

The Legal Basis

The EU Council Directive 2005/71/EC (Researchers Directive) dated 12 October 2005 on a specific procedure for admitting third country nationals for the purposes of scientific research was transposed into German law on 28 August 2007.

Benefit of the Procedure

Section 20 of the German Residence Act (hereafter AufenthaltG) stipulates that named researchers may be engaged as employees, pay for their own costs or hold a scholarship in respect of a host organisation. Doctoral students may also avail of this special admission procedure, provided their PhD programme is not a full time one. Should this be the case, the only option open to them will be to apply for a residence permit under Section 16 of the AufenthaltG. If they are not pursuing a full-time PhD course, they can choose between applying for a residence permit under Section 16 or Section 20 of the AufenthaltG.

Before applying for a visa, the researcher will need to sign a hosting agreement (a contract governed by private law) with the relevant research organisation. If the agreement fulfills the specified minimum requirements, then it entitles the signee to a residence permit pursuant to the Section 20 of the AufenthaltG. The relevant German diplomatic mission and the German Foreigners Authority only check whether a hosting agreement fulfills the minimum requirements.

A visa is issued without the involvement of the Foreigners Authority, thereby accelerating the procedure considerably.

If the researcher is already married, their spouse is not required to fulfill the usual German language requirements. Both the researcher and their spouse may take up employment in Germany without requiring work permits. The spouse may take up work as an employee, or become self-employed.

Accrediting Research Organisations

Public and private research bodies engaged in scientific research in Germany may apply for accreditation to conclude hosting agreements with researchers from non-EU countries.

The Federal Office for Migration and Refugees is the official German state organisation responsible for approving such research bodies. An application form, as well as an updated list of approved research organisations may be downloaded from the Federal Office's site (www.bamf.de/researchstay).

Concluding Hosting Agreements

Approved research organisations may negotiate hosting agreements with researchers from non-EU countries once

- It has already been ascertained that the research project will definitely go ahead,
- The researcher has been deemed capable of carrying out the research work in question and possesses the necessary higher education qualifications, which confers admission to graduate programmes, and
- The researcher's means of subsistence is guaranteed for the duration of their stay.

Hosting agreements must include the following details:

- The designation of the proposed research project,
- A statement confirming the researcher's duty to complete the research project,
- A statement confirming the host organisation's obligation to admit the named person in order to conduct the research in question,
- Details of the researcher's activity and in case of employment, salary, annual leave entitlement, working hours and insurance coverage, as well as
- A provision stipulating that the agreement be deemed null and void should the named person be refused a researcher's residence permit.

A sample hosting agreement can be viewed on the Federal Office's website (www.bamf.de/researchstay).

Entry from non-EU Countries

Researchers from non-EU countries must be in possession of a residence title to enter and stay in Germany. This title is initially issued in the form of a visa and subsequently in the form of a residence permit in accordance with Section 20 of the AufenthaltG.

German diplomatic missions (Embassies/General Consulates) in the country or territory where the researcher habitually, or legally, resides are responsible for issuing of the free of approval visas.

The visa application forms may be obtained from the relevant diplomatic mission free of charge, or alternatively downloaded from the German Federal Foreign Ministry's website (www.auswaertiges-amt.de).

Nationals of the following countries (Australia, Canada, Israel, Japan, South Korea and the United States of America) may also apply for the requisite residence permit at the local Foreigners Authority after their arrival in Germany.

Granting Residence Permits

As a rule, residence permits are granted to applicants when

- Their means of subsistence is guaranteed,
- Their identity and citizenship has been confirmed,
- No deportation orders or travel bans exist,
- Their stay does not affect or endanger the vital interests of the Federal Republic of Germany,
- All immigration, passport and visa requirements have been satisfied.

Residence permits for researchers are granted for a minimum of one year, unless the research project duration is shorter. The local Foreigners Authority in Germany is responsible for issuing such permits. A fee of 100 Euro is payable for residence permits valid up to one year, for longer periods, a higher fee of 110 Euro applies.

