

V-Day: Your visa, your work permit and your new lawyer

Four short letters can destroy all interest in a candidate: V-I-S-A. Many employers avoid dealing with German immigration rules, simply because they feel overwhelmed. But this is a loss for both the candidates and the employer alike. How can expats overcome the VISA-intolerance symptoms in the German jobmarket. Immigrant Spirit looked to **Güler Doğan** from Employland GmbH for advice.

Immigrant Spirit: One of the great fears of Non-EU professionals and German employers alike is the work permission. Many companies don't even consider international staff because they feel overwhelmed by the idea to navigate the jungle of rules and paragraphs. Could you cut us a path?



Güler Doğan, Founder at Employland GmbH

Güler Doğan: I'd be happy to – the German residence jungle is indeed quite dense. Still, in terms of immigration regulation, Germany has become one of the most liberal OECD countries. It's important to know that the conditions for immigration for skilled workers and professionals from third countries have significantly improved in recent years. But the requirements remain: a concrete job offer or employment contract needs to exist—first comes the employment contract, then the residence permit.

In 2012, the Blue Card for university graduates from third countries was established. The Blue Card is a residence

permit generally awarded for an initial period of four-years.

(Listen to our [podcast with Johannes Vogel, FDP](#) – one of the MP's who co-sponsored the Blue Card law.)

It applies to professionals with a university degree earning a minimum gross salary of two-thirds the annual contribution assessment ceiling in the universal pension insurance system (2017: €50,800). There is a lower minimum salary limit of €39,624 for skill-shortage professions such as mathematicians, scientists, engineers and IT-professionals. The Blue Card has many advantages, for instance, faster access to a permanent settlement permit

Professionals who do not earn the necessary minimum gross salary can apply for the residence permit in accordance with § 18 (2) of the Residence Act (AufenthG), which is generally issued for two years. Unlike Blue Card applications, in these cases the Federal Employment Agency checks to see whether preferred applicants (Germans, EU- or EFTA- citizens and eligible foreigners with a German residence permit) are available for the job. If there's no preferred employee, an employer may hire a third-country national.

In 2013, non-academics from third countries have also been given access to the labour market in Germany.

Requirements for these workers are a vocational training degree as well as its recognition as equivalent to the respective German training profession. Additionally, the desired occupation must be listed in the so-called "whitelist". Compiled by the Federal Employment Agency, the whitelist is a list of training professions for which there is a shortage of qualified workers in Germany.

Immigrant Spirit: What about those professionals who would like to move to Germany and start their job hunt ones they are here. The jobseeker visa lasts for six months – and then?

Güler Dogan: It is possible to stay in Germany for up to six months with a job-seeker visa. Whoever travels to Germany with the job-seeker visa and then finds a job within the 6-month timeframe can remain in Germany and apply for a residence permit on-site at the foreigners authority (Ausländerbehörde). Unlike with the tourist visa, the job-seeker visa holder does not have to leave Germany before submitting their residence permit application. With the job-seeker visa, you can come to Germany, find a job, and stay for the entire application process.

However, if a job is not found within the 6-month timeframe, the professional or skilled worker must leave Germany, and apply again for a job-seeker visa.

Immigrant Spirit: Employers won't wait forever before they can begin work with a new employee. How much of a delay must employers expect between the signing of a work contract and approval of the work permission?

Güler Dogan: Of course employers as well as professionals would like to know this precisely and in advance. It is, however, not possible to make an exact, general statement regarding the timeframe. Basically, the following applies: If all the necessary documents exist, processing by the authority generally takes four weeks. When an employer and a professional turn to us with an employment contract, they will learn to what degree we are able to accelerate the process in their individual case.

It is important to know that individual factors and circumstances may affect and prolong the procedure for receiving a residence title.

How long it will take also varies depending on the worker's profession and country of origin. Another factor to consider is if the professional needs to have their qualifications recognized in order to perform their job in Germany. The qualifications may be recognized fully or partly, in which case the applicant may need to participate in qualification adjustment measures in order to attain full qualification recognition in Germany.

In order to give an estimate concerning if a respective residence permit application has the prospect of success and how long the process will take, we may make a preliminary examination upon request. For that we need the respective documents of the professional, e.g., concerning qualifications, work experience and the work contract.

Immigrant Spirit: Your company offers to take over the complete process. Can you explain your service?

Güler Dogan: We take care of the entire procedure for acquirement of a residence permit, and when necessary, the recognition of qualifications. That means: we don't just give consultations, rather we provide all services until the permit is issued.

Here is a concrete description of those services:

– Applying for the recognition of professional qualifications through compiling and submitting all necessary training and education degrees and certificates in the proper translated and legalized format by the respective competent authority.

(All regulated professions in Germany require this qualification recognition procedure.)

- If applicable, applying for a residence title, which allows professionals to participate in qualification adjustment measures (such as internships, training courses or exams) in order to reach full equivalence with the respective German reference position.
- Applying for an entry visa, used for instances such as a job interview
- Applying for a residence and work permit

The individual tasks that we take over for our clients are:

We inform the professional about required documents, and have the documents translated or certified by approved translators. We check the professional's qualifications and work experience. We submit the application for an entry visa with the responsible embassy and for preliminary approval for commencement of employment with the foreigners authority. We determine which German profession the professional is qualified for based on their degree and experience (the so-called "Referenzberuf" for the recognition of foreign qualifications) and we determine the responsible authority for the recognition procedure. We also submit the application for preliminary recognition and for a residence permit with the respective authority and provide support through the entire process. If necessary, we compile and submit an application for a residence title in order for the professional to participate in qualification adjustment measures as well as for the residence and work permit with the responsible authority. Finally, we examine the foreigners authority's response to the application and, if required, investigate the prospects of legal remedies.

Immigrant Spirit: Can you relieve the HR department from all work involved in the visa process? Or are there tasks that a client still has to fulfil herself?

Güler Dogan: We guide our clients through the entire procedure, and ensure that all necessary documents are compiled, and then submit the application. Applicants and employers are involved in so far as they need to submit the necessary documents to us. For example, employers may have to write a letter explaining why this specific worker is an ideal employee for this specific position. This is one more thing we can't do for the employer: In the course of the Federal Employment Agency's priority check, employers must invite preferred applicants who applied for the job advertisement to interview. If these applicants don't match the job, the employer must write letters laying out reasons why they do not match. Since employers do not stand alone in this task, but have us on their side, this should pose no large challenge for them.

Immigrant Spirit: What does the international professional need to do?

Güler Dogan: The professional must submit all the necessary documents for their application, including documents concerning their qualifications and/or work experience and proof of identity (passport). In case the recognition of qualifications is necessary, but the conditions for full recognition are not fulfilled, the professional will need to participate in qualification adjustment measures, such as language courses, theoretical training courses, or internships in order to compensate for practical deficits.

Immigrant Spirit: Usually you fulfil this service for the employer. What if I am an international professional who wants to book your services? Can you help me?

Güler Dogan: Definitely. It is of course in the interest of the professional when the employer covers the cost. But professionals are also welcome to use our legal services independently. Professionals and employers who did not find one another on our internet platform, www.employland.de, may also use our legal services.

Immigrant Spirit: Before this interview we spoke with a good number of expats about your service. A question that returned over and over was: Can you guarantee success?

Güler Dogan: Whenever somebody applies for a residence and work permit, the embassy or foreigners authority employee applies some personal discretion in their decision-making process – thus nobody, neither we nor anybody else, can guarantee success with regard to the approval of the residence and work permit. However, because legal regulations are more important than the employee's discretion, we can assess if a professional from a particular country generally fulfills the conditions for approval for a residence and work permit based on their qualifications.

Before an employer or a professional requests that we seek to procure a work and residence permit, they can request a preliminary examination with us. This costs €100 and within two to three days we'll give feedback, evaluating if an application has prospects for success.

Immigrant Spirit: You charge between €975,- and €1.975,- in order to help with the visa process. Can you help us understand how this prices are set?

Güler Dogan: It costs €975.00 if we only have to apply for a residence permit or for the recognition of the qualification. It costs €1,975.00 if we apply for both. The legal fees for the attorney are usually determined by broad fee schedules. In the case of scheduled fees – including the business fee – the attorney determines the appropriate fee, taking into account all circumstances, at the attorney's own discretion, according to § 14 (1) of the Lawyer's Compensation Act (RVG).

The respective reasonable fees within the given fee schedules are determined using reasonably exercised discretion, while taking into account all circumstances. The scope and the difficulty of the legal activity should also be considered.

German law on aliens is very complex and confusing, not least because of how it interweaves with other national laws. EU law has a growing influence on the national right of residence; at the same time, there are constant changes to the law on entry and residence in Germany. Due to these circumstances, legal work has become particularly susceptible to errors.

Furthermore, the right of recognition is not generally regulated by the federal government. Sometimes this is the case, but in some cases there are different regulations from one federal state to another.

Since there are so many sources for error, special, responsible and systematic work is expected from the attorney working for alien claimants. In consideration of the circumstances mentioned above, we have assessed and fixed our fees.

Immigrant Spirit: If I employ international talent for the first time: What is your most important advice regarding work permits?

Güler Dogan: Having a trusting relationship and clear communication between professional and employer is a huge benefit for all parties when navigating the permit procedure.

Immigrant Spirit: And if I am a Non-EU professional looking for my first job in Germany? What is the most important thing that I can do to help a future employer with the work permit?

Güler Dogan: Already having all the necessary documents for the residence permit application compiled and prepared when signing the work contract accelerates the procedure. Consider the time it takes to have documents translated, or the time it takes to ask and receive proof of previous employment from former employers. Whoever has compiled the necessary documents in advance, helps their employer enormously.

Immigrant Spirit: Thank you.

About Employland:

Through the internet platform www.employland.de, the Employland GmbH offers two complementary services: on the platform, German employers and worldwide skilled workers and professionals are able to connect with one another. After that, by request, Employland takes care of the entire bureaucratic procedure such as the procurement of a residence title and the recognition of a professional's qualifications.

Help a friend's career & share!

Erschienen am 29.07.2017 auf dem Internet-Portal Immigrant Spirit,
<http://www.immigrantspirit.com/v-day-visa-work-permit-new-lawyer/>