

Access to vocational education for asylum-seekers and persons with a “Duldung” in North-Rhine Westphalia (NRW)

For asylum-seekers (with the documentation: “**Aufenthaltsgestattung**” (“temporary resident permit”), “**Ankunftsnachweis**” (“proof of arrival”), “**BüMA**” (“certificate of registration as an asylum-seeker”) and people with a temporary stay of deportation (“**Duldung**”), access to vocational education depends on the following factors:

- **residency status**
- **country of origin**
- **duration of stay in Germany**

An additional factor is whether the training involved is scholastic in nature (“schulische Ausbildung”; e.g. in care for the elderly or physiotherapy) or is an operational vocational training (“betriebliche Berufsausbildung”).

Except for their practical components (e.g. “Praktika”), **scholastic training programs do not require permission from the immigration authorities (Ausländerbehörden)**. If asylum-seekers and people with Duldung are not prohibited from working, they may begin this type of program on their **first day** of residence.

Operational vocational training programs always require **permission from the immigration authorities (Ausländerbehörden)**. Furthermore, this must be recorded by the immigration authorities in residence permits. As opposed to other types of employment, the Federal Employment Agency (Bundesagentur für Arbeit) is not involved in cases of state-recognized (or comparably regulated) occupational training programs. Thus there are **no priority examinations**. **Furthermore, admission to a operational vocational training requires the following:**

Access for Asylum-Seekers

If they are not prohibited from working, asylum-seekers (with the documentation: **Aufenthaltsgestattung**, **Ankunftsnachweis**, or **BüMA**) may begin an operational vocational training **after three months of residence** in Germany if they have already been

assigned to a municipality. This can take **up to six months**.

Access for those with a Duldung

If they are not prohibited from working, those with a temporary stay of deportation (“Duldung”) may begin an operational vocational training **immediately**.

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

ATTENTION: WORK PROHIBITION!

Asylum-seekers and those with a Duldung may be subject to an absolute work prohibition, with which **an operational vocational training is not possible**. The corresponding regulations for asylum-seekers can be found in § 61 Asylum Law, and for those with a Duldung in § 60a paragraph 6 German Residence Act.

According to the aforementioned law, **asylum-seekers and those with a Duldung** are prohibited from working if they come from a so-called “**safe country of origin**” and have filed their application for asylum after **8.31.2015**.

⇒ A determining factor in work prohibitions is the date of initial registration, or the date the BüMA was issued. **This prohibition does not apply to persons whose BüMA was issued before 08.31.2015!**

⇒ TIP: A copy of the certificate of the BüMA can serve as proof of the date of initial registration on a long-term basis.

⇒ According to laws for asylum-seekers, the work prohibition applies to those who applied for asylum after 08.31.2015, and to those with a Duldung whose application for asylum was filed after 08.31.2015 and has been rejected. **Persons who have received a Duldung for other reasons (without asylum proceedings) are not affected by this law.**

According to § 60a paragraph 6 German Residence Act, persons with a Duldung can still be prohibited from working for the following reasons:

- if, in the immigration authorities' point of view, they came to Germany in order to receive social services.
- if they cannot be deported for reasons for which they themselves are responsible.

⇒ People 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 documents.

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

NOTE: SAFE COUNTRIES OF ORIGIN

The notion of “safe countries of origin” is based on the legal assumption that in certain countries there is no persecution, and no inhuman or degrading punishment or treatment.

A list of the so-called “safe countries of origin” can be found in **addendum II to § 29a of Asylum Law (Asylgesetz)**. At this point in time, it includes Albania, Bosnia and Herzegovina, Ghana, Kosovo, Macedonia, Montenegro, Senegal, and Serbia.

Flüchtlingsrat NRW is critical of the concept of “safe countries of origin” since it limits individuals' fundamental right to asylum and since the classification of certain countries as “safe” is often politically arbitrary.

Contact

A Duldung for the duration of educational training

Since August 6, 2016 people with a Duldung, who are receiving educational training at a state-recognized or comparably regulated occupational training, are entitled to a temporary stay of deportation ("Duldung"). This stay is granted for the **entire duration of the training course** and can be extended by **six months for the purpose of searching for a job**, if the training is completed successfully. For the trainees, this new rule means that their stay is secured during participation in the training course and they cannot be deported during this time.

If the trainee stops attending the course, he or she has six months time to search for a new training course. **The instructor must report a discontinued training to the immigration authorities within one week**, since the penalty for not reporting is a fine of up to 30,000 euro (legislative mandate: § 60a paragraph 2 sentence 4 ff. German Residence Act).

Possibilities for educational support*

Asylum-seekers who are not prohibited from working and those who are "expected to receive a long-term, legal stay"* have access to preparatory vocational training programs (BvB), training assistance aid (AbH), and assisted education (AsA) after 3 months. After 15 months they have access to vocational training assistance (BAB).

Those with a temporary stay of deportation without a work prohibition have access to AbH and AsA after 12 months, after 15 months they have access to BAB (if they are completing a training), and after six years they have access to BvB.

***ADDITIONAL INFORMATION** can be found at:
www.fnrnw.de/alpha-owl/hintergrundinfos

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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.



FlüchtlingsRAT

NRW e.V.

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