

# Hot Topics



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## The new Integration Act - opportunities for the German labor market

Andrea Nahles, Federal Minister of Labor and Social Affairs, would like to roll up her sleeves and get to work on the task ahead, i.e. the integration of the thousands of refugees who have come to Germany in the last months. She considers this challenge a "tremendous opportunity", and not only for the foreign people but for the German labor market as well, which, according to her, could and should benefit from the newly arrived people. The Ministry has introduced an Integration Act that is to both "support and make demands" on the refugees. Its aim is to integrate people, whose chances of staying in the country are good, into the German society and labor market as quickly as possible. Learning German and being professionally skilled are crucial in this regard. For years, there has been criticism that there are skill shortages in numerous fields on the German labor market. By passing the new Integration Act, the government intends to set up the legal framework for improvements in integrating and training the people who have come to Germany seeking refuge so that they, too, may help compensate part of the existing skill shortages.

The Integration Act and the Regulation on the Integration Act, which will be adopted at the same time, do not constitute an independent new statute. Instead, both sets of rules will be implemented by means of amendments of numerous existing laws (inter alia the Employment Regulation (*Beschäftigungsverordnung*; "BeschV"), the Residence Act (*Aufenthaltsgesetz*; "AufenthG") and the Asylum Seekers' Benefits Act (*Asylbewerberleistungsgesetz*; "AsylbLG")). The following new key aspects of the bill are particularly interesting for enterprises:

1. Foreigners who have been granted a degree of tolerance (*Duldung*) or right of abode pending proceedings for political asylum (*Aufenthaltsgestattung*) will **not be subject to the labor market check** (*Vorrangprüfung*) for a period of **three years**. Labor market check means the process of obtaining the employment agency's consent to a foreigner's commencement of employment within the scope of which the agency investigates the effects of the employment on the labor market, the question of whether prioritized employees (German nationals, citizens of a Member State of the EU or EEA or other prioritized foreign employees) are available and the specific working conditions. The labor market check is, however, only waived with respect to certain districts of the Federal Employment Agency (*Bundesagentur für Arbeit*), which are yet to be determined in consideration of the respective situation on the labor market (in particular the rate of unemployment). For this period of time, foreigners

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may also be admitted as **temporary workers** if the place of work is located within one of these agency districts.

2. Trainees will be granted a **degree of tolerance for the entire term of a qualified vocational training** in an officially or otherwise recognized trainee occupation. If the trainee is not offered permanent employment at the end of his/her training, he/she will be granted a degree of tolerance for another six months to search for a job. Those who are taken on as permanent employees of the companies where they were trainees will be granted a residence permit for two years for their subsequent employment. The previous age limits for commencing vocational training will no longer apply. If the vocational training is terminated prematurely the title will expire automatically. The **company offering the training** will be obliged to report any premature termination of a vocational training, and any failure to do so may be sanctioned with a fine of up to EUR 30,000. If a trainee incurs a penalty the right of residence will be revoked.
3. 100,000 so-called "**refugee integration measures**", i.e. additional work opportunities financed by means of federal funding, are to be created for persons eligible for benefits under the "AsylbLG". Asylum seekers from safe countries of origin such as the Member States of the European Union, Albania, Bosnia and Herzegovina, Ghana, Kosovo, Macedonia, Montenegro, Senegal and Serbia, as well as persons whose enforceable duty it is to leave Germany are excluded from these measures. The refugee integration measures do not constitute an employment relationship for legal purposes.
4. A right of permanent residence in the form of a **settlement permit** (*Niederlassungserlaubnis*) for an unlimited period will only be granted to recognized refugees and persons entitled to be granted asylum after **five years** if those persons have made integration efforts themselves. This is basically subject to the same terms that are applicable to other foreigners, with the exception of the required contributions to the statutory pension scheme or comparable expenses. The time until completion of the asylum procedures will be deducted from the period required for the settlement permit to be issued. The required language level will be lowered to A2. In cases of a particularly successful integration (level C1 command of the German language and being able to ensure the means of subsistence for the most part), a settlement permit may already be issued after three years.
5. Asylum seekers with good chances of staying in Germany and foreigners with a degree of tolerance will become eligible for education or training grants pursuant to Book III of the Social Security Code (*Sozialgesetzbuch III*; "SGB III"), for instance in the form of assistance during training, pre-vocational training programs and subsidized education for a limited term until the end of 2018 in order to make it easier for them to complete in-company vocational training.
6. Certain times of participation in an integration course, a job-related German language development course or a measure required for

establishing and recognizing professional qualifications obtained abroad will be deducted from times of long-term unemployment.

7. The right of abode pending proceedings for political asylum will come into existence upon receipt of the certificate of registration as an asylum seeker (so-called proof of arrival (*Ankunftsnaachweis*)).
8. The claim for participation in an integration course will be made subject to a time-limit of one instead of two years. Furthermore, there will be additional means of imposing the obligation to participate in an integration course.
9. Access to integration courses will be facilitated for asylum seekers with good chances of staying in Germany. The waiting period between the participant's registration and the commencement of the course is to be reduced from currently three months to six weeks. In order to generate additional capacity, the maximum number of participants will be increased from 20 to 25 persons. Moreover, transparency in the presentation of the courses on offer is to be increased and further topics are to be added to the orientation course.

The grand coalition wishes the Integration Act and the Regulation on the Integration Act to enter into force even before the 2016 summer break. Criticism has already been expressed, in particular with regard to the reporting obligation incumbent on companies offering vocational training (Section 2. above). It remains to be seen how the rules will be composed when they enter into effect and how they will actually stimulate the integration of foreign people and the German labor market. The waiver of the labor market check for individual agency districts (yet to be determined) and the secured degree of tolerance for the entire term of a qualified vocational training (without age limit with respect to the trainee) are to make the employment of refugees less bureaucratic and more attractive for enterprises. The premature grant of a settlement permit for an unlimited period with unrestricted access to the labor market in cases of outstanding integration certainly is a step in the right direction as well. It is, however, questionable whether, in the end, the achieved benefits will not be outweighed by the additional administrative efforts resulting from the amendments of laws, inter alia as a consequence of the newly designed integration and orientation courses, and the discussion of discrimination issues with respect to unprivileged agency districts and foreigners. It seems that we have still got a long way to go until we have simple and feasible immigration legislation in place that establishes legal certainty not only for refugees but for all foreign people who would like to live and work in Germany.

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