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Rights of residence
for students and scientists
from non-EU countries

November 2022

	Student language student, PhD candidate	Employment	EU Blue Card	Researcher	High qualified specialist
Legal basis	§ 16b (language student 16f)	§ 18b (1)	§ 18 b (2)	§ 18 d	§ 18 c (3)
<i>titles issued before March 2020</i>	§ 16 (language student 16b)	§ 18	§ 19a	§ 20	§ 19
Minimum income	Subsistence must be secured <ul style="list-style-type: none"> Blocked account (11.208 EUR in 2023) Declaration of commitment grants part time jobs 	Subsistence must be secured by employment <i>If older than 45 years by first issuance: 3878,- €/month or proof of sufficient pension funds</i>	56.400 €/year (2022) 43.992 €/year in specific shortage occupations (IT/natural science)	Subsistence must be secured	Subsistence must be secured by employment
German language skills	Depending on the requirement of the university	no	no	no	no
Other requirements and restrictions	Admission letter of university/ Studienkolleg or language course May contain collateral clause: <i>„get´s void with termination of studies / preparation for studies“</i>	Recognized academic degree (ANABIN) concrete job offer Adequate job conditions, no „Leiharbeit“ (approval of Bundesagentur für Arbeit)	Recognized academic degree (ANABIN) concrete job offer if less than 56.400 € approval of Bundesagentur für Arbeit required: <ul style="list-style-type: none"> adequate salary no „Leiharbeit“ (agency work) 	Hosting agreement and declaration of commitment of research institute (if not public funded institute)	„Exceptional qualification in special field of high importance“ concrete job offer
Employment	120 days or 240 half days plus employment at university/ institute	Restricted to applied employment Self-employment can be allowed (Berlin) full access to labour market after 2 years of employment or 3 years of legal residence (student´s residence time counts 50% max. 2 ys)		In the context of the research project	yes

	Student language course, PhD candidate	Employment	EU Blue Card	Researcher	High qualified specialist
Legal basis	§ 16b , 16f	§ 18b (1)	§ 18 b (2)	§ 18 d	§ 18 c (4)
Duration	2 years language course: 1 year	Duration of working contract; max. 4 years	Duration of working contract + 3 months; max. 4 years	Depending on research project	unlimited
Extension	Language student max. 1year Student: average duration of courses plus 3 semesters Study preparations: 2 years Students after examination: 18 months for job search with full access to labour market if living costs are secured	Yes if contract continues After termination of employment for 6 months for job search with limited access to labour market (10h/week) if subsistence is secured	Yes if contract continues After termination of employment for 6 months for job search with limited access to labour market (10h/week) if subsistence is secured	Yes if project continues After termination of project for 9 months for job search with full access to labour market if subsistence is secured	unlimited
Permanent settlement permit „Niederlassungs-erlaubnis“	No. After an other residence title was issued 50% of the residence period as student are be taken into account	after 4 years of residence and 48 months contribution to social security system with German university degree after 2 years/24 months Language: B1	after 33 months employment under BlueCard conditions Language: A1 after 21 months with language: B1	after 4 years of residence and 48 months contribution to social security system with German university degree after 2 years/24 mths Language: B1	./.
EU permanent residency „Daueraufenthalt-EU“		after 5 years of residence and adequate contribution to the statutory social security system (60 months) or similar private system			

	Student language course, PhD candidate	Employment	EU Blue Card	Researcher	High qualified specialist
Legal basis	§ 16b , 16f	§ 18b (1)	§ 18 b (2)	§ 18 d	§ 18 c (4)
Subsequent immigration (spouse and minor children)	<ul style="list-style-type: none"> • Marriage must have existed at the time the residence permit was granted • Further duration of stay is expected to exceed one year • Subsistence must be secured • Spouses: A1 language test (exceptions for some nationals) 	Subsistence must be secured	Subsistence must be secured	<ul style="list-style-type: none"> • Subsistence must be secured • Marriage has existed at the time the residence permit was granted <u>or</u> A1 language test 	
labour market access for family members	Full access to employment and self-employment for family members				
Child benefits <i>„Kindergeld“</i> and Parental benefits <i>„Elterngeld“</i>	no	yes	yes	yes	yes
Unemployment benefit <i>„Arbeitslosengeld I“</i>	no	yes if access to labour market persists (not with job seaker title) Contributions of not less than 12 months within the last 30 months			yes
Change of residence permit for other purpose	<ul style="list-style-type: none"> • after graduation • for vocational training (Ausbildung) • employment as a skilled worker (Fachkraft) 	yes	yes	yes	titel is unlimited and not connected to the purpose of residence

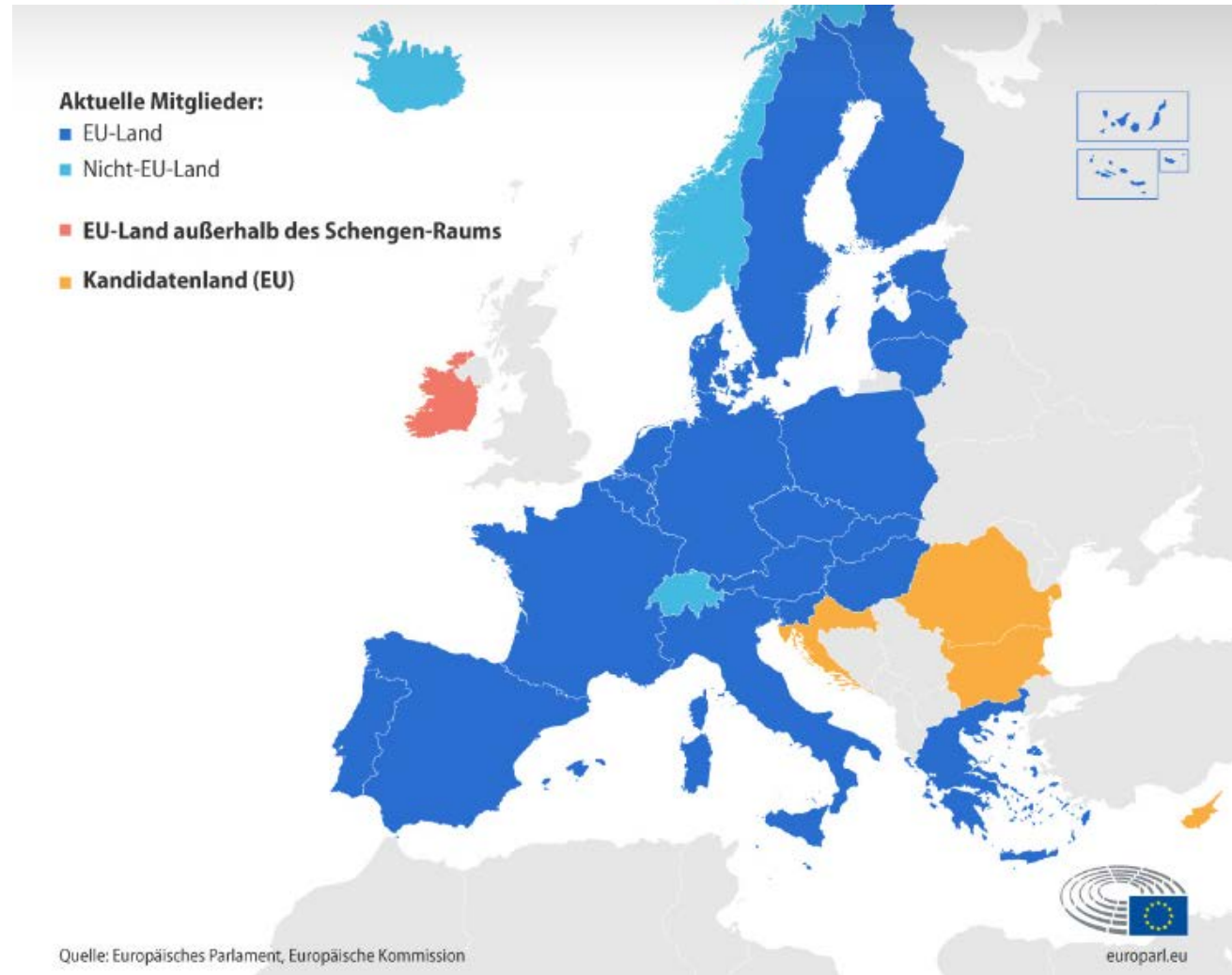
collateral clauses	meaning	example
<i>Erwerbstätigkeit erlaubt</i>	Employment and self-employment/freelance allowed	<ul style="list-style-type: none"> • indefinite residence titles • family reunion • prior employment of 2 years
<i>Beschäftigung erlaubt</i> (als Programmierer bei Firma Müller)	Specific employment allowed	Residence titles for employment
<i>Selbständige Tätigkeit (nicht) gestattet.</i>	self-employment/freelance (not) allowed	Collateral clause for Blue Card holders or researchers.
<i>Beschäftigung für 120 Tage oder 240 halbe Tage im Jahr gestattet</i>	Employment limited to 120 days/240 half days	Students
<i>Erlischt mit Beendigung eines Studiums an einer deutschen Hochschule/im Fach XY</i>	Resolutory condition: gets void if finishing studies (possible with further specification)	Students

Schengen-countries

European Union

- Ireland
- Romania
- Bulgaria
- Croatia
- Cyprus

- + Iceland
- + Norway
- + Switzerland



Applying for a residence title, § 81

- (3) If a foreigner who is **legally resident** in the federal territory and **does not possess a residence title** applies for a residence title, his residence shall be deemed to be **permitted up to the time of the decision** by the foreigners authority. If the application is filed too late, deportation shall be deemed to be suspended from the time of application up to the time of the decision by the foreigners authority.
- (4) If a foreigner **applies for an extension of his residence title** or for a different residence title before his current residence title expires, **the current residence title shall be deemed to remain in force from the time its expires until the time of the decision by the foreigners authority**. This shall not apply to visas pursuant to Section 6 (1).
- If the application to issue or extend a residence title was filed too late, the foreigners authority may order that the previous residence title remains valid in order to avoid undue hardship.

acquiring citizenship (§ 4 StAG)

■ Birth in Germany

- ✓ one parent is German or
- ✓ one parent has an indefinite residence permit and legal residence for not less than 8 years

■ Birth abroad if one parent is German;

if the parent is born abroad himself after 1999 >>> registration in German birth registry within one year obligatory!

■ naturalization:

- residence permit for purposes other than 16a, **16b**, 16d, 16e, **16f**, 17, **18d**, 18f, 19, 19b, 19e, **20**, 22, 23 (1), 23a, 24 and 25 (3) to (5) of the Residence Act,
- legal right (§ 10 StAG):
 - ✓ 8* years legal residence (including student's time) (§ 10 StAG)
 - ✓ 7* years with integration course (§ 10 III StAG)
 - ✓ can be shorten to 6* years with special integration efforts such as language skills of B2 or more (§ 10 III StAG)
- under discretion (§ 8 StAG):
 - ✓ 3 years if married to a German spouse
 - ✓ shorter periods are possible with public interest (scientists, artists...)

*change expected in 2023

Further requirements for naturalization

- ✓ Subsistence must be secured without social welfare

- ✓ Giving up former citizenship*
 - Exceptions if this is not possible or under unacceptable conditions

- ✓ no criminal record

- ✓ Language skills B1

- ✓ naturalization test

*change expected in 2023

Question 1

Which periods of employment are credited to a NE after a German university degree (does a specific residence title have to have existed for this, e.g. research? Or are periods of employment subject to social security with a job-seeker title also eligible?

Permanent residency

	Settlement Permit (general)	EU Long Term Residency	SP for Spouses of Germans/ Parents of minor Germans	SP für Skilled workers/ Scientists	SP with German Degree	SP for EU BlueCard owners	
Regulation	§ 9	§ 9a	§ 28 Abs. 2	§ 18 c Abs. 1		§ 18 c Abs. 2	
Time of legal residence	5 years		3 years	4 years	2 years	21 months	33 months
Language skills	B1		B1	B1	B1	B1	A1
living costs	Forecast of permanently secured livelihood of family members (as a rule: employment contract not terminated, probation period ended) Exception: illness or disability			<ul style="list-style-type: none"> • Undermined contract as a skilled worker • probation period ended • permanently secured livelihood 			
Pension insurance contributions	60 months		no	48 months	24 months	21 months	33 months
Other		Exclusion of humanitarian residence titles other than refugee recognition and subsidiary protection	Marital partnership with a German must continue to exist	Requires employment with recognized professional training			
	periods of study only count with 50%						

Differences Settlement Permit/ EU-Long Term Residency

Settlement Permit

expiration:

- **6 continuous months** out of Germany
- 12 months with EU Blue Card
oder
- departure on which is **not temporary** by nature

exceptions:

- 15-years legal residency
- Secured livelihood
- no reasons for expulsion

or

- cohabiting with German spouse abroad &
- no reasons for expulsion

No secondary migration into other EU states

EU Long Term Residency

expiration:

- **12 months** out of EU (or in IRL, DK)
- 24 months for Blue Card owner and family members
- **6 years** in other EU state (not IRL, DK)

same *exceptions* as Settlement Permit

(visafree) **secondary migration** into other (Schengen) EU-States if livelihood is secured
restrictions for labor market access can apply

Question 2

Cumulation of times of residency?

Many non-EU PhDs and postdocs receive only short term contracts (e.g. 3 years) and have to move to other countries within the EU. This is typically not enough time to fulfill the requirements for the permanent residence for any given EU country (e.g. Niederlassungserlaubnis in Germany):

- Can the previous years spent in a EU country be accumulated?
- What opportunities do such academics have in order to obtain a permanent residence or citizenship?

Question 2

BlueCard holders:

§ 9b (2) AufenthG

Periods during which the foreigner holds an **EU Blue Card** issued by another member state of the European Union are counted as periods required for EU-permanent residency if the foreigner

1. resided in the other member state of the European Union holding an EU Blue Card for at least 18 months and
2. has resided in second member state for at least two years holding an EU Blue Card

Periods of residence outside of the European Union are not counted. However, such periods do not interrupt the period of residence if they do not exceed 12 consecutive months and if they do not exceed a total of 18 months.

Question 2

Former holders of permanent residence titles

§ 9b (1) Nr.2 AufenthG

Periods of residence in Germany, if

- the foreigner was in possession of a **permanent title permit at the time of leaving** Germany and
 - the permanent title expired solely on account of residence outside of the European Union
- up to a maximum of four years.

Question 2

for naturalization

§ 12b StAG

Ordinary residence in Germany is not considered interrupted by stays abroad of up to six months.

If the foreigner has stayed abroad longer than six months, previous residence in Germany **may be counted (discettrion!)** towards the length of residence required for naturalization, up to a period of five years.

contact

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