

Information on residence regulations for recognised refugees according to § 12a AufenthG for Lower Saxony

The Integration law (Integrationsgesetz) coming into effect on 6 August 2016 also includes regulations regarding the residence obligations of persons entitled to asylum (§ 25 [1] AufenthG), refugees (§ 25 [2] alternative 1 AufenthG), persons entitled to subsidiary protection (§ 25 [2] alternative 2 AufenthG) and persons with a residence permit according to § 22 AufenthG (individual admission), § 23 AufenthG (national or federal state admission programmes) or § 25 (3) AufenthG (national subsidiary protection).

These regulations have been criticised by human rights organisations as they restrict the free choice of residence. Additionally, and contrary to the law's original goal, residence obligations also impede the process of integration.

1. Where do the residence obligations apply?

In principle, residence obligations apply in the federal state in which a person underwent asylum procedures. Persons passing asylum procedures in Lower Saxony upon obtaining protection status have to remain in Lower Saxony for another three years. In contrast to Lower Saxony, other federal states introduced additional regulations and obligations.

2. When do the obligations come into effect?

Residence obligations according to § 12a AufenthG have retroactive effect from 1 January 2016. As a general rule, however, in case one obtained protection status after 1 January 2016 or received a first residence permit AND moved or took measures to move before 6 August 2016, one may be permitted to remain in the federal state of choice (NB. exceptional regulations regarding the federal state of North Rhine Westphalia, NRW).

3. In what cases do the residence obligations NOT apply?

Residence obligations do not apply in case the refugee, his/her spouse, registered same-sex partner or underage child

- takes up or took up an occupation liable to social security contributions with a minimum of 15 working hours per week and a minimum wage of 710 Euro net per month, or
- starts or started vocational training, or
- is in a relationship of training or education or a university student.

As per law the above explicitly also includes:

- vocational orientation measures,
- vocational preparation measures, serving the purpose of taking up vocational training,
- language courses preparing for university studies, and
- preparatory college attendance.

Upon application, residence obligations are also to be suspended if the spouse, registered same-sex partner or underage child is resident of another city or federal state. Moreover, residence obligations have to be suspended or altered in hardship cases. Hardship cases include cases in which

- a child's well-being is at risk
- other urgent personal reasons lead to the acceptance by another federal state
- the person concerned would suffer undue burdens.

This can for example be the case if the partner is violent or suffers from violence and if the residence obligation is in conflict with a person's need to protection.

4. Proceeding against residence obligations:

- Justified requests for a suspension or alteration of residence obligations have to be presented to the immigration authorities (Ausländerbehörde) of the actual place of residence.
- In case of rejection: emergency appeal and complaint to administrative court.