

Information concerning the provisions on Right of Residence for foreigners required to exit the Federal Republic of Germany - "Bleiberecht"

! - Last Updated: 2. 2. 2007 -

The Requirements	Exceptions and Tips
<p>1. You must apply for a Residence Permit according to 23 (1) of the Residency Law by May 17, 2007 at the latest.</p>	<p>TIP: Go to the Department of Immigration as soon as possible. Ask for a list of the documents you need, and seek advice before applying.</p>
<p>2. You must possess a Temporary Suspension of Deportation (Duldung) at the time of the decision by the Department of Immigration, as the latest possible moment.</p>	<ul style="list-style-type: none"> o so if you are still in the course of an Asylum procedure, you must give up the Asylum procedure. o if you possess a residence permit according to § 25 (4) or § 25 (5) of the Residency Law, you can have it rewritten into a Residence Permit according to the provisions on Right of Residence - as long as you fulfill the other requirements. Seek advice first! o or if you have a residence permit according to § 25 (1) or (2) - a "blue Passport" - and revocation proceedings (Widerrufsverfahren) were opened before 17.5.2007 (pertains to Irakians especially), you can renounce your current residence permit and apply for one according to the provisions on Right of Residence. TIP: You should NOT do this without being advised by a lawyer, nor should you proceed without the Department of Immigration's written agreement that you will receive a residence permit according to the provisions on Right of Residence.
<p>3.a Pertaining to Families: If you have underage children in Germany:</p> <ul style="list-style-type: none"> o a family member must be living in Germany without interruption since 17.11.2000, and o at least one child must go to Kindergarten or to school. 	<ul style="list-style-type: none"> o If you tried to find a place in Kindergarten, but did not succeed because of a lack of openings, that also suffices. The Department of Immigration can require certificates and a prognosis for success in school. TIP: If your child is not yet three years old and goes to a nursery, you should seek a lawyer's advice. In some federal states, visiting a nursery counts. In Bavaria as of yet, it does not. o Pertaining to children who were underage when they came to Germany, but since then have become adults and are not yet married: If you are well integrated, you can also receive a residence permit independently from your parents if one parent has been living here for at least 6 years.
<p>3.b Pertaining to singles and couples without underage children: You must be living in Germany without interruption since 17.11.1998. If you are married, only one of the partners must fulfill this requirement.</p>	<p>o If you were underage when you came to Germany, you will be treated as a single adult in Bavaria. So you need to have lived here for at least 8 years. In some other federal states, you need only 6 years. TIP: If you have been here for 6 years and fulfill the other requirements, you should nonetheless file an application for the Right of Residence. It is possible that Bavaria will change its judgement in the near future.</p>
<p>4. You and all your family members must have a Passport from your country of origin or a German replacement I.D. (Ausweisersatz)</p>	<p>TIP: If you earnestly tried to acquire a passport from your country of origin, but did not succeed, seek advice in an immigration counseling office.</p>
<p>5. You and all your family members must speak good enough German (not writing or reading) at the latest by 30.9.07. An employee of the Department of Immigration will judge this.</p>	<p>TIP: Register yourself in German courses and do a proficiency test.</p>
<p>6. You must live in an apartment that is large enough (12 square meters for each family member over 6 years of age; 10 square meters for children 2 and over.)</p>	<p>o If you momentarily still need to live in a Gemeinschaftsunterkunft because you are not allowed to work, you can still receive a residence permit.</p>

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<p>7. You must have a steady job and earn enough money through your job so that you have no need to be supported by the state (i.e. through Wohngeld, Sozialhilfe, Arbeitslosengeld II, or Asylbewerberleistungsgesetz).</p>	<p>TIP: Seek out advice on how much money this must be. Important: If you receive the residence permit, you have the right to receive Kindergeld (which counts as income).</p> <ul style="list-style-type: none"> o If you do not yet have work or do not yet earn enough, but you otherwise fulfill all requirements, you are on sufferance; deportation will be delayed until September 30, 2007 so that you can look for work. You may take any job you find - the Agency for Work only checks whether the work conditions (especially the pay) are acceptable. You may seek work anywhere in Bavaria. By 30. 9. 2007, you must be able to demonstrate you have a binding job offer, then you will receive a residence permit. o If the support you need from the state is only temporary and only for the children, you can still receive a residence permit. o If you are a single parent and only temporarily need support from the state because your child is still too small for you to be able to work, you can still receive a residence permit. o If you are doing an apprenticeship right now, and need extra support for that reason, you can still receive a residence permit. o If you are incapable of work, you can only receive a residence permit if another person pledges they will pay for you completely so that you need no support from the state. o If you were already 65 or older on 17.11.2006, you may only receive a residence permit if 1) you can provide for your own livelihood by your own means (a retirement pension, for example) or 2) you no longer have any family in your country of origin, but family members in Germany can take care of you, such that you need no support from the state.
<p>You can NOT receive a residence permit according to the provisions on Right of Residence,</p>	
<p>if you, for example, deliberately provided a false name or false nationality at the Department of Immigration.</p>	<p>If that was a long time ago, the Department of Immigration can give you a residence permit anyway. Seek advice.</p>
<p>if you deliberately delayed or prevented your deportation, for example by going into hiding.</p>	<p>If that was a long time ago, the Department of Immigration can give you a residence permit anyway. Seek advice.</p>
<p>if you received a notice of deportation on grounds of §§ 53, 54, 55 paragraph 1, paragraph 2 Nr. 1 – 5 and 8 (Law of Residence).</p>	
<p>if you (or a family member) were convicted of a deliberate crime and the punishment amounted to more than 50 "Tagessätze".</p>	<p>o If the conviction resulted from a violation of the Ausländergesetz, the punishment may have amounted to up to 90 "Tagessätze".</p> <p>TIP: If the crime was committed a very long time ago, the Department of Immigration can give you a residence permit anyway. If there is only one "black sheep" and the family is otherwise well integrated, perhaps a solution can be found. Seek advice.</p>
<p>if you have in any way had something to do with extremists or terrorists.</p>	
<p>This informational flyer lists only the basic provisions. We strongly urge you to contact a counseling center or a lawyer!</p>	