

Englisch/Duldung

Basic Information

Duldung

(temporary suspension of deportation)

Information for persons with a *Duldung*



About this brochure

This brochure provides you with an overview of the rights and opportunities for persons with a *Duldung* (temporary suspension of deportation) in the areas of education, work, social benefits, accommodation, subsequent immigration of family members and affairs related to your residence permit.

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. *Duldung*

A *Duldung* is not a legally valid residence permit. It certifies that you are obliged to leave the country but can currently not leave or be deported because there is an obstacle to deportation (§ 60a AufenthG). A *Duldung* can be granted for a few days or for a couple of months. Depending on the reason, immigration authorities are either obliged to grant you a *Duldung* or they have the discretion to do so. Depending on the reason, a *Duldung* is more or less safe: if you have been granted a *Duldung*, for example, because of illness, you will have the *Duldung* until you have recovered. This is also the case with an *Ausbildungsduldung* (temporary suspension of deporta-

tion due to vocational training). As long as the requirements for the *Ausbildungsduldung* are met, you will not be deported. It is more difficult to evaluate the danger of deportation if a *Duldung* has been granted as a result of your country of origin refusing to take you back. As soon as this changes, i.e. the obstacle to deportation is removed, you can be deported even if the effective date of your *Duldung* has not yet expired. Immigration authorities can introduce measures to encourage you to leave the country. This includes benefit cuts and an employment ban.

2. Education

School

In Baden-Württemberg, school attendance is compulsory for all children and adolescents with a *Duldung* until the age of 16. Those who start an apprenticeship while under 18 are obliged to attend a vocational school for the duration of their apprenticeship. There is a total of nine years of compulsory schooling. School time in other countries will be recognised. Even after nine school years and/or after turning 16 or 18, schooling can be continued.

At many schools, preparation classes have been set up where German is taught before the children and adolescents are integrated into the “normal” classes. Many vocational schools also offer a “pre-qualification year for young people without German language skills” (*Vorqualifizierungsjahr Arbeit und Beruf für Jugendliche ohne Deutschkenntnisse – VAB-O*). During the second year of attending VAB classes, it is possible to obtain the certificate of lower secondary education (*Hauptschulabschluss*). Participation is generally possible until the age of 21. Vocational schools can decide themselves whether older persons can participate.

Note: If you or your children are attending a daycare centre or

school you can apply for benefits according to the “education and participation package” with the Social Welfare Office. Contact the person responsible for you at your Social Welfare Office.

Language courses

With a *Duldung* you can participate in free courses for the acquisition of basic German language skills that are funded by the state of Baden-Württemberg. The availability differs between municipalities. Having a *Duldung* does not make you entitled to participate in an integration course unless you have a *Duldung* according to § 60a para 2 (3) AufenthG (discretionary *Duldung* due to urgent humanitarian or personal reasons). In the case of other forms of *Duldung*, you can participate in an integration course, provided that you pay for it yourself.

Note:

- Information on the integration courses can be found at www.bamf.de | *Integrationskurse für Asylbewerber und Geduldeten*

Studies

Studying at university is possible if you meet the admission requirements (a university entrance qualification that is recognised in Germany, language level C1). During the first three months of your stay in Germany, you can continue to receive basic benefits to accompany your studies under § 3 AsylbLG. From the 16th month onwards you can apply for financial support based on the Vocational Training Support Act (*Berufsausbildungsförderungsgesetz – BAföG*) (§ 8 para. 2a BAföG).



Note: Seek advice from your student service provider (*Studierendenwerk*) before you apply for *Bafög*. Seek advice especially regarding the age limit of 30 or 35 years (§ 10 BAföG), if this is relevant for you.

3. Work and vocational training

Terminology

Paid work (*Erwerbstätigkeit*) is the generic term for dependent employment (*Beschäftigung*) and self-employed paid activities. Employment includes all dependent work as part of an employment relationship (also including voluntary year of social service, federal voluntary service, internships, etc.).

Employment ban

If you are required to live in an initial reception centre (*Erstaufnahmeeinrichtung – EAE*), you are banned from employment according to § 61 (1) AsylG (Asylgesetz [Asylum Act]). You may be obligated to live in an initial reception centre for a maximum of six months (§ 47 (1) AsylG). As a result of the ban, activities are only allowed that are not considered employment. These include:

- Work opportunity (§ 5 AsylbLG (Asylbewerberleistungsgesetz [Asylum Seekers Benefits Act]))
- Job shadowing (not working but only watching)
- Study
- Purely school-based training is also usually possible

For these activities you do not need permission from the immigration office. However, it is advisable to inform the immigration office about this. An employment ban is often noted in your identity document with the phrase “**employment not allowed**” (“*Erwerbstätigkeit nicht gestattet*”).

If you no longer have to live in an EAE and have been in Germany for more than three months, you generally are no longer prohibited from employment (§ 32 BeschV – *Beschäftigungsverordnung* [Employment Directive]). However, before you can start working, you must apply to the immigration office for a work permit. Further information on this can be found under point 4.

Special case of “safe countries of origin”

If you come from a “safe country of origin” (§ 29a AsylG), you can be obliged to live in an initial reception centre for more than six months. This also means that the employment ban continues to apply. If you no longer live in an initial reception centre but your asylum application from after 31 August 2015 has been rejected, you are subject to a general employment ban. In that case, you can only engage in activities which do not count as employment (see above).

- The current list of “safe countries of origin” can be found at www.bamf.de | *Sonderverfahren*

Employment ban on persons with a *Duldung*

If you have a *Duldung*, the immigration office can issue you with an employment ban under migration law (*ausländerrechtliches Arbeitsverbot*). Then you will not be able to work even after three months have passed. The immigration office must issue an employment ban on the basis of § 60a para. 6 AufenthG:

- if you are alleged to have entered Germany for the sole purpose of gaining social benefits, or
- if you are obliged to leave the country and you are alleged to have not cooperated sufficiently for your deportation to be carried out, or
- if you come from a “safe country of origin” and your application for asylum, as filed after 31 August 2015, was rejected.

The second reason is assumed to be the case for suspected deception about the identity or for a lack of cooperation in obtaining a passport. However, the reasons attributable to you must be the sole cause of the impossibility of deportation for an employment ban to be imposed. You will not be mandatorily banned from working if there are other factors preventing your deportation, for example:

- because deportations to the country of origin are not possible, for example, due to a lack of transport connections,
- in the event of deportation being suspended under § 60a para. 1 AufenthG,
- because of other factors preventing deportation, e.g. inability to travel (sickness, pregnancy, risk of suicide).

Note: Contact an advice office (e.g. a NIFA advice office, www.nifa-bw.de | *Teilprojekte und Angebote*) or a lawyer to check if the employment ban is lawful.

4. Restricted access to the job market

Application for a work permit

If you are not banned from working under migration law (see point 3), from the fourth month you are no longer subject to an employment ban. However, you are required to apply for a work permit at the immigration office. Your identity papers state: “**employment only permitted with the approval of the immigration office**” (“Erwerbstätigkeit nur mit Genehmigung der Ausländerbehörde gestattet”).

When you have found a position of employment, you have to submit an application for a work permit with the immigration office, which may forward your application to the Employment Agency (*Agentur für Arbeit*). The Agency examines whether the working conditions (especially wage and working times) meet the regulations. When these requirements are met, the immigration authority

will eventually issue you with permission to start your occupation. The immigration authority registers this information in your *Duldung*. Self-employment is not allowed. More information can be found here:

- Flyer “How do I get a work permit?”
- www.einwanderer.net | *Übersichten und Arbeitshilfen*

Note: The secondary provisions entered in your *Duldung* are not always up to date. If you are unsure, ask your immigration office and have the secondary provisions updated, if necessary.

Assistance in finding work

You can register with the Employment Agency as searching for work unless you have been subjected to an employment ban. The Employment Agency will assist you in the search for training/work. In addition, recruitment subsidies and costs for training measures can be covered in certain cases. As a rule, basic German language skills and/or an interpreter are required for communication with the Employment Agency.

The IvAF Network NIFA will support you in finding work in Stuttgart, Tübingen und Pforzheim. Such networks also operate in other regions. They work to promote the employability of refugees with access to the job market and provide them with sustainable support for their integration into the job market. Addresses can be found online at:

- www.nifa-bw.de | *Kooperationspartner/-innen*

5. Social benefits

If you have a *Duldung* you will receive benefits under the Asylum Seekers Benefits Act (AsylbLG). After 15 months of regular residence,

the benefits increase to the level of the Unemployment Benefit II (*Arbeitslosengeld II*) according to the Social Code (SGB) XII (analogue benefits according to § 2 AsylbLG). These benefits will be reduced if:

- you are accused of coming to Germany to receive social benefits (§ 1a para. 1 AsylbLG)
- immigration authorities accuse you of being responsible for the delay in your deportation (§ 1a para. 3 AsylbLG)
- you have rejected a work opportunity or Refugee Integration Measure offered to you without an important reason. This does not apply if you are working, not able to work or are obliged to go to school due to your age (§ 5 para. 4 (1) AsylbLG)
- If you refuse to participate in an integration course despite being obliged to do so by the Social Welfare Office (§ 5b para. 2 AsylbLG)
- you stay/live in another place despite residence obligation and condition of fixed abode (§ 11 para. 2 AsylbLG)

If you work but your wage is not enough to make a living you can receive additional benefits. If you were employed in Germany for over a year in a position with social security contributions and became unemployed after that, you will have a claim to financial benefits (*Arbeitslosengeld I*) from the Employment Agency for some time.

Note: If you are affected by benefit cuts, please contact an advice office or a lawyer. Many social welfare courts have, in the past, declared benefit cuts as illegitimate.

Medical care

The AsylbLG grants you restricted medical care (exception: for pregnancy all restrictions are lifted). Whether treatment is carried out and the costs are covered is decided during the first 15 months by

the responsible Social Welfare Office. Generally, prior to treatment, you have to apply for a health insurance voucher (*Krankenschein*) at the Social Welfare Office. Normally, the costs are covered for severe illnesses and illnesses with which pain is associated, e.g. for chronic illnesses, dental treatment, rehabilitation and precautionary examinations.

After 15 months, you have the right to a health card with which you can go directly to the doctor. The benefits are still limited.

6. Accommodation

During your asylum procedure you will be assigned temporary accommodation after the initial reception centre. You can find a detailed description in our leaflet "Basic Information Aufenthaltsgestaltung". After you have been granted a *Duldung* you will be transferred to the "subsequent accommodation" (*Anschlussunterbringung*), which is often a collective centre. You are not entitled to be housed in a flat but if you find a flat whose rent can be paid (this is dependent on the local rent index), you can move into this flat with the permission of the Social Welfare Office.

Residence obligation / Condition of fixed abode

If you have a *Duldung*, you are obliged to live in the region assigned to you by immigration office (obligation to maintain an affixed abode under § 61 (1d) AufenthG). You can, however, move freely within Germany. The condition of fixed abode is dropped as soon as you can make a living through your own means.

Immigration authorities can restrict your stay to the district or town area if:

- you have been in Germany for under three months (§ 61 para. 1 and 1b AufenthG)

- you have committed a crime, e.g. you were caught driving without a valid driver's licence on multiple occasions
- you have breached the narcotics law or
- your deportation is imminent (§ 61 para. 1c AufenthG).

In these cases you have to apply for a so-called permission to leave (*Verlassenserlaubnis*) with immigration authorities. Unauthorised travel can be punished with a fine and, if repeated, prosecuted as a crime.

7. Family

If you have children that were born in Germany they will usually also be granted a *Duldung*. With a *Duldung* you have no right to subsequent immigration of family members. In Germany, marriage and family are especially protected (Art. 6 GG – *Grundgesetz* [German Basic Law]). If a family member (spouse or minor children) has a *Duldung* for a specific reason, an application for a *Duldung* for the family for that time period can be submitted with immigration authorities.

Note: Contact an advice office if these conditions apply to your family.

8. Prospects

The IvAF networks help refugees to integrate into the job market and improve their chances of getting a regular residence permit. There are various possibilities to overcome the status of *Duldung*:

- After status of *Duldung* of more than 18 months and continued foreseeable impossibility of deportation, you can apply for a residence permit based on § 25 para. 5 AufenthG. However, many other requirements must be met.
- For persons with a *Duldung* who work in their trained pro-

fession, a residence permit based on § 18a AufenthG may be possible.

- Young persons (14 to 20 years) can be granted a residence permit based on § 25a AufenthG if they meet certain requirements.
- Well integrated adults can be granted a residence permit after a long stay (six or eight years) based on § 25b AufenthG if they meet other requirements.

More information can be found in our leaflets concerning the different prospects of staying.

Important Laws

Residence Act – AufenthG (Aufenthaltsgesetz)

Asylum Act – AsylG (Asylgesetz)

Asylum Seekers Benefits Act – AsylbLG (Asylbewerberleistungsge-setz)

Employment Directive – BeschV (Beschäftigungsverordnung)

Refugee Admittance Act for Baden-Württemberg – FlüAG (Flücht-lingsaufnahmegesetz 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 job 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 – Projektver-bund Baden* [Work and Education for Refugees - Project Associa-tion 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 *Ausbildungsduldung* (temporary suspension of deportation due to vocational training)

Access to training and study is possible from arrival and/or after three months in Germany. The flyer explains what training ("Ausbildung") in Germany is and what opportunities are offered by a temporary suspension of deportation due to vocational training (*Ausbildungsduldung*). In addition, the practical hurdles for starting training and studies are explained.

(A6 leaflet, 16 pages, languages: ger/eng/fre/dari/fas/ara/srp)



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, languages: 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 having this status for several years. This flyer explains under what conditions they can receive a residence permit under § 25b AufenthG and what must be observed.

(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. It is based on a template of the “Netzwerk Bleiberecht Stuttgart - Tübingen – Pforzheim” network. There may since been 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, an advice office, an IvAF network 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

www.nifa-bw.de