

Mobility: Immigration alert

March 2024



Germany

Amended work authorization rules for students

Executive summary

On 1 March 2024, amended immigration regulations went into effect which extend the time limit for students enrolled in a German university and living in Germany to work in the country. The new regulations also removed some restrictions on students (primarily non-EU/EEA/Swiss nationals) who do not graduate but seek to switch from student permits to an employment-based permit.

Permitted working hours

The amended rules allow students to work as employed individuals in Germany for up to 140 full days per calendar year (up from 120 full days). Students who seek to work as self-employed individuals still need to obtain approval separately.

Besides this increase in the maximum permitted working days, the changes introduce a new way of counting "working time." Effective 1 March 2024, students' weekly working time can be counted in one of two ways:

- ▶ Real time spent per day (continuing rule): For the first time, the rules explicitly state that up to four hours of working time per day (inclusive) will count as a half day. Breaks (i.e., non-working time) are not included. For students who work more than four hours a day, this will be counted as one full working day. This rule applies even if regular weekly work hours with a certain employer are less than 40 hours (e.g., if the regular weekly work hours for an employee are 35 hours, "half a day" would still constitute up to four hours of work, and not 3.5 hours).
- ▶ New alternative: Under this counting method, both of the following constitute 2.5 working days:

- ▶ Up to 20 hours of work per week during the semester (i.e., while classes are in session: "Vorlesungszeit")
- ▶ No time limit when classes are not in session (i.e., during vacations in between semesters: "Vorlesungsfreie Zeit").

For example, a student who works 40 hours per week when classes are not in session will be considered to have worked for 2.5 days only in that week, and not five days. Further, a student who works five hours each day for four days in a week when classes are in session will be considered to have worked for 2.5 days in that week, and not four days.

The counting method can be changed every week. If the authorities conduct an audit to assess whether the maximum allowed working time was exceeded, they are obligated by law to use the best method ("Günstigkeitsprüfung") as it leads to the lowest working time being calculated. Students and employers are required to record the work hours on an ongoing basis to keep count of accumulated time and determine the remaining working time for the calendar year (and to present to the authorities in case of an audit).

Per existing regulations, only working time has to be calculated, and paid vacation does not count. In the event a student is working for more than one employer during a calendar year, generally, all working time has to be taken into account cumulatively. Exemptions already apply in the case of internships that are mandatory for studies and student jobs (e.g., at universities: "Studentische Nebentätigkeiten"), which do not count against the 140 days.

Switching permits

Under the new rules, non-EU/EEA/Swiss students who were enrolled in a university in Germany but did not complete these studies can switch to most types of German employment-based permits without leaving the country, except for immigration schemes for work purposes which are limited in time (e.g., assignments under the Intra-Corporate Transfer scheme). Previously, these individuals had fewer options (e.g., Blue Card).

Impact on employers

With the introduction of the new maximum working time and the new counting rules, it is expected that cases where a student does not have sufficient working time left at the end of a calendar year become rarer. Employers are still required to verify working rights of third-country nationals, including ensuring for each student that sufficient working time is still available in a calendar year.

Key steps

EY will continue to monitor these developments. Should you have any questions, we encourage you to contact one of our immigration professionals.

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