

# Entry and Residence

Germany distinguishes between different kinds of residence titles for specific purposes subject to the length of stay and intended (business) activity in Germany. These include:

- Visa (Schengen visa and national visa)
- Residence permit
- Settlement permit

A visa enables the holder to entry and short-term stays (up to 90 days in any 180-day period) in Germany. A residence or settlement permit is required for long-term stays (more than 90 days in any 180-day period) or for work on a self-employed basis or as an employee in Germany.

The relevant residence title required depends on the investor's nationality, and particularly on the specific area of business activity intended in Germany. A residence permit is not normally required for the setting up of a business. However, a residence permit is required in those cases where the foreign national intends to run the business on-site.

## Who Needs a Residence Title?

EU citizens and citizens of the states of Iceland, Norway, and Liechtenstein do not require any residence title to be able to settle or work in Germany. Swiss nationals have to notify the local immigration office about their long-term stay in Germany in order to get a residence permit certifying their right to free movement.

### Non-EU Citizens: Entry and Short-term Stays

Non-EU citizens generally require a Schengen visa for entry and short-term stays in Germany. However, individual rules apply for certain countries. For example, nationals from Argentina, Australia, Brazil, Canada, Israel, Japan, Mexico, New Zealand, South Korea, UK, the USA, and Hong Kong can stay in Germany for up to 90 days (in any 180-day period) without a visa.

### Non-EU Citizens: Long-term Stays

For long-term stays, non-EU citizens require a residence or settlement permit. The respective local German mission initially issues a national visa for entry into Germany. The national visa is subsequently converted into a residence permit by the competent local immigration office (*Ausländerbehörde*). Non-EU citizens from those countries exempt from the short-term stay visa requirements also require a national visa when entering Germany for long-term stay purposes. Exceptions apply for nationals from Australia, Canada, Israel, Japan, New Zealand, South Korea, UK, and the USA who may enter Germany for long-term stay purposes without a national visa. These foreign nationals can directly apply for the necessary residence or settlement permit at the immigration office in Germany.

### Application Procedure

The residence title generally has to be applied for at the competent German embassy or consulate general prior to entering Germany. The respective visa is then issued in the applicant's home country. The application fee is in general EUR 80 for a Schengen visa and EUR 75 for a national visa. Additional fees of up to EUR 100 for a residence permit are also payable.

Residence title	Entitlement	Foreign nationals who require a residence title
Visa (Schengen visa and national visa)	Entry into Germany followed by a short-term stay (up to 90 days in any 180-day period).	Non-EU citizens excluding nationals from Argentina, Australia, Brazil, Canada, Israel, Japan, Mexico, New Zealand, South Korea, UK, the USA, Hong Kong, and some other countries.
	Entry into Germany followed by a long-term stay (for which an additional residence or settlement permit is required).	Non-EU citizens excluding nationals from Australia, Canada, Israel, Japan, New Zealand, South Korea, UK, and the USA.
Residence permit or settlement permit	Long-term stays and stays with the intention to take up gainful occupation.	Non-EU citizens excluding nationals from Iceland, Norway, Liechtenstein, and Switzerland.

### Visa for Incorporation

A Schengen business visa is sufficient for most activities in the company formation phase. It enables its holder to stay in Germany for up to 90 days, during which time all fundamental establishment activities can be performed. Setting up a company in Germany using a Schengen visa does not alone warrant residence permit issue at a later date. If necessary, a residence permit for self-employment or employment should be applied for in due time. A residence permit must also be applied for if the incorporation phase exceeds 90 days.

#### **Incorporation Activities with a Schengen Business Visa:**

- adopting and notarization of articles of association,
- registration in the commercial register,
- trade office registration (provided at least one representative on-site in Germany is available),
- other preparatory activities (e.g. the conclusion of contracts).

### Residence Permit for Self-Employment

Entrepreneurs from non-EU countries managing a company on-site in Germany in a self-employed capacity require a residence permit for the purpose of self-employment. This permit may be granted if the planned business is expected to have a positive economic effect and has secure financing in place. An individual assessment of the intended business project is then made, taking into account, e.g.: the viability of the underlying business idea, the foreigner's entrepreneurial experience, the level of capital investment, and whether an economic interest or regional need regarding the intended business activity exists. A residence permit for the purpose of self-employment is limited in time for up to three years. A settlement permit (permanent) can be granted after three years if the investment project has been successfully realized and has stable income prospects.

#### **Who is typically considered self-employed?**

- Entrepreneurs (including freelance professions)
- Partners in a partnership
- Majority shareholders of a GmbH who are also managing directors of the GmbH

### Residence Permit for Employment

In March 2020, the new Skilled Immigration Act came into force. It further opens up the German labor market to skilled workers and stipulates the conditions under which qualified professionals from outside the EU can work in Germany. Qualified professionals include university graduates and persons who have successfully completed quality vocational training. The Act makes clear that foreign qualifications – both academic and vocational – must be checked for equivalence with German qualifications and officially recognized in advance. A new feature is the introduction of an accelerated administrative procedure for an extra fee. In the event of a specific job offer, the German employer can initiate the procedure at the competent immigration office, provided authorization by the applicant employee has been granted. This will significantly shorten the duration of the administrative procedure.

In general, residence permits for qualified professionals are only issued where applicants have a concrete job offer, a qualification recognized in Germany and approval from the Federal Employment Agency (FEA). Qualified professionals can be granted a residence permit for up to four years. A permanent settlement permit can be granted after four years.

#### **EU Blue Card**

The EU Blue Card allows qualified professionals with a university degree to be fast-tracked into employment in Germany. Non-EU citizens may apply for this type of residence permit if they hold a German university degree (or a proven comparable qualification) and a job contract with an annual gross salary of at least EUR 56,400 (2022). The annual gross salary level is lower EUR 43,992 (2022) in professions with a particular skill shortage (e.g. engineers, IT specialists). Moreover, the employment must be appropriate to the professional's qualifications. This category requires FEA approval. A permanent settlement permit can be granted after 33 months – or after 21 months if the foreign citizen has attained a specified German language proficiency level.

#### **ICT Card**

Germany has also facilitated long-term intra-corporate transfers of specific staff categories through the introduction of the ICT Card. This enables an intra-corporate transfer from a sending entity outside the EU to a host entity in Germany. Both entities must be part of the same company or company group. Eligible employees are non-EU managers and specialists who have been employed in the sending unit for at least six uninterrupted months immediately preceding the transfer. Moreover, the work contract and, where necessary, the assignment letter e.g. need to state details of the transfer and proof of the employee's professional classification. The ICT card must be applied for at the competent German mission abroad and is subject to FEA approval.