



Basic information - exceptional leave to remain **Temporary stay of deportation *DULDUNG***

The exceptional leave to remain (Duldung) is one of the most arduous chapters of federal Germany's political dealings with foreigners. Thousands of people are kept in a status of unpunishable illegality for years and decades. The following provides you with a summary of what is necessary for life subject to such an exceptional leave to remain.

- An exceptional leave to remain is not a legal title permitting the holder to remain in Germany. It is rather a confirmation of the holders' obligation to departure, which simply cannot be completed momentarily.
- Exceptional leave to remain is uncertain – holders are constantly threatened with deportation. An exceptional leave to remain may be valid from a few days up to six months. Only after an exceptional leave to remain having lasted one year, is the Foreigners Authority (Ausländerbehörde) obliged to announce a deportation one month in advance.
- An exceptional leave to remain does not address the individual reasons on why and how people have come to Germany.
- An exceptional leave to remain does not imply any previous status or permission to remain.
- People of all ages, single or married, whatever their state of health, etc. may be subject to this exceptional leave: children born in Germany, single minors, families, old people, etc..
- The Foreigners Authority can order conditions and additional constraints, as well as measures, to speed up the "willingness to depart".
- Since illegal stay is not dealt with by the legal system, the Foreigners Authority must issue exceptional leave to remain, if deportation is legally or factually impossible (e.g. due to missing papers, no means of transport).
- Exceptional leave to remain always ceases on departure.

Social service payments and accommodation

- There is no right to receive dole or social benefits. Exceptional leave to remain holders only get benefits according to the Asylum Seeker Benefits Law (Asylbewerberleistungsgesetz or, abbrev. AsylbLG).
- Benefits via the AsylbLG are significantly lower than the normal dole payments (ALG 2), e.g. for a single person to the value of about 200 € instead of 345 €.
- Benefits according to the AsylbLG are often issued as material ones (meal tickets, coupons). Only about 10 € a week are to be paid in cash.
- Benefits for asylum seekers may be reduced or annulled, as the authorities see fit.
- The AsylbLG-law is required to provide a holder with reduced medical care. A proof of urgent need for care must however be supplied by applicants.
- The situation may be improved only after having drawn benefits for fully 3 years, if no allegation has been made that applicants have influenced the duration of their stay. The level of benefits is then determined by Social Law. Reductions and annulments may happen.
- Any help from lawyers / solicitors needs to be paid for by the applicants themselves.
- Holders of exceptional leave to remain are not legally required to live in a communal pension. Applications for apartments or a place to stay may be rejected, however. Having to live in a communal pension may be part of an additional constraint. Such measures are becoming more common, because the communal pensions are not full.
- The Foreigners Authority may stipulate a move to a so-called departure centre (Ausreisezentrum) to improve "willingness to depart".

Travel limitations

- The permission to travel (Räumliche Beschränkung) is limited for holders of exceptional leave to remain absolutely to the area of the federal German state they are in. As a rule, all holders are forbidden to leave the area administered by the assigned Foreigners Authority.
- With few exceptions for appointments with the courts or administrative authorities, a special permit must be applied for in person, and needs to be well founded. Application for this may be rejected.
- Travelling without a permit is seen as an offense and will be penalised with a fine and some sort of punishment.

Family

- Family members' subsequent immigration to live with the holder of exceptional leave to remain is not allowed.
- Holders can marry or live together, if both are in Germany at the time and all necessary papers are on hand. The same thing is true, if one of the people involved is a German citizen.

- Papers received for the purposes of marriage may be used by the Foreigners Authority for other purposes.
- Children born in Germany of holders will also receive exceptional leave to remain as a rule.

Education

- In Schleswig-Holstein all children and youths are required to attend school: 9 years of full-time school in total. Time spent in schools outside of Germany is considered.
- After completing school, or after the 18th birthday, youths that have the permission to remain may visit public schools. These schools are not legally required to accept them. Subsidies for learning materials, travel costs etc. are not available.
- German language courses thus need to be financed by the person with exceptional leave to remain, including travel costs. This also applies for other courses of any kind. There is no right to take part for free in integration courses.
- People with exceptional leave to remain may not take part in educational measures which are sponsored by the State Job Agency or ARGE / Jobcenter.
- It is in theory possible to take up university studies. The usual requirements have to be met. There are no subsidies for learning material, travel costs or fees. The Foreigners Authority may prevent holders of exceptional leave to remain from studying, or travelling.
- People with exceptional leave to remain may be allowed to attain a driver's license, if their identity is seen to be validated. In this case the exceptional leave to remain is an alternative to an i.d. card. Training and fees must be financed privately, and travel permits are needed for taking longer trips etc..

Work

- For people with exceptional leave to remain, work and earning an income is not permitted, according to residence laws. Exceptions for holder of exceptional leave to remain are listed in an Employment Procedures Regulation and are approved only through an application process.
- Only one year after the onset of permission or exceptional leave to remain, one may receive a work permit. As far as it feels it's acceptable, the Foreigners Authority may or may not agree. A precondition is that there is no allegation of holders of entering Germany only to receive benefits, or of having prevented their deportation themselves.
- For people with exceptional leave to remain, access to work is deemed "secondary". They must provide the Foreigners Authority with a definite job offer and may only apply for a work permit for that job. Should the Authority agree, it will set an internal procedure into motion that seeks the approval of the State Job Agency. By checking the job market, this will i.a. determine whether any Germans, EU foreigners or people with existing permanent residence permits come into question for the job.
- Exceptions may be applied for, in individual cases, if well founded.
- For work training, a (holiday) job, volunteer work ... for every kind of work, all people with exceptional leave to remain, even youths, need the approval of the Foreigners Authority, and perhaps even of the State Job Agency.

As of November 17th, 2006, Germany's Ministries of the Interior have provisions for a right of residence. Only some people with exceptional leave to remain (Duldung) will have a chance to get a permanent right of residence at this way, because there are a lot of requirements. More information at our website: www.infonet@frsh.de / Bleiberecht

Please note:

This is not so much a guide, as simply an overview of the general conditions of living under exceptional leave to remain. Every single person must be considered, and her or his situation be checked carefully. This information has been collated according to our best sources, but they are no substitution for legal advice. We do not guarantee completeness and correctness. All data relate to Schleswig-Holstein. Version as at April 2007

More information on our web site:

www.infonet-frsh.de

The project *INFONET – educational and professional access for refugees* is part of the EQUAL development partnership *Land Ahoy! - Vocational Qualification for Refugees in Schleswig-Holstein*, is scheduled to run until the end of 2007 and is a subsidiary of Flüchtlingsrat Schleswig-Holstein e.V. The Flüchtlingsrat society was founded in 1991 and is the umbrella organisation of initiatives, groups, organisations and single persons showing solidarity with refugees and working for refugee aid in Schleswig-Holstein. It does anti-racism public relations and represents refugees' and migrants' political needs to local authorities and to the state government. The society is a member of the national body for refugee work PRO ASYL e.V.

INFONET ist ein Teilprojekt
der Entwicklungspartnerschaft

Land in Sicht!
Berufliche Qualifizierung
für Flüchtlinge
in Schleswig-Holstein

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Equal

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