



GUIDE

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# Start-up Guide for non-EU citizens

**What foreign students and graduates from non-EU countries need to know when starting a business in Germany**



LABOR FÜR  
DIGITALE TRANSFORMATION &  
ENTREPRENEURSHIP  
RAVENSBURG-WEINGARTEN  
UNIVERSITY  
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The LAB4DTE start-up center supports students in the process of starting a business – before, during and after. If you are a foreign student or a foreign graduate coming from a non-EU country, you are allowed to start a business in Germany. There are some things you have to know to make sure you do it right. Keep in mind that rules and regulations can change. It's also possible that in case of your particular business additional regulations might apply. Please take your time and inform yourself regarding regulations prior to starting your business.

If you would like to share your experience with us, please feel free to contact us. With your feedback you can help us to gain new insights and to optimize our services. Doing so you are promoting the start-up culture at RWU and help future founders.

**Are you a foreign student/ doctoral student or a foreign graduate from a non-EU country and you would like to start a business in Germany? Here is what you need to know:**

## Information for Foreign Students/ Doctoral Students from Non-EU Countries

If the purpose of your stay in Germany is to study or to obtain a doctorate at a university or college and you are a citizen of a country that does not belong to the EU or the European Economic Area, you have to consider the following regulations.

In Germany, any person can become self-employed. However, students or doctoral candidates from non-EU countries are subject to special requirements based on their residence title; they are not allowed to become self-employed on a full-time basis.

### Three conditions for your self-employment

As a national or a citizen of a non-EU country, you can become self-employed in Germany under three conditions:

1. You must not jeopardize your degree or your doctoral degree with your self-employment. Therefore, you may only be self-employed on a part-time basis, because your main occupation is your studies or your doctorate. In Germany, there is no time limit on when a secondary occupation becomes a full-time occupation. But to ensure that you do not lose your status as a student, you may not spend more than 20 hours per week on your self-employment.
2. You must meet the requirements for self-employment that are imposed in Germany on the profession in which you want to start your business. Therefore, please see the list of skilled trades requiring a licence in Germany:  
[https://www.wir-gruenden-in-deutschland.de/fileadmin/user\\_upload/Downloads/Downloads\\_Englisch/EN\\_Uebersicht\\_Gewerbe\\_freie\\_Berufe\\_Reisegegewerbe.pdf](https://www.wir-gruenden-in-deutschland.de/fileadmin/user_upload/Downloads/Downloads_Englisch/EN_Uebersicht_Gewerbe_freie_Berufe_Reisegegewerbe.pdf)

3. You must apply for a permission to be self-employed in accordance with Section 21 (6) of the German Residence Act (AufenthG) at the responsible immigration authority.  
As a student or a doctoral student, you only have a residence title in accordance with Section 16 (1) of the Residence Act. The immigration authority will check whether you meet the requirements for your planned part-time self-employment.

### Part-time self-employment and other work

Your permission granting you the right to self-employment does not affect your legal right to work in an employed role as stated in Section 16 (3) of the Residence Act. You are still permitted to carry out 120 days of full-time work or 240 half-days per year.

### Business plan

It is recommended to write a business plan to implement your self-employment as a part-time business. A business plan will not only help you to better overlook and reflect on your steps towards founding a company and the corresponding requirements. It also supports you in your application for self-employment according to Section 21 (6) of the Residence Act. With your business plan, you can demonstrate to the immigration authority that you are planning your self-employment as a part-time and not full-time business and show that your studies remain a priority.

While working on your business plan, you have also an opportunity to get a free consultation at a local chamber of industry and commerce.  
For further information, please follow this link:  
<https://www.ihk-muenchen.de/businessplan/>

## If the immigration authority rejected your application

In case of a rejection of your application, ask the immigration authority about the reasons for the rejection. If reasons are given related to the content of your business idea and its implementation, think about getting professional support (e.g. a consultation at a local chamber of industry and commerce) to revise your business plan. If reasons are given concerning your personal and entrepreneurial competencies, ask your start-up advisor at the university or the local chamber of industry and commerce or the business development agency, whether a seminar or similar support is offered to acquire the necessary competencies.

## Registering a self-employment activity

If you receive a positive decision from your immigration authority to change your residence title, the next step to start your self-employment in Germany is to register your business. There are two types of business registrations in Germany, in a freelance profession (Freiberuflich) or as a registered business (Gewerblich):

- ▶ If you want to register as a self-employed entrepreneur, you need to contact the local trade office (Gewerbeamt) first. The tax office usually sends you documents automatically after you registered your business.
- ▶ If you are interested in a freelance activity, you need to contact the tax office (Finanzamt) directly.



Photo by andrew-neel on unsplash

# Information for Foreign Graduates from Non-EU Countries

If you have already completed your studies or doctorate at a German university or college and would now like to start your own business, here are some topics you should consider.

As a national or a citizen of a non-EU country, you can pursue self-employment in Germany, especially if it is related to your studies or your doctoral degree. If you do not yet wish to take up self-employment immediately following your studies, you can apply to the immigration authority for a residence permission in accordance with Section 16 (4) of the Residence Act. Your studies are considered completed when you have received written notification from your university that you have passed your exams and thesis. With the residence status according to Section 16 (4), you then have 18 months to plan and implement your self-employment. During this time, you may take up any activity to earn your living – even as an employee.

There is a similar residence title for researchers or academics from non-EU countries, who have studied abroad and are now working in Germany and have a residence title in accordance with Section 20 of the Residence Act. However, your university degree must be comparable to a German university degree. You can then apply to the immigration authority for a residence title under Section 18c (3) of the Residence Act, which gives you six months to plan and implement your self-employment.

After these six or 18 months of preparation, you will need a residence title for your self-employment in Germany. This also applies if you waive the preparatory period and set up your own business immediately after completing your studies or doctorate. There are three possible residence titles: Section 21 (1), Section 21 (2a) or Section 21 (5) of the Residence Act.

You have to choose which residence title you apply for according to what you want to do next. There are three options explained next:

## 1. Your self-employment is based on your university education / your work as a scientist

You can apply for a residence title according to Section 21 (2a) if your self-employment is related to your university education or your work as a researcher or scientist in Germany. You can apply for the residence title at the responsible immigration authority and you must meet two requirements:

- ▶ You must fulfill the professional requirements for the activity that apply in Germany.
- ▶ You must be able to provide a living for yourself and for your dependent family members in Germany, which must be proven, for example, by bank statements, a savings book or income from family members.

## 2. Your self-employment is independent of your university education / your work as a scientist

You can apply for a residence title according to Section 21 (1) if your planned self-employment has no connection with your German degree or your doctoral degree in Germany. Then you can apply for a residence title at the immigration authority and you must meet the following requirements:

- ▶ You must fulfill the professional requirements for the activity that apply in Germany.
- ▶ Your planned self-employment must be of interest for the German economy. It is expected to have a positive impact on the German economy. There must also be a demand for your products or services in the region where you plan to become self-employed.
- ▶ You must be able to provide a living for yourself and for your dependent family members in Germany, which must be proven, for example, by bank statements, a savings book or income from family members.

## 3. You would like to become self-employed as a freelancer

You can apply for a residence title in accordance with Section 21 (5) if you wish to pursue self-employment as a freelancer. In this case, the responsible immigration authority may waive one or other of the requirements listed in Section 21 (1). Some freelance professions, for example journalist, do not have uniform regulations in Germany regarding required qualifications. It is advisable to submit existing references about your professional experience to the immigration authority.



In Germany, there are a number of occupations that are considered „freelance professions“. Anyone who becomes self-employed in these areas usually works as a freelancer. These include, for example

- ▶ consulting services in the fields of law, taxation or economics
- ▶ scientific and technical jobs (e.g. engineer)
- ▶ information-providing or creative occupations (e.g. interpreter)

If you would like to become self-employed as a freelancer and you are already located in Germany, apply to the responsible immigration authority for a „residence permission to pursue a freelance occupation“ („Aufenthaltserlaubnis zur Ausübung einer freiberuflichen Tätigkeit“). You will receive the permission if you can prove the financing of your project, can secure your own living and, if required, have a permission to practice this profession. If you are older than 45 years of age, you also need to have sufficient retirement savings.

## Application for a residence permit and a permanent residency status

If your business idea is successful and you can finance your living and your family's living with your self-employment, you can have your residence permission, which is initially limited to a maximum of three years, extended. After five years, you can obtain a permanent residence permission, which entitles you to stay in Germany for an unlimited period of time.

## Fees

If you want to apply for or extend a visa, residence or permanent residence permission, you must usually pay fees. How high these fees are, depends on the place, duration and purpose of your stay. Check with your local immigration authority to find out what you must expect to pay in your case.

## Documents

You must usually bring the following documents to apply for a residence permission:

- ▶ Completed application form
- ▶ Valid passport
- ▶ Business plan
- ▶ Proof of health insurance
- ▶ Researchers and scientists: previous employment contract
- ▶ Graduates of a German university: proof of university degree
- ▶ Persons over 45 years of age: proof of sufficient retirement savings

It is also recommended that you submit documents on the following topics:

- ▶ Your references
- ▶ Your entrepreneurial experience

Please note: this list is not complete or generally valid, as the documents to be submitted always depend on the individual circumstances of each case.

It is advisable to inquire at the immigration authority in advance, which usually provides information sheets for this purpose. There you will also find out which requirements you must fulfill for the health insurance certificate. The immigration authority will also tell you whether your retirement savings are sufficient.

For foreigners who want to become a self-employed business owner, the local chamber of industry and commerce (IHK) will issue an expert opinion to the relevant authority on whether these requirements are met. The final decision is then made by the immigration authority.

# Caution! Fictitious self-employment

## Definition of fictitious self-employment

If you decide to become self-employed in Germany, it's important for you to know what fictitious self-employment is. In general, the term fictitious or pseudo-self-employment (Scheinselbstständigkeit) means that the affected person acts as a self-employed person, even though he or she is treated as a dependent employee for the purposes of social insurance.

## Distinction between self-employment and fictitious self-employment

In order to understand what a fictitious self-employment is, we should take a look at the typical aspects of a self-employment.

Self-employed persons:

- ▶ are not bound by instructions regarding location, time, subject matter or content,
- ▶ are permanently commissioned by several clients,
- ▶ have their own company organization, i.e. they have, for example, an entrepreneurial risk or their own market presence.

If these requirements and rules are not met, the term „fictitious self-employed„ is used.

## Indications of fictitious self-employment

A fictitious self-employment may exist if an employee acts as an independent contractor under a contract for work and services, but is completely bound by instructions and integrated into the employer's organization when performing his or her tasks. The following criteria, among others, may indicate the existence of fictitious self-employment in the sense of social insurance law:

- ▶ Fixed working hours, such as for shift work
- ▶ A permanent integration into processes or the infrastructure of the client
- ▶ Work at the client's offices
- ▶ Direct authority of the client to issue instructions in the performance of his tasks
- ▶ Permanent integration into processes or the infrastructure of the client
- ▶ The „self-employed„ does not employ a worker who is subject to compulsory insurance contributions
- ▶ Reporting obligations to the client
- ▶ Fixed remuneration
- ▶ Continued payment in case of illness
- ▶ Vacation entitlement, agreement on vacation periods with other employees

Further information to this topic:

<https://www.ihk-muenchen.de/de/Service/Recht-und-Steuern/Arbeitsrecht/Einstellung-von-Arbeitnehmern/Scheinselbst%C3%A4ndigkeit/>

Basically, if a self-employed person is working as a freelancer and doing the work of an employee, without the benefits or employment rights, it's a fictitious self-employment. Often, fictitious self-employment exists if the fictitious self-employed person has only one client on a permanent basis. In Germany, fictitious self-employment is prohibited and punishable - both for the fictitious self-employed person and for the person who hires him or her.



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# German Indian Startup Exchange Program

The German Indian Startup Exchange Program (GINSEP) is a non-profit platform initiated by the German Startups Association (Bundesverband Deutsche Startups e.V.) and supported by the German Federal Ministry for Economic Affairs and Energy (BMWi) to strengthen and promote exchange between India and Germany in the startup sector and to support Indian and German startups in their efforts to gain access to each other's market. The project supports German and Indian startups by offering networking opportunities through events, workshops, pitching formats, and study tours, providing information and practical assistance in accessing each other's market, and drawing on a large network of partners consisting of incubators, investors, companies, funding organizations, etc.

<https://ginsep.co/>

## Contacts

### Wir gründen in Deutschland

This Internet platform supports foreign students, graduates in Germany and professionals from abroad in setting up a business in Germany. Here you can find step-by-step information for the start-up process.

<https://www.wir-gruenden-in-deutschland.de>

### Make it in Germany

[www.make-it-in-germany.com](http://www.make-it-in-germany.com) is the German government's multilingual portal for skilled workers from abroad. It provides information to those interested in immigration on how to successfully make their way to Germany - from preparations in the country of origin to arrival and the first steps in Germany.

On „Make it in Germany,“ those interested in immigration have the opportunity to receive individual advice from experts on the topics of job search, professional recognition, visa and settling in Germany - by e-mail, hotline or chat.

<https://www.make-it-in-germany.com>

### IHK Weingarten

<https://www.weingarten.ihk.de/recht/gesetzliche-vorgaben-fuers-gewerb-/selbstaendige-taetigkeit-durch-auslaender-1942534>

### Expert Forum

<https://www.existenzgruender.de/DE/BMWi-Expertenforum/Fragen-Antworten/English-Version/inhalt.html>

## Sources

Residence Act (English):

[https://www.gesetze-im-internet.de/englisch\\_aufenthg/englisch\\_aufenthg.html#p0624](https://www.gesetze-im-internet.de/englisch_aufenthg/englisch_aufenthg.html#p0624)

<https://www.make-it-in-germany.com/en/working-in-germany/setting-up-business/visa/self-employed>

<https://www.wir-gruenden-in-deutschland.de/en/start-a-business-in-germany/>

<https://www.existenzgruender.de/EN/Die-ersten-Schritte/inhalt.html>

<https://handbookgermany.de/en/work/self-employment.html>



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# DROP IN 2 START UP

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**TAUCH EIN IN DIE WELT  
DER UNTERNEHMEN**  
**RWU.DE/LAB4DTE**

## LAB4DTE – Start-up Center

The LAB4DTE Start-up Center is a part of the funding program „EXIST – Start-ups from Science“ of the German Federal Ministry for Economy and Energy (BMWK).

EXIST generally starts in the pre-start-up phase and consists of three funding program lines:

- ▶ EXIST-Start-up Culture
- ▶ EXIST-Start-up Scholarship
- ▶ EXIST-Research Transfer

With its EXIST-Potentials guideline, the Federal Ministry for Economic Affairs and Energy (BMWK) is, on the one hand, further developing the start-up networks at universities that have been created in recent years through EXIST Start-up Culture, and, on the other hand, supporting small and medium-sized universities that have not yet taken advantage of EXIST funding.

Funding is currently being provided to 101 projects at 142 universities.

Further information can be found at [www.exist.de](http://www.exist.de)

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