HRK German Rectors' Conference

The Voice of the Universities

Published by the German Rectors' Conference (HRK) Ahrstraße 39 53175 Bonn

Tel.: 0228/887-0 Fax: 0228/887-110

www.hrk.de

Contact

Thomas Böhm Tel.: 0228/887-124 boehm@hrk.de

For additional copies contact: Maria Holgersson holgersson@hrk.de

The publication is also available in German.

ditors

Thomas Böhm, Maria Holgersson

Design

Bosse und Meinhard Wissenschaftskommunikation, Bonn

Bonn, September 2020, fourth revised edition

Reprinting and use in electronic systems of this document or extracts of it are subject to the prior written approval of the German Rectors' Conference.

Note

- This is the title of the relevant section. This brochure, however, deals exclusively with doctoral candidates who are partly also covered by section 16b Residence Act.
- 2. If the research activity is part of and connected with a doctoral degree programme (see section 19f (3) sentence 2 Residence Act)
- 3. See section 18b (1) and (2) Residence Act in conjunction with section 18 (2)
- 4. See section 18c (1) sentence 1 Residence Act
- State and state-recognised universities as well as research institutions financed primarily by public funds are considered as recognised in the meaning of section 18d (1) Residence
- 6. Doctoral candidates fall within the group of section 18d Residence Act only in those cases in which the research activity is not exclusively carried out for the purpose of preparing a doctoral dissertation. This would, for example, be the case, if the dissertation is produced within the frame of an employment contract. See section 19f (3) sentence 2 Residence Act
- 7. Generally, the granting of a residence permit presupposes the proof that the foreigner's subsistence is secure, including adequate health insurance coverage, without recourse to public funds for the time of his or her stay in Germany (see section 5 (1) no. 1 in conjunction with section 2 (3) Residence Act). This is deemed to be the case if the foreigner has sufficient financial resources available to cover the monthly needs pursuant to section 20 of Book II of the German Social Code (SGB II) plus adequate rental costs effectively paid.
- 8. Subsistence is deemed secure pursuant to section 2 (3) sentence 5 Residence Act, if the foreigner has funds in the amount of the monthly requirement as announced by the Federal Ministry of the Interior (BMI) in the Federal Gazette annually by 31 August for the following year (2020: student grant "BAföG" 853 €/month).
- 9. See section 18b (2). The Federal Ministry of the Interior (BMI) announces the minimum income for each calendar year by 31.12. of the previous year in the Federal Gazette.
- Subsistence must be secured pursuant to section 9 (2) sentence 1 no.2 Residence Act.
- 11. See section 16b (1) sentence 4 Residence Act
- 12. See section 18c (1) sentence 1 no. 4 in conjunction with section 9 (2) sentence 1 no. 7 Residence Act. 'Sufficient' command of the German language refers to Level B1 of the Common European Framework of Reference for Languages (General Administrative Regulation to the Residence Act no 9.2.1.7.).
- 13. The Anabin database contains the degrees whose comparability has already been established, as well as further information on comparability: http://anabin.kmk.org/anabin.html.
- 14. See section 18b (2): The following is valid for all highly qualified employees with a university degree: With an appropriate income, consent by the Federal Employment Agency is not required.
- 15. See section 20 (2) Residence Act
- 16. See section 18d (1) sentence 1 no.1 a Residence Act

- 17. See section 18d (1) sentence 1 no.1 b Residence Act
- 18. The declaration of assumption of costs serves exclusively to cover claims in case of unlawful stay in the federal territory after termination of the regular stay for research purposes. The assumption of costs does not serve to provide evidence of secure subsistence during the research stay itself. For this, evidence of secure subsistence (see column 'Minimum income') must be provided separately (see section 18d (1) sentence 1 no. 2).
- 19. If the activity of the research institution is financed primarily from public funds, the presentation of the cost assumption declaration shall be waived (see Administrative Regulation no. 20.2.).
- 20. See section 16b (2) Residence Act
- 21. See section 18 (4) Residence Act
- 22. See section 18d (4) Residence Act
- 23. See section 16b (2) sentence 4 Residence Act
- 24. See section 20 (3) no. 1 Residence Act. The residence permit entitles the holder to pursue an economic activity during the period of its validity.
- 25. Please note that meanwhile the minimum income required may have increased since the initial issue (see note 9).
- 26. See section 20 (3) no. 2 Residence Act
- 27. See section 16b (3) sentence 1 Residence Act. Student secondary/part-time jobs include work limited to academic activities for university-related organisations with the subject matter relating to the studies (e.g. tutors working in halls of residence run by the student services organisation, counselling activities of university associations, student committees or the World University Service). Problems of definition should be clarified with the participation of the university.
- 28. See section 18d (5) Residence Act
- 29. See section 18b (2) sentence 1 and sentence 2 Residence Act
- 30. See section 18c (1) Residence Act
- 31. See section 18d (1) Residence Act
- 32. See esp. section 30 (1) no. 3 e) Residence Act: The marriage must have existed before the time the residence permit was granted, and the duration of the stay in the federal territory is expected to exceed one year.
- 33. See sections 27, 30 (1) sentence 1 no. 3 g), sentence 3 no. 5 Residence Act, section 32 (1) no. 5 Residence Act
- 34. See sections 27, 30 (1) sentence 1 no. 3 a) Residence Act, section 32 (1) no. 6 Residence Act
- **35.** See sections 27, 30 (1) sentence 1 no. 3 c) Residence Act, section 32 (2) no. 2 Residence Act
- **36**. See section 27 (5) Residence Act
- **37.** In principle, proof of basic German language skills is required for spouses pursuant to section 30 (1) sentence 1 no. 2 Residence Act.
- 38. See section 32 (2) Residence Act
- 39. Language skills are not required if the stay is expected to be only temporary, see section 30 (1) sentence 3 no. 3 Residence Act.

- 40. See section 30 (1) sentence 3 no. 5 Residence Act
- 41. See section 30 (1) no. 2 Residence Act. This requirement may be waived in cases of little need for integration measures (e.g. proof of completed university studies of the spouse immigrating subsequently), see section 30 (1) sentence 3 no. 3 Residence Act, Administrative Regulation no. 30.1.4.2.3.1 and no. 43.4.4.2.
- **42.** See section 1 (7) Parental Allowances and Parental Leave Act (BEEG)
- 43. See section 1 (7) sentence 1 no. 2a BEEG
- 44. See section 62 (2) Income Tax Act (EStG)

45. See section 62 (2) sentence 1 no. 2a EStG

- 46. See section 45 Ordinance on Residence (AufenthV)
- 47. Foreigners who receive a grant from public funds for their stay are exempt from the fees for the issuance of a visa or a resident title pursuant to section 52 (5) no.1 AufenthV.
- 48. See section 44 no.1 AufenthV
- 49. See section 18c (1) sentence 2 Residence Act
- 50. See section 18c (2) Residence Act in conjunction with section 9 Residence Act

51. Art. 27 REST-Directive (EU) 2016/801 in conjunction with the legal provisions for residence of the respective country of destination. Information relating to the procedure can be obtained from the university, the authorities or, if applicable,

the embassy of the country of destination.

- 52. EU-Directive 2009/50, article 18
- 53. Art. 28, 29 REST-Directive (EU) 2016/801 in conjunction with the legal provisions for residence of the respective country of destination. Information relating to the procedure can be obtained from the university, the authorities or, if applicable, the embassy of the country of destination.
- **54.** It depends on how the foreign university defines the doctoral degree phase. If it regards it as a doctoral university degree programme, section 16b Residence Act applies. In all other cases, section 18d Residence Act is relevant.
- 55. See section 16c (1) Residence Act. Notification is to be effected online via the BSCW-Server of the BAMF.
- **56.** See section 18e (1) Residence Act. Notification is to be effected online via the BSCW-Server of the BAMF.
- 57. See section 18f (1) no.1 Residence Act

Disclaimer: The German Rectors' Conference does not accept any liability for the contents set out in this document nor for the completeness and accuracy of the information given. All information given is of a general nature only and aims at providing a comparative overview; it is not to be interpreted as a professional or legal advice.

HRK German Rectors' Conference

The Voice of the Universities

Rights of residence for researchers from non-EU countries in Germany

Overview on potential residence permits pursuant to the German Residence Act (last amendment of 15 September 2019, in effect since 01 March 2020)



Purpose of residence/ residence title	- Target group/	Requirements for granting						Approval of Federal	Subsequent immigra-								Residence in other EU Member States		
		1. Minimum income ⁷	2. German language skills	3. Other	Duration/limitation	Extension	Employment	Employment Agency/ Foreigners' Authority required	tion of spouse/partner and/or unmarried minor children		German language skills of spouse/partner ³⁷ and/or children ³⁸	Parental benefits ⁴²	Child benefits ⁴⁴	Fees	Alternative residence title	Acquisition of a permanent settlement permit	1. Private trips	2. Stays in other EU Member States (Outgoing	3. Stays in Germany (Incoming)
Section 16b Studies 1/ residence permit		No, but subsistence must be secured ⁸	Proof of knowledge of the language in which the course of studies is to be conducted 11		Limited duration: min. 1 year, max. 2 years ²⁰	residence has not yet been achieved and is achievable	Max. 120 whole or 240 half days p.a. as well as student secondary/part-time job at the university or any other research institution ²⁷	outside the scope of above-	The general requirements for the subsequent immigration of dependants and spouses are laid down in sections 27 et seq. Residence Act. ³²		Usually yes ³⁹	No ⁴³	No ⁴⁵	Issue of a residence permit: 100 €; extension of up to 3 months: 96 €; extension of more than 3 months: 93 € 46, 47	Where applicable section 18d Residence Act for doctoral candidates ⁶ After successful completion of the dissertation, a change of purpose to section 18b is admissible.		days within the Schengen		Section 16c Residence Act: Doctoral candidates with a residence permit for study purposes ⁵⁴ in another EU Member State can continue their doctoral study programme in Germany for up to 360 days. The BAMF must be notified. ⁵⁵ In case of a period of stay of longer than 360 days, a residence permit pursuant to section 16b must be applied for.
Section 18b Qualified employment/ EU Blue Card residence permit	Specialists holding a university degree ³	Yes ⁹	No	permit: Concrete job offer and		Yes, if requirements for granting are still fulfilled ²⁵	Yes, employment commensurate with qualification			The residence permit entitles the holder to pursue an economic activity. ³⁶	No ⁴⁰	Yes	Yes	Issue of a residence permit: 100 €; extension of up to 3 months: 96 €; extension of more than 3 months: 93 € ⁴⁶	Section 18d	Provided that the prerequisites are fulfilled, a permanent settlement permit can be already applied for after the elapse of 33 months, in the case of sufficient language skills even after 21 months. ⁵⁰	Freedom to travel for up to 90 days in any period of 180 days within the Schengen area		After 18 months holders of an EU Blue Card can travel to any other EU Member State together with their family members without visas and apply for an EU Blue Card in that state. ⁵²
Section 18c Permanent settlement permit for specialists		No, but subsistence must be secured ¹⁰	Yes, sufficient knowledge of German language ¹²		Unlimited duration	Not required (unlimited duration)	Yes	No ³⁰	Spouse and minor children are entitled to a temporary residence permit. ³⁴	The residence permit entitles the holder to pursue an economic activity. ³⁶	Yes, for simple communication 41	Yes	Yes	147 € 48		The residence permit pursuant to section 18c Residence Act is also deemed a national permanent settlement permit.	Freedom to travel for up to 90 days in any period of 180 days within the Schengen area		
Section 18d Research/ residence permit	Foreign researchers who want to carry out a research project in an officially approved research institution in Germany ⁵ ; where applicable doctoral candidates ⁶	No	No, only in case of a permanent settlement permit	institution by the Federal Office for Migration and		research project or	Yes, permission to take up research activities in the research institution specified in the hosting agreement, as well as teaching activities ²⁸	No ³¹	Spouse and minor children are entitled to a temporary residence permit. ³⁵	The residence permit entitles the holder to pursue an economic activity. ³⁶	No ⁴⁰	Yes	Yes	Issue of a residence permit: 100 €; extension of up to 3 months: 96 €; extension of more than 3 months: 93 € ⁴⁶	Section 18b EU Blue Card	The acquisition of a permanent settlement permit or a permanent EU residence permit follows and complies with the general prerequisites for the granting of a permit pursuant to sections 9, 9a Residence Act.	Freedom to travel for up to 90 days in any period of 180 days within the Schengen area		Section 18e Residence Act: Researchers with a residence permit in another EU Member State can continue with a part of their research project in Germany for up to 180 days in a 360-day period, without a German residence permit. The BAMF must be notified. 56 Section 18f Residence Act: For a stay of more than 180 days and up to one year, a residence permit will be issued. 57