

Access to employment for persons with a temporary stay of deportation ("Duldung") in North Rhine-Westphalia (NRW)

Persons living in NRW who have a **temporary stay of deportation** ("Duldung"), must first apply for a work permit from the **immigration authorities (Ausländerbehörde)** for a **specific job offer before they can start to work. Whether or not a permit is granted depends on three factors:**

- the duration of the person's stay in Germany
- his or her country of origin
- his or her place of residence within NRW

ATTENTION: WORK PROHIBITION!

According to § 60a paragraph 6 of the German Residence Act ("Aufenthaltsgesetz"), persons with a Duldung are still prohibited from working when they:

1. are from a so-called "safe country of origin" and their application for asylum was filed after 8.31.2015 and was rejected.

⇒ A determining factor in work prohibitions is the date of initial registration, the date on the certificate of registration as an asylum-seeker (BüMA). This work prohibition does not apply to persons whose BüMA was issued before 08.31.2015!

⇒ persons who have received a Duldung for other reasons than the above (without asylum proceedings) are not affected by this law.

*currently: Albania, Bosnia and Herzegovina, Ghana, Kosovo, Macedonia, Montenegro, Senegal, and Serbia (see addendum II to § 29a in Asylum Law (Asylgesetz)).

2. are assumed to have come to Germany in order to receive services from the Asylum Seekers Benefits Act. or
3. cannot be deported for reasons they themselves are assumed responsible for.

⇒ Those with a "Duldung" are legally responsible for the fact that they cannot be deported if they submitted false information about their identities or are not actively attempting to procure identification documentation.

⇒ Officials within the immigration authority also make mistakes. Therefore, regular reviews should take place to ascertain whether the reasons behind work prohibitions are actually present.

If the person is not subject to a work prohibition, access to work is regulated as follows:

from the 1st to the 3rd month of residence in Germany

In the first three months, there is a waiting period for access to the job market. Work is not permitted during this time.

up to 6 months of residence

The waiting period can last up to 6 months, since it applies until the asylum seeker is assigned to a municipality.

after the waiting period up to the 15th month of residence

After that access to employment is granted. The immigration authorities (Ausländerbehörden) receive permission from the **Federal Employment Agency** (Bundesagentur für Arbeit) to examine the application for a work permit. **This always involves making sure**

- that the person with a temporary stay of deportation is employed under the same working conditions as the corresponding German employees.

If the person with a Duldung lives in a district of the employment agencies **Bochum, Dortmund, Duisburg, Essen, Gel-**

senkirchen, Oberhausen, or Recklinghausen, then this examination also involves:

- ascertaining whether German or EU citizens or employees of higher-ranking residence permits are available for the job (priority examination).

EXCEPTIONS: The Employment Agency (Arbeitsagentur) waives the priority examination for some occupations. There are also exceptions in which the Employment Agency is generally not involved.**

from the 16th to the 48th month of residence

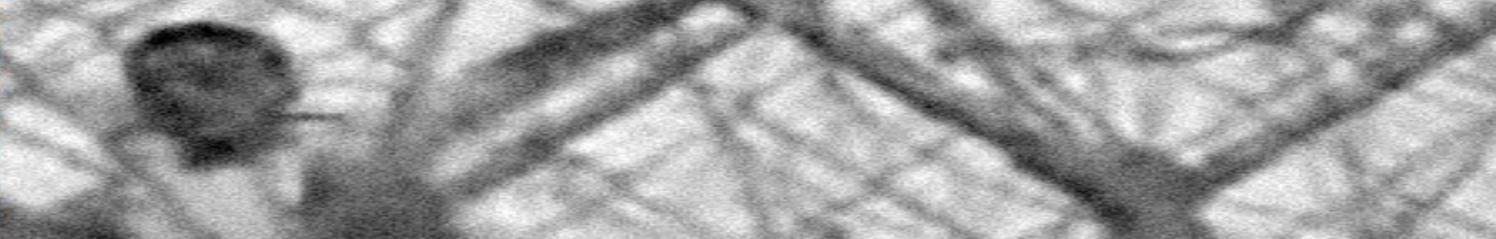
Throughout NRW at this point in time, the only assessments that take place are to ascertain whether the person is employed under the same conditions as corresponding German employees.

from the 49th month of residence

It is no longer necessary to get permission from the Federal Employment Agency (Arbeitsagentur). If there is no work prohibition, in principle the person with a Duldung can take any job, **but must register this job with the immigration authorities (Ausländerbehörde) with the relevant documentation.**

⇒ The final decision as to whether an individual receives a work permit is always at the discretion of the immigration authorities (Ausländerbehörde).

⇒ At the end of the waiting period, the entry "employment permitted with authorization from the immigration authorities" ("Beschäftigung mit Erlaubnis der Ausländerbehörde gestattet") is not automatically recorded on one's identification papers. One must actively consult the immigration authorities in order for this to happen.



Contact

Self-Employment

Those with a temporary stay of deportation (Duldung) may engage in self-employment **if the immigration authorities explicitly permit it.**

This information can be found here: <http://www.bamf.de/SharedDocs/FAQ/DE/ZugangArbeitFluechtlinge/006-selbststaendige-taetigkeit.html>

Temporary Employment

Engaging in work as a temporary employee is not possible if a priority examination is in effect. Since August 6, 2016 priority examinations have been suspended in many regions of NRW for the next three years, and as a result regional differences have arisen:

In the **districts of the employment agencies Bochum, Dortmund, Duisburg, Essen, Gelsenkirchen, Oberhausen, and Recklinghausen**, the examination has not been suspended. Therefore, work as a temporary employee in these districts is only possible after 15 months of residence. There are however some exceptions in which temporary work is possible at earlier points in time. **

Otherwise, throughout NRW temporary work is possible after the waiting period for the job market is over.

****ADDITIONAL INFORMATION** about access to the job market for persons with a temporary stay of deportation can be found at: www.fnrw.de/alpha-owl/hintergrundinfos

Lisa Walter

alpha OWL II
Flüchtlingsrat NRW e.V.
Wittener Straße 201
D- 44803 Bochum

Tel.: +49 (0) 234 - 587315 - 80
Fax: +49 (0) 234 - 587315 - 75

Telefonsprechzeiten: Mo-Do 10-16 Uhr
E-Mail: alphaOWL@fnrw.de
www.fnrw.de/alpha-owl/

Das Projekt alpha OWL II wird im Rahmen der ESF Integrationsrichtlinie Bund im Handlungsschwerpunkt „Integration von Asylbewerber/ -innen und Flüchtlingen (IvAF)“ durch das Bundesministerium für Arbeit und Soziales und den Europäischen Sozialfonds gefördert.



Englisch

(Zugang zu Beschäftigung für
Personen mit Duldung)



FlüchtlingsRAT NRW e.V.

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