it was filed at the same time as a notification in line with section 19a (1) sentence 1. Applications which were filed during the stay pursuant to section 19c, but not in their entirety at least 20 days prior to the end of this stay, are also denied.

(5) No Mobile ICT Card is granted if, in the context of the intra-corporate transfer, the foreigner will stay longer in the federal territory than in other member states.

(6) The application may be denied if

1. the maximum duration of the intra-corporate transfer pursuant to section 19 (4) has been reached, or
2. the ground for rejection referred to in section 19 (6) no. 2 applies.

(7) The national host entity is required to inform the competent foreigners authority without delay, as a rule within one week, of any changes to the conditions referred

to in subsection (2).

### **Section 19c**

#### **Other employment purposes; civil servants**

(1) Foreigners may be granted a temporary residence permit for employment irrespective of their qualification as a skilled worker if it is determined on the basis of the Ordinance on the Employment of Foreigners or by intergovernmental agreement that the foreigner may be admitted to pursue this employment.

(2) A foreigner with a high degree of practical occupational skills may be granted a temporary residence permit to perform skilled work if it is determined on the basis of the Ordinance on the Employment of Foreigners that the foreigner may be admitted to pursue this employment.

(3) In justified individual cases, a foreigner may be granted a temporary residence permit if there is a public interest, and in particular a regional, economic or labour market interest in the foreigner's employment.

(4) Foreigners in a civil servant relationship with a German employer are granted a temporary residence permit to discharge their official duties in the federal territory without the consent of the Federal Employment Agency. The temporary residence permit is granted for three years, unless the employment is limited to a shorter period. After three years, a permanent settlement permit is granted, in derogation from section 9 (2) sentence 1 nos. 1 and 3.

### **Section 19d**

#### **Temporary residence permit for the purpose of employment for qualified foreigners whose deportation has been suspended**

(1) Foreigners whose deportation has been suspended may be granted a temporary residence permit for the purpose of employment commensurate with their vocational qualification, if the foreigner

1. has, in the federal territory,

a) completed vocational training in a state-recognised or similarly regulated occupation in the federal territory which requires formal training, or a course of study at a higher education institution, or

b) held a position of employment continuously for two years in the federal territory with a foreign higher education qualification which is recognised or otherwise comparable to a German higher education qualification and which is commensurate with that employment, or

c) performed skilled work continuously for three years and has not relied on public funds for his or her subsistence and that of his or her dependants or other members of the household within the year preceding the application for the temporary residence permit except for benefits to cover the necessary costs for accommodation and heating, and

2. has sufficient living space at his or her disposal,

3. has a sufficient command of the German language,

4. has not intentionally deceived the foreigners authority as to circumstances of relevance to his or her situation under residence law,

5. has not intentionally delayed or obstructed official measures to end his or her residence,

6. does not have any links to extremist or terrorist organisations and does not support such organisations and

7. has not been convicted of an offence intentionally committed in the federal territory; fines totalling up to 50 daily rates or up to 90 daily rates in the case of offences which, under the Residence Act or the Asylum Act, can only be committed by foreigners are to be ignored as a general principle.

(1a) Where deportation has been suspended pursuant to section 60a (2) sentence 3 in conjunction with section 60c, a temporary residence permit is to be granted for a period of two years after the foreigner has successfully concluded this vocational training for employment commensurate with the vocational qualification acquired if the conditions referred to in subsection (1) nos. 2 to 3 and 6 to 7 are met.

(1b) A temporary residence permit issued pursuant to subsection (1a) is revoked if the employment relationship on which the issuance of the temporary residence permit was based is terminated for reasons relating to the person of the foreigner or if the foreigner has been convicted of an offence committed intentionally in the federal territory; fines totalling up to 50 daily rates or up to 90 daily rates in the case of offences which, under the Residence Act or the Asylum Act, can only be committed by foreigners are ignored as a general principle.

(2) The temporary residence permit entitles the holder to take up any employment after the foreigner has been employed in a position commensurate with his or her vocational qualification for a period of two years.

(3) The temporary residence permit may be granted in derogation from section 5 (2) and section 10 (3) sentence 1.

## **Section 19e**

### **Participation in European voluntary service**

(1) A foreigner is granted a temporary residence permit for the purpose of participating in a European voluntary service scheme pursuant to Directive 2016/801/EU, if the Federal Employment Agency has granted approval in accordance with section 39 or it has been determined on the basis of the Ordinance on the Employment of Foreigners or by intergovernmental agreement that participation in the European voluntary service scheme is permissible without approval from the Federal Employment Agency and the foreigner provides an agreement with the host entity containing the following information:

1. a description of the voluntary service scheme,
2. the duration of the voluntary service scheme and the foreigner's hours of service,
3. the placement and supervision conditions of the voluntary service,
4. the resources available to cover the foreigner's subsistence and accommodation costs and the minimum sum of pocket money the foreigner will have at his or her disposal throughout the stay, and
5. the training the foreigner will receive, where applicable, to perform the voluntary service properly.

(2) The foreigner's residence title is granted for the agreed duration of participation in the European voluntary service scheme, but not to exceed one year.

## **Section 19f**

### **Reasons to deny residence titles referred to in sections 16b, 16c, 16e, 16f, 17, 18b (2), 18d, 18e, 18f and 19e**

(1) No residence title referred to in section 16b (1) and (5), sections 16e, 17 (2), section 18b (2) and sections 18d and 19e is granted to foreigners

1. who are resident in a member state of the European Union because they have filed an application for recognition of refugee status or subsidiary protection within the meaning of Directive 2004/83/EC or for recognition of international protection status within the meaning of Directive 2011/95/EU, or who enjoy international protection within the meaning of Directive 2011/95/EU in a member state,
2. who reside in a member state of the European Union under the terms of an arrangement to provide temporary protection or who have filed an application for temporary protection status in another member state,

3. whose deportation has been suspended in a member state of the European Union on grounds of fact or law,
4. who hold an EU long-term residence permit or a residence title issued by another member state of the European Union on the basis of Directive 2003/109/EC,
5. who, owing to treaties between the European Union and its member states on the one hand and third countries on the other, enjoy rights of free movement equivalent to those of Union citizens.

(2) In addition to the grounds for exclusion mentioned in subsection (1), no EU Blue Card as referred to in section 18b (2) is granted to foreigners

1. who possess a residence title pursuant to Part 5 which was not granted on the basis of section 23 (2) or (4) or has a comparable legal status in another member state of the European Union; the same applies if the foreigners have applied for such a title or such legal status, and the decision on this application is pending,
2. whose entry into a member state of the European Union is subject to obligations arising from international treaties to facilitate the entry and temporary residence of specific categories of natural persons engaged in trade- or investment-related activities,
3. who have been admitted to a member state of the European Union as seasonal workers,
4. who come under Directive 96/71/EC of the European Parliament and the Council concerning the posting of workers in the framework of the provision of services (OJ L 18 of 21.1.1997, p. 1) in the version of Directive 2018/957/EU of the European Parliament and the Council of 28 June 2018 amending Directive 96/71/EC of the European Parliament and the Council concerning the posting of workers in the framework of the provision of services (OJ L 173, 9.7.2018, p. 16) for the duration of their transfer to Germany.

(3) In addition to the grounds for exclusion referred to in subsection (1) no residence permit as referred to in sections 16b, 16e, 17 (2), 18d and 19e is granted to foreigners who have an EU Blue Card pursuant to section 18b (2) or a residence title issued by another member state of the European Union on the basis of Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment (OJ L 155, 18.6.2009, p. 17). Furthermore, no temporary residence permit under section 18d is granted if the research activities constitute part of full-time doctoral studies.



(4) A temporary residence permit pursuant to sections 16b, 16e, 16f, 17, 18d, 18f and 19e may be denied if

1. the host entity was established for the main purpose of facilitating the entry and residence of foreigners for purposes referred to in the relevant provisions,
2. insolvency proceedings have been instituted against the host entity's assets aiming to wind up the entity and its business,
3. the host entity and its business have been wound up in insolvency proceedings,
- 4 the institution of insolvency proceedings against the entity's assets has been refused for lack of assets, and its business has been wound up,
5. the host entity does not pursue any economic activity, or
6. there is proof or concrete indications that the foreigner would reside for purposes other than those for which he or she is applying for the temporary residence permit.

(5) The Federal Office for Migration and Refugees denies the foreigner entry and residence pursuant to sections 16c or 18e if

1. the requirements stipulated in section 16c (1) or section 18e (1) are not met,
2. the documents presented pursuant to section 16c (1) or section 18e (1) were fraudulently acquired, or falsified, or tampered with,
3. one of the reasons for denial referred to in subsection (4) exists or
4. there is a public interest in expelling the foreigner.

Entry and residence pursuant to sentence 1 nos. 1 and 2 are to be denied no later than 30 days after the Federal Office for Migration and Refugees has received the complete notification pursuant to section 16c (1) sentence 1 or section 18e (1) sentence 1. In cases covered by sentence 1 no. 4, the foreigners authority may deny entry and residence at any time during the foreigner's stay; section 73 (3c) applies accordingly. The foreigner and the competent authority of the other member state as well as the notifying entity are to be informed of the denial in writing.

## **Section 20**

### **Skilled workers seeking employment**

(1) Skilled workers with vocational training qualification may be granted a temporary residence permit for up to six months to seek employment for which their training qualifies them, if they have a command of the German language commensurate with the work they seek to perform. Sentence 1 applies to foreigners

already residing in the federal territory only if they possessed a residence title for the purpose of employment or pursuant to section 16e immediately before they were granted a temporary residence permit pursuant to sentence 1. The Federal Ministry of Labour and Social Affairs may determine, by means of statutory instruments, occupations for which skilled workers may not be granted a temporary residence permit pursuant to sentence 1. The temporary residence permit only entitles skilled workers to pursue probationary employment of up to 10 hours per week for which their training qualifies them.

(2) Skilled workers holding a university degree may be granted a temporary residence permit for up to six months to look for work for which their training qualifies them. Subsection (1) sentences 2 and 4 applies accordingly.

(3) In order to look for a job for which their training qualifies them

1. foreigners are granted a temporary residence permit for up to 18 months, if they successfully completed a course of study in the federal territory as part of a stay under sections 16b or 16c,

2. foreigners are granted a temporary residence permit for up to nine months, if they finished their research activities as part of a stay under sections 18d or 18f,

3. foreigners may be granted a temporary residence permit for up to 12 months, if they successfully completed quality vocational training in the federal territory as part of a stay under section 16a, or

4. foreigners may be granted a temporary residence permit for up to 12 months once equivalence of the vocational qualification has been established or the authorisation to practise the profession in the federal territory has been granted as part of a stay under section 16d,

provided foreigners are permitted to fill the vacancy in accordance with sections 18a, 18b, 18d, 19c and 21.

(4) The temporary residence permit is granted pursuant to subsections (1) to (3) on the condition that the foreigner's subsistence is secured. The temporary residence permit may not be extended beyond the maximum period mentioned in subsections (1) to (3). A temporary residence permit pursuant to subsections (1) and (2) may only be issued anew if the foreigner, after leaving Germany, stayed abroad for at least as long as he or she stayed in the federal territory on the basis of a temporary residence permit pursuant to subsections (1) or (2). Section 9 does not apply.

## **Section 20a**

### **Short-term mobility for researchers**

(1) In derogation from section 4 (1), a foreigner is not required to have a residence title for stays for research purposes not exceeding 180 days within a 360-day period, if the host research organisation in the federal territory has notified the Federal Office for Migration and Refugees that the foreigner intends to carry out part of the research activities in the federal territory, submitting the following at the same time:

1. evidence that the foreigner possesses a valid residence title for research purposes issued by another member state in accordance with Directive 2016/801/EU,
2. the hosting agreement or an equivalent contract concluded with the host research organisation in the federal territory,
3. a copy of the foreigner's recognised and valid passport or passport substitute, and
4. evidence that the foreigner's subsistence is secure.

The host research organisation is to make the notification when the foreigner applies for a residence title in the scope of Directive 2016/801/EU in another member state of the European Union. If, at the time of application, the host research organisation is not yet aware of the foreigner's intention to carry out part of the research in the federal territory, it must make the notification as soon as it becomes aware of this intention. If the residence title pursuant to sentence 1 no. 1 has been issued by a non-Schengen state, and if the foreigner enters the federal territory via a non-Schengen state, the foreigner must carry a copy of the notification and present it to the competent authorities at their request.

(2) If the notification was made at the time referred to in subsection (1) sentence 2 and if the foreigner has not been denied entry and residence in line with section 20c (3), the foreigner may enter the federal territory at any time during the validity of the residence title and stay there for research purposes. If the notification was made at the time referred to in subsection (1) sentence 3, the foreigner may enter the federal territory at any time after the notification is received and during the validity of the residence title issued by the other member state as referred to in subsection (1) sentence 1 no. 1 and stay there for research purposes.

(3) Foreigners who fulfil the requirements stipulated in subsection (1) are entitled to take up research in the host research organisation and to take up teaching activities.

(4) The foreigner and the host research organisation are required to inform the competent foreigners authority of any changes to the requirements stipulated in subsection (1).

(5) If a foreigner is denied entry and residence pursuant to section 20c (3), he or she must cease the research activities immediately. The exemption from the obligation to hold a residence title under subsection (1) sentence 1 ceases to exist.

(6) If the foreigner is not denied entry and residence in line with section 20c (3), the Federal Office for Migration and Refugees issues the foreigner with a certificate confirming the entitlement to enter and stay in the federal territory for research purposes as part of short-term mobility.

## **Section 20b**

### **Temporary residence permit for mobile researchers**

(1) A foreigner is granted a temporary residence permit for stays for research purposes which last more than 180 days but no more than one year, if

1. the foreigner holds a residence title issued by another member state in accordance with Directive 2016/801/EU for the duration of the procedure,
2. a copy of the foreigner's recognised and valid passport or passport substitute is submitted, and
3. the hosting agreement or an equivalent contract concluded with the host research organisation in the federal territory is submitted.

(2) If the application for a temporary residence permit is filed at least 30 days prior to the beginning of the stay in the federal territory and if the residence title issued by the other member state continues to be valid, the foreigner's residence and employment is permitted for up to 180 days in a 360-day period until the foreigners authority decides on the application.

(3) Section 20 (5) applies accordingly to the entitlement to take up research and teaching activities.

(4) The foreigner and the host research organisation are required to inform the foreigners authority of any changes to the requirements stipulated in subsection (1).

(5) Section 20 (7) governs the extension of the temporary residence permit following the completion of the research activities.

(6) The application is denied if it was filed at the same time as a notification in line

with section 20a (1) sentence 1. Applications which were filed during the stay pursuant to section 20a (1), but not in their entirety at least 30 days prior to the end of this stay, are also denied.

### **Section 20c**

#### **Grounds for rejection in the case of researchers, students, pupils, trainees, participants in language courses and European voluntary service**

(1) A temporary residence permit pursuant to sections 16, 16b, 17b, 18d, 20 or 20b is not granted if the the host entity was established for the main purpose of facilitating the entry and residence of foreigners for the purposes mentioned in the relevant provisions.

(2) A temporary residence permit pursuant to sections 16, 16b, 17b, 18d, 20 or 20b may be denied i

1. insolvency proceedings have been instituted against the host entity's assets aiming to wind up the entity and its business,
2. the host entity and its business have been wound up in insolvency proceedings,
3. the institution of insolvency proceedings against the entity's assets has been refused for lack of assets, and its business has been wound up,
4. the host entity does not pursue any economic activity, or
5. there is proof or concrete indications that the foreigner would reside for purposes other than those for which he or she is applying for the temporary residence permit.

(3) The foreigners authority denies the foreigner entry and residence pursuant to sections 16a or 20a if

1. the requirements stipulated in section 16a (1) or section 20a (1) are not met,
2. insolvency proceedings have been instituted against the host entity's assets aiming to wind up the entity and its business,
3. the host entity and its business have been wound up in insolvency proceedings,
4. the institution of insolvency proceedings against the entity's assets has been refused for lack of assets, and its business has been wound up,
- 5 the host entity does not pursue any economic activity,
6. the documents presented pursuant to section 16a (1) or section 20a (1) were fraudulently acquired, or falsified, or tampered with,
7. the host entity was established or operates for the main purpose of facilitating

the entry and residence of foreigners for purposes referred to in section 16a or section 20a,

8. there is proof or concrete indications that the foreigner uses or will use the stay for purposes other than those stated in the notification pursuant to section 16a (1) or section 20a (1), or

9. there is a public interest in expelling the foreigner; section 73 (2) and (3) is to be applied accordingly.

Entry and residence pursuant to sentence 1, nos. 1 to 8 is to be denied no later than 30 days after the Federal Office for Migration and Refugees has received the complete notification pursuant to section 16a (1) sentence 1 or section 20a (1) sentence 1. In cases covered by sentence 1 no. 9, entry and residence may be denied at any time during the foreigner's stay. The foreigner and the competent authority of the other member state as well as the notifying entity are to be informed of the denial in writing.

## **Section 21**

### **Self-employment**

(1) A foreigner may be granted a temporary residence permit for the purpose of self-employment if

1. an economic interest or a regional need applies,
2. the activity is expected to have positive effects on the economy and
3. personal capital on the part of the foreigner or a loan undertaking is available to realise the business idea.

Assessment of the conditions in sentence 1 focuses in particular on the viability of the business idea on which the application is based, the foreigner's entrepreneurial experience, the level of capital investment, the effects on the employment and training situation and the contribution to innovation and research. The competent bodies for the planned business location, the competent trade and industry authorities, the representative bodies for public-sector occupational groups and the competent authorities regulating admission to the occupation concerned are to be involved in examining the application.

(2) A temporary residence permit for the purpose of self-employment may also be granted if special privileges apply according to agreements under international law on the basis of reciprocity.

(2a) A foreigner who has successfully completed studies at a state or state-recognised university or a comparable educational institution in the federal territory or who holds a temporary residence permit as a researcher or scientist in accordance with sections 18c or 19c may be issued a temporary residence permit for self-employment purposes in derogation from subsection (1). The envisaged self-employment must demonstrate a connection to the knowledge acquired during the higher education studies or the research or scientific activities.

(3) As a general rule, foreigners older than 45 are to be granted a temporary residence permit only if they possess adequate provision for old age.

(4) The period of validity of the temporary residence permit is limited to a maximum of three years. In derogation from section 9 (2), a permanent settlement permit may be issued after three years, if the foreigner has successfully carried out the planned activity and adequate income ensures the subsistence of the foreigner and the dependants living with him or her as a family unit and whom he or she is required to support, and if the requirements of section 9 (2) sentence 1 no. 4 are met.

(5) In derogation from subsection (1), a foreigner may be granted a temporary residence permit for the purpose of self-employment. A required permit to pursue such employment must have been issued or confirmation must have been provided that such permit will be issued. Subsection (1) sentence 3 applies accordingly. Subsection (4) does not apply.

(6) A foreigner who will be or has been granted a temporary residence permit for another purpose may be permitted to pursue self-employment while retaining the aforesaid purpose of residence, if the permits required pursuant to other provisions have been issued or the authorities have indicated that such permits will be issued.