

Information on Visas and Residence Permits for Students from Third States (= non-EU and -EEA countries excepting Switzerland)

I. "Visas" and "residence permits" are two distinct matters.



Entry with Visa (or visa-exempt) -> Residence permit (student)

= **short-term:** e.g. 90 days

= **long-term:** e.g. 2 years (with the option to extend)

Visa (or visa-exempt) = permission to enter and reside in Austria for a **brief (limited)** period.

- The issuing authority for visas is the Austrian representation (embassy) in the applicant's country of residence.
- Some countries' citizens are visa-exempt; i.e., they may enter Austria without a visa.

Residence permit = for a long-term stay (e.g., as a student) in Vienna/Austria **beyond** the term of one's visa or one's permissible period of visa-exempt stay.

- The issuing authority for residence permits for those intending to reside in Vienna* is **Municipal Department 35 (MA 35)**. When applying for your first residence permit (= Erstantrag [first-time application]) in order to begin your first semester of study at the mdw, the normal procedure is to submit your application **from your home in the country where you are currently living** to the Austrian embassy located in that country a sufficient period of time in advance. As a rule, you must await the decision on your application **outside of Austria**. * In other Austrian provinces, it is the competent municipal or district administration.
- If it is possible for you to enter Austria **with a visa or even without a visa**, you may also await this decision **in Austria** insofar **as you do not exceed the period during which you are permitted to stay** in Austria with or without a visa.

Once your visa expires or your permissible period of visa-exempt stay ends, you must **leave** Austria if you have not yet been granted a residence permit. Even if you have already commenced your studies or planned important studies-related projects (concerts, etc.), **you may not remain in Austria!** The mdw has no legal ability to help you, here.

II. QUESTION: It's my first semester studying at the mdw. I entered Austria on a visa (or I'm from a visa-exempt country and may stay in Austria without a visa for 90 days) **and** have applied to the MA 35 for a residence permit (**Erstantrag [first-time application]**). My visa or period of visa-exempt stay (e.g. 90 days) will run out soon, however, **and I still haven't received a decision from the MA 35**. What do I need to do if it turns out that the MA 35 will take longer to grant my residence permit than I'm currently permitted to stay?

ANSWER:

- If you're already in Austria, you must now leave Austria and await the MA 35's decision **outside the country** (§ 21 para 1 NAG) ...
 - **even if you've already submitted all documents in full and on time,**
 - **and the MA 35 hasn't yet finished processing your request and issued your residence permit.**
- You must leave the country in this case, even if it is not your fault that the MA 35 is taking longer to issue your residence permit.
- The mdw has no legal ability to help you, here.

Do not remain in the country illegally, hoping to avoid being caught. Even if you have already commenced your studies and are receiving instruction: you must **leave** the country once your visa or period of visa-exempt stay has expired. Being present in the country illegally can cause the MA 35 to reject your first-time application and can also negatively influence their decisions on any applications you may submit in the future. And in the worst case scenario, you may end up being deported.

- Once you have left the country, you will be informed at your location abroad when you're residence permit is ready. You may enter Austria in order to retrieve your residence permit. Whether or not you will need a visa to re-enter the country is something you can find out from your local Austrian embassy, which will issue you a visa in order to do so if it is necessary.

III. QUESTION: I've been studying for a while in Vienna on a residence permit. This permit will soon expire or has already expired. I did, however, submit an application for extension (**Verlängerungsantrag**) to the MA 35 **on time** (= before the expiration date on my old residence permit). I haven't yet received a decision from the MA 35. What consequences can I expect?

ANSWER:

- If you've submitted an **application for extension** of your residence permit, **you may remain in Austria even after your "old" residence permit has expired** (§ 24 para 1, Settlement and Residence Act [NAG]) should the competent authority (MA 35) have not yet issued a decision.

Your presence in Austria will remain legal. A prerequisite for this, however, is for you to have submitted your application for extension **on time**. Should you decide to leave Austria temporarily during this period (to visit your family while on break, for example), be sure to get in touch with your case officer at the MA 35: you may need what is known as a **Notvignette (emergency sticker)** in order to re-enter Austria.

