



Basic Information

Ausbildungsduldung

(temporary suspension of deportation due
to vocational training)
Information for refugees

- 8 -

Seitennummer des Klebetiketts:

.....
(Erstausstellung)

.....
(1. Verlängerung)

.....
(2. Verlängerung)

Nachbestimmter Name:
Wohlsitzanne

Ausweisung der Abschiebung (Duldung)
Kon. ... (verbindlich bei Antragstellung)

14-08-19

Der Adressat ist Inhaber von **Bauarbeiter/All. Dachstuhl**
Ermittlungs-Nr.: **5- Träger**
Antragsteller: **S. Träger**

Ausweisersatz

Duldung erlischt mit Verurteilung wegen vorsätzlicher Straftat gem. § 60a Abs. 2 S. 6 AufenthG.
Duldung erlischt mit Nichtbetreiben oder Abbruch der Ausbildung.

Beschäftigung mit Beschränkung gestattet: Ausbildung als Beton- und Stahlbetonbauer bei

Sonstige Erwerbstätigkeit nur mit vorheriger Zustimmung der Ausländerbehörde gestattet.
Arbeitszeit: 40 Std./Woche.
Ausbildungsvergütung:
1. Lehrjahr: 755,00 EUR/Monat
2. Lehrjahr: 1115,00 EUR/Monat
3. Lehrjahr: 1400,00 EUR/Monat

Im Auftrag des
Regierungspräsidium Karlsruhe.

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About this brochure

This brochure provides you with an overview of the possibility of workplace-based or school-based vocational training in Germany and the application procedure for a temporary suspension of deportation due to vocational training (*Ausbildungsduldung*) according to § 60a para. 2(4) 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. Vocational training in Germany

In Germany, there are various ways of doing vocational training. There is combined and purely school-based vocational training as well as the combined university programme (*duales Studium*). At the end of the vocational training, you will need to take an exam. If you pass the exam, you receive a certificate and can work as a qualified employee in your profession.

With school-based vocational training, you are prepared solely at school for your desired profession. You have the possibility to gather practical experience via internships. For school-based vocational training,

ning, you are usually not required to have a work permit. School-based vocational training often costs money.

When doing combined vocational training, you are a student and an employee at the same time, i.e. you learn the profession at school as well as at work. You sign a training contract with the company where you learn the practical part of the profession. Simultaneously, you attend vocational school where you learn the theoretical foundations of your profession on a daily or weekly basis. Here you will also study general subjects such as German, English and social sciences. Depending on the profession, the vocational training takes two to three and a half years. If you already have an advanced degree or particularly good grades, the duration of your training can be shortened. You need a work permit for combined vocational training. During the training you already receive your first salary.

When doing a combined university programme, you are a student and an employee at the same time. You learn your profession at a university and at work. For the combined university programme, you also need a training contract and a work permit. In addition, you need to be eligible to study at a German university.

In Germany, there are about 350 recognised apprenticed professions from which you can choose. The combination of theory and practice during the combined training provides you with a particularly good chance of securing a job in Germany. People who have completed vocational training are usually paid significantly more than people without such training. In addition to their wage, trainees also receive discounts, for example, on cinema tickets, entry fees for swimming pools and for public transport. People with a vocational training qualification usually find a job more easily. There are less and less jobs for untrained employees in Germany. You can find more information at:

- www.make-it-in-germany.com | *Ausbildung & Lernen*

- www.planet-beruf.de

If you would like to start vocational training or have already commenced, you can, if needed, receive support. Please seek advice from the career service of the Employment Agency (*Agentur für Arbeit*) to learn more about what kind of support is available. You can find more information here:

- www.arbeitsagentur.de/bildung/berufsberatung-biz

1.1. What are the requirements for vocational training?

Depending on the desired vocational training the requirements differ.

For a combined university programme you need a high school diploma with a specific major or a recognised equivalent school leaving diploma. You furthermore need sufficient German language skills (C1 level).

For a school-based vocational training the requirements differ according to the training programme (and the federal state). For school-based vocational training, an intermediate school leaving diploma or a recognised equivalent school leaving diploma is often required. For combined vocational training you usually do not need a formal school leaving certificate. With most apprenticed professions the company training an apprentice can decide freely which requirements potential trainees need to meet. Because you need to visit vocational school in both cases, language skills of the B1 level or higher are recommended. Here you can read more about the requirements for your desired vocational training:

- <http://www.regional.planet-beruf.de>

Make sure that you are informed about the required knowledge and content of the vocational training before it starts. You can get your school leaving diplomas or vocational qualifications from ab-

road recognised if you would like to or if your employer or school/university requires you to do so. In Baden-Württemberg, the IQ network Baden-Württemberg can offer you advice in regards to school leaving diplomas or vocational qualifications from abroad.

- www.netzwerk-iq-bw.de

2. *Ausbildungsduldung*

Since August 2015, there has been a specific form of *Duldung* for people taking a vocational training. The temporary suspension of deportation due to vocational training or *Ausbildungsduldung* was changed by the integration law in 2016. The *Ausbildungsduldung* is now granted for the entire duration of the vocational training. Furthermore, there is no age restriction from receiving an *Ausbildungsduldung*.

2.1. When can an *Ausbildungsduldung* be granted?

An *Ausbildungsduldung* can only be granted if you are obliged to leave the country under an enforceable decision. You are obliged to leave the country if your application for asylum was declined, if you have not appealed against the decision, or your appeal was already rejected, and the rejection has become legally binding. If the rejection is “obviously unfounded” (*offensichtlich unbegründet*) or “illegitimate” (*unzulässig*), you are still obliged to leave the country if your appeal is ongoing, but the urgent appeal to suspend the effect of the decision is rejected. As long your asylum procedure is ongoing, i.e. you have an *Aufenthaltsgestattung*, you cannot receive an *Ausbildungsduldung*.

Moreover, the *Ausbildungsduldung* is only granted if you have begun your vocational training or are about to begin it in the coming weeks. Vocational training which only starts in the distant future

does not usually justify a claim for an *Ausbildungsduldung*. You can apply for an *Ausbildungsduldung* in the following cases:

- If you have already begun vocational training during your current asylum procedure and the rejection of your asylum application becomes legally binding.
 - If you have a *Duldung*, are not banned from working under migration law and you are starting vocational training.
 - If you have found a training position and your asylum application was rejected a few weeks before you started the training.
- Tip:** If your vocational training only starts in a few months, you can apply for discretionary *Duldung*, i.e. an *Ermessensduldung* (§ 60a para. 2 (3) AufenthG). In Baden-Württemberg, the latter is currently granted up to six months before the start of your training.

In addition, you have to meet the requirements listed under point 2.2.

2.2. Which requirements do you have to meet to be granted an *Ausbildungsduldung*?

Recognised vocational training: To be granted an *Ausbildungsduldung*, you are required to have a training position in an apprenticed profession that is recognised by the state or is comparably regulated. According to the regulations given in § 6 para. 1(2) BeschV (*Beschäftigungsverordnung* [Employment Directive]), the training must be of at least two years duration. This means that specific vocational training that only takes one year (e.g. training to become an assistant nurse or assistant geriatric nurse) is excluded from the *Ausbildungsduldung*. If you are doing a non-recognised vocational training you can only apply for a discretionary *Duldung* (*Ermessungsduldung*) according to § 60a para. 2 (3) AufenthG with your relevant immigration office.

You can find a list of all state recognised apprenticed professions here:

- www.bibb.de

Verified identity: You have to provide documents that prove your identity or conclusively demonstrate why you could not organise such documents. Ideally, you would prove your identity with your passport or a replacement document. Otherwise your birth certificate, ID card, driver's licence or similar documents can be used to verify your identity. If you do not have a passport, you have to make efforts to acquire one, even if you are using other documents to establish your identity. You need to document your efforts to get a passport with as much detail as possible (e.g. have your embassy visits confirmed by the embassy personal, keep your fax records, send letters via registered mail and keep the receipt, document your phone calls, etc.). Only that way can authorities retrace your efforts. If your asylum application has been rejected in a legally binding way, the immigration authority can ask you to contact authorities in your home country in order to procure your identity documents.

No measures for the termination of your stay: Moreover, you can only be granted an *Ausbildungsduldung* if no specific measures for the termination of your stay have been initiated. Specific measures for the termination of your stay are considered to have been initiated, if, for example, your deportation date has been set or an enforceable threat of deportation has been issued (in so-called "Dublin cases"). The application for passport (replacement) documents by German authorities can also be considered a measure for the termination of your stay. You will not be notified when these measures are issued. You should therefore apply for an *Ausbildungsduldung* as early as possible.

No criminal offences: To receive the *Ausbildungsduldung*, you

must not have been convicted of an intentional crime in Germany. Financial penalties of up to 50 daily units **overall** or 90 daily units in the case of crimes under the residence and asylum laws (e.g. illegal entry) will not be considered.

Work permit: You need a work permit for obtaining an *Ausbildungsduldung*. In particular, you cannot have a so-called employment ban under migration law (*ausländerrechtliches Beschäftigungsverbot*) according to § 60a para. 6 AufenthG (more information under point 2.3.).

2.3. Work permit: When are you not allowed to work with a *Duldung*?

If you live in Germany with a *Duldung*, immigration authorities can issue an employment ban under migration law (§ 60a para. 6 AufenthG). They can permanently deny you the right to work in the following cases:

- if there is a suspicion that you moved to Germany solely to receive social benefits, or
- if you are obliged to leave the country under an enforceable decision and you are accused of not sufficiently cooperating, so that your deportation cannot be conducted due to lacking cooperation on your part, or
- if you come from a safe country of origin and your asylum application – that was submitted before 31 August 2015 – was declined.

An employment ban is always explicitly mentioned (“*Erwerbstätigkeit nicht gestattet*”) in your identity documents. When banned from employment, you are not allowed to take part in workplace-based vocational training but you can usually take part in school-based vocational training.

Note:

- Seek advice from an advice office or a lawyer in order to check if your employment ban is lawful.
- For more information on the topic of work permits for persons with *Duldung* or *Aufenthaltsgestattung*, see the flyer “How do I get a work permit?”.

Special case: Persons from so-called “safe countries of origin” (§ 29a AsylG)

If you come from a so-called “safe country of origin” you are not automatically subject to an employment ban. Albania, Bosnia-Herzegovina, Kosovo, Macedonia, Montenegro, Serbia as well as Ghana and Senegal are currently considered the only safe countries of origin.

But: You cannot receive a work permit if your asylum application – lodged after 31 August 2015 – was rejected. In this case you are generally subjected to an employment ban. In reverse, you automatically have a right to a work permit if:

- you applied for asylum before 1 September 2015, even if your application was rejected
- your asylum application from after 31/08/2015 was not objectively decided upon, e.g. because the asylum application was withdrawn before BAMF (*Bundesamt für Migration und Flüchtlinge* [Federal Office for Migration and Refugees]) decided on it or the procedure was closed due to other reasons

Note:

- The current list of “safe countries of origin” can be found at www.bamf.de | *Sonderverfahren*
- Contact an advice office or a lawyer before you withdraw your asylum application.

- Seek advice if you attempted to get asylum prior to 31/08/2015 but a formal asylum application was only possible after 31/08/2015.

2.4. How do I apply for an *Ausbildungsduldung*?

Once you have a signed training contract from your company, you should apply for a work permit and for an *Ausbildungsduldung* at immigration authorities as quickly as possible. The training contract also has to be presented to the responsible Chamber of Crafts or Chamber of Industry and Commerce for examination and registration of your role as an apprentice. You should include a confirmation of the registration or the filing of your training contract with the chamber in your application for an *Ausbildungsduldung*. This can also be added later. In the case of school-based vocational training, the training contract and/or the school's admission confirmation has to be included.

If you start your vocational training with a one year vocational school and only then start your practical training in a company, the training contract with the training company must have been signed when you apply for the *Ausbildungsduldung*. A pre-contract is not sufficient in Baden-Württemberg in order to receive an *Ausbildungsduldung*.

2.5. How is it decided whether my *Ausbildungsduldung* is approved or declined?

Once you have applied for an *Ausbildungsduldung* with immigration authorities, they will first check whether you are already subject to a so-called "employment ban under migration law" or not.

Immigration authorities will then pass on your application to the Karlsruhe Regional Council (*Regierungspräsidium Karlsruhe*) which, as the higher authority, decides on your application. It will be exami-

ned, for example, whether a work permit is being issued or whether specific measures for termination of stay have already been issued against you. Furthermore, it will be assessed whether the requirements listed in point 2.2 apply to you.

2.6. What can you do if immigration authorities reject your application for *Ausbildungsduldung*?

Immigration authorities will notify you in writing if your application has been rejected. Should you not receive the decision in writing, ask immigration authorities for a decision that is open to appeal. You can appeal against the decision at the responsible administrative court. You need to be aware of the deadlines, which can be found in the “instructions on your right to appeal” (*Rechtsmittelbelehrung*) at the end of the decision.

At the same time, you need to submit an urgent appeal (*Eilantrag*) to suspend the effect of the decision. Only with a successful urgent appeal will deportation be suspended during the appeal procedure.

2.7. What happens if I or my company quit the vocational training prematurely?

If you or your training company cancels the vocational training before the official end, your employer is obliged to inform the immigration office within one week. You will then be granted a one-off *Duldung* for six months so you can find a new apprenticeship place. So make sure you contact your immigration office in time. When you have found a new company, apply for an *Ausbildungsduldung* again.

If you do not succeed in finding a new apprenticeship, your right to an *Ausbildungsduldung* expires.

Note:

- Find an independent advice office before you finish your training contract.
- Seek advice about which steps you need to initiate to continue your *Duldung*.

2.8. What happens when I have completed my vocational training?

Once you have successfully completed your vocational training and you can be directly employed by the company where you completed your apprenticeship or another company, you can get a residence permit for two years. Requirements include that you have sufficient housing space and you speak the German language (level B1) (§ 18a para. 1a AufenthG; “residence permit for skilled persons with a *Duldung* for the purpose of employment”). The job also has to match the qualification you received from your vocation training.

If you cannot be directly employed by the company where you completed your apprenticeship you will receive another *Duldung* for six months. This gives you time to search for another job. If you manage to find an appropriate job within the six months you will receive a residence permit (subject to the requirements mentioned above). You must apply for this residence permit with immigration authorities in any case.

The residence permit will generally be extended after the first two years if employment continues.

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

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-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



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 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)



Who can be 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, languages: 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)

You can order the information material here:

online: www.nifa-bw.de

Email: info@nifa-bw.de

This information leaflet was updated in January 2019. There may since then have been changes. This information also 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, a counselling centre or a lawyer.

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



Contact

Project carrier

Werkstatt PARITÄT gGmbH

Hauptstraße 28

70563 Stuttgart

Kirsi-Marie Welt

Telephone: 0711 / 2155 - 419

Email: welt@werkstatt-paritaet-bw.de

Website: www.werkstatt-paritaet-bw.de

Editing

Flüchtlingsrat Baden-Württemberg

Hauptstätter Str. 57

70178 Stuttgart

Clara Schlotheuber, Laura Gudd, Melanie Skiba,

Stella Hofmann & Philipp Schweinfurth

Telephone: 0711 / 55 32 83-4

Email: info@fluechtlingsrat-bw.de

Website: www.fluechtlingsrat-bw.de

Further information can be found on our homepage

www.nifa-bw.de