



FLÜCHTLINGSRAT

BADEN-WÜRTTEMBERG

... **engagiert** für eine menschliche Flüchtlingspolitik



Englisch/Aufenthaltsgestattung

Basic Information

Aufenthaltsgestattung

(Temporary residence permit for the duration of the asylum procedure)

Information for refugees



Hinweise: Familiennachzug ist nicht gestattet. Verstöße gegen Auflagen und räumliche Beschränkungen sind strafbar oder können als Ordnungswidrigkeiten geahndet werden. Ein Verlassen des Bereichs der räumlichen Beschränkung bedingt grundsätzlich eine besondere Genehmigung des Bundesamtes für Migration und Flüchtlinge oder der

About this brochure

Anyone applying for asylum in Germany will first receive an *Aufenthaltsgestattung* (temporary residence permit for the duration of the asylum procedure). This provisional residence status is very restricted. We hereby provide you with an overview of the basic conditions of living in Baden-Württemberg with an *Aufenthaltsgestattung*.

If you have further questions, you can contact an IvAF network in Baden-Württemberg. They can support you with your integration into the job market (see further information at the end of the brochure). Werkstatt PARITÄT and the Refugee Council of Baden-Württemberg (Flüchtlingsrat BW) are both part of the **“Network for the Integration of Refugees in Work”** (*Netzwerk zur Integration von Flüchtlingen in Arbeit – NIFA*). The Refugee Council of Baden-Württemberg offers an initial consultation by phone or in writing and provides you with information about the advice office responsible for you. Addresses can be found online at:

- www.nifa-bw.de | *Kooperationspartner/-innen*
- www.fluechtlingsrat-bw.de | *Das Netzwerk – Kontaktadressen*

1. Aufenthaltsgestattung

When you apply for asylum in Germany, you will first receive an *Aufenthaltsgestattung* according to § 55 AsylG (*Asylgesetz* [Asylum Act]). This document allows you to stay in Germany for the duration of the asylum procedure. It is not a regular residence permit. This provisional residence status is very restricted. If your asylum application is approved, you will generally receive a regular residence permit. If your asylum application is refused, you will normally be given a *Duldung*. You will then generally have to leave the country within a certain time period. You can find further information about having a *Duldung* here:

- Flyer “Basic information *Duldung*”

2. The asylum procedure

Your most important appointment during the asylum procedure is the hearing (often referred to as the “big interview”) at the Federal Office for Migration and Refugees (*Bundesamt für Migration und Flüchtlinge* – BAMF). There are currently branches of BAMF in the initial reception facilities (*Erstaufnahmeeinrichtungen* – EAE) for refugees in Karlsruhe, Heidelberg, Ellwangen, Freiburg and Sigmaringen. After arrival in Germany, you will be housed in a reception facility. Following this, you will be moved to a city or regional area. Generally, your hearing should take place during your time in the reception facility, but often it only takes place some months later. The entire asylum procedure can range from a few days (e.g. if your application is quickly approved) to several years (e.g. if your asylum application is rejected and you have filed legal action).

Note: It is very important that you are well prepared for the hearing. Information on the hearing in various languages can, for example, be found here:

- www.asyl.net | *Arbeitshilfen/Publikationen*
- www.asylindeutschland.de

In addition, advice offices and volunteers provide assistance with preparation of the hearing. Their addresses can be found here:

- www.fluechtlingsrat-bw.de | *Das Netzwerk – Kontaktadressen*

Detailed information on the various ways in which your asylum application can be recognised or refused, and the consequences, can be found at:

- www.asyl.net | *Arbeitshilfen/Publikationen*

- www.einwanderer.net | Übersichten und Arbeitshilfen

3. Education

School

In Baden-Württemberg, school attendance is compulsory for all children and adolescents with an *Aufenthaltsgestattung* until the age of 16. Those who start an apprenticeship while under 18 are obliged to attend a vocational school for the duration of their apprenticeship. There is a total of nine years of compulsory schooling. School time in other countries will be recognised. Even after nine school years and/ or after turning 16 or 18, schooling can be continued.

At many schools, preparation classes have been set up where German is taught before the children and adolescents are integrated into the “normal” classes. Many vocational schools also offer a “pre-qualification year for young people without German language skills” (*Vorqualifizierungsjahr Arbeit und Beruf für Jugendliche ohne Deutschkenntnisse – VAB-O*). During the second year of attending VAB classes, it is possible to obtain the certificate of lower secondary education (*Hauptschulabschluss*). Participation is generally possible until the age of 21. Vocational schools can decide themselves whether older persons can participate.

Note:

- If you or your children attend a daycare centre or go to school, you can apply for benefits as part of the “education and participation package” at the Social Welfare Office. Contact the person responsible for you at your Social Welfare Office.
- During the first months of your stay in Germany, you are not allowed to work (see point 4). Purely school based education is, however, usually possible.

Language courses

Once you have been assigned to a city or district area in Baden-Württemberg, you can attend free courses to gain basic knowledge of the German language, if they are offered in your area. Find out more once you are there.

You have the opportunity to participate in an integration course during the asylum procedure only if you come from a country which is classified by the BAMF as a country with so-called “good prospects of staying” (currently Syria, Iraq, Iran, Eritrea and Somalia), or if you are obligated by your Social Welfare Office to attend. You will (otherwise) only have the right to attend an integration course if your asylum procedure is positively resolved and you have received a regular residence permit.

You may also attend job related language courses if you come from a country that is classified by the Federal Ministry of Labour and Social Affairs (*Bundesministerium für Arbeit und Soziales* – BMAS) as a country with a so-called “good prospects of staying” (currently Syria, Iraq, Iran, Eritrea and Somalia).

Note:

- Information on the integration courses is available at www.bamf.de | *Integrationskurse für Asylbewerber und Geduldete*
- Information on job related language courses is available at www.bamf.de | *Deutsch für den Beruf*

Study

It is possible to study if you meet the admission requirements (university entrance qualification acquired abroad and recognised in Germany, language level C1). If you study, during the first 15 months you will receive benefits in accordance with the AsylbLG (*Asylbewerber-*

leistungsgesetz [Asylum Seekers Benefits Act]). After that, you will not receive any benefits. An application for support under the Vocational Training Support Act (*Berufsausbildungsförderungsgesetz – BAföG*) is only possible after five years of residence in Germany or after at least three years of residence and six months of work by your parents according to § 59 (3) SGB III (*Sozialgesetzbuch III* [Social Code III]) and § 8 (3) BAföG).

Note: If your asylum application takes a long time, there may be a delay in receiving benefits. Seek advice with regards to your BAföG application at your student service provider (*Studierendenwerk*).

4. Work and Training

Definitions

Paid work (*Erwerbstätigkeit*) is the generic term for dependent employment (*Beschäftigung*) and self-employed paid activities. Employment includes all dependent work as part of an employment relationship (also including voluntary year of social service, federal voluntary service, internships, etc.).

Employment ban

If you are required to live in an initial reception centre, you are banned from employment according to § 61 (1) AsylG. You may be obligated to live in an initial reception centre for a maximum of six months (§ 47 Abs. 1 AsylG). As a result of the ban, activities are only allowed that are not considered employment. These include:

- Work opportunity (§ 5 AsylbLG)
- For refugees with *Aufenthaltsgestattung*, a special type of work experience is also available, the Refugee Integration Measures (§ 5a AsylbLG)
- Job shadowing (not working but only watching)

- Study
- Purely school-based training is also usually possible

For these activities you do not need permission from the immigration office. However, it is advisable to inform the immigration office about this. An employment ban is often noted in your identity document with the phrase “employment not allowed” (*Erwerbstätigkeit nicht gestattet*).

If you no longer have to live in an initial reception centre and have been in Germany for more than three months, you generally are no longer banned from employment (§ 61 para. 2(1) AsylG and § 32 para. 1(1) BeschV (*Beschäftigungsverordnung* [Employment Directive])). However, before you can start working, you must apply to the immigration office for a work permit. Further information on this can be found under point 5.

Special case of “safe countries of origin”

If you come from a “safe country of origin” (§ 29a AsylG), since 24/10/2015 it has been possible that you may be obligated to live in an initial reception centre for longer than six months. Under these circumstances the employment ban will continue to apply. If you no longer live in an initial reception centre but applied for asylum after 31 August 2015, you will also be subject to a general employment ban. In this instance. Then, you can only perform activities that are not considered employment (see above).

- The current list of “safe countries of origin” can be found at www.bamf.de | *Sonderverfahren*

5. Restricted access to the job market

Application for a work permit

If you are allowed to move out of the initial reception centre and have been in Germany for more than three months, you will no longer be banned from work. But you have to apply for a work permit at the immigration office. Your identity papers state: **“employment only permitted with the approval of the immigration office”** (*“Erwerbstätigkeit nur mit Genehmigung der Ausländerbehörde gestattet”*).

If you have found a job, you must apply to the immigration office for a work permit. If necessary, the immigration office will forward the application to the Employment Agency, which will check whether the working conditions (in particular, wages and working hours) comply with regulations*. If these conditions are met, the immigration office will finally grant permission for you to start working. Self-employment is not allowed. More information can be found here:

- Flyer “How do I get a work permit?”
- www.einwanderer.net | *Übersichten und Arbeitshilfen*

Note: The secondary provisions entered in your *Aufenthaltsge-stattung* are not always up to date. If you are unsure, ask your immigration office and have the secondary provisions updated, if necessary.

* An additional priority check is only taking place in a few areas in Germany until August 2019. Here the Employment Agency checks that no other persons with priority access to the job market are available for this position (Germans, EU citizens). This check is not taking place in Baden-Württemberg until August 2019.

Assistance in finding work

You can register with the Employment Agency as searching for work unless you have an employment ban. The Employment Agency (*Agentur für Arbeit*) will assist you in the search for training/work. In addition, recruitment subsidies and costs for training measures can be covered in certain cases. As a rule, basic German language skills and/or an interpreter are required for communication with the Employment Agency.

The IvAF network NIFA will support you in finding work in Stuttgart, Tübingen und Pforzheim. Such networks also operate in other regions. They work to promote the employability of refugees with access to the job market and provide them with sustainable support for their integration into the labour market. Addresses can be found online at:

- www.nifa-bw.de | *Kooperationspartner/-innen*

6. Social benefits

If you have an *Aufenthaltsgestattung*, you will receive benefits under the Asylum Seekers Benefits Act (AsylbLG). In Baden-Württemberg, you will generally receive cash, a cash card or vouchers. Some of the benefits may be provided as benefits in kind and partly paid in cash. The cost of accommodation will be borne by the authorities. After 15 months of regular residence, the benefits increase to the level of the Unemployment Benefit II (*Arbeitslosengeld II*) according to the Social Code, SGB XII (analogue benefits according to § 2 AsylbLG).

The benefits under the AsylbLG can be reduced (see § 1a AsylbLG)

- if, in the scope of a relocation programme, another EU country is responsible for your asylum application or you have already been granted the right to reside by another EU country

- if you do not comply with the following obligations to cooperate during the asylum procedure
 1. If you have a (replacement) passport but do not present, hand over and surrender it to the authorities.
 2. If you do not present, hand over and surrender to the authorities other certificates and documentation in your possession that help substantiate your identity.
 3. If you do not appear on the date of your asylum application.
 4. If you refuse to provide information on your identity or nationality.
 5. If you refuse a work opportunity or a Refugee Integration Measure that you have been provided with without good cause. This does not apply if you are employed, incapable of work or of compulsory school age.
 6. If you refuse to participate in an integration course despite being obliged to do so by the Social Welfare Office.
 7. If you are staying at a different location despite the condition of maintaining a fixed abode.

If you work, your salary will be offset against the benefits. Depending on how high your salary is, you will receive fewer or no benefits.

If you were employed in Germany for over a year in a position with social security contributions and became unemployed after that, you will have a claim to financial benefits from the Employment Agency (*Arbeitslosengeld I*) for some time.

Medical care

The AsylbLG grants you restricted medical care (exception: for pregnancy all restrictions are lifted). Whether a treatment is carried out and the costs are covered is decided during the first 15 months by the responsible Social Welfare Office. Generally, prior to treatment

you have to apply for a health insurance voucher (*Krankenschein*) at the Social Welfare Office. Normally the costs are covered for severe illnesses and illnesses with which pain is associated, e.g. for chronic illnesses, dental treatment, rehabilitation and precautionary examinations.

After 15 months, you have the right to a health card with which you can go directly to the doctor. The benefits are still limited.

7. Accommodation

During the asylum procedure, you are not free to choose where you would like to live. You will be assigned accommodation. The obligation to live in an assigned accommodation is called *Wohnsitzauflage* (obligation to maintain an affixed abode). You will first be assigned a federal state in which to live. There, you will have to live for up to six months in an initial reception centre. If you are from a so-called “safe country of origin”, you may be obliged to live in an initial reception facility for the entire duration of the asylum procedure.

Residence obligation

For a stay in Germany of up to three months and/or for the duration of your time in an initial reception centre, you are subject to a residence obligation (§ 59a para. 1 in conjunction with § 56 AsylG). You are not allowed to leave the administrative district of the competent immigration office. You have to apply for a permit from the immigration office if you wish to (temporarily) leave the administrative district for whatever reason. Travel without permission may result in a fine and, if repeated, you may face criminal prosecution. If an accelerated procedure is taking place for you in an initial reception centre that is intended only for such procedures, your asylum procedure can also be closed on this basis (§ 33 in conjunction with § 30a AsylG).

Once you are living in the provisional accommodation (*vorläufige Unterbringung*) and have been in Germany for over three months, the residence obligation is dropped. You will still be required to maintain a fixed abode at a particular address. But you are free to travel throughout Germany.

Relocation

If you would like to live in another city and you are obligated to maintain a fixed abode, you have to lodge a relocation application in accordance with § 51 AsylG with your immigration office. You are entitled to relocate if your spouse and underage unmarried children are living in another place in Germany. In all other cases, the decision is at the discretion of the authorities.

8. Family

With an *Aufenthaltsgestattung*, you have no right to the subsequent immigration of your family. This is only possible with a regular residence permit, which you will receive once you gain recognition. In order to marry in Germany, all necessary papers must be presented. You can find out from the registry office which papers are needed (note: these papers can also be used by BAMF (Federal Office for Migration and Refugees) for other purposes). Family members of asylum seekers may have a different residence status.

Notes

Important laws

Residence Act – AufenthG (*Aufenthaltsgesetz*)

Asylum Act – AsylG (*Asylgesetz*)

Asylum Seekers Benefits Act – AsylbLG (*Asylbewerberleistungsgesetz*)

Employment Directive – BeschV (*Beschäftigungsverordnung*)

Refugee Admittance Act for Baden-Württemberg – FlüAG (*Flüchtlingsaufnahmegesetz für Baden-Württemberg*)

German Basic Law – GG (*Grundgesetz*)

The full text of the laws can be found online, for example, here:

- www.gesetze-im-internet.de

The IvAF Networks

support the sustainable integration of refugees into the labour market. In addition, access to the training and labour market is structurally improved, while improvements in the quality of labour market support are also made. Currently in Baden-Wuerttemberg, five of the nationwide 41 IvAF networks are being funded: *Netzwerk zur Integration von Flüchtlingen in Arbeit (NIFA)* [the Integration of Refugees in Work], *Netzwerk zur Integration von Flüchtlingen in Ostwürttemberg (nifo)* [Network for the Integration of Refugees Network in East Württemberg], *Netzwerk Bleiben mit Arbeit (NBA)* [Staying with Work Network], *Integrationsnetzwerk Hohenlohe Main-Tauber* [Hohenlohe Main-Tauber Integration Network] and *Arbeit und Ausbildung für Flüchtlinge – Projektverbund Baden* [Work and Education for Refugees - Project Association Baden]. Further information is available at:

- www.ivaf-netzwerk-bw.de

Materials for further information



How do I get a work permit?

During the first three months of the asylum procedure, refugees are subject to an employment ban. But even after this time, access to the labour market will be limited or under certain circumstances not allowed. This brochure provides information on the conditions for access to the labour market and describes the procedure for granting work. (A6 leaflet, 12 pages, languages: ger/eng/fre/tur/dari/fas/ara)



Basic information *Duldung* (temporary suspension of deportation)

At the end of 2015, more than 155,000 refugees were living in Germany with a *Duldung*. The flyer explains the (non-)status of the temporary suspension of deportation under residence law and the related restrictions on access to education and the labour market, social benefits and freedom of movement – but also the rights and opportunities that exist to overcome this status.

(A6 leaflet, 16 pages, languages: ger/eng/fre/dari/fas/ara/srp)



Basic information *Ausbildungsduhlung* (temporary suspension of deportation due to vocational training)

Access to training and study is possible from arrival and/or after three months in Germany. The flyer explains what training (“Ausbildung”) in Germany is and what opportunities are offered by a temporary suspension of deportation due to vocational training (*Ausbildungsduhlung*). In addition, the practical hurdles for starting training and studies are explained.

(A6 leaflet, 16 pages, languages: ger/eng/fre/dari/fas/ara/srp)

The information materials can be ordered

online: www.nifa-bw.de

Email: info@nifa-bw.de

This leaflet was updated in January 2019. It is based on a template of the “Netzwerk Bleiberecht Stuttgart - Tübingen – Pforzheim” network. There may since been have been changes. This information provides only an overview (in particular, about the situation in Baden-Württemberg) and cannot replace an individual consultation. In individual cases, therefore, always contact an IvAF network, an advice office or a lawyer.

The content of the leaflet reflects the legal opinion of the authors.



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