



Practical guide

The duty to obtain a passport and prove your identity Using the example of The Gambia

Author: Maren Schulz

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Introduction

“So, have you presented a passport yet?” – This is one of the questions most often asked of refugees. Refugees will be regularly reminded – with different degrees of urgency – of the importance of possessing a passport during their time in Germany. The extent to which a person is obliged to cooperate in obtaining a passport depends on their legal status (see info box). This guide focuses on people with a *Duldung* (temporary suspension of deportation). A *Duldung* is not a residence permit and those with a *Duldung* are legally obliged to clarify their identity and cooperate with the authorities in obtaining a passport so their existing legal obligation to leave the country can be enforced by deportation if necessary. However, it is also in the person’s interest to clarify their identity and provide a passport if they are eligible to legalise their stay in Germany¹.

There are many Gambians with a *Duldung* in Baden-Wuerttemberg who arrived as asylum seekers². Obtaining information on how to get a passport and how to clarify one’s identity are crucial issues both for people with a *Duldung* and for their supporters. To provide more information on these matters, this guide therefore deals with the obligation to own a passport, the obligation to cooperate in obtaining a passport and the clarification of identity as illustrated by the example of Gambian documents with a focus on Gambians holding a *Duldung*. First, the concepts of "passport requirement", "obligation to cooperate", and "identity clarification" will be defined in a legal sense. They are inter-related and, therefore, difficult to separate. After the legal classification, we will look at the practical example of which Gambian documents are accepted by German authorities

1 The most relevant legal avenues to do so are: *Ausbildungs- und Beschäftigungsduldung* (temporary suspensions of deportation for training and employment purposes) and temporary residence permits under Sections 19d, 23a, 25a and 25b Aufenthaltsgesetz (AufenthG, Residence Act).

2 According to the *Ausländerzentralregister* (Central Register of Foreigners), 8955 Gambians were living in Baden-Wuerttemberg (Badische Zeitung, 07.12.2020). As of 12/31/2019, there were 3,326 Gambians with a *Duldung* living in Baden-Wuerttemberg (Landtag BW, Drucksache 16 /7526, 07. 01. 2020).

to fulfill the passport requirement and/or to clarify identity. The last part will then deal with how people living in Germany can obtain Gambian documents.

Apart from this guide, information on identity clarification and passport procurement can be obtained from the relevant authorities. The *Regierungspräsidium Karlsruhe* (Karlsruhe Regional Council) is responsible for queries relating to a *Duldung*, while the *Ausländerbehörde* (local foreigners authority) or *Landratsamt* (district administration) is responsible for those relating to residence permits. The authorities must notify foreigners about their main rights and duties ("*Hinweispflicht*", Section 82 (3) *Aufenthaltsgesetz* (AufenthG, Residence Act)). On the flip side, foreigners who are obliged to leave the country must proactively cooperate with the authorities ("*Mitwirkungspflicht*"). They must provide proof of their cooperation. The authorities decide on a case-by-case basis whether the provided documents suffice to fulfill the passport requirement and/or clarify the individual's identity. Therefore, all available documents referring to a person's identity should be submitted.

The information in this document is based on practical experience, advice from the authorities and selected literature, and is not exhaustive. In our experience, the procedures to obtain foreign identity documents are constantly evolving, which is why it is crucial to stay up to date about current developments and stay informed of potential changes on an ongoing basis.

INFO BOX

The passport requirement and obligation to cooperate depending on the residency status

1) Individuals with a positive asylum decision

Legal status: **Aufenthaltserlaubnis** (residence permit):

- Individuals holding refugee status or the German *Asylberechtigung* (entitlement to asylum) receive a refugee travel document ("refugee passport") from the German authorities and thereby fulfil the passport requirement. They are not obliged to contact their national authorities to obtain a passport as this may jeopardise their protection status (Section 73 (1) (1) *Asylgesetz* (AsylG, Asylum Act). In this case, identity clarification merely plays a role concerning permanent residency and naturalisation.
- Beneficiaries of subsidiary protection and individuals with an *Abschiebungsverbot* (deportation ban) fulfil the passport requirement with their residence permit, which must be issued as a substitute identity document (Section 48 (4) (1) *AufenthG*). Nevertheless, they are still obligated to cooperate in obtaining a passport and clarifying their identity (Section 48 (4) (2) in conjunction with Section 48 (3) of the *AufenthG*). However, issuing or extending their residence permit may not be made dependent on their cooperation (Section 5 (3) (1) *AufenthG*, Section 8 (1) *AufenthG*).

2) During the asylum procedure

Legal status: **Aufenthaltsgestattung** (permission to remain pending the asylum decision)

- Asylum seekers must surrender their passports/passport substitutes to the German authorities. With the *Aufenthaltsgestattung* they fulfil the requirement to have and present identification papers in Germany (Section 64 (1) *AsylG*). Yet, they are still obliged to present and hand over all relevant documents to the authorities to clarify their identity and cooperate in obtaining proof of identity (Section 15 (2) (6) *AsylG*). The procurement of a passport/passport substitute is unreasonable if this requires contact with the authorities of the home country.

3) Rejected asylum seekers

Legal Status: **Duldung** (temporary suspension of deportation)

- Rejected asylum seekers must, as a rule, fulfil the passport requirement with their own passport/passport replacement substitute document (Section 3 (1) *AufenthG*) and cooperate in the procurement of passports as well as with identity clarification (Sections 48 (3), 60b (2) *AufenthG*, Section 15 (2) and (3) *AsylG*). If they do not comply with these obligations, they may be subjected to sanctions (reduction of benefits, loss of the permission to work, change of legal status to a *Duldung* for individuals with unclear identity, residence requirement/spatial restriction).

German-English glossary of the most important terms

- **Allgemeine Verwaltungsvorschrift zum Aufenthaltsgesetz (AVV AufenthG)** - General Administrative Regulation of the Residence Act
- **Aufenthaltsgesetz (AufenthG)** – Residence Act
- **Aufenthaltsgestattung** – Permission to remain pending the asylum decision
- **Aufenthaltsverordnung (AufenthV)** – Residence Ordinance
- **Ausbildungsduldung** – temporary suspension of deportation for the purpose of training
- **Ausländerbehörde** – foreigners authority
- **Asylbewerberleistungsgesetz (AsylbLG)** – Asylum Seekers’ Benefits Act
- **Asylgesetz (AsylG)** – Asylum Act
- **Beschäftigungsduldung** – temporary suspension of deportation for the purpose of employment
- **Bundesamt für Migration und Flüchtlinge (BAMF)** – Federal Office for Migration and Refugees
- **Duldung** – temporary suspension of deportation
- **Landratsamt** – district administration
- **Passersatz** – passport substitute
- **Passpflicht** – the obligation to own a passport (passport requirement)
- **Regierungspräsidium Karlsruhe** – Karlsruhe Regional Council
- **Standesamt** – registry office

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1. Legal background

1.1. Passport requirement

The passport requirement is regulated in Section 3 of the AufenthG and is understood as *“the obligation to possess a valid and recognised passport or passport substitute, [which...] relates on the one hand to the entry, and on the other hand to the residence of the foreigner in the Federal territory”* (3.0.1. *Allgemeine Verwaltungsvorschrift zum Aufenthaltsgesetz* (AVV AufenthG, General Administrative Regulation of the Residence Act³). Meeting the passport requirement is a standard prerequisite for issuing and extending a residence permit.⁴ A violation of the passport requirement can be punished according to Section 95 (1) No. 1 and No. 3 of the AufenthG.

Not all passports automatically fulfill the passport requirement. A passport/passport substitute must be recognised by both the respective country of origin and the Federal Republic of Germany, and still be valid. In Germany, the Federal Ministry of the Interior in consultation with the Federal Foreign Office evaluates the recognition of passports/passport substitutes. The decisions are announced as a general ruling in the Federal Gazette (*Bundesanzeiger*⁵).

In certain cases, the passport requirement can also be met with a German passport substitute, e.g. a refugee travel document (“blue passport”) or a substitute identity document, e.g. residence permit.⁶ For persons with a *Duldung*, the issuance of a German passport substitute⁷ or a substitute identity document⁸ can only be considered in exceptional cases. An example of such an exceptional case would be when the persons can prove that they were unable to reasonably obtain a passport/passport substitute (for more information, see “obligation to cooperate on passport procurement”). If this is the case, a substitute identity document must be issued under Section 55 (1) of the *Aufenthaltsverordnung* (AufenthV, Residence Ordinance) upon application. With the substitute identity document the passport requirement in Germany is fulfilled⁹ and the person concerned can no longer be punished due to a violation of the passport requirement.¹⁰ However, the option of fulfilling the passport requirement with a German substitute identity document is for Gambians with a *Duldung* frequently not available (see Chapter 4).

3 3.0.1. The *Allgemeine Verwaltungsvorschrift zum Aufenthaltsgesetz* (AVV AufenthG, General Administrative Regulation of the Residence Act) from 2009 still provides important notes on the interpretation of the Residence Act.

4 Section 5 (1) No. 4 AufenthG

5 Section 71 (6) AufenthG

6 Section 3 (1) (2) AufenthG

7 Sections 3-6 AufenthV

8 Section 55 AufenthV in conjunction with Section 48 (2) of the AufenthG

9 Section 3 (1) (2) AufenthG

10 Section 95 (1) (1) of the AufenthG

1.2. Obligation to cooperate in obtaining a passport

In principle, every foreign person who does not possess a valid passport/passport substitute is “obliged to cooperate in the procurement of an identity document”.¹¹ However, this only means an obligation to cooperate, not to procure a passport/passport substitute, as the question of whether the document is actually issued is beyond the control of the individual. Most individuals who fulfil the passport requirement¹² with a substitute identity document, are still under an obligation to cooperate in obtaining a passport.¹³ Individuals with a *Duldung* who do not have a valid passport/passport substitute have to “undertake all efforts reasonable in view of the circumstances of the individual case to acquire a passport or passport substitute.”¹⁴

Reasonable actions are listed in various legal texts; however, decisions on what is deemed "reasonable" is evaluated on a case-by-case basis.¹⁵ The burden of proof lies with the individual and they must demonstrate that they cannot reasonably be expected to obtain the document e.g., because this would put relatives in the home country at risk. Moreover, an action is always unreasonable if it is set to fail from the outset (for more information on the duty of persons with a *Duldung* to cooperate, see the [Refugee Council's handout](#)).

If people with a *Duldung* do not comply with these obligations, they may be subject to various sanctions. For this reason, it is advisable to document all actions taken to fulfill the obligation to cooperate and to collect supporting documents. Helpful tips can be found [here](#).

1.3. Clarification of identity

“Identity” is understood as a set of personal data (such as family name, given name, date of birth, place of birth) which corresponds to a natural person.¹⁶ Identity clarification presupposes that the foreigner is the person they claim to be, i.e., that there is no risk of confusion. In addition to fulfilling the passport requirement, identity clarification is a standard prerequisite for issuing and renewing a residence permit.¹⁷

Identity and citizenship are normally proven by a recognised and valid passport/passport substitute.¹⁸ This is because recognised and valid passports/passport substitutes are regarded as identity documents as they confirm that the personal details of the passport holder are correct and that they possess the nationality of the issuing

11 Section 48 (3) AufenthG, Section 56 (1) AufenthV

12 Section 3 AufenthG

13 Section 48 (3) and (4) (4) AufenthG, also see info box

14 Section 60b (2) AufenthG, also Section 15 (1) No. 6 AsylG

15 Section 5 (2) AufenthV, Sections 60b (3), 82 (4) and (5) AufenthG

16 VGH BW, judgement of 30.7.2014 - 11 S 2450.13 - juris, Rn 32

17 Section 5 (1) No. 1a AufenthG

18 5.1.1. AVV AufenthG

country.¹⁹ However, a passport does not always clarify identity. Doubts about identity may exist if genuine passports can be issued with any desired content in a certain country.

However, some people (currently) cannot reasonably be expected to obtain a recognised and valid passport/passport substitute, for example, because passports can be neither obtained from the diplomatic mission of the country concerned nor through a third party in the home country. In such cases, identity can be proven by other conclusive documents such as official documents with biometric features, e.g., military service passport, driver's license, consular ID cards, laissez-passer, other domestic travel documents of the country of origin, service cards or civil status certificates with a picture.²⁰ Official documents without biometric features can serve as further evidence and be considered as a whole (birth certificate, marriage certificate, registration certificate, school reports, or school certificates). They are considered sufficient – at least in the context of issuing an *Ausbildungsduldung* (Temporary suspension of deportation for the purpose of training) or *Beschäftigungsduldung* (Temporary suspension of deportation for the purpose of employment) – “if they are a suitable basis on which a passport or passport substitute can be obtained”, so that a deportation can be carried out.²¹ Which documents are sufficient to clarify identity is assessed on a case-by-case basis. Which authority is tasked with this assessment depends on the subject matter:

- Assessment during the asylum process: *Bundesamt für Migration und Flüchtlinge* (BAMF, Federal Office for Migration and Refugees)
- *Duldung* and employment permits for people with a *Duldung*: *Regierungspräsidium Karlsruhe* (Karlsruhe Regional Council)
- Upon issuing residence permits: Local foreigners authority
- In the case of marriage and issuing birth certification: *Standesamt* (registry office)
- Naturalisation: naturalisation authority

In all of these procedures, the various authorities apply different standards. The reasoning behind it is most evident when looking at the issuance of a *Duldung* compared to naturalisation. The purpose of a *Duldung* is to temporarily suspend a deportation which may not be feasible for various reasons. However, the long-term goal remains to enforce the obligation to leave the country. Therefore, it is important to clarify the person's identity to the extent that the proof of identity presented is at least sufficient to obtain exit documents (e.g., laissez-passer) and thus to enforce measures to remove the person from Germany. In the case of naturalisation, identity must be clearly established as it is in the state's interest to identify the applicant who – as a future German citizen – will acquire considerable rights and duties.

19 3.0.4., 3.0.8. AVV AufenthG

20 Federal Ministry of the Interior, December 2019: [Anwendungshinweise des Bundesministeriums des Innern, für Bau und Heimat zum Gesetz über Duldung bei Ausbildung und Beschäftigung](#)

21 Ibd. p. 11

1.4. Possible sanctions

When persons with a *Duldung* do not fulfill the passport requirement and do not prove that they have done everything necessary and reasonable to obtain a passport, they may be subject to various sanctions:

- An employment ban pursuant to Section 60a (6) No. 2 of the AufenthG
- A restriction of their movement pursuant to Section 61 (1c) (2) of the AufenthG
- Social benefit reductions according to Section 1a (3), Section 2 (1) (1) of the *Asylbewerberleistungsgesetz* (AsylbLG – Asylum Seekers' Benefits Act)
- Downgrading of the standard *Duldung* to a *Duldung* for individuals with unclear identity (so called "*Duldung light*") according to Section 60b of the AufenthG
- Criminal prosecution under Section 95 (1) No. 1 of the AufenthG

Failure to cooperate also negatively impacts various options for securing residence. Periods with a *Duldung light*, for example, do not count towards the necessary period of prior residence to secure the right to stay according to Sections 25a and 25b of the AufenthG. Under certain circumstances, sanctions can also be imposed if persons with a *Duldung* have clarified their identity but do not cooperate in obtaining a passport. Ideally, people with a *Duldung* should be informed of the correct steps to take to clarify their identity and obtain a passport before sanctions are imposed that negatively impact right-to-remain options (e.g., a ban on employment would make it impossible for them to get a *Beschäftigungsduldung*). Further information on the obligations of people with a *Duldung* to cooperate can be found in the [Refugee Council BW's brochure](#) (in German).

1.5. Conclusion

The passport requirement, the obligation to cooperate in obtaining a passport, and the clarification of identity are closely interconnected. As a general rule, an individual who presents a valid and recognised passport/passport substitute meets the passport requirement and the obligation to cooperate, while simultaneously clarifying their identity. A person who, for instance, only has an expired recognised passport does not yet fulfil the passport requirement and the obligation to cooperate but has a good chance of clarifying their identity with the expired passport. Those who have a refugee travel document ("blue passport") fulfil the passport requirement and do not have to cooperate in obtaining a passport. However, their identity is not automatically proven, as their refugee travel document may include the note: "personal details are based on own information". In contrast, someone who has a *Duldung* and has clarified their identity with several documents, but does not possess a recognised and valid passport/passport substitute, still violates the passport requirement and possibly also the obligation to cooperate.

2. Fulfillment of passport requirement with a Gambian passport

In Germany, the following Gambian passport types are recognised and satisfy the passport requirement in terms of Section 3 (1) of the AufenthG according to the Federal Ministry of the Interior's "General Ruling Regarding Foreign Passports or Passport Substitutes".²²

- Service passport,
- Diplomatic passport
- Regular passport (2002 and 2014 versions)
 - Machine-readable passport (introduced in 2002) – often simply called "proxy passport"
 - Biometric ECOWAS passport (introduced in 2014)

In a letter to the Regional Councils dated April 6th 2020, Baden-Wuerttemberg's Ministry of the Interior also stated that proxy passports fulfill the passport requirement. The "General Ruling" also mentions the emergency passport (Emergency Travel Certificate) which is only accepted to leave Germany to return to The Gambia. The emergency passport consequently is not sufficient to meet the passport requirement, and, therefore, no residence permit can be applied for on its basis.

INFO BOX Proxy Passport

"Proxy" means representative. The term "proxy passport" is thus used to describe a passport that is issued by domestic authorities of the country of origin for an absent national, who is represented by an authorised third party. The passport contains the applicant's photograph and a scanned signature and is often sent to the applicant by mail. Such passports can be recognised by the fact that the visa and entry data are usually missing and the passport holder was in Germany when the passport was issued (see 3.1.9.1.-3.1.9.3. AVV AufenthG).

3. Clarification of identity with the help of various Gambian documents

The kind of Gambian documents accepted to clarify a person's identity vary and German authorities decide on a case-by-case basis whether or not to recognise a given document. A general problem with official Gambian documents is that informal ways of issuing "certificates of convenience" exist. This means that the documents are formally genu-

²² Allgemeinverfügung über die Anerkennung ausländischer Pässe und Passersatzpapiere, Bundesanzeiger (Federal Gazette) AT 25.04.2016.

ine, but their content is difficult to verify because untrue information can be recorded.²³ This applies not only to subsequent or late certifications (issuance of documents after the fact, permissible under Gambian law) but also to the initial issuance of civil status certificates, passports, and citizenship cards. In addition, third parties (“proxies”) can apply for certain documents on an individual’s behalf – a procedure that makes it difficult to clarify the identity of the person for whom the documents are issued based on the personal data/document provided.

The competent authority decides whether a document is sufficient as proof of identity. In the following, a distinction is made between the *Regierungspräsidium Karlsruhe* (issuance of *Duldung*) and the local foreigners authorities (issuance of residence permits) (see also Chapter 1.3.).

Regierungspräsidium Karlsruhe

To clarify one’s identity for a “*Duldung*” the following documents will suffice:

1. All Gambian passports are sufficient that fulfill the passport requirement (see Chapter 2.)
2. Emergency passport (Emergency Travel Certificate, “ETC”)
3. Appearance before a Gambian delegation

It is insufficient to merely present a:

- Birth certificate
- Voter’s card
- Gambian ID card²⁴
- Registration/naturalisation certificate
- Gambian driver’s Licence
- Gambian vaccination card
- Health card
- Proof of school attendance

The procurement of a voter’s card, Gambian ID card, registration/naturalisation certificate, driver’s licence, vaccination card, health card, and proof of school attendance will not be discussed in the next part because they do not play a major role in practice. The presentation of all these documents is nevertheless very important in the context of fulfilling the obligation to cooperate,²⁵ as they are considered indicative of identity and citizenship. In practice, Gambians who have only presented such documents often still have to appear before a Gambian delegation for identity clarification.

23 Federal Foreign Office, 2019: [Bericht über die asyl- und abschiebungsrelevante Lage in der Republik Gambia](#)

24 According to the Stuttgart Honorary Consul, the Gambian ID card is no longer being issued.

25 Section 15 AsylG, Section 82 AufenthG

INFO BOX Identity clarification regarding *Ausbildungs- and Beschäftigungsduldung*

The Ministry of the Interior in Baden-Wuerttemberg deems it logical that Gambians already hand in a proxy passport upon the issuance of either of these two special types of *Duldung*, as this will in any case be required for the issuance of a residence permit according to Section 19d (1a) AufenthG following the *Ausbildungsduldung* (Ministry of the Interior, Digitalisation and Migration Baden-Wuerttemberg, April 2020: [Erfüllung der Passpflicht durch gambische Proxy-Pässe](#)). According to the Federal Ministry of the Interior, proofs of identity are sufficient if they are a suitable basis on which passport substitute can be issued (Federal Ministry of the Interior, December 2019: [Anwendungshinweise zum Gesetz über Duldung bei Ausbildung und Beschäftigung](#), p. 11).

Since an Emergency Passport can be issued with Gambian identity documents under certain circumstances (see next section), there are indications that even if a proxy passport has not yet been presented, the issuance of an *Ausbildungs- oder Beschäftigungsduldung* is not categorically impossible. This applies to all Gambians who meet the requirements for one of the two types of *Duldungen* and have submitted some of the above-mentioned identity documents but are still experiencing issues obtaining the proxy passport. These individuals should continue to make efforts to obtain the proxy passport since the passport requirement is only fulfilled with the proxy passport, to which they are still subject to even if their identity has been clarified.

Incidentally, the *Regierungspräsidium Karlsruhe* has made it clear that an independent application for an ETC is not a ground for exclusion from the granting of an *Ausbildungsduldung* pursuant to Section 60c (2) No. 5d AufenthG. In the above-mentioned cases, it might make sense to submit an ETC first. The *Regierungspräsidium Karlsruhe* should be consulted about this.

Local foreigners authorities

All Gambian passports with which individuals fulfil the passport requirement in Germany are regarded as sufficient proof of identity for the purposes of receiving a residence permit (see Chapter 2.). Upon request, Baden-Wuerttemberg's Ministry of the Interior has confirmed that proxy passports are also suitable for clarification of identity. Only in individual cases may there be doubts about the identity of proxy passport holders; for example, when the Gambian documents contain contradictory personal data or the signature on the proxy passport does not match that of the passport holder. In these cases, the foreigners authority may require further proof of identity.

However, some foreigners authorities make the blanket assumption that a proxy passport does not prove the identity and that additional proof of identity is required. If no further identity documents are available, it is assumed that the proxy passport's information is incorrect. This is justified, among other things, by the fact that Gambian au-

thorities do not carefully check whether the personal data matches the applicant when issuing a proxy passport. In such cases, one can refer to the Federal Ministry of the Interior's "General Ruling on the Recognition of Foreign Passports or Passport Substitutes" dated April 6th, 2016²⁶ and enclose the Ministry of the Interior's statement. If the foreigners authority continues to insist on its position, obtaining the relevant documents may be more expedient. Legal action only makes sense in special individual cases²⁷ and is relatively time-consuming.

4. Obtaining Gambian documents

Unfortunately, to date, there are no helpful websites of the issuing authorities in The Gambia. The following information is thus based on practical experience, the Refugee Council's own research, and statements from the [Gambia Helfernetz](#) (Relief Network), the Honorary Consulate in Stuttgart, the Ministry of the Interior in Baden-Wuerttemberg, and the *Regierungspräsidium Karlsruhe*.²⁸

Some official Gambian documents can be obtained through third parties in The Gambia as they do not require the person concerned to appear in person. This includes birth certificates and proxy passports. In practice, experience with this is positive. It is important, however, that applications should only be made by trustworthy and knowledgeable relatives/friends or legal professionals such as lawyers. If someone does not have such support in The Gambia, they can contact the [Gambia Helfernetz](#) for help with obtaining birth certificates and/or proxy passports. Once the original documents have been issued in The Gambia and collected by a trusted person, they must be sent to Germany. Shipping via DHL and asking reliable travelers to bring them to Germany has worked well in the past. To minimise the risk of loss it is advised to send documents to a private residence rather than a communal accommodation.

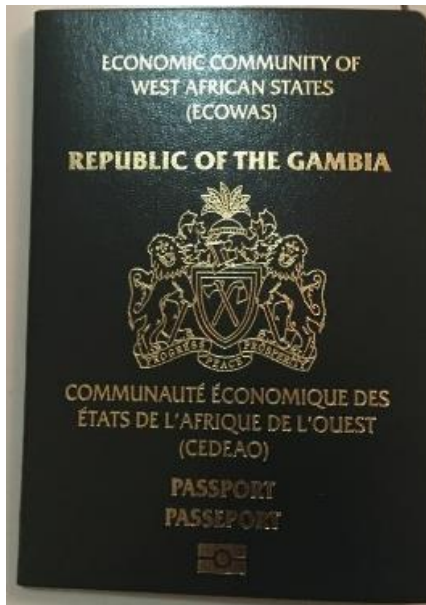
The cost of obtaining documents is difficult to estimate because fees vary. Moreover, additional costs may occur e.g., for missing documents, transportation costs, etc.. Based on our research, costs have been manageable (approx. 15,000 to max. 30,000 Dalasis, which corresponds to approx. 250 to max. 500 €).

26 Allgemeinverfügung des Bundesministeriums des Innern über die Anerkennung eines ausländischen Passes oder Passersatzes, BAnz AT 25.04.2016

27 The only previously known ruling from a different context comes from the Higher Administrative Court Bremen (OVG Bremen, 06.11.2018 - 1 B 184/18). In this specific case, there were doubts about the accuracy of the content of the proxy passport. However, "for the evaluation of the accuracy of the information in a passport, the specific circumstances of the individual case have to be considered".

28 Some Information has not been included here, because it has not proved relevant in practice (e.g. UNICEF: [Civil Registration and Vital Statistics. Gambia](#); Danish National ID Centre, Juli 2020: [The Gambia: IDcards, passports and birth registration](#)).

4.1. ECOWAS biometric passport



ECOWAS Passport Gambia

The Gambia has been issuing biometric ECOWAS passports since 2014. However, there are technical problems with producing biometric passports, so machine-readable passports are frequently issued instead. ECOWAS passports can only be applied for in person at

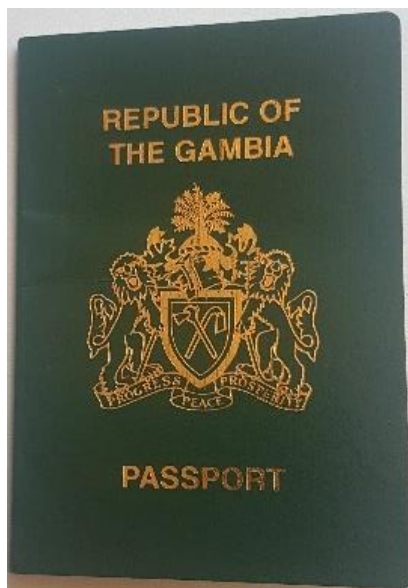


Picture: Barrow

the Immigration Department in The Gambia. An application or an extension via foreign representatives is not possible.

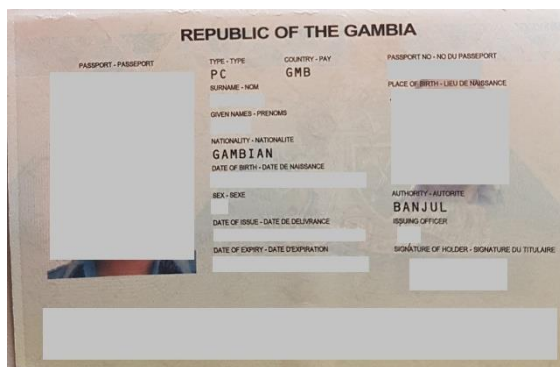
4.2. Proxy passports (machine-readable passports)

Application and issuance



Machine-readable passport Gambia

The application and issuance of Gambian proxy passports are relatively unproblematic in practice. No appointment is needed and the authorised person can go to the Immigration Department in Banjul to apply for a passport and just wait in line for their turn.



Picture: Barrow

The following information and documents are required:

- Completed application form (available at the Immigration Department)
- Biometric passport photos
- Original signature of the applicant
- Original or copy of an official document showing the date and place of birth and the correct name (e.g. (expired) passport, national identity card, or birth certificate)

- Original or copy of an identity document of a parent or other closed relative
- Power of attorney
- Copy of the *Duldung*
- In case of loss of a previous passport, an affidavit and a notarised statement about the process of the loss may be required

Under certain circumstances, it is permissible to digitally submit the required documents. When applying, the authorised person will be asked about their relationship with the applicant and must present all required documents. In addition, the official checks whether the person applying has previously had a passport or ID card. Afterward, the authorised person will receive an appointment slip for passport collection. The processing time varies greatly and can take several months in exceptional cases.

INFO BOX

Proof of identity document from parents or relatives

In rare cases, Gambians no longer have any contact with relatives or are unable to contact them. This could concern persons who left the country as children or individuals who are/were significantly threatened by relatives. Such persons are often unable to obtain proofs of identity from relatives, the presentation of which is a mandatory prerequisite for the issuance of a proxy passport. In justified individual cases, it is advisable to discuss with the Immigration Department whether other inquiries by the Department would be possible. German authorities have sometimes suggested that a member of Parliament from the applicant's local constituency confirm their identity in writing. As far as we know, this possibility has never been tried in practice and has not been considered by the Gambian side as an alternative to missing proof of identity from relatives.

4.3. Emergency Travel Certificate (ETC; also known as Emergency Passport)

The so-called Emergency Passport is a passport substitute issued by the Gambian Honorary Consulates in Berlin, Cologne, and Stuttgart for the sole purpose of voluntary departure to The Gambia. The validity period is limited to one month. The application can be made in writing. The following information and documents are required:

- Passport photos
- Original or copy of a Gambian document confirming citizenship
- A copy of an airline ticket to The Gambia may be required
- Stamped return envelope
- A fee of 35€ in cash for private individuals and charitable institutions, otherwise 140 €

INFO BOX

The ETC as a laissez-passers

Gambians as well as the Federal Police can apply for the ETC. ETCs applied for by authorities serve as laissez-passers for the implementation of residence-terminating measures. According to the German Foreign Office, the application is usually preceded by an appearance before an official Gambian delegation (see Chapter 4.). In practice, the authorities in Baden-Wuerttemberg do not seem to automatically apply for laissez-passers and implement deportations for Gambians who are required to leave the country and have been presented to the delegation.

4.4. Birth Certificate

Application and issuance

Birth certificates are issued in Gambian health centers affiliated with a public health office e.g., in clinics, health centers or hospitals. The certificate can be issued in any public health office, regardless of the place of birth. The authorised person must appear there, declare their relationship to the person applying for the certificate in Germany, and pay any necessary fees. As a rule, the birth certificate can usually be issued immediately, and the process should be recorded digitally. The digital registration should also be checked whether the birth has already been registered earlier.

Birth Certificate Gambia

Picture: Barrow

The following information and documents are required:

- Details of the applicant: date of birth, place of birth, first name, surname, and gender
- First name and surname of father and mother
- Father's profession
- Original or copy of a document from early childhood (child welfare record, infant welfare card or some kind of maternity log, in which health examinations of the new-born were noted)
 - Alternatively: written confirmation (birth attestation) by the *alkalo* (mayor, see below)
- Identity document of the authorised person
- Power of attorney
- Just in case, a copy of the *Duldung*

If there is no document from early childhood, the authorised person must go to the *alkalo* of the applicant's place of birth. Also, they must be able to identify themselves and provide all other information and documents. In addition, a Gambian citizen with an identity document must confirm the information. This can be close relatives, the *alkalo* themselves, or another person from the place of birth who can remember the applicant. The *alkalo* confirms the information in a form (birth attestation) with a stamp. This confirmation must then be presented at a public health office so that the birth certificate can be issued.

Evidential value of birth certificates and potential problems

German authorities often regard the probative value of Gambian birth certificates as not particularly high. One of the reasons given by the Ministry of the Interior for this is that the issuing authorities would neither check the personal data, the authorisation to report of the person commissioned, nor any previous birth registration before a subsequent certification. In the case of birth registration in adulthood, German authorities assume that the registration date could be wrong. According to the German embassy in Dakar and the Ministry of the Interior of Baden-Wuerttemberg, this is because most Gambians would have to have had a birth certificate at some time in the past, as these would be required for school attendance in The Gambia and for applying for identity documents. However, the fact that all children require a birth certificate to attend school was not the case until 20-30 years ago, according to Gambian accounts. Nevertheless, one should be prepared for the fact that if the date of registration and date of issue are the same, some authorities may doubt the probative value. This does not necessarily mean that a wrong registration date was intentionally entered, but that the issuing office in The Gambia did not check whether the birth was registered at an earlier date. Thus, when obtaining a birth certificate through a third party in The Gambia, it is advisable to check when the birth was first registered. In this case, the initial registration date should be noted on the subsequently issued birth certificate. This verification could be quite time-consuming if the birth was not recorded in the digital register and files have to be looked through at the place of birth (which are also not always complete). Of course, there are Gambians – especially from rural areas – whose birth were never registered in The Gambia. This should be pointed out when presenting the birth certificate.

In some cases, German authorities have asked for an “extract from the birth register” in the case of retrospectively birth certificates (see [factsheet](#) of the German Embassy in Dakar). This request has caused much confusion since there is no such document known as an “extract”. Some Gambians have indeed obtained letters from the Medical and Health Department in Banjul confirming the authenticity of a birth certificate presented. However, according to the *Regierungspräsidium Karlsruhe*, these confirmations are of less value than birth certificates. In practice, therefore, one should not be confused by the term “extract from the birth register”. The aim should rather be to present a birth certificate in which the date of first registration of birth is shown.

The German embassy in Dakar points out that, in The Gambia, the exact date of birth is often not known. Thus, birth certificates rarely provide information about the exact date of birth, but more about the approximate age/year of birth and place of birth.

5. Legalisation

The German Embassy in Dakar has stopped legalising Gambian documents and only carries out document reviews if a German authority submits a request for administrative assistance. This seems to occur only in rare cases, and in the cases known to the Refugee Council, the *Standesamt* was mostly involved, especially in the course of marriages (more information on marriages of binational couples is available from the *Verband binationaler Familien und Partnerschaften* (Association of Binational Families and Partnerships)). The necessary information and documents for a verification procedure by the German embassy in Dakar are listed and up to date on their website: <https://dakar.diplo.de/sn-de/service/05-VisaEinreise/-/2428076>.

Although no document verification by a domestic authority is required, some Gambians have had documents authenticated by the Gambian Ministry of Foreign Affairs on their own initiative. This appears to be relatively unproblematic. The authentication by the Gambian Ministry of Foreign Affairs can be recognised by the appropriate stamp (see [here](#)).

6. Delegation visits

Gambian delegations are invited to so-called “identification missions” to establish the nationality and identity of alleged Gambians.²⁹ This is done in cooperation with the Federal Police and the *Regierungspräsidium Karlsruhe*. In most cases, Gambians with a *Duldung* receive a letter summoning them to an interview. If the person does not appear to the interview, they should expect to be forcibly brought by the police to an interview at a later date. It is not possible to register oneself voluntarily for such an interview. A written record of the interview with the delegation will be made. If the written record is not handed over on the spot, i.e. directly at the hearing, it can subsequently be requested from the *Regierungspräsidium Karlsruhe*. The written record indicates whether Gambian citizenship has been confirmed and identity has been clarified.

In 2020, the *Regierungspräsidium Karlsruhe* clarified that accompanying persons may attend the delegation’s hearing and may take notes during the hearing. The interviews are usually of short duration. The individual is mainly asked about their name, place of birth, and relatives. However, in many cases, irrelevant questions are asked e.g., whether the person is doing an apprenticeship.

29 Federal Foreign Office, 2019: [Bericht über die asyl- und abschiebungsrelevante Lage in der Republik Gambia](#)

Theoretically, people with a *Duldung*, who are subject to an enforceable obligation to leave the country can also be taken into custody pending deportation after the interview. However, this requires a prior court order. According to the *Regierungspräsidium Karlsruhe*, such a procedure is not common, and we are not aware of any such case.

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