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

14 November 2024

	Student language student, PhD candidate	Employment of Skilled Workers	EU Blue Card	Researcher	High qualified specialist
Legal basis	§ 16b (language student 16f)	§ 18b	§ 18 g*	§ 18 d	§ 18 c (3)
<i>If issued before 18th Nov 2023</i>			§ 18b Abs. 2		
Minimum income	Subsistence must be secured <ul style="list-style-type: none"> <li>Blocked account (11.208 EUR in 2024)</li> <li>Declaration of commitment</li> <li>part time jobs</li> <li>Grants</li> </ul> for <b>extension</b> : bank statements of the last 6 months	Subsistence must be secured by employment  <i>If older than 45 years by first issuance: 4.152,50 €/month <u>or</u> proof of sufficient pension funds</i>	45.300 € (without apporvel of BA)  41.042 € (with apporvel of BA) in specific shortage occupations or <b>3 years after graduation*</b>	Subsistence must be secured by employment	Subsistence must be secured by employment
German language skills	Depending on the requierement of the university	no	no	no	no
Other requirements  and restrictions	Admission letter of university/ Studienkolleg or language course  May contain collateral clause: „get`s void with termination of studies / preparation for studies“	Recognized adademic degree (ANABIN)  concrete job offer <b>for <u>any</u> qualified job*</b> <ul style="list-style-type: none"> <li>adequate job conditions</li> <li>no „Leiharbeit“ (approval of Bundesagentur für Arbeit)</li> </ul>	Recognized adademic degree (ANABIN)  concrete job offer <u>in the field of studies</u>  if approval of Bundesagentur für Arbeit (BA) is required: <ul style="list-style-type: none"> <li>adequate salary</li> <li>no „Leiharbeit“ (agency work)</li> </ul>	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	<b>140 days/280 half days or 20 hours per week**</b>  <b>full-time in lecture-free period</b>  plus employment at university/ institute  Berlin: self employment allowed	only with the employer for whom it was issued 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)  Berlin: Self-employment allowed	<b>no permission for job change required.</b> <b>Job change has to be announced within the first 12 months; immigration can suspend the job change for 30 days and reject it if the BC requirements are no longer met*</b> Berlin: Self-employment allowed	In the context of the research project and teaching  <div>             * <b>since Nov, 18 2023</b>              ** <b>since March 2024</b> </div>	yes

	Student language course, PhD candidate	Employment	EU Blue Card	Researcher	High qualified specialist
Legal basis	§ 16b , 16f	§ 18b (1)	§ 18 g	§ 18 d	§ 18 c (3)
Duration	2 years language course: 1 year	Duration of working contract + 3 months*; max. 4 years	Duration of working contract + 3 months; max. 4 years	Depending on research project (min. 1 year)	unlimited
Extension	Language student max. 1year  Student: average duration of courses plus 3 semesters  Study preparation: max. 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: <b>Opportunity Card for 12 months with 20h/week***</b>	Yes if contract continues   After termination of employment: <b>Opportunity Card for 12 months with 20h/week***</b>	Yes if project continues   After termination of project for 9 ( <b>18***</b> ) months for job search with full access to labour market if subsistance 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 <b>3**</b> years of residence and <b>36**</b> months contribution to social security system  with German university degree after 2 years/24 months  Language: B1	after <b>27**</b> months employment under BlueCard conditions; language skills: A1  after 21 months with language skills: B1	after <b>3**</b> years of residence and <b>36**</b> 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			

\* since Nov,18 2023
\*\* since March 2024
\*\*\* since June 2024

	Student language course, PhD candidate	Employment	EU Blue Card	Researcher	High qualified specialist
Legal basis	§ 16b , 16f	§ 18b (1)	§ 18 g	§ 18 d	§ 18 c (3)
Subsequent immigration (spouse and minor children)	under discretion: <ul style="list-style-type: none"><li>if student program will continue for at least 1 more year</li><li>Marriage has existed when residence permit was granted</li><li>Subsistence is secured</li><li>Spouses: A1 language test (exeptions for spouses of few nationals)</li></ul>	<ul style="list-style-type: none"><li>Marriage has existed when residence permit was granted</li></ul> or <ul style="list-style-type: none"><li>possession of residence permit since 2 years</li><li>Subsistence is secured</li><li>Spouses: A1 language test</li><li>parents /in-laws: if first residence title for employment is issued not before March 2024**</li></ul>	If subsistence is secured  Parents/in-laws: if first residence title for employment is issued not before March 2024		
labour market access for family members	Full access to employment and self-employment for family members				
Child benefits „Kindergeld“ and Parental benefits „Elterngeld“	no	yes	yes	yes	yes
Unemployment benefit „Arbeitslosengeld I“	no	yes if access to labour market persits (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	yes**	yes	yes	yes	titel is unlimited and not connected to any purpose of residence
				<div><div>* since Nov,18 2023</div><div>** since March 2024</div></div>	

## 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 it 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.



## Q&A: JobSearch

What are the differences between

Job Seeker residence permit (§ 20)	Opportunity Card (§ 20a)
after graduation, research, recognition	Visa application at consulate while in Germany: with residence permit for education or employment only
18 months	1 year
not extendable	Extension for 2 years for qualified employment possible
full access to labour market	20 h/week and qualified probationary employment of 2 weeks

# Opportunity Card for Job Seeker (§ 20a und b AufenthG)<sup>\*\*\*</sup>

- recognized degree or 6 points based on
  - ✓ *qualification*
  - ✓ *experience*
  - ✓ *German and English language skills*
  - ✓ *age*
  - ✓ *Previous legal residence times*
  
- Minimum requirements:
  - ✓ 2-years professional education, which is recognized in the country of education
  - ✓ Language skills German A1 or English B2
  - ✓ livelihood is secured



## Q&A: Jobsearch

- Can the Chancenkarte also be applied for in Germany if the person does not have a visa or must a Chancenkarte visa be applied for abroad?

Job Seeker residence permit (§ 20)	Opportunity Card (§ 20a)
after graduation, research, recognition	Visa application at consulate <b>while in Germany: with residence permit for education or employment only</b>

- Does it change for § 41 AufenthV countries?  
(Australia, Israel, Japan, Canada, South Korea, New Zealand, UK, USA)
  - ✓ Berlin: no exceptions

## Q&A: Jobsearch

### Employment with opportunity card or RP as job seeker

- Is it possible to accept any job up to 20 hours per week with an opportunity card or job seeker, or does it have to be a qualified job (corresponding to a university degree)?

Job Seeker residence permit (§ 20)	Opportunity Card (§ 20a)
full access to labour market	20 h/week and qualified probationary employment of 2 weeks

Permanent Residency	Settlement Permit (SP) Niederlassungs- erlaubnis, general	EU Long Term Residence Permit	SP for Spouses of Germans / Partens of minor German children	SP for Spouses of Skilled workers with SP**	SP for Skilled Workers/Scientists with Foreign Degree	SP for Skilled Workers wih German Degree	SP for EU BlueCard Holders	
Regulation	§ 9	§ 9a	§ 28 Abs. 2	§ 9 Abs. 3a**	§ 18 c Abs. 1		§ 18 c Abs. 2	
period of residency	5 years		3 years	3 years**	3 years** as Skilled Worker	2 years as Skilled Worker	21 months under BlueCard conditions	27 months** under BlueCard conditions
language skills	B1		B1	B1	B1	B1	B1	A1
Living costs	Forecast of permanently secured livelihood of all family members: <ul style="list-style-type: none"> <li>• Employment contract not terminated</li> <li>• Probation Period ended</li> </ul>				<ul style="list-style-type: none"> <li>• Underminated contract as skilled worker</li> <li>• Probation period ended</li> <li>• Secured livelihood of all family members</li> </ul>			
Persion insurance contributions	60 months		no	no	36 months**	24 months	21 months	27 months**
other		Exclusion of humanitarian residence titles other than refugee status or subsidiary protection	family cohabitation continues					
	Periods with residence titel as student count only 50%			employment of not less than 20h/week**	<div>** since March 2024</div>			

# 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

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

## Q&A: Settlement Permit / Niederlassungserlaubnis (SP)

- Can a SP be granted if there was no previous gainful employment, but studies/research were financed by a scholarship?
  - ✓ usually not: pension requirement, Forecast of future secured livelihood

## Q&A: Settlement Permit / Niederlassungserlaubnis (SP)

- Are the proofs of contribution payments to the DRV mandatory or can they be replaced by other (which?) proofs?

### Berlin:

- *From the age of 67, you must have a pension at your disposal that covers your maintenance requirements. This means that you*
  - *have acquired pension entitlements by paying (usually at least 60) contributions into the statutory pension insurance scheme or another pension scheme with comparable benefits or*
  - *will have access to a monthly cash benefit of at least EUR 1,047.80 from a private pension or life insurance policy or*
  - *for self-employed: assets of at least EUR 216,481 are accepted.*

## Q&A: Settlement Permit / Niederlassungserlaubnis (SP)

- How does this work with voluntary contributions to the DRV?
  - deadline: 31 March of the following year
  - minimum contribution: EUR 100.07/month
  - [https://www.deutsche-rentenversicherung.de/DRV/DE/Rente/Allgemeine-Informationen/Wissenswertes-zur-Rente/FAQs/Versicherung/Freiwillige\\_Versicherung\\_Liste.html](https://www.deutsche-rentenversicherung.de/DRV/DE/Rente/Allgemeine-Informationen/Wissenswertes-zur-Rente/FAQs/Versicherung/Freiwillige_Versicherung_Liste.html)

## Q&A

- What residence options are there to live in Germany but have working contract in other EU/EEA countries?
  - No „digital nomad“ visa
  - Settlement Permit / Naturalization
  - Employer sets up a German entity
  - BlueCard with Employer of Record services



## new citizenship law

- ✓ in force since 27 June 2024
- ✓ period of residence in Germany of **5 years**,
- ✓ with “special integration achievements” a reduction to **3 years** is possible,
  - special professional achievements or civic commitment and
  - C1 language skills
- ✓ previous **citizenship** can be **retained**

## Further requirements for 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), 104c of the Residence Act,
- ✓ Subsistence must be secured without social welfare
- ✓ no criminal record
- ✓ Language skills B1
- ✓ naturalization test
  - Exception (Berlin): graduates of a German university

## Q&A

### Naturalization and moving out of Germany

Can a person with permanent residency apply for German citizenship and move out of Germany at the same time? Do I need "Anmeldung" under a German address?

#### § 51 Immigration Act

*The residence title expires in the following cases:*

- 6. if the foreigner leaves Germany for a reason which is **not temporary in nature**,*
- 7. if the foreigner leaves Germany and **does not re-enter within 6 months** (BlueCard: 12 months) or within a longer period set by the immigration authority,*

#### § 12b Citizenship Act:

- (1) Ordinary residence in Germany is not considered interrupted by **stays abroad of up to six months***
- (2) If the foreigner has stayed abroad longer than six months ..., previous residence in Germany may be counted towards the length of residence required for naturalisation, up to a period of 3 years.*

# Q&A

## Example settlement permit

- Entry as a doctoral student on 20.12.2021 with a DAAD scholarship
  - pension insurance contributions paid for 15 months on student job
  - B2 German certificate will be taken in May 2025
  - doctoral thesis will be completed in December 2025
  - a verbal job offer from 2026 in a pharmaceutical company in Germany has been made
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- Fastes track for settlement permit or a German passport?
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- Do I still have to work in academia or can I find a specialist position in industry that meets the salary criteria for specialists set by the German government?

# contact

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