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To the state ministries responsible for  
right of residence

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**Subject: Coronavirus: reducing the burden on foreigners  
authorities**

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Dear Sir/Madam,

The spread of COVID-19 (the illness caused by the virus SARS-CoV-2, or novel coronavirus) means the capacity to work of many foreigners authorities is severely limited. In addition, epidemiologists recommend avoiding direct customer contact wherever possible. At the same time, the Federal Ministry of the Interior, Building and Community asks that foreigners authorities continue to enforce the Residence Act (*Aufenthaltsgesetz*) in the coming months. However, the unprecedented and very volatile situation in regard to the coronavirus requires processes to be simplified in a number of ways to lessen the burden on foreigners authorities.

With this in mind, the Federal Ministry of the Interior, Building and Community asks foreigners authorities to proceed as follows with immediate effect:

## **1. Applying to extend residence titles (with the exception of Schengen visas)**

To alleviate the effects of reduced staffing in the foreigners authorities, increased use is to be made of the provisional option set out in Section 81 (4) of the Residence Act. If a foreigner applies for an extension of their residence title before the title expires, the current residence title will be deemed to remain in force from the time it expires until the time of the decision by the foreigners authority (Section 81 (4) sentence 1 of the Residence Act). The provisional residence document issued under Section 81 (5) of the Residence Act serves purely as verification. This also applies in cases where the application is made informally (e.g. by telephone, online, by e-mail or by post).

If, due to the current circumstances, it is not possible to send the usual provisional residence document (see Section 58 (1), no. 1 of the Ordinance Governing Residence (*Aufenthaltsverordnung*)), the foreigners authority can confirm receipt of the application for extension with an informal confirmation and send this by post, signed and with an official stamp, to the applicant. If absolutely necessary, this informal confirmation can be sent electronically without a signature or stamp. Local police offices, benefit authorities and other relevant local authorities should be notified immediately through appropriate channels of the use of this confirmation. If the applicant is in urgent need of a formal provisional residence document under Section 81 (5) of the Residence Act, in particular in order to leave the country, foreigners authorities are requested to issue such a document.

## **2. Shortening residence titles/change in circumstances**

In cases where it can be anticipated that a residence title cannot be extended or a change of circumstances means that conditions are no longer met (e.g. termination of an employment contract), the Residence Act is to be enforced. The obligation to leave the country is to be enforced where circumstances allow. In cases where leaving the country is not possible, a temporary suspension of deportation (*Duldung*) is to be issued.

### **3. Receiving short-time allowance**

Receiving short-time allowance (*Kurzarbeitergeld*) has no effect on the validity of a residence title. The employment contract remains in force when short-time allowance is being paid. Although recourse to public funds is a reason for refusal to grant a residence title, payments based on own contributions, among other things, have no detrimental effect. The public funds specifically listed in Section 2 (3) sentence 2 of the Residence Act do not affect the requirement of subsistence without recourse to public funds. Short-time allowance is a payment to employees based on unemployment insurance, which means it is a payment based on own contributions.

Receipt of short-time allowance also has no detrimental effect in regard to the EU Blue Card according to Section 18b (2) of the Residence Act or in regard to temporary residence permits for skilled IT workers according to Section 19c (2) of the Residence Act in conjunction with Section 6 of the Ordinance on the employment of foreigners (*Beschäftigungsverordnung*) in cases where the short-time allowance is below the relevant income threshold and said short-time allowance is a measure implemented as a result of the coronavirus.

### **4. Cases referred to in Section 51 (1) no. 7 of the Residence Act**

Foreigners having a residence title who are abroad and who, due to cancelled flights or similar, cannot return to Germany within the six-month period stipulated in Section 51 (1) no. 7 of the Residence Act, are to be granted a generous extension to this period before the deadline is reached. In normal administrative circumstances, an extension is only granted on application. However, due to the current situation, the extension may also be granted as standard procedure by order of the authorities.

### **5. Extending Schengen visas**

The provision that residence documents are deemed to remain in force under Section 81 (4) of the Residence Act does not apply to the extension of Schengen visas. The Federal Ministry of the Interior, Building and Community therefore intends to issue a statutory ordinance soon under which holders of Schengen visas which are

due to run out will be exempt for a limited period after expiry of the visa from the requirement to have a residence title.

Until then, the following applies: the extension of Schengen visas requires a personal interview with the person concerned. To simplify the procedure, holders of Schengen visas should contact the foreigners authority by e-mail, providing their personal information, to request an extension of the period allowed for departure. Foreigners' authorities are requested to provide a generous period allowed for departure and to communicate this informally to the applicant either by post or e-mail. The authorities are advised to publish this information on their own websites.

As it is difficult for the Federal Police and other enforcement agencies to retain an overview of general orders issued by individual foreigners authorities and a nationally applicable general regulation is to be issued shortly, please refrain from issuing general orders. In extreme exceptions, if capacity within the foreigners office means that there is no other option, then a generous period allowed for departure can be provided in the form of a general order for the specific holder of a Schengen visa in cases where the holder's registered main place of residence is in the city district of the foreigners authority or where the holder has evidence that he or she was resident in the city district a minimum of one week before the order was announced and is still resident there. This applies, for example, to extensions of the period allowed for departure which may be necessary.

## **6. Procedure for visa-free residence (expiry of the 90-day deadline)**

The provisional residence option applies to foreigners who are currently resident in the Federal Republic of Germany without requiring a visa.

a) Persons who entered the Federal Republic of Germany without requiring a visa for 90 days as provided for in Regulation (EU) 2018/1806 of 14 November 2018 (Visa Regulation) are required to return to their home country if this is possible. If the current situation means that this is not possible, they should contact the foreigners authority in the place where they are resident before the 90 days have elapsed, providing their personal information (by e-mail if necessary), and ask for their residency in Germany to be legalized. The act of applying means that residence will be deemed to be permitted up to the time of the decision of the foreigners authority,

as provided for in Section 81 (3) of the Residence Act. In all of the cases listed above, the foreigners authority should aim to enforce the obligation to leave the country where this is possible.

b) The assumption that residence is permitted associated with the application to remain in the country should also be used by third-country nationals of those countries listed in Section 41 (1) of the Ordinance Governing Residence who entered the Federal Republic of Germany without requiring a visa. If the foreigner has approval from the Federal Employment Agency and has applied for a residence title as described above, they may take up the employment stated in their approval from the Federal Employment Agency. The solution above does not apply to third-country nationals of those countries listed in Section 41 (1) of the Ordinance Governing Residence who have already entered the Federal Republic of Germany without requiring a visa but who do not yet have approval from the Federal Employment Agency. Despite limited personal appointments, foreigners authorities should enable persons to whom this applies to make an application so that they can begin employment. In these cases, the restriction to specific professions for which there is an essential need (permission to enter the country for staff in healthcare and care professions, in research in these professions and for haulage staff active in the transportation of goods and other necessary areas) as adopted by heads of state in the Communication from the Commission to the European Parliament, the European Council and the Council – COVID-19: Temporary Restriction on Non-Essential Travel to the EU [COM (2020) 1125 final] of 16 March 2020 does not apply, as the foreigners in question are already in Germany.

## **7. Extending temporary suspension of deportation**

The Residence Act is also to be enforced in regard to temporary suspension of deportation. To simplify the procedure in such cases, a provisional individual extension of the temporary suspension of deportation as standard procedure may be an option. This can also be sent by post. General orders should again be the exception.

## **8. Immigration of skilled workers**

Foreigners authorities are asked to give priority to processing applications for the accelerated skilled labour recruitment procedure under Section 81a of the Residence Act for staff in healthcare and care professions and health research, and haulage staff active in the transportation of goods and other necessary areas. Foreign skilled workers in these professions are exempt from the current entry restrictions, as adopted by heads of state in the Communication from the Commission to the European Parliament, the European Council and the Council – COVID-19: Temporary Restriction on Non-Essential Travel to the EU [COM (2020) 1125 final] of 16 March 2020.

All other accelerated skilled labour recruitment procedures should continue to be processed or should be initiated with the recognition authorities based on capacity in the authorities and in consultation with the employer so that a decision can be reached quickly when the entry restrictions are lifted. During advisory conversations, employers should be made aware of current entry restrictions and delays to procedures at the relevant authorities due to the current extraordinary circumstances.

Given the complicated working conditions in many companies due to the current situation, in regard to the duty of employers to inform the responsible foreigners authority within four weeks of having learnt of the fact that the employment for which a residence title was granted in line with Chapter 2, part 4, was terminated earlier than envisaged, (Section 4a (5) sentence 3 no. 3 of the Residence Act), which came into force on 1 March 2020, foreigners authorities are asked to exercise their discretion as prosecuting authorities during this time of crisis (Section 47 (1) sentence 1 of the Act on Regulatory Offences (*Ordnungswidrigkeitengesetz*)). This means that they should refrain from punishing violations of Section 98 (2a) no. 2 of the Residence Act if the employer is late in informing the responsible foreigners authority due to reduced capacity.

## **9. Passports and documentation under the law on foreigners**

According to applicable legislation, applications for travel documents for refugees and for foreigners, as well as applications for electronic residence permits (this also applies to residence cards and permanent residence cards), must always be made in person, fingerprints must be provided and the document must be issued to the applicant in person (establishing the person's identity, avoiding abuse/security

reasons, withdrawal/invalidation of previous documents; see also No. 6.3.3.1 of the administrative regulations governing passports (*PassVwvV*), Section 61h of the Ordinance Governing Residence, in conjunction with Section 18 (2) of the Ordinance on Identity Cards and Electronic Identification (*PAuswV*). The same applies to all other documents governed by the law on foreigners.

In view of the current limited capacity of foreigners authorities, which may become even more limited over time, the Federal Ministry of the Interior asks that the following procedure for issuing documents under the law on foreigners be used in the current exceptional circumstances:

a) Where possible, the procedure outlined above should be followed in principle (where capacity is limited, this can also be done using contactless counter service).

b) Where capacity is limited in foreigners authorities without counter service, alternative options for issuing electronic residence permits may be considered, such as issuing these through other authorities (e.g. police offices), using couriers or by post. In doing so, arrangements should be made to ensure that electronic documents such as the electronic residence permit are only issued to the holder and that old documents are withdrawn. If documents are sent by post, the online ID function for documents such as the electronic residence permit means that documented personal delivery must be selected (personally signed recorded delivery). If documented delivery is not possible due to the coronavirus crisis, delivery by standard post can be used if absolutely necessary.

c) In all cases, an application for an electronic residence permit must be made in person in accordance with the law, and fingerprints must be provided (appropriate disinfection should be ensured). If this is not possible, a provisional residence document may be issued (an informal application is sufficient). Such documents may also be sent by post if more secure options for issuing them have not proved to be feasible.

d) Passport documents (convention travel documents for refugees/stateless persons/foreigners) are not to be sent by post. Travel in Europe and around the world is currently strictly limited (necessity of a travel document). It may be possible to issue a substitute identity document if no other document is available that serves the purpose of an identity document (electronic residence permit).

e) The following applies in general to all documents sent by post: The option “Einwurf-Einschreiben” (tracked registered mail without recipient signature) or another higher security postal option should be used so that delivery is sufficiently secure and the document can be recorded in the official registry as issued. If a document is reported as not having arrived, an alert must be put on the item immediately.

Lastly, I would like to explicitly point out that these recommendations for exceptions apply only during these exceptional circumstances. I would like to ask you to collect information on general measures under administrative law applicable to the general extension of titles and/or the issuing of provisional residence permits for each federal state, to compile them and to communicate this information to the Federal Police if possible.

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Please inform the foreigners authorities of this through the appropriate channels.

| Yours faithfully,

For the Federal Ministry of the Interior, Building and Community  
[electronic signature]

| Dr. Hornung