



FLÜCHTLINGSRAT

BADEN-WÜRTTEMBERG

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



werkstatt
PARITÄT
GEMEINNÜTZIGE GMBH

Englisch/§ 18a AufenthG

Who receives a residence permit under § 18a AufenthG?

Information for persons with a *Duldung*



About this brochure

This brochure will provide you with an overview of the requirements for the residence permit under § 18a AufenthG (*Aufenthaltsgesetz* [Residence Act]).

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 into 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. Residence permit under § 18a AufenthG

The residence permit under § 18a AufenthG gives people with a *Duldung* who have professional qualifications the chance of receiving a residence permit. You can only receive this residence permit if you have a *Duldung* and you have the prospect of taking up employment, or take up employment, that corresponds to your qualifications.

If you have been working for a period of two years with a residence permit in accordance with § 18a AufenthG in a position that corresponds to your qualifications, you can use the residence permit under § 18a AufenthG for any employment, i.e. any position in an employment relationship.

2. Groups of people

Three different groups of people are granted the possibility of gaining a residence permit under § 18a AufenthG.

2.1. German-educated foreigners

If you have completed “qualified vocational training” in Germany in a state-recognised or comparably regulated skilled occupation or studies at an institution of higher education, you are a so-called “German-educated foreigner”. “Qualified vocational training” includes vocational training with a minimum regular duration of two years. The applicable training and examination regulations are decisive. Information is available at:

- **www.bibb.de** | *Liste der staatlichen anerkannten Ausbildungsberufe*

You can also be granted the residence permit if you have obtained the appropriate qualification but successfully completed the training in a shorter time. If you have acquired a recognised qualification in Germany, you do not need to prove any professional experience to be granted the residence permit under § 18a AufenthG.

Since the Integration Act came into effect in August 2016, persons with a *Duldung* (temporary suspension of deportation) who take up or have taken up training have a right to a *Duldung* for the entire duration of the training, the so-called *Ausbildungsduldung* (temporary suspension of deportation due to vocational training) (§ 60a para. 2(4) AufenthG). Persons who have been granted an *Ausbildungsduldung* have a legal right to a residence permit under § 18a para. 1a AufenthG for a period of two years after successful completion of their training and continued employment. Additional information about the *Ausbildungsduldung* can be found here:

- Flyer – Basic Information *Ausbildungsduldung*

2.2. Persons with a university degree acquired abroad

If you gained a university degree abroad, you may also be able to obtain a residence permit in accordance with § 18a AufenthG. However, your degree must either be recognised in Germany or comparable to a German university degree. For many professions, a formal recognition of the degree is not possible. If your degree is a degree that cannot be formally recognised, you can use the *anabin* database to find out whether your foreign degree is considered equivalent to a German degree in Germany. This is indicated on the homepage by the terms “equivalent” or “corresponds”. An additional prerequisite for the recognition of the degree is that you have been in an employment relationship that corresponded to your qualification for at least two years. Information is available at:

- **www.anabin.kmk.org** | Database for the evaluation of foreign educational certificates

If you have worked for two years in a profession that corresponded to your foreign study qualification, you can usually obtain a residence permit under § 18a AufenthG, even if your degree is not recognised. Part-time employment is sufficient.

Note: For advice, you can contact a Recognition Office (*Anerkennungsberatungsberatungsstelle*) in Baden-Württemberg. You can also get support from an IvAF network in Baden-Württemberg. Information is available at:

- **www.netzwerk-iq-bw.de/de/aner kennungsberatung.html**
| *Beratungszentren zur Anerkennung ausländischer Berufsqualifikationen*

- an overview of the IvAF networks can be found at www.nifa-bw.de | *Kooperationspartner/-innen*

2.3. Skilled workers

If you have completed (in-)formal vocational training abroad, you may be able to obtain a residence permit in accordance with § 18a AufenthG. The prerequisite for this is that you have been employed in Germany as a skilled worker for three years without interruption in a job that requires qualified vocational training (with a minimum training period of two years). In addition to this, it is necessary that you have secured your own living and that of your family members or other household members – rather than relying on public funds – for the last year prior to applying for a residence permit. Payments to cover accommodation and heating costs are excluded.

Note: If you have a qualified vocational training, regardless of whether it was acquired in Germany or abroad, contact a lawyer or an advice office to check whether you can be granted the residence permit in accordance with § 18a AufenthG.

3. Additional requirements

In addition to the requirements listed under point 1, you must prove that

- you have sufficient living space,
- you have sufficient knowledge of the German language (level B1 of the Common European Framework of Reference for Languages - GER)
- you have not deliberately deceived the immigration office about circumstances relevant to your stay

- you have not deliberately delayed or obstructed official measures to terminate your stay
- you have no links to extremist or terrorist organisations and do not support these organisations
- you have not been convicted for an intentional crime committed in Germany (fines totalling up to 50 daily units or up to 90 daily units for crimes under the residence or asylum laws are generally not considered).

If you have a residence permit according to § 18a para. 1a AufenthG due to a successfully completed training with the *Ausbildungsduldung*, this will be revoked in the following cases:

- the employment relationship is terminated for reasons related to you personally
- you have been convicted for an intentional crime committed in Germany (fines totalling up to 50 daily units or up to 90 daily units for crimes under the residence or asylum laws are generally not considered).

Attention: If your asylum application was rejected as “obviously unfounded” (*offensichtlich unbegründet*) in accordance with § 30 AsylG (*Asylgesetz* [Asylum Act]), this residence permit can generally not be granted, as in this case there is a ban on authorities granting a residence permit (§ 10 para. 3(2) AufenthG).

4. The role of the Federal Employment Agency

According to § 39 AufenthG, the Federal Employment Agency must consent to the issuing of the residence permit pursuant to § 18a AufenthG. Approval is granted without a priority check, i.e. it is not checked whether German or other migrants who are allo-

wed to work without restrictions are available for this job. However, it is checked whether the working conditions are equivalent to those of German employees and other foreigners with unrestricted access to the labour market (working conditions check – *Arbeitsbedingungenprüfung*).

5. Family

If you have a residence permit according to § 18a AufenthG and your family is still in the country of origin, there is the possibility of subsequent immigration of family members under strict conditions. If your family is already in Germany, it may be possible to obtain a residence permit. In both cases, get advice and support from a lawyer or an advice office.

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 the labour market is structurally improved, while improvements in the quality of labour market support are also made. Currently in Baden-Württemberg, 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



Who is granted a right to stay under § 25a AufenthG?

At the end of 2015, more than 155,000 refugees were living in Germany with a *Duldung*. Many of them are teenagers or young adults. The flyer explains under what conditions they can receive a residence permit under § 25a AufenthG and what must be observed. (A6 leaflet, 8 pages, language: ger/eng/fre/dari/fas/ara)



Who is granted a right to stay under § 25b AufenthG?

At the end of 2015, more than 155,000 refugees were living in Germany with a *Duldung*. Many of them have been living with this status for several years. The flyer explains under what conditions they can receive a residence permit under § 25b AufenthG and what must be observed.

(A6 leaflet, 12 pages, language: ger/eng/fre/dari/fas/ara)



How do I submit a hardship application? (*Härtefallantrag*)?

In Baden-Württemberg, 26 persons received a residence permit in 2017 under § 23a AufenthG for their good integration in Baden-Württemberg. The flyer provides information about the prerequisites that must be fulfilled and the procedure for the application.

(A6 leaflet, 12 pages, languages: ger/eng/fre/dari/fas/ara)

The information materials can be ordered:

online: www.nifa-bw.de

Email: info@nifa-bw.de

This information leaflet was updated in January 2019. 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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Further information can be found on our homepage

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