



Information about the residence regulation following §12a AufenthG (in Saxony-Anhalt)

Information as of 26.01.2016

With the new Integration law from August 6th 2016, the residence regulation for acknowledged refugees has been introduced. The regulation obliges refugees with a residence permit to take residence in the federal state in which their asylum process has been followed through.

Human Rights Organizations criticise the regulation, because it violates the fundamental right to freedom and often complicates integration.

Furthermore, the federal states have the possibility to additionally restrict the residency within their territory. Saxony-Anhalt has implemented this right with the "decree on the key on integration" from January 1st 2017. Refugees are allocated to a certain district or a district-free city. The districts even have the right to further determine a certain domicile for the refugees.

Following the law, the residence regulation has the single goal to achieve a "sustainable integration into the living conditions of the Federal Republic of Germany". The residence regulation thus is not an end in itself and is also not meant to equally distribute the social costs. If the goal of the law is achieved without the residence regulation, it is not longer allowed to be maintained.

In Saxony-Anhalt the key on integration arises from the population share as well as from the apprentice- and job-market. Additionally, "humanitarian aspects" and "circumstances relevant to the integration process" have to be taken into account for the allocation. To do so, all affected people are to be heard before the allocation. The hearing can occur in written form. In this process it is important to bring forward all reasons that should be taken into account for the allocation decision.

The residence regulation applies for:

all people who have been acknowledged:

- as entitled to asylum (§ 25 paragraph 1 AufenthG)
- as refugee (§ 25 paragraph 2 sentence 1 Alternative 1 AufenthG)
- as entitled to subsidiary protection (§ 25 paragraph 2 sentence 1 alternative 2 AufenthG)

or to people who have been granted a permit of residence for the first time, following:

- § 22 AufenthG (Intake in individual cases)
- § 23 AufenthG (Intake-program from the federal government and federal states)
- § 25 paragraph 3 AufenthG (national deportation ban)

The regulation also applies for following family members, as long as the regulation applies to their originally acknowledged family member.



The regulation applies to everyone, who have been granted a protection status between January 1st 2016 and August 5th 2019. In some federal states the regulation can be applied retroactively. In Saxony-Anhalt the regulation **can not be applied retroactively**. The obligation to take residency in a certain federal state is applicable since August 6th 2016. The regulation within the federal states since February 17th 2017. Individually it is valid for **a maximum of three years** from the acknowledgement as a refugee or the granting of the residence permit.

Residence regulations do not apply, if:

- the refugee, his/her spouse, his/her registered same-sex life-partner or under-age child is performing a job for a minimum of **15 hours per week**, earning at least **712 Euro (gross)** and is paying **social security taxes**, or
- is starting or has started a **professional training**, or
- is in an **apprenticeship or university-education programm**.

Following the law justification, this explicitly also means:

- job-orientation measures,
- job-preparation measures, which serve the transition to an apprenticeship,
- study-preparation language-courses and the visit of the "Studienkolleg".

Furthermore, the obligation of residence has to be annulled or changed upon **an application to prevent hardship**. Hardship is the case, if:

- a **child's welfare** is endangered,
- **unacceptable limitations** arise for other reasons,
- a **special care requirement** is present for people with disabilities or the need for special care, or
- a **menace** is imposed by a violent partner living at the same place or the threat of other forms of violence is present (in some cases also **racist threats and assaults**).

Procedure against obligatory residence regulations:

- **Application for annulment or change** of the regulation to the **foreigners' registration office** at the place of residence at the time.
- In case of rejection of the application: **Insert objection or lawsuit at the administrative court**; since the objection has no delaying consequence, an urgent procedure is necessary.

For more information and if you have questions please contact your next consulting centre. The addresses can be found at the integration-portal: (www.integriert-in-sachsen-anhalt.de) under "Beratung und Netzwerke". Alternatively you can contact the refugee council Sachsen-Anhalt.