

Immigration from third countries into non-academic shortage occupations

Over the last few years, The Federal Republic of Germany has “transformed itself into a modern country of immigration” with rapid political change, and today is one of the “most liberal countries in the entire OECD” with regard to labour migration.ⁱ Germany has not only improved its basic conditions for highly qualified persons immigrating from third countries (countries outside the EU & EFTA). With the revision of the Employment Ordinance in 2013, immigration from third countries was also made possible for non-academic shortage occupations.

Immigration is easiest when the occupation or occupational group is listed in the so-called “whitelist”ⁱⁱ of the Federal Employment Agency (BA).

The whitelist - the basis for immigration in training professions

The whitelist includes training professions where there is a shortage of qualified workers in Germany. For these professions, the Federal Employment Agency generally gives the necessary consent for a residence permit to be granted to third-country nationals. The whitelist is updated every six months as part of a labour shortage analysisⁱⁱⁱ and published in both [German](#) and [English](#)^{iv}.

For professions on the whitelist, the otherwise necessary priority check (where the Federal Employment Agency examines whether preferred applicants are available for a particular job, e.g. German or EU citizens) is omitted. For professions on the whitelist, occupying vacancies with foreign applicants is regarded by the Federal Employment Agency as “acceptable for the labour market and integration policy”.

An examination of the working conditions nevertheless takes place. A foreign skilled worker must not be employed in less favourable conditions than a comparable German skilled worker, not least with regard to salary. Additionally, a requirement for the granting of a residence permit in accordance with Section 18 of the Residence Act (AufenthG) is, a vocational training programme lasting at least two years, an advanced training programme to become a master craftsman or technician, a university degree or a comparable qualification. The qualification must also be recognised as equivalent to a German training profession.

Recognition of a foreign qualification

The recognition of a foreign qualification is the responsibility of Federal or State recognition bodies.

The best result of a recognition process is full equivalence with a German qualification. If the result is initially a partial recognition, the recognition body shall outline the individual qualifications in the notice, describe the deficits and specify the necessary adjustment qualifications for obtaining full recognition. Examples of possible deficits include lack of theoretical knowledge, practical skills, language deficits or lack of experience in professional practice.

Full recognition is achieved once all the listed educational measures, knowledge or suitability tests have been successfully completed. In certain circumstances, the activity may be performed in Germany during the adjustment measures.

Residence in Germany in order to participate in adjustment qualifications

In order to implement appropriate adjustment qualifications, foreign skilled workers have the opportunity to enter Germany for up to 18 months based on Section 17a of the Residence Act (AufenthG), which was introduced in 2015. Upon receipt of full recognition, the stay can be extended by one year in order to find a job corresponding to the qualification.^v

Employment during participation in adjustment qualifications

Skilled workers have the opportunity to work as temporary assistants while participating in adjustment qualifications if they have a binding job offer in the prospective recognised profession. The activity as an assistant must be closely related to the profession for which the skilled worker is seeking recognition. A nurse, for example, who only needs German language knowledge to obtain full recognition, can work as a nurse's assistant in Germany during the language course. Another option is an internship as part of the training.

Special rules for health and care professionals

Health and care professionals from countries where a shortage of qualified workers exists in the health sector can only apply independently to employers in Germany or register with the Federal Employment Agency. Private companies are not allowed to represent such skilled workers (Section 38 Employment Ordinance (BeschV)). The Global Health Workforce Alliance has issued a list of affected countries.^{vi}

Further fact sheets: www.employland.de/press/facts

ⁱ Sachverständigenrat deutscher Stiftungen für Integration und Migration 2015: Unter Einwanderungsländern: Deutschland im internationalen Vergleich. Jahresgutachten 2015

https://www.stiftung-mercator.de/media/downloads/3_Publikationen/SVR_Jahresgutachten2015_150427.pdf

ⁱⁱ Bundesagentur für Arbeit 2017: Positivliste. Zuwanderung in Ausbildungsberufe

<https://www.arbeitsagentur.de/positivliste>

ⁱⁱⁱ Bundesagentur für Arbeit 2016: Blickpunkt Arbeitsmarkt – Fachkräfteengpassanalyse

<https://statistik.arbeitsagentur.de/Navigation/Footer/Top-Produkte/Fachkraefteengpassanalyse-Nav.html>

^{iv} Bundesagentur für Arbeit 2017: White List. Immigration into recognized occupations

<https://www.arbeitsagentur.de/whitelist>

^v Bundesagentur für Arbeit 2015: Merkblatt Beschäftigung von Drittstaatsangehörigen Ausländerinnen und Ausländern im Anerkennungsverfahren nach § 17a Aufenthaltsgesetz

<https://www3.arbeitsagentur.de/web/wcm/idc/groups/public/documents/webdatei/mdaw/mtgw/~edisp/egov-content453202.pdf>

^{vi} World Health Organization 2006: List of 57 countries facing Human Resources for Health crisis, in: The world health report 2006: working together for health

<http://www.who.int/workforcealliance/countries/57crisiscountries.pdf?ua=1>

Dated: 28th February 2017