

Questions and Answers on the Employment of Foreign Workers in Germany

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I. General questions

As of 1 May 2011, the transitional arrangements on freedom of movement expire for Member States that joined the European Union in 2004. These are Poland, Hungary, the Czech Republic, Slovenia, Estonia, Latvia, Lithuania and Slovakia. From then on, nationals of the eight listed states, the so-called EU-8, shall have full access to the German labour market.

The two-stage demand-led system for the immigration of foreign workers to Germany thus only still applies for Union citizens from Romania and Bulgaria and third countries:

1. Access to the German labour market under a legal provision
2. Job-specific allocation by ascertaining whether a preferential worker is available for the employment in question (so-called priority examination) and the working conditions are comparable with those of national workers

With higher levels of qualification, foreigners employment law makes provisions for facilitating employment at both stages. Closer regulation of immigration makes a distinction between workers from Romania and Bulgaria and third countries (see II. and III.).

1. What does the so-called priority examination mean?

In the priority examination, the competent employment agency ascertains whether preferential applicants are available for a certain job. Precedence is accorded in Germany to Germans, Union citizens, citizens from EEA states and Switzerland and third-country nationals with unrestricted labour market access.

II. Employment of nationals from the EU-8 Member States

1. Does the free movement of workers apply in full to EU-8 Union citizens?

Yes. 1 May 2011 marks the expiry of the transitional arrangements on freedom of movement for Union citizens from Member States that acceded in 2004, except for nationals from Malta and Cyprus. In a transitional period of seven years, partial restrictions could be imposed on the free movement of workers.

The free movement of workers specifically means that Union citizens can move freely as employees in the European Union, can look for and perform work and must be treated equally with national employees.

2. What provisions apply for the residence and employment of EU-8 Union citizens?

The Residence Act does not apply for EU-8 Union citizens. Their residence status is governed by the Freedom of Movement Act/EU.

3. Do workers from the EU, including the EU-8 Member States, have to apply for a residence title?

No. As Union citizens entitled to move freely, they require neither a visa nor a residence permit to enter or stay in Germany. To enter Germany, all they need is a valid passport or identity card. When they change their place of residence to Germany, EU-8 Union citizens - like Germans - must notify the registration office of the federal state where they take up residence in compliance with local registration requirements. The registration office transfers the particulars to the foreigners authority, which then issues a certificate on its own (without application) confirming EU right of residence.

4. What authorisation do EU-8 Union citizens need to be allowed to work in Germany?

As of 1 May 2011, EU-8 nationals no longer require authorisation from the Federal Employment Agency to take up work with an employer in Germany. This holds for all employment relationships with national employers regardless of qualification, length of employment and industry. Legally resident family members of Union citizens employed in Germany may also perform a gainful activity as employed or self-employed persons in Germany. This holds from the first day of their stay.

III. What applies for Union citizens from Romania and Bulgaria?

Romania and Bulgaria only joined the EU on 1 January 2007. Transitional arrangements on the freedom of movement still apply for nationals from these countries after 1 May 2011.

1. Does the free movement of workers apply for Romanians and Bulgarians in full?

No. Unlike the nationals of the other Member States, Union citizens from Romania and Bulgaria cannot as yet lay full claim to the fundamental European freedom of movement for workers. In the treaty of accession with these two states, provisions have been made for applying transitional arrangements on freedom of movement over a period of up to seven years. By 31 December 2011, the German Federal Government

will decide whether the conditions for a final two-year prolongation provided for in the treaty of accession have been met and whether to opt for the extension.

2. What provisions apply for the residence and employment of Union citizens from Romania and Bulgaria?

Union citizens from Romania and Bulgaria are generally excluded from the scope of application of the Residence Act. Their legal residence status is regulated by the Freedom of Movement Act/EU. The legislator has implemented the restrictions on labour market access by including new Union citizens in the 'old' work permit provisions¹ under Sections 284 ff. of Book III of the German Social Code (SGB III) now referred to as EU work permits law. The Freedom of Movement Act/EU thus only obtains when the employment of the Union citizen from Romania and Bulgaria has been approved by the Federal Employment Agency as per Section 284(1) of SGB III, where the labour-market admission teams of the International Placement Services are responsible for authorisation. Information on the new responsibilities is available at <http://www.arbeitsagentur.de/Dienststellen/besondere-Dst/ZAV/Downloads/AMZ/amz-neuorganisation-mb-an-ag.pdf>. Labour-market access is still generally regulated by the Regulation on Work Permits and the Regulation on Exceptions to the Ban on the Recruitment of Foreign Labour. Furthermore, the Residence Act, the Regulation on the Admission of Foreigners for the Purpose of Taking Up Employment and the Regulation on Official Procedures Enabling Resident Foreigners to Take Up Employment find application via the so-called favourability principle (Section 284(6) of SGB III), where they contain preferential provisions compared with EU work permits law. The Exceptions Regulation accordingly only still applies for modular building installers and the Employment Procedure Regulation otherwise.

3. Do workers from Romania and Bulgaria have to apply for a residence title?

No. As Union citizens entitled to move freely they require neither a visa nor a residence permit to enter or stay in Germany. To enter Germany, all they need is a valid passport or identity card. When they change their place of residence to Germany, they - like Germans - must notify the registration office of the federal state where they take up residence in compliance with local registration requirements. The registration office transfers the details to the foreigners authority, which then issues a certificate on its own

¹ Employment law for workers from third countries was amended under the Immigration Act that entered force on 1 January 2005 a few months after the first EU enlargement eastwards.

(without application) confirming the Community right of residence.

4. What authorisation do Romanians and Bulgarians need to be allowed to work in Germany?

In the transitional period, Union citizens from Romania and Bulgaria still require a EU work permit from the Federal Employment Agency (Section 284(1) of SGB III) to take up work in Germany. This has to be obtained before commencement of work. It is initially issued as a temporary EU work permit. After twelve months the worker is entitled to a EU right to work. Applications for the EU work permit are no longer addressed to the local employment agency but to the International Placement Services team responsible for the employer enterprise, which also decides on the request for approval. Contraventions of the work permit requirement constitutes an administrative offence under Section 404(2) no.3 and/or Section 4 of SGB III.

5. In what exceptional cases can Union citizens from Romania and Bulgaria work in Germany without requiring a work permit?

Under Section 9 of the Regulation on Work Permits, Union citizens from Romania and Bulgaria are exempted from this work permit requirement for certain forms of employment, i.e., they can perform the activities cited without approval from the International Placement Services. These include the following, as detailed in Section 9 of the Work Permit Regulation:

- Employment of executives (no. 1)
- Short-term posted workers for certain activities (no. 5)
- Activities in science, research and teaching (no. 8)
- Student holiday jobs (no. 9)

6. Does exemption from the work authorisation requirement also apply to highly skilled workers from Romania and Bulgaria?

Yes. Via the favourability principle (cf. favourability principle in Question 2), highly skilled workers from Romania and Bulgaria are subject to Section 3 of the Regulation on the Admission of Foreigners for the Purpose of Taking Up Employment. This provision grants exemption from the work permit requirement as a special privilege for highly skilled workers in accordance with Section 19(2) of the Residence Act (or exemption from approval). Highly skilled workers include scientists with special expertise, teachers

in a senior function as well as specialists and executives with exceptional professional experience, the latter, however, only if they receive a salary amounting to at least the contribution assessment ceiling for general pension insurance (currently EUR 66,000 a year).

7. Who is responsible for issuing the EU work authorisation?

Where no exemption is granted from the work permit requirement, an application must be made for a EU work permit from the Federal Employment Agency. It must be submitted to the International Placement Services team responsible for the employer enterprise. The application for the EU work permit can be made by the employee or by the employer as his/her representative. A qualification certificate and the contract of employment must be attached to the application. A specific job offer by the employer citing the main working conditions (particularly pay and working hours) must also be submitted, so that the requisite appraisals can be made (cf. priority examination and assessment of working conditions under I. General questions).

8. Can the application also be made after entry into Germany?

In general, the application for a EU work permit can also be made after entry into Germany to the International Placement Services team responsible for the employer enterprise. If there are any doubts as to whether a EU work permit can be issued in the case in question, it is, however, advisable for practical reasons to apply before entry. This will save the costs of the journey, if the application for a EU work permit is rejected.

9. What are the requirements for obtaining a EU work permit?

The following is required to obtain a EU work permit:

1. A legal provision (see Question 10 ff. below) granting access to the German labour market
2. A specific job offer
3. No preferential employee available for the specific job (cf. priority examination in I. Question 1) and comparable working conditions to those for national employees

10. What provisions does EU work permits law make for access to unskilled or semi-skilled employment?

In unskilled or semi-skilled occupations that do not require qualified (two-year) vocational training, the International Placement Services may only issue a EU work permit to Union citizens from Romania and Bulgaria resident or ordinarily domiciled abroad for activities

expressly permitted under law (Section 284(4), sentence 1 of SBG III). These include in particular the activities of seasonal workers (Section 18 of the Foreigners Employment Regulation - see Question 11), show assistants (Section 19 of the Foreigners Employment Regulation), domestic helpers (Section 21 of the Foreigners Employment Regulation) and au-pair activities (Section 20 of the Foreigners Employment Regulation). For the activities of seasonal workers, show assistants and domestic helpers, a placement arrangement must be made between the Federal Employment Agency and the public employment services in the country of origin. Placement arrangements have been made with Romania and Bulgaria. Requirements 2 and 3 listed under Question 9 must be met in order to issue a EU work permit (on the special priority examination for seasonal workers, see III. Question 11).

11. What provisions apply for the employment of seasonal workers?

Seasonal workers from Bulgaria and Romania can be permitted to engage in temporary activities in agriculture and forestry, fruit and vegetable processing and in sawmills but also in the hotel and catering trade. To take up seasonal work in the Federal Republic of Germany, they require a EU work permit. Up to 150,000 seasonal workers from these states can be admitted without a priority examination as part of a nationwide quota. A seasonal worker can only be employed for six months at most per calendar year. A company can only employ seasonal workers for eight months per calendar year. This restriction does not apply for enterprises engaged in fruit, vegetable, wine, hops and tobacco cultivation.

A prerequisite for employment of foreign seasonal workers is adherence to the procedure agreed on under the placement arrangements made with the public employment services of the country of origin, payment in keeping with wage agreements or local rates and suitable accommodation provided by the employer.

12. What provisions does the law on EU work permits make for access to skilled employment?

Union citizens from Romania and Bulgaria can obtain a EU work permit for any employment requiring qualified vocational training in Germany (Section 284 of SBG III in conjunction with Section 39(6) of the Residence Act). Section 25 of the Foreigners Employment Regulation defines qualified employment as an activity requiring at least two years of vocational training. Requirements 2 and 3 for issuing the EU work permit listed under Question 9 still apply for Union citizens from Romania and Bulgaria.

13. What privileges apply for academics from Romania and Bulgaria?

As of 1 January 2009, no priority examination is conducted for academics from the new EU Member States, including Romania and Bulgaria, seeking employment commensurate with their professional qualification (Section 12b of the Regulation on Work Permits). Comparable working conditions with those of German employees are still subject to review.

14. Can Union citizens from Romania and Bulgaria be employed as temporary agency workers in Germany?

No. Under Section 6(1) no. 2 of the Regulation on Work Permits, no EU work permit can be issued to a worker from Romania and Bulgaria seeking employment as a temporary agency worker in Germany. This exclusion applies both for employment at national temporary employment agencies and for cross-border provision to national user companies. The reason for this prohibition is that it is impossible to specifically regulate immigration in the case of temporary agency worker activities, because it is unclear what activities will be assigned to the worker in future. The legal grounds for specific admission cannot therefore be assessed, nor can a priority examination be carried out in relation to a specific job.

15. Can Union citizens from Romania and Bulgaria be admitted to vocational training in Germany?

Yes. Union citizens from Romania and Bulgaria can be admitted to any in-company training. Here also, EU work permit issuance is contingent on no national applicant being available for the specific training and working conditions being comparable with those for national employees. Trainees who have acquired an approved qualification from a German school abroad are given preferential treatment as of 1 January 2009. They are exempted from the EU work authorisation requirement (Section 12c of the Regulation on Work Permits). The general German higher education entrance qualification can be obtained at one of the following schools abroad, for example:

1. Galabov Grammar School, Sofia
2. German Goethe College, Bucharest
3. Nikolaus Lenau High School, Temesvar (Romania)

16. Is the EU work permit only valid for a limited term?

Yes. The EU work permit is initially issued for a year. After a year's access to the German labour market, the worker is entitled to claim the EU right to work (see Question 18). This right is granted without restrictions and affords free access to the labour market.

17. Under what conditions can Union citizens from Romania and Bulgaria gain unrestricted access to the German labour market?

Under Section 12a(1 and 4) of the Regulation on Work Permits, a EU right to work is issued after twelve months of continuous access to the German labour market. The requirement of continuous labour-market access for at least twelve months is satisfied when a EU citizen from Romania or Bulgaria has without interruption held one or several EU work permits or has been employed without a work permit requirement in this period. The EU right to work is assigned without restrictions on occupation and employer, thus affording unrestricted access to the German labour market. Section 12a(1) sentence 2 of the Regulation on Work Permits specifies that the temporary posting of foreign employees to German federal territory does not provide grounds for long-term legal access to the German labour market.

18. How can Union citizens from Romania or Bulgaria obtain assistance in seeking a job in Germany?

Union citizens from Romania or Bulgaria may seek employment on the German labour market in the following ways:

- International Placement Services of the Federal Employment Agency

The International Placement Services at the Federal Employment Agency are responsible for cross-border job placement. They have compiled information for prospective foreign jobseekers in Germany on their homepage http://www.arbeitsagentur.de/nn_29928/Navigation/Dienststellen/besondere-Dst/ZAV/ZAV-Nav.html at the link http://www.ba-auslandsvermittlung.de/lang_de/nn_454852/DE/LaenderEU/Deutschland/Arbeiten/arbeiten-knoten.html_nnn=true.

- EURES

The first contact point for new Union citizens is the EURES advisory service in their home country. The International Placement Services are also linked into the EURES network. This cooperation network comprising the European Commission and the public employment services of the EEA Member States (EU Member States plus Norway, Iceland and Liechtenstein) and other partner organisations can draw on 700 advisers Europe-wide, who provide information, advice and placement services (matching job offers with jobseekers) for workers and employers and generally all citizens wishing to exercise the right to freedom of movement. The network lists its services on its homepage at <http://ec.europa.eu/eures/>.

- JOB POOL at the Federal Employment Agency

On the homepage of the Federal Employment Agency - <http://www.arbeitsagentur.de/http://www.arbeitsagentur.de/> - and under the JOB POOL (JOBBÖRSE) link, jobseekers from Romania and Bulgaria can find out about published job offers by employers from Germany and enter their own applicant profile.

Besides these facilities, jobseekers can register at the employment agency.

19. What labour market access is available to family members of workers from Romania and Bulgaria?

Regardless of whether they are Union citizens from Romania and Bulgaria or third-country nationals, family members also need a EU work permit to take up employment. This can be issued to them for every kind of job, provided that no national worker is available for the specific vacancy and that working conditions are comparable with those for nationals. Family members of academics from Romania and Bulgaria are not required to undergo a priority examination (Section 12b of the Regulation on Work Permits).

The treaties of accession, however, provide privileges for family members of Union citizens from Romania and Bulgaria in labour market access. These privileges under national EU work permit law are embodied in Section 12a(2 and 4) of the Regulation on Work Permits. Under this, family members of Union citizens from Romania and Bulgaria are assigned a EU right to work (cf. EU right to stay in Question 18), if the principal

person already has unrestricted access to the labour market and they share a common place of residence in Germany.

IV. Employment of third-country nationals

1. What provisions apply for the residence and employment of third-country nationals?

Third-country nationals who are not family members of Union citizens fall under the purview of the Residence Act. Access to the German labour market is subject to the provisions of this act and the related Regulation on the Admission of Foreigners for the Purpose of Taking Up Employment and the Regulation on Official Procedures Enabling Resident Foreigners to Take Up Employment.

2. What authorisation do third-country nationals need to be allowed to enter and stay in Germany to seek employment?

Where not exempted, third-country nationals require a visa to enter Germany for the purpose of taking up employment. This does not apply for nationals from the EEA states and Switzerland. After entry, the visa entitles the holder to enter directly into the employment specified in it. Before expiry of the visa, which is usually issued for a term of three months, a residence permit for the purpose of employment must be applied for (Section 18 of the Residence Act) in the case of a longer stay. A residence permit is a residence title whose term is always limited for the purposes cited in the Residence Act - here, employment. Since the introduction of the so-called one-stop government procedure, there is no longer any need for a separate work permit. Instead, a residence title requires approval from the International Placement Services team responsible for the employer enterprise. Where a priority examination is required or to make a local appraisal of collectively agreed or customary working conditions (labour-market test), this is still granted by the employment agency responsible for the employer enterprise after 1 May 2011. As a rule, the approval by the International Placement Services already issued for the visa continues to apply for the residence permit. Nationals from Australia, Israel, Japan, Canada, the Republic of Korea, New Zealand and the USA can also enter Germany without a visa and apply for the residence permit for the purpose of employment after arrival before starting work.

3. Who is responsible for issuing the visa and residence permit?

The visa is issued by the competent mission abroad (embassy/consulate general). A list of missions abroad is available at: <http://www.auswaertiges-amt.de/diplo/de/Laenderinformationen/DtAuslandsvertretungenA-Z-Laenderauswahlseite.jsp>. Further information on visa procedure is available at: <http://www.auswaertiges-amt.de/diplo/de/WillkommeninD/EinreiseUndAufenthalt/Visabestimmungen.html>. The websites of the missions abroad also contain directions on visa application and leaflets in the respective country.

Issuance of a residence permit after entry is always the responsibility of the local competent foreigners authority at the foreigner's place of residence. The visa procedure involves the foreigners authority in the district where the employer's business domicile is located, provided no other place of residence is envisaged at this time. Evidence of qualification and the contract of employment must be attached to the application.

4. Under what conditions can a residence permit be obtained for the purpose of employment?

Besides the general legal residency requirements (particularly a secure means of livelihood and passport obligation), a residence permit for the purpose of employment generally requires the approval of the International Placement Services. Applications must be made here to the team responsible for the employer enterprise. This approval requires the following:

1. A legal provision (see Question 5 ff below) granting admission to the German labour market
2. A specific job offer
3. No preferential employee available for the specific job (cf. priority examination in I. Question 2) and comparable working conditions to those for national employees

5. In what exceptional cases can the residence permit for the purpose of employment be issued without the approval of the International Placement Services?

The first chapter of the Regulation on the Admission of Foreigners for the Purpose of Taking Up Employment specifies those types of employment that do not require approval from the International Placement Services. These include:

- Employment of executives (Section 4)

- Short-term posted workers for specific activities (Section 11)
- Activities in science, research and teaching (Section 5)
- Student holiday jobs (Section 10)

6. What access to unskilled or semi-skilled employment does foreigners employment law provide for?

Only in exceptional cases can third-country nationals obtain a residence title for the purpose of employment not requiring prior qualified (two-year) vocational training. The second chapter of the Regulation on the Admission of Foreigners for the Purpose of Taking Up Employment generally provides for the activities of seasonal workers (Section 18), show assistants (Section 19) and domestic helpers (Section 21), but this requires a placement arrangement between the Federal Employment Agency and the public employment services in the home country. At present, placement arrangements with third countries have, however, only been made with Croatia for seasonal workers and show assistants. Requirements 2 and 3 for approval by the International Placement Services team in charge of the employer enterprise listed under Question 4 must be met (on the special priority examination for seasonal workers see III. Question 11). Section 21 of the Foreigners Employment Regulation also allows for the admission of au-pairs from all countries of origin.

7. What access to skilled employment does foreigners employment law provide for?

Section 25 of the Regulation on the Admission of Foreigners for the Purpose of Taking Up Employment defines qualified employment as an activity requiring at least two years of vocational training. With the exception of academics (see Question 8), foreigners employment law also allows third-country nationals to enter qualified employment in certain cases only. Nursing staff from Croatia, for example (Section 30), and specialised cooks (Section 26(2)) and, as of 1 January 2009, ex-pupils with a qualification from German schools abroad who have completed vocational training in Germany are allowed to take up employment. The latter are not required to undergo a priority examination on taking up employment commensurate with their occupational qualification. Requirements 2 and 3 for obtaining approval from the International Placement Services as listed under Question 4 must also be met.

8. What access does foreigners employment law provide for academics from third countries?

Previously, academics from third countries could only obtain a residence permit for the purpose of employment in exceptional cases, such as an IT specialist, for example. As of 2009, the German labour market is accessible to all academics from third countries for employment in keeping with their professional qualifications (Section 27 of the Foreigners Employment Regulation). Requirements 2 and 3 for obtaining approval from the International Placement Services as listed under Question 4 must also be met.

9. What privileges are accorded foreign graduates from German universities?

After completing their studies, foreign graduates from German universities and technical colleges (Section 16(4) of the Residence Act) may remain in Germany for up to one year to seek employment. They can receive a residence permit for this. To take up employment, they need a residence permit for the purpose of employment (Section 18 of the Residence Act). As of October 2007, the requisite approval is issued for employment commensurate with occupational qualification without the need for a priority examination (Section 27, sentence 2 of the Foreigners Employment Regulation). An assessment is also made of comparable working conditions with those for national employees.

10. What privileges are accorded ex-pupils with qualifications from German schools abroad?

For pupils who have left German schools abroad with a qualification, access to training has been made much easier as of 1 January 2009. Unlike other third-country nationals, they can be issued with a residence title for the purpose of qualified, in-company (two-year) training (Section 17 of the Residence Act) without having to obtain approval from the International Placement Services (Section 2(1) of the Foreigners Employment Regulation). After completion of training, they may engage as skilled personnel in any employment in keeping with their occupational qualification without a priority examination (cf. priority examination in I. Question 2). The same applies for pupils who have left German schools abroad with a qualification (see II. Question 15) and have completed a course of higher education (Section 27, sentence 1, no. 1 of the Foreigners Employment Regulation) at home or abroad. The International Placement Services team only needs to ascertain whether the working conditions are comparable with those for nationals.

11. Which third-country nationals are allowed to engage in any employment in Germany regardless of their qualifications?

Unlike other third-country nationals, citizens from Andorra, Australia, Israel, Japan, Canada, Monaco, New Zealand, San Marino and the USA may enter any employment in Germany regardless of their qualifications (Section 34 of the Foreigners Employment Regulation). Requirements 2 and 3 for obtaining approval from the International Placement Services listed under Question 4 must be met.

12. Under what conditions are highly skilled personnel permitted from third countries?

Under Section 19(2) of the Residence Act, highly skilled personnel are defined as scientists with special expertise, teachers in senior functions and specialists and executives with special professional experience, the latter however, only if they receive a salary amounting to at least the threshold contribution assessment for general pension insurance (presently EUR 66,000 a year). As a special privilege, highly skilled personnel are accorded a right to permanent residence in the form of a settlement permit. Under Section 3 of the Foreigners Employment Regulation, the settlement permit is issued without approval from the International Placement Services. It affords unrestricted authorisation to perform gainful employment. Family members entering Germany with or after the principal person are also entitled to engage in any form of gainful employment.

13. Under what conditions can tolerated foreigners receive a residence permit for the purpose of employment under Section 18a of the Residence Act?

Under Section 18a of the Residence Act, qualified personnel whose residence has only been tolerated in Germany so far may receive a residence permit to engage in employment in keeping with their qualification after one of the following:

- Completion of (two-year) qualified vocational training or a course of higher education in Germany
- Two years of employment in Germany in an occupation commensurate with a course of higher education abroad
- Three years of employment in Germany in an occupation requiring qualified (two-year) vocational training

The competent International Placement Services team approves residence permit

issuance without a priority examination (cf. the priority examination in I. Question 2).

14. What labour market access is available to third-country nationals who have acquired a long-term right of residence in another EU Member State?

After five years of lawful residence in a EU Member State, third-country nationals can be accorded a long-term legal right of residence. Third-country nationals who have acquired this status in another EU Member State are allowed to engage in any kind of employment in Germany regardless of their qualifications (Section 38a(3) of the Residence Act). Requirements 2 and 3 for approval by the International Placement Services listed under Question 4 must be met. For in-company training, no priority examination is conducted. After a year, they have unrestricted labour market access.

15. Can third-country nationals be employed as temporary agency workers in Germany?

No. Under Section 40(1), no. 2 of the Residence Act, the employment agency must refuse approval for a residence permit if a third-country national is seeking employment as a temporary agency worker in Germany. This exclusion applies both for employment at national temporary employment agencies and for cross-border provision to national user companies. The reason for this prohibition is that it is impossible to specifically regulate immigration in the case of temporary agency worker activities as it is unclear from the outset what activities will be assigned to the worker in future. The legal grounds for specific labour market access cannot therefore be assessed, nor can a priority examination be carried out in relation to a specific job.

16. Can third-country nationals be admitted to vocational training in Germany?

Yes. Third-country nationals can obtain a residence permit for the purpose of in-company training (Section 17 of the Residence Act). Here also, approval from the International Placement Services is contingent on no national applicant being available for the specific training and comparable working conditions with those for national employees. Ex-pupils with a qualification from German schools abroad and persons with a long-term right of residence are not required to undergo a priority examination (see Questions 10 and 14).

17. Is the residence permit for the purpose of employment only valid for a limited term?

Yes. The residence permit for the purpose of employment is only issued for a limited term, but it can be extended if the requirements can still be met. After five years of lawful residence, a long-term right to residence (settlement permit/EC long-term residence permit) can be issued (Section 9a of the Residence Act).

18. After what length of employment or residence in Germany can third-country nationals be given unrestricted labour market access?

Section 9 of the Regulation on Official Procedures Enabling Resident Foreigners to Take Up Employment specifies that third-country nationals with a residence permit may be accorded unrestricted labour-market access in Germany after two years of lawful employment or after three years of continuous lawful residence.

19. How can third-country nationals obtain assistance in seeking employment in Germany?

The International Placement Services at the Federal Employment Agency are responsible for cross-border job placement. They have compiled information for prospective foreign jobseekers in Germany on their homepage - http://www.arbeitsagentur.de/nn_29928/Navigation/Dienststellen/besondere-Dst/ZAV/ZAV-Nav.html at the link: <http://www.arbeitsagentur.de/Navigation/Dienststellen/besondere-Dst/ZAV/arbeiten-in-deutschland/DE/Sprachauswahl-Nav.html>. On the homepage of the Federal Employment Agency - <http://www.arbeitsagentur.de> - jobseekers can also find out about published job offers by employers from Germany and enter their own applicant profile via the JOB POOL (JOB BÖRSE) link.

20. What labour market access is available to family members of workers from third countries?

Family members accompanying or rejoining third-country nationals are given the same access to the labour market as the principal person. Family members rejoining third-country workers are given unrestricted permission to take up employment, provided the foreigner first entering the country also has unrestricted labour market access. This is the case if due to a legal provision, e.g. Section 9 or Section 25(1) of the Residence Act, the foreigner is entitled to perform any kind of employment on the labour market by virtue of unrestricted approval from the International Placement Services under Section

13 of the Regulation on Official Procedures Enabling Resident Foreigners to Take Up Employment or Section 3a of this regulation without such approval.

If the principal entitled foreign national does not have unrestricted access to any employment and the family member has not yet lawfully stayed in Germany for two years, the rejoining family member is only allowed to take up employment with approval from the International Placement Services (Section 4(2) sentence 3 in conjunction with Section 39(2 and 3) of the Residence Act), provided the employment cannot be performed without the obligation to obtain approval under Sections 2 to 15 of the Foreigners Employment Regulation. In this case, approval is required from the employment agency responsible for the employer enterprise. As a rule, this ascertains whether any national worker is available for the specific job and the working conditions are no worse than those for national employees. Family members of academics are not required to undergo a priority examination (Section 8 of the Foreigners Employment Enabling Regulation).

IV. Overview

	Romania and Bulgaria	Third-country nationals
Applicable law	Freedom of Movement Act/EU as well as law on EU work permits (particularly Section 284 of SGB III)	Residence Act
Form of authorisation	EU work permit/after twelve-month access to the labour market an unrestricted EU right to work	Approval from the International Placement Services to obtain a residence title for the purpose of employment
Competent authority	International Placement Services	Foreigners authority
Access for unskilled or semi-skilled workers	Seasonal workers, show assistants and domestic helpers; also au-pair jobs	Seasonal workers and show assistants from Croatia; also au-pair jobs
Access for skilled workers	To all forms of employment requiring at least two-year vocational training in Germany, after priority examination and ascertainment of comparable working conditions	Only in very limited exceptional cases (ex-pupils with a qualification from German schools abroad who have completed vocational training in Germany; specialised cooks, care personnel from Croatia)
Access for academics	To employment in keeping with professional qualification without priority examination; comparable working conditions still subject to review	To employment in keeping with professional qualification after priority examination and assessment of comparable working conditions. Exemption from priority examination for academics from German universities and for ex-pupils with qualifications from German schools abroad
Access for highly skilled personnel	Highly skilled personnel with a minimum annual salary of EUR 66,000 can take up work in Germany without a EU work permit.	Highly skilled personnel with a minimum salary of EUR 66,000 are immediately awarded the right of long-term residence in the form of a settlement permit entitling the holder to engage in gainful employment.