

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

Information for persons with a long-term *Duldung*



About this brochure

This brochure will provide you with an overview of the requirements for the residence permit that persons having a *Duldung* (temporary suspension of deportation) must satisfy according to § 25b 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. Right to stay according to § 25b AufenthG

Since 1 August 2015, there has been a regulation on the right to stay. This means: § 25b AufenthG stipulates that individuals with a *Duldung* who have been living in Germany for a long time should, under certain conditions, be granted a residence permit for “sustainable integration”. You can apply for this residence permit at the local immigration office.

2. What requirements do you have to meet?

If the following requirements are met, you will generally receive a residence permit according to § 25b AufenthG:

- **Length of stay:** You have lived in Germany for eight years or longer without interruption having a *Duldung*, *Aufenthaltsge-stattung* or a residence permit and you currently have a *Duldung*. If you live with an underage, unmarried child, this time will be reduced to six years. The child does not necessarily have to be your own. Even for shorter stays, in individual cases, an application for a right of stay may be successful, especially if you are very well integrated in Germany.
- **Liberal democratic basic order:** You are committed to the liberal democratic order of the Federal Republic of Germany and have a basic knowledge of the legal and social order and the way of life in Germany. For example, this requirement is met if you have successfully completed an integration course, or if you have passed the orientation course test.
- **Livelihood:** You can secure your livelihood and that of your household mainly through work or it is expected that you will be in a position to do so in the future. A household generally exists, in particular, if you live with a spouse or children under the age of 25.
- **Language skills:** You have “sufficient **oral** German language skills” at language level A2. These can be demonstrated, for example, with the successful completion of an integration course.
- **Mandatory schooling:** If you have children of compulsory school age, you must prove that they are actually going to school with a school certificate.

More detailed information on the individual criteria can be found in the following chapters.

3. What does it mean to be able to secure your livelihood mainly by yourself?

You secure your livelihood mainly by yourself if your own income meets over half of your needs. Your needs are set out by the standard rates in the SGB XII (*Sozialgesetzbuch XII* [German Social Code XII]), along with any additional requirements and the cost of accommodation and heating. Livelihoods must be predominantly secured for the household.

Securing your livelihood also includes sufficient health insurance coverage for you and, if necessary, your household. You have, for example, adequate health insurance coverage, if you are in an employment relationship with obligatory social insurance.

If you receive temporary benefits under the Asylum Seekers Benefits Act, this is not a problem in the following cases:

- You are studying at a state-recognised institution of higher education, undertaking vocational training for a recognised skilled occupation, or participating in a state-funded vocational preparation program.
- You have underage children and, despite having work, are not in a position to secure their livelihoods alone and thus receive additional social benefits.
- You are a single parent and have a child under the age of three (§ 10 para. 1 no. 3 SGB II).
- You take care of relatives in need of care. These include, in particular, your spouse, life partner, parents and siblings, but depending on the specific situation, other relatives may also

be included. This is examined on a case-by-case basis depending on the family situation as to whether the person in need of care is considered a “close relative”.

4. How do I commit to the liberal democratic order of the Federal Republic of Germany?

For this purpose, a so-called “declaration of loyalty” can be made orally or in writing at the immigration office. The immigration offices have the appropriate form for the “declaration of loyalty to the liberal democratic order”. An official must witness the process for the declaration to be valid.

5. How do I prove my knowledge of German if I have not attended an integration course?

Apart from with a language certificate, for example, from an integration course, or as a result of a placement test at a language school, you can also demonstrate the required language skills, for example, if you can conduct simple conversations with the immigration office without a German interpreter.

If you cannot speak German due to a physical, mental or psychological illness or disability or age reasons, proof of German language skills is not required. Your illness or disability may need to be certified by a doctor.

6. In which case are you excluded from a right to stay under § 25b AufenthG?

If your deportation is currently suspended because you yourself have provided false information or deceived about your identity or nationality, you will not be granted the right to stay. **Important:** You

are usually not excluded from the right to stay as a result of past deception, as long as this is not the only reason for your continued stay in Germany. This applies, for example, if you cannot be deported for health or family reasons.

You are also excluded from a right to stay under § 25b AufenthG if you have committed serious criminal offenses.

7. What else is to be observed?

Please contact an advice office or a lawyer for advice BEFORE submitting your application!

If you do not have a lawyer: Find an experienced person (for example a social worker) who can assist with your application and assist you during the application process.

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

Important Laws

Employment Directive – BeschV (*Beschäftigungsverordnung*)

Refugee Admittance Act – 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

Further information on the right to stay legislation can be found at:

- www.aktiv.fluechtlingsrat-bw.de/von-der-duldung-zum-bleiberecht-perspektiven-fuer-eine-aufenthaltsverfestigung-nach-ablehnung-des-asylantrags.html | (*Bleiberechtsregelungen (§§ 25a, b AufenthG)*)

This flyer is based on a publication of the Lower Saxony Refugee Council and was updated in January 2019. Changes may have since been made. 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 flyer reflects the legal opinion of the authors.



Materials for further information



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



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 AufenthaltG and what must be observed.

(A6 leaflet, 8 pages, language: ger/eng/fre/dari/fas/ara)



Who receives a residence permit under § 18a AufenthaltG?



Persons with a *Duldung* who have professional qualifications can, under certain conditions, receive a residence permit in accordance with § 18a AufenthaltG. The flyer explains under which conditions this is possible and what needs to be considered.

(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 AufenthaltG 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

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