



Information about the Opportunity Residence Act (Chancenaufenthaltsrecht)

What are the requirements?

People who hold a tolerated status and have been residing continuously in the federal territory with a tolerated status, permit, or residence permit for five years as of October 31, 2022, will receive a one-time residence permit for 18 months (Opportunity Residence Right according to § 104c of the Residence Act). Minor unmarried children living in the same household and spouses or life partners of these people should also receive the Opportunity Residence Right after a shorter period of stay upon entry of the federal territory.

The requirement is a commitment to the free democratic basic order and the fact that no relevant conviction opposes the issuance of the permit. Intentional offenses up to 50 daily rates or up to 90 daily rates for offenses, that can only be committed under the Asylum and Residence Act, are not harmful.

If there are repeated intentional false statements or deception about one's own identity or nationality, the issuance of the Opportunity Residence Right

should be denied by the authorities. Failure to cooperate is not included, as long as it does not constitute (repeated) false statements or deception.

The passport requirement, entry with the required visa, clarified identity, and livelihood security are not required for the issuance of the residence permit.

Holders of the Opportunity Residence Right can also have periods, during which they held a „toleration with unclear identity“, counted towards their previous stay.

The residence permit can also be issued if the asylum application has been rejected as obviously unfounded.

An application under § 104c of the Residence Act does not protect against deportation if there is no other right of residence and the application has not yet been decided.

Family reunification is excluded under § 104 of the Residence Act.

What does the Opportunity Residence Right mean?

Within the 18-month period, applicants should fulfill all requirements to obtain a transition to another right of residence (especially § 25a or § 25b of the Residence Act). If that is not successful they fall back into the tolerated status.

The responsible immigration authorities must point out all requirements at the latest when issuing the Opportunity Residence Right and give concrete and reasonable instructions for obtaining a passport and clarifying identity for applicants with unclear identity. If a person with unclear identity has taken all necessary and reasonable measures, it is at the discretion of the authorities to issue a residence permit.

During the stay under § 104c of the Residence Act, only a right to remain under §§ 25a and 25b of the Residence Act can be granted. §§ 25a and § 25b of the Residence Act regulate the issuance of a residence permit based on good integration.

An application for the issuance of a residence permit under a different section than § 25a or § 25b does not have the effect of § 81 paragraph 4 of the Residence Act, so there is no so-called fictional effect.