

1. What rights do I as an employee have vis-à-vis my employer*?

Right to payment of wages

If an employee has worked for an employer, he even has a **right to the payment of wages** if:

- the employee is **not in possession of a residence permit/exceptional leave to remain** or a **work permit**,
- there is no written employment contract,
- no agreement on payment was made between the employer and employee, but performance of the work could only be expected for payment according to the circumstances,
- the employee was ill and was therefore unable to work, and the employment contract was not terminated. This applies for a period of six weeks.

Regarding wage levels:

- If no agreement on payment was made between the employer and employee, the wage customary for the place of work, which is generally the standard wage, must be paid.
- If the stipulated wages are much too low for the work performed, the agreement is invalid and the wage customary for the place of work, which is generally the standard wage, must be paid.

How can I as an employee assert this right?

Without judicial assistance

If an employer fails to pay wages, it may be advisable to have a **request for payment** made by

- an advice centre (such as of a trade union)
- a solicitor.

Beware of deadlines

The employee should request the employer as soon as possible in writing to pay the wages, otherwise in some cases the employer may no longer be required to pay (if cut-off periods apply).

With judicial assistance

If the employer continues to refuse to pay, any employee can approach the responsible **Local Labour Court** to sue for payment of the wages, for instance.

It is advisable to **seek advice** from an advice centre or a solicitor **before taking legal action**. You can apply for advisory or legal aid to cover your solicitor's fees and court costs.

The following points must be taken into consideration by employees "not in possession of documents":

- If, in the course of legal proceedings at the Local Labour Court, the judge learns that the employee is **not in possession of a residence permit/exceptional leave to remain**, he may forward this information to the **Aliens' Registration Office**.

- The petition and applications for advisory and legal aid must always contain the name and address of the employer and employee. If the employee resides abroad, this address must be given. In certain circumstances, such as when the employee is of no abode, a solicitor or advice centre can also be nominated as the authorised recipient.
- The court may request the employee to appear in person at the hearing.

2. What rights do I as an employee have in the case of an occupational accident?

In the case of

- an occupational accident
- an occupational disease

the employee may assert claims against the **Employers' Liability Insurance Association** (*Berufsgenossenschaft*) as statutory accident insurance, even if:

- he is **not in possession of a residence permit/exceptional leave to remain**
- he does not have a work permit
- the employer has not registered any employees or has not paid any contributions.

The employee may, in particular, be granted the following:

- costs for curative treatment
- injured person's allowance as long as the employee is unable to work
- injured person's pension
- in the case of the death of the employee, his spouse/children can also receive a pension abroad.

How can employees assert these rights?

Notification of claim

Occupational accidents must be reported by

- the medical practitioner and
- the employer

If the employee is unaware whether or not the occupational accident has been reported, **he can report it himself.**

Forms for claim notifications can be obtained from the Employers' Liability Insurance Association.

But: BEWARE:

If the Employers' Liability Insurance Association learns that an employee is **not in possession of a residence permit/exceptional leave to remain** and/or **does not have a work permit**, this information will be forwarded to the **Aliens' Registration Office.**

This leaflet was given to you by:

If you have any further questions, please give us a call or send us an e-mail. We will do our best to help you!

Remark:

The content of this leaflet is a reflection of the author's legal opinion.

For reasons of legibility and clarity, we refrain from using the female person in this text.

Dieser Flyer kann bestellt werden über:

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direkt beim Herausgeber (siehe unten)

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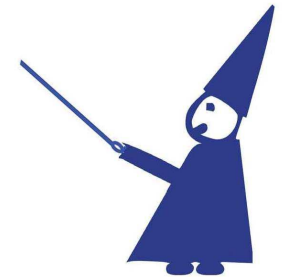
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**INFORMATION ON
EMPLOYMENT LAW
- V A -**

FOR EMPLOYEES

**Rights of foreign
employees
„not in possession of
documents“**

ENGLISCH

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