



Beschäftigungsduldung / Ermessensduldung (leave to remain for work) - protection against deportation in the case of a permanent job, (May 2019)

From the beginning of April, some refugees in Baden-Württemberg have had a new chance to obtain protection from deportation, even if their application for asylum has been finally rejected.

Unfortunately only very few people will get this protection against deportation. The hurdles are very high; only a few fulfill the conditions. But perhaps you are one of them. Then you should inform yourself!

In Baden-Württemberg, the regulations of a new law apply now, with immediate effect. It creates the possibility to get a so-called "Beschäftigungsduldung", which protects against deportation. This law has not yet been passed in the Bundestag. But - as the Minister of the Interior of Baden-Württemberg has declared - it is already being applied. Who fulfills the conditions receives still no "Beschäftigungsduldung", but a so-called "Ermessensduldung", which protects also against deportation.

Please note: ALL conditions must be fulfilled. Unfortunately, this is only the case for a few.

The most important conditions:

- You must have had a permanent job for at least 18 months. It must be a full-time job in which you work at least 35 hours a week ("Sozialversicherungspflichtig" with a weekly working time of at least 35 hours). If you have a child, but no partner, 20 hours of weekly working time are sufficient. If you are not sure, ask your employer.
- You have to earn your own living for at least 12 months - without any financial help from the state (proof by wage certificate).
- You must have been tolerated for at least 12 months! This means that your asylum application has been finally rejected and you live only with "Duldung" for at least 12 months in Germany.

What does this mean for all those who have not a "Duldung" of 12 months or more? They do not get the "Ermessensduldung" yet, but only if they have survived this year without been deported. Unfortunately, you can be deported before this period, even if you have a permanent job for 18 months and earn your own living.

Other conditions you also have to fulfill:

- Your identity must be clarified. This means that you must submit documents by now at the latest. If you don't hand in a passport, but only your birth certificate, you must also follow the summons to the Gambian delegation. Otherwise, your identity will not be deemed to have been clarified.
- Those who do not hand in identity papers or do not go to the Gambian delegation will not get an "Ermessensduldung" in any way, but will be banned from working.
- Your language level must be at least A2, but only orally, i.e. when speaking and not when writing. It is not yet clear how you have to show that you can speak German at A2 level.
- Anyone who has had the opportunity to take an integration course must have completed it.
- The rejected asylum seeker or his or her spouse must not be sentenced for a criminal offence committed in Germany. He or she must not have any connections to extremist or terrorist organisations.

No "Ermessensduldung" is given to anyone,

- who have not produced any documents or have not accepted the summons to appear before the Gambian delegation.
- who have been banned from working and have lost their job as a result.
- if the German state has already prepared the deportation. Unfortunately, this also applies to all those who could not be deported, for example because they were not at home.
- and, of course, all those who have not yet fulfilled the conditions mentioned above.

What to do if you are not sure whether you can get the discretionary toleration?

Talk to your lawyer or a social worker.

Ask for information at the Ausländerbehörde.

Show this information to your boss and talk to him about it.

Your boss can also get information from the Handwerkskammer (Chamber of Crafts) or the IHK (Chamber of Industry and Commerce).

And your boss can get information at the "Unternehmer-Initiative - Bleiberecht durch Arbeit": <https://www.unternehmer-initiative.com/kontakt/> Telephone: 0174 812 8993
This organisation fights for ALL refugees who have a permanent job to stay in Germany and not be deported.

And please give this information to your brothers and sisters and other refugees.

The Gambia Helper Network is an e-mail network. About 550 people have registered with their email address. They are mainly people from Baden-Württemberg, but also from Bavaria, Bremen and other places. They are full-time helpers from Caritas, AWO and many other institutions. There are many volunteers who support Gambian fugitives.

Information can be found at: <https://helferkreis-breisach.de/gambia-helfernetz/>

