

EMPLOYING REFUGEES IN GERMAN COMPANIES – The eight most important questions

1. Why is this topic so important?

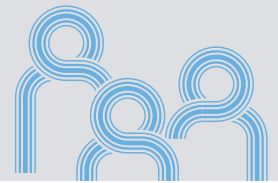
- Roughly **60 million** people around the world have fled their homes.
- In 2015, more than **1 million** people came to Germany seeking asylum.
- The German Federal Office for Migration and Refugees (BAMF) registered approximately 476,000 applications for asylum in 2015, more than 50,000 already in January of 2016 (of these, most of the applicants were from Syria – 53.7 %, Iraq – 13 % and Afghanistan – 9.7 %; Source: BAMF statistic).
- The German jobs market has been facing a shortage of skilled workers for years. Without immigration, the number of people working in Germany would sink dramatically in the coming decades.
- German companies have a vested interest for humanitarian and operational reasons in giving refugees career perspectives, in training or qualifying them and in employing them.

Roever Broenner Susat Mazars will support you with your plans regarding this and provide a practically relevant orientation guide.

2. Do all refugees have the same opportunities to join the German workforce?

No. If you want to employ or train a refugee in your company, you need to know their residence status.

- Those who have been granted asylum (**Asylberechtigte**) and have received notice from the BAMF have unlimited and unconditional access to the jobs market.
- Asylum seekers who have applied for asylum and whose process for being granted asylum is still being carried out receive a **temporary residence permit**. In general, they may only work in a job with approval from the foreigners' registration office and the employment agency in charge.
- **Tolerated persons** are not in the process of getting asylum (any more) after their application for asylum has been denied and their deportation has been suspended; there are restrictions on approval for them as well.
- Special cases exist for example
 - In the first three months after filing an application for asylum,
 - If that person is required to live in a reception centre,
 - For those from countries considered safe countries of origin (such as EU member states, Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro, Senegal, Serbia),
 - After living in the country for four years.
- The temporary residence permit and documentation of tolerance can allow for employment in an incidental provision. For these groups, the potential employer or trainer must check carefully whether the employment or training of the refugee is permissible in that specific case (if necessary, in consultation with the foreigners' registration office and employment agency).



3. What should be considered for the dependent employment of a refugee?

German labour, insurance and income tax law do not have special rules for the employment of refugees. The same rules apply as for all employees.

For example, the law governing minimum wage (currently gross EUR 8.50 per working hour) must be observed, if necessary also the tariff law applicable for the employer. The standard options for employment contract are available for the type of employment (for example a time-limited contract or minor employment). Trial employment is also subject to the general regulations. Of course the refugee must be employed without discrimination. As an employee, they have a right to holiday leave, a salary in case of illness etc.

Codetermined employers can come to (company) agreements about the integration of refugees in the company with their works council.

4. Can the refugee be offered an internship in the company?

Yes, since the standard rules apply here as well. Apprenticeships for those who have applied for asylum and have a temporary residence permit and for tolerated persons may, however, also require approval from the employment agency and the responsible foreigners' registration office.

For the salary for an internship, a distinction should be made in accordance with the regulations of the minimum wage act:

- Internships **without** minimum wage (so potentially also voluntary salary) can be internships that are required for school, training and higher education, as orientation for an apprenticeship or university studies (up to three months) or an accompanying internship for university studies or an apprenticeship (also up to three months).
- Special regulations also apply for entry qualifications, preparation for an apprenticeship as well as measures for activation and integration into the company.
- All other internships can be offered **with** minimum wage.

A special case is observation, where no work is performed and there is no direct connection to training but rather in which the observer gets to know the company and its work as a "guest". It is highly recommended that an observation contract be filled out in writing in all cases to avoid difficulty in distinguishing this from other internships. In general, no salary is paid, though an expense allowance may be.

5. Can the refugee be offered an apprenticeship in the company?

Yes, since the standard rules apply here as well.

Apprenticeships for those who have applied for asylum and have a temporary residence permit and for tolerated persons also require approval, however.

The regulations for training are based on the foundations of the job in questions and should be checked with the responsible chamber of crafts or the Chamber of Industry and Commerce. The chambers may also offer special integration programmes for refugees.

6. What particularities should be taken into consideration for employing refugees in graduate professions?

Refugees with an academic degree can gain access to the German job market with their professional qualification if it is recognised in Germany. The website www.anerkennung-in-deutschland.de run by the German government offers an orientation for foreign degrees and how these are recognised in Germany.



7. Are there incentive programmes that can be used for the integration of refugees in the company?

Yes, there is a broad range of programmes from the labour administration and in the individual states. The websites of the Federal Ministry of Labour and Social Affairs, the Federal Employment Agency, the ministries of each state and the local professional chambers provide an overview.

It is recommended to check with the local employment agency in particular about specific incentive opportunities if planning to hire or train refugees.

8. How can employing refugees best be organised for the company?

There is not **one** recipe for success, but every company should ask itself the following questions in order to come to the right decision about How and Why to employ refugees (like a **checklist**):

- Where and in what form do I have employment needs for refugees?
- Are there incentive opportunities for that type of employment or training?
- What preparations do I need to make within the company for the employment of refugees (for example appointing a company mentor, taking language barriers into account, communicating the culture of being welcoming to employees)?
- Which people/advisers in/outside of the company might I need to involve?
- Should I discuss this with the works council and perhaps determine a guideline for integration?
- How can I use the employment of foreign workers for my employer branding?
- Which (positive) effects for these types of employment/employment offers can I take into consideration in and outside of the company (such as diversity)?

We would like to emphasise that this general information does not constitute legal advice for specific application. We recommend consulting a legal adviser for individual questions. These suggestions under the reserve of possible changes to the law, a practice of application that is still evolving and a jurisdiction that is still developing.

Contacts



Dr. Tatjana Ellerbrock
Rechtsanwältin, Fachanwältin für Steuerrecht,
Fachanwältin für Arbeitsrecht
Partnerin
Tel: +49 30 208 88-1410
tatjana.ellerbrock@mazars.de



Norman Damaske
Rechtsanwalt

Tel: +49 30 208 88-1410
norman.damaske@mazars.de