

A group of children and adults are gathered around a globe in a classroom. The children are looking at the globe with interest, and one child is pointing at a location on the map. The adults are also looking at the globe, and one is pointing at a location on the map. The globe is the central focus of the image, and the children are all looking at it with curiosity. The background shows a classroom setting with a chalkboard and some papers on a table.

## 1 Coming to NRW

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At some point in the process of setting up a company, investors usually have to come to Germany in person. Like every country, Germany has certain entry regulations that require different types of visas and permits. What documents are needed for certain business activities? And most importantly: how can they be obtained?

## Who Needs a Visa?

### EU Nationals

Generally, EU nationals may enter, stay, and work in Germany without any visa. They only have to register at the local registration office (*Einwohnermeldeamt*), which issues a declaratory residence permit if their stay in Germany exceeds 90 days.



Citizens of the new EU states Bulgaria and Romania still require a work permit if they are employed in Germany. These transitional rules will cease by 2014 at the latest. However, since 2009 the labor market has been open to university graduates from these new EU states. From May 2011, citizens of the EU states Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, and Slovenia enjoy the full right of free movement of workers and have free access to the German labor market without any restrictions.

### Non-EU Nationals

Citizens of non-EU countries generally require a visa to enter and stay in Germany.

For short-term stays in Germany (stays not exceeding 90 days per six-month period starting from the initial date of arrival) a Schengen visa is needed which is generally sufficient for most steps required to establish a business in Germany.

If the duration of the stay exceeds 90 days (per six-month period) or is a (self-employed or gainful) occupation taken up, all non-EU citizens require a residence permit (*Aufenthaltserlaubnis*) or settlement permit (*Niederlassungserlaubnis*). The respective local German embassy initially issues a national visa for entry into Germany. The national visa is converted into a residence or settlement permit by the local immigration office (*Ausländerbehörde*) in Germany.

Please note: the type of residence title depends on the investor's country of origin, the length of the intended stay and the intended business activity in Germany.

#### OVERVIEW OF DIFFERENT TYPES OF VISAS FOR GERMAN

Types of Visa	Needed for	Visa Required	Required for
Schengen Visa	Stays in Germany <b>for up to 90</b> days per six-month period	Schengen Travel Visa (for business persons in the form of a „business visa“)	Entrepreneurs setting up businesses
National Visa	Stays in Germany <b>exceeding 90</b> days, with the intention of taking up gainful occupation	Residence permit for the purpose of self-employment	Entrepreneurs running the business in Germany
National Visa	Stays in Germany <b>exceeding three months</b> , with the intention of taking up gainful occupation	Residence permit for the purpose of taking up employment	Employees working in Germany

## Schengen Visa and National Visa

For short-term stays in Germany (up to 90 days per six-month period starting from the initial date of arrival) all non-EU citizens require a Schengen visa to enter Germany. With this visa, entrepreneurs can perform most activities necessary to set up their business in Germany.

Is the duration of the stay exceeding 90 days (per six-month period) or is a (self-employed or gainful) occupation taken up, a national visa is required to enter Germany. In Germany, this national visa must be converted into a residence or settlement permit by the responsible local immigration authority (Ausländerbehörde) in order to stay in Germany according to the intended purpose of the trip.

### VISA EXEMPTIONS

However, there are visa exemptions for several countries. Citizens from Argentina, Australia, Brazil, Canada, Hong Kong, Israel, Japan, Mexico, New Zealand, South Korea, the United States and some other countries may stay in Germany up to 90 days without any visa. Still, a national visa is required when entering Germany for long-term stay purposes or when a (self-employed or gainful) occupation is taken up.

Only citizens from Australia, Canada, Israel, Japan, New Zealand, South Korea, and the United States may enter Germany for long-term stay purposes without a national visa. These foreign nationals may directly apply for the necessary residence or settlement permit at the immigration office (Ausländerbehörde) in Germany.

The Federal Foreign Office (Auswärtiges Amt) is able to provide detailed information on individual rules for certain countries.

Entry Requirements into Germany for Different Countries  
[www.auswaertiges-amt.de](http://www.auswaertiges-amt.de)

## Residence Permit and Settlement Permit

Entrepreneurs from non-EU countries require a residence permit (Aufenthaltserlaubnis) or a settlement permit (Niederlassungserlaubnis) if they want to run a business in Germany on-site or if they are employed in Germany.

A residence permit is always limited in time, a settlement permit (Niederlassungserlaubnis) is unlimited. A settlement permit will usually be issued, if a non-EU citizen has been in possession of a residence permit for at least five years. Both residence and settlement permit are always issued for a specific purpose, usually for the purpose of self-employment or for the purpose of taking up employment in Germany.

A residence or settlement permit will be issued by the local immigration office (Ausländerbehörde) in Germany. To enter Germany, a national visa is issued for the trip to Germany by the responsible German embassy in the applicant's home country or country of residence. This is then converted into a residence or settlement permit in Germany.



However, there are exceptions for several countries. Citizens from Australia, Canada, Israel, Japan, New Zealand, South Korea, and the United States may enter and stay in Germany without a national visa (up to 90 days). The application for a residence or settlement permit for the purpose of self-employment or taking up employment can be filed at the local immigration office in Germany.

The German Federal Office (Auswärtiges Amt) has detailed information on visa requirements available. Please also refer to the following site:

Entry Requirements into Germany for Different Countries  
[www.auswaertiges-amt.de](http://www.auswaertiges-amt.de)

## Visa for Entrepreneurs

Depending on the intended business activities in Germany, different types of visas are relevant to entrepreneurs:

- Visas sufficient for the setting up of a business (Schengen Visas normally apply in this case)
- Visas required for running the business on-site (usually national visas)

### Visas for Setting up Business

For non-EU nationals a Schengen visa is generally sufficient for most steps which are required to establish a business in Germany (usually called a business visa in this context).

A Schengen visa permits a 90-day stay in Germany (per six-month period starting from the initial date of arrival), during which all of the key business formation steps can be carried out. These include:

- The conclusion and notarization of the articles of association
- Application for entry in the commercial register (Handelsregister) through a German notary
- Trade registration



- Other preparatory activities during the business establishment phase (such as opening a bank account or the conclusion of rental agreements)
- Negotiations and the conclusion of contracts with business partners

Citizens of certain countries may stay in Germany for up to 90 days (per six-month period) without a Schengen visa.

#### WHAT IS NEEDED WHEN APPLYING FOR A SCHENGEN VISA

Schengen visa applicants (business visa applicants) will usually be asked to present certain documentation such as:

- a letter of invitation by the German business partner
- documentation of employment and salary certificate
- a letter from the applicant's employer confirming the business purpose of the trip
- proof of travel health insurance

Where the entrepreneur personally applies for a Schengen visa (or business visa), documents such as a copy of the foreign company's entry in the foreign commercial register, articles of association, and bank statements from the last three months may also be required.

#### OTHER VISA REQUIREMENTS

In some cases, authorities might require a national visa, namely a residence permit for the purpose of self-employment (Aufenthaltserlaubnis für selbständige Tätigkeit), during the last phases of setting up a company. A residence permit for the purpose of self-employment allows individuals to perform all of the steps necessary to establishing a business in Germany as well as running the business on-site.

If the establishment of the company and the stay in Germany exceed 90 days it is also necessary to apply for a residence permit in advance.



Please note: Establishing a business in Germany with a Schengen visa (business visa) is no guarantee for the subsequent issuing of a residence permit. For this reason it is necessary - appropriate to the intended business activities in Germany - to apply for a residence permit for the purpose of self-employment or regular employee purposes in advance.

## Visas for Running the Business On-Site

### THE RESIDENCE PERMIT FOR THE PURPOSE OF SELF-EMPLOYMENT

Business operators who are from non-EU countries and who manage their company on location in Germany as a self-employed person require a residence permit for the purpose of self-employment (Aufenthaltserlaubnis für selbständige Tätigkeit).

This is generally issued if positive economic consequences are to be expected from the investment project and the financing is secure. As a rule, these conditions are considered to be fulfilled if:

- at least EUR 250,000 is invested and
- at least five new jobs are created.

Where these standard requirements are not met, a residence permit for the purpose of self-employment may nevertheless be granted. In such cases, German authorities, i.e. the responsible local immigration office (Ausländerbehörde) together with local Chambers of Commerce and Industry (Industrie- und Handelskammer, IHK), will assess the underlying business idea.

A residence title for the purpose of self-employment is limited to a maximum of three years. If the investment project is successful (and success and sustenance appear to be secure over the long term), after three years it is possible to issue a (permanent) settlement permit.

### WHO IS CONSIDERED TO BE SELF-EMPLOYED?

Foreign business operators are considered to be self-employed if they are:

- Sole traders (including freelance professions)
- Partners in a partnership
- Managing partners
- Managing directors or managerial employees with proxy or full power of attorney who personally carry a business risk

### THE SETTLEMENT PERMIT

A (permanent) settlement permit (Niederlassungserlaubnis) is unrestricted in time and place and automatically includes the right to take up gainful employment. It is issued if a foreigner has been in possession of a residence permit for five years.

Self-employed foreigners may be granted a settlement permit after only three years if the foreigner has successfully realized the business idea and his or her livelihood is secured.

## Visa for Employees

### When is a Visa required?

Citizens of the European Union (EU), the European Economic Area (EEA), and Switzerland can work in Germany without any visa.

EU citizens from the new Eastern European EU member states Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, and Slovenia (until 2011 at the latest); and Bulgaria and Romania (until 2014 at the latest) still require a work permit for non-self-

employed work in Germany. However, since 2009 the labor market has been opened up to university graduates from the new EU states.

Nationals from all other countries have to apply for a residence permit for the purpose of taking up employment (*Aufenthaltserlaubnis für abhängige Beschäftigung*).

### The Residence Permit for the Purpose of Taking Up Employment

The residence permit for the purpose of taking up employment (*Aufenthaltserlaubnis für abhängige Beschäftigung*) contains both: the permit to stay and the permit to work in Germany.

Foreign nationals no longer have to apply separately for a work permit at the employment office. The residence permit for the purpose of taking up employment contains a statement as to whether and to what extent work will be permitted.



Generally, a residence permit for the purpose of taking up employment is only awarded where a concrete job offer can be demonstrated and the Federal Employment Agency (*Bundesagentur für Arbeit*) has granted approval. However, there are some exceptions from this general rule.

### Exceptions for Highly Qualified Foreigners

Highly qualified persons may be granted a permanent settlement permit immediately upon coming to Germany without approval of the Federal Employment Agency.

Highly qualified persons are defined as

- scientists with special technical knowledge active in teaching OR
- scientific personnel in prominent positions OR
- specialists and executive personnel with extensive professional experience
- with an annual salary of at least EUR 66,000 (EUR 55,800 in the new federal states) in 2009.

Unskilled and low-skilled foreign workers from non-EU member states may generally not work in Germany - this is referred to as the Recruitment Ban (*Anwerbestopp*).

For a number of jobs requiring at least three years of professional training, the Federal Employment Agency can however grant approval for foreign employees. This includes, for example, IT specialists, academics, executive staff, and internal company specialists.

### Exceptions for Employees Temporarily Posted to Germany

There are different regulations allowing non-EU-based companies to temporarily send employees to Germany without having to receive the approval of the Federal Employment Agency. For example, the approval requirement is not needed for certain occupational groups posted for up to a total of three months within a twelve month period (the three month period does not have to be consecutive).



## Visa for Partner and Children

Family members of foreign nationals may be granted permission to live in Germany if the foreigner possesses a settlement permit or a residence permit and if sufficient living space is available.

Spouses of foreign nationals can for instance claim a residence permit if the foreigner possesses a settlement permit or a residence permit for the purpose of self-employment. Additionally, the marriage must have already existed at the time the foreigner was granted the permit and the duration of the foreigner's stay is expected to exceed one year. If the foreigner possesses a residence permit for the purpose of economic activity (employed or self-employed), the spouse may take up work as well.

If these requirements are not met, it is still possible for a residence permit to be granted on a discretionary basis. Children (under 18 years of age) of a foreigner can claim a residence permit if both parents hold a residence permit or settlement permit, and if the children relocate to Germany with their parents.

## Visa Application Process

### What prerequisites need to be met for a visa?

When applying for a visa, foreign nationals are obligated to prove that they have:

- a passport valid for another three months after leaving Germany
- documents verifying the intended purpose of the stay in Germany
- a health insurance policy valid for all Schengen states providing medical coverage equivalent to the value of at least EUR 30,000 (including return transportation)
- sufficient financial means to cover all costs of the trip to and stay in Germany

### Where to apply for a visa?

For most foreign nationals, visas have to be obtained prior to entering Germany in their respective home country. The German missions abroad (German Embassy or German Consulate General) are responsible for receiving applications and issuing the visa. They provide visa application forms in various languages free of charge.

Online Visa Application Form provided by the Federal Foreign Office  
(*Auswärtiges Amt*) [www.auswaertiges-amt.de](http://www.auswaertiges-amt.de)

To facilitate the application process, Germany's Federal Foreign Office (*Auswärtiges Amt*) also provides online application forms in a number of languages. Applications for short-term visas (Schengen visas) for up to three months may also be submitted online via the application service of the Federal Foreign Office.

Online Visa Application Service provided by the Federal Foreign  
Office (Auswärtiges Amt) <https://service2.diplo.de>

### Who will issue the visa?

Visas are issued by the German mission abroad in the country where the visa application has been made. Foreign nationals applying for a residence permit to take up self-employment or employment receive the permission to enter Germany and to take up work from the German mission abroad.

However, upon entering Germany, foreign nationals with a national visa of this type (residence permit for the purpose of taking up self-employment or employment) have to contact the responsible local Foreigners' Registration Office (*Ausländerbehörde*) in Germany which issues the residence permit for gainful occupation.

Some foreign nationals may enter Germany without any visa. Any required visa permitting work (self-employed or employed) can be applied for and issued by the local Foreigners' Registration Office in Germany.

### How long does it take to issue a visa?

A visa for a short-term stay (Schengen Travel or Schengen Transit Visa) will usually be issued within around two to ten working days.

For visas permitting the holder to work (self-employed or employed) in Germany, a processing time of a few months should be expected. Embassies and Consulates General charge a handling fee of EUR 60 for Schengen Visas, national visas, and hybrid visas (Schengen and national visas) respectively.

## NRW Representative Offices

Foreign investments require thorough preparation by the companies involved. This is why the state-owned economic development agency NRW.INVEST assists and advises foreign investors long before they arrive in Germany. Besides two subsidiaries in the USA and Japan, NRW.INVEST operates representative offices in China, India, Korea and Turkey. Potential investors can therefore already receive advice from location experts in their own country – ranging from economic data on North Rhine-Westphalia, Germany and Europe through potential locations and spaces to network contacts and information about possible promotion programs.

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