

Researchers from Non-EU-Countries who need to move between Member States of the European Union for research purposes shall be exempted from paying visa fees.

Residence entitlements issued by a Member State, which is also a Contracting Party to the Schengen Agreement, allow researchers (including those who do not have a German residence entitlement) to become gainfully employed for a maximum of three months, within a twelve-month period, for the research project designated in the hosting agreement and for teaching purposes. If the residence entitlement was issued by a Member State, which is not a Contracting Party to the Schengen Agreement, the right to freedom of movement enshrined in Article 21 of the Convention implementing the Schengen Agreement cannot be invoked. This means that these researchers require a residence entitlement if they are to engage in research work for up to three months, if necessary in the form of a visa. The visa must expressly allow the person to work as a researcher.

Residence entitlements issued by Member States which are also Contracting Parties to the Schengen Agreement allow researchers to enter the Federal Territory without a visa. Researchers are obliged to apply to the competent Foreigners Registration Authority where they are residing for a residence permit issued to researchers within three months of entering the Federal Territory. Until then, they are permitted to reside and work provided they have not already utilised the right to become gainfully employed in part or in full during the past twelve month-period. If they have, researchers must apply for a national visa prior to entering the Federal Territory that explicitly permits them to carry out research work.

The following documents must be submitted:

- The hosting agreement negotiated with the research organisation which has been approved by the Federal Office for Migration and Refugees and

- A declaration in which the research organisation undertakes to assume the costs incurred by public agencies up to six months after the hosting agreement has come to an end.
- The declaration only needs to be issued if the organisation is not financed mainly from public funds and if the organisation has not issued a general declaration that it will assume the costs incurred vis-à-vis the Federal Office for Migration and Refugees for all foreign researchers.

Please contact the relevant diplomatic mission abroad or Foreigners Registration Authority to find out which other documents need to be submitted.

A residence permit for researchers entitles them to become gainfully employed for the research project designated in the hosting agreement and also to teach. The researcher's spouse will have unlimited access to the labour market, if he or she holds a residence permit. An examination by the Federal Employment Agency is not necessary.

A researcher holding a residence entitlement issued by another Member State of the European Union under Council Directive 2005/71/EC of 12 October 2005 (on a specific procedure for admitting third-country nationals for the purposes of scientific research) shall be granted a residence permit, or visa so that they can carry out part of the research in the Federal Republic. However, they shall only be granted a visa for longer than three months if they meet the general requirements for residence entitlement (see also „Granting of residence entitlements“).

Who reside in a Member State of the European Union because they have filed an application for refugee status or for subsidiary protection within the meaning of Directive 2004/83/EC.

Who reside in a Member State of the European Union within the framework of a regulation governing temporary protection.

Whose return to a Member State of the European Union has been suspended for legal reasons, whose research activity is an integral part of a doctoral programme or

Who are being seconded to a German research organisation as an employee by a research organisation in another Member State of the European Union.

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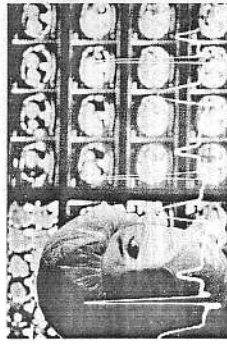


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The procedure for admitting third-country nationals for the purposes of scientific research in Europe has been optimised. The Act on the Implementation of Directives of the European Union on the Right of Residence and Asylum (Gesetz zur Umsetzung Aufenthaltsgesetz und asylrechtlicher Richtlinien der Europäischen Union) became law on 28 August 2007, thus implementing Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research into national law within the given deadline.

The procedure for obtaining residence is now divided into three steps:

- The Federal Office for Migration and Refugees has to approve research organisations before they can negotiate hosting agreements with researchers;
- The approved research organisation negotiates a hosting agreement with the researcher;
- The Foreigners' Registration Authority issues a residence entitlement (as a residence permit within Germany); alternatively, diplomatic missions abroad may issue a residence entitlement (as a visa issued abroad).

#### Regulatory basis

The European Community is set to become the most competitive and dynamic knowledge-based economic area in the world by 2010. The European Council of Lisbon defined this objective in March 2000.

„COUNCIL DIRECTIVE 2005/71/EC of 12 October 2005" on a specific procedure for admitting third-country nationals for the purposes of scientific research is intended to make a contribution in accomplishing this goal. In particular, the Directive is intended to grant approved researchers certain rights in relation to residence, teaching at institutions of higher education, equal treatment regarding the recognition of diplomas, certificates and other professional qualifications, working conditions, social security schemes, tax benefits etc. and to facilitate mobility within the EU for the same, or other research projects.

Up to now, researchers from Non-EU-Countries had to apply for a residence permit if they wished to stay in Germany for more than three months for the purposes of gainful employment (Section 18 of the Residence Act). In this context the Foreigners' Registration Authority had to check in each individual case whether a relevant need to employ the researcher actually existed, and whether he or she held the professional qualifications required.

In the future the research organisations' own expertise will be relied on in the special admission procedure as, unlike the Foreigners' Registration Authority, they are much more capable of establishing researchers' professional qualifications and whether these are actually required. Once researchers have negotiated a hosting agreement with an approved research organisation, they can apply to the relevant German diplomatic mission abroad for a researcher's visa or to the local Foreigners' Registration Authority for a researcher's residence permit in accordance with Section 20 of the Residence Act. As a rule, the Foreigners' Registration Authority then merely checks whether the researcher meets the general visa requirements (see also „Granting of residence entitlements"). The Federal Employment Office does not carry out labour market checks as such.

Public and private research organisations can apply for approval to conclude hosting agreements with researchers from Non-EU-Countries.

Applications for approval of research organisations will be processed from 1 December 2007 onwards.

The Federal Office for Migration and Refugees will be responsible for approving research organisations and all applications are to be addressed in writing to the Federal Office. The application form and more detailed information on the „Approval of research organisations" can be downloaded from the Federal Office's website ([www.bamf.de/forschungsaufenthalte](http://www.bamf.de/forschungsaufenthalte)). The latest list of approved research organisations will also be displayed on this website.

#### COOPERATION WITH RESEARCH ORGANISATIONS

Only an approved research organisation can successfully negotiate hosting agreements with researchers if

- It has been ascertained that the research project is to be implemented,
- The researcher is suitable for and capable of carrying out the research and has the necessary higher education qualifications, which grants admission to graduate programmes and
- The researcher has sufficient financial resources to support himself.

Hosting agreements must contain the following information:

- The exact designation of the research project,
- The researcher's obligation to implement the research project,
- The researcher's obligation to implement the research project,
- The researcher for the purposes of implementing the research project,
- Details on the main content of the legal relationship, in particular, on the scope of the researcher's activity, salary, annual leave, working hours and insurance as well as
- A provision stating that the hosting agreement will be annulled if the person in question is not granted a researcher's residence permit.

A sample of a hosting agreement is posted on the Federal Office's website: [www.bamf.de/forschungsaufenthalte](http://www.bamf.de/forschungsaufenthalte)

#### APPLYING FOR A RESIDENCE PERMIT

In principle, researchers from Non-EU-Countries who want to work in Germany need to obtain a visa before entering the Federal Republic of Germany. The diplomatic missions abroad (Embassies/General Consulates) of the Federal Republic of Germany in whose official district researchers habitually reside, or have legal residence are responsible for issuing visas. The visa application forms can be obtained from the respective foreign mission free of charge. The forms can also be downloaded from the Federal Foreign Ministry's website ([www.auswaertiges-amt.de](http://www.auswaertiges-amt.de)).

Nationals of Australia, Israel, Japan, Canada, South Korea and the United States of America may also apply for the necessary residence entitlement after entering the Federal Republic.

#### RESEARCH ENTITLEMENTS

As a rule, foreigners applying for a residence entitlement must meet the following requirements:

- They must be in possession of a valid passport and have entry clearance (visa),
- They must have sufficient financial resources for their entire stay,
- Their identity and nationality must have been established,
- There may not be reasons to expel, or to ban them on entry,
- Their stay must not affect or pose a risk to the interests of the Federal Republic of Germany.

#### APPLYING FOR A RESIDENCE PERMIT

Residence permits for researchers are granted for a minimum of one year unless the research project duration is shorter. The local Foreigners' Registration Authority in Germany of the place of residence is responsible for issuing the residence permit.

Residence permits issued for up to one year are subject to a fee of EUR 50, for more than one year, EUR 60.