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Joint Agreement on the Recruitment and Placement of Mexican workers

**for obtaining a job as qualified
personnel in the Federal Republic of
Germany**

between

**the Ministry of Labour and Social
Welfare of the United Mexican States**

and

**the Federal Employment Agency of
Germany**



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For the Joint Agreement on the Recruitment and Placement of Mexican Workers, hereinafter the "Agreement", signed by the Ministry of Labour and Social Welfare of the United Mexican States, hereinafter referred as "STPS", represented by Mr. [redacted], Undersecretary of Employment and Labour Productivity and the Federal Employment Agency of the Federal Republic of Germany, hereinafter referred as "BA", represented by its Directors Board, in turn represented by Mr. [redacted], Managing Director International Affairs of the BA hereinafter referred to as the "Parties",

Bearing in mind the provisions of the Memorandum of Understanding between the Ministry of Labour and Social Welfare of the United Mexican States and the Federal Employment Agency of the Federal Republic of Germany, signed in Mexico City on October 18, 2021.

Agree on the following:

ARTICLE 1. PURPOSE OF THE AGREEMENT

The Parties agree that the purpose of this Agreement is the labour recruitment and placement of Mexican workers in a job in Germany as qualified personnel in the professional area(s) listed in Annex 1. This Agreement shall be based on international labour standards for fair recruitment processes.

The recruitment process may also include the prior or parallel participation of Mexican workers (male/female/x-gender) in complementary qualification measures in Germany during the corresponding harmonisation of the professional competencies. During the recruitment and placement process, characteristics and needs of the labour markets of both countries shall be taken into account.

ARTICLE 2. SELECTION OF CANDIDATES

The candidates shall be selected by the Parties through a jointly agreed procedure according to German law and supported by STPS. German employers may also participate in the selection of workers, either in person or in virtual format. For this, the criteria established by the BA in Annex 1, in compliance with the applicable German residence regulations and the needs of its labour market shall be decisive. Annex 1 is conditional upon possible changes in the German national law.

The degree in the above-mentioned professional fields and knowledge of the German language required by German residence regulations must be proven by suitable documents (see Annex 1).



ARTICLE 3. RECRUITMENT AND PLACEMENT OF CANDIDATES

BA shall mediate the recruitment and placement of candidates in Germany as established in sections 4 and 5, in the specified professions in Annex 1. BA shall guide its work based on international labour standards, ensuring working conditions for Mexican workers placed within the framework of this Agreement are equal to those of national workers.

All the procedures to determine the equivalence of Mexican professional qualifications and issuance of the authorization to exercise such profession shall be according to the German requirements.

ARTICLE 4. PROCEDURE FOR DETERMINING THE EQUIVALENCE OF PROFESSIONAL QUALIFICATIONS

The candidates recruited within the framework of this Agreement shall be able to access a temporary employment, in accordance with the applicable legal regulations in Germany, while carrying out the mandatory procedure to determine the equivalence of the Mexican professional qualification and receiving the authorization by the German authorities (see Annex 2). Exclusively for Mexican workers recruited jointly by STPS and BA within the framework of this Agreement the procedure for determining the equivalence of the professional qualification can be initiated after the arrival in Germany.

The employment as an assistant worker must not interfere with the aim of successfully completing the recognition process. The BA, together with its network partners, shall support Mexican workers during the recognition process in Germany.

If the process for determining the equivalence of the professional qualification and the authorization to exercise the profession (if necessary, including required German language skills) is not successfully completed within a period of maximum three years, the worker shall not be able to start a job as qualified personnel and the legal consequence shall be, in principle, the termination of the residence permit. Therefore, the BA shall coordinate the necessary actions with the employer and STPS, for the repatriation of the Mexican worker.

Candidates shall be recruited and placed in a job as qualified personnel and they shall be able to perform, once the equivalence of the Mexican professional qualifications has been verified or the authorization to exercise the profession has been granted and once the corresponding residence permit has been obtained.

ARTICLE 5. INTEGRATION AND LEARNING OF THE LANGUAGE IN THE FEDERAL REPUBLIC OF GERMANY

BA shall inform candidates about the possibilities of receiving assistance, free of charge, to live and work in Germany, including the possibility to offer publicly funded language courses in Germany.



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ARTICLE 6. HIRING PRIVATE EMPLOYMENT AGENCIES

BA may hire, in coordination with STPS, private service providers in order to perform the tasks derived from this Agreement.

BA's sovereign competencies shall not be transferred to such service providers, especially regarding the comparison or legalization of documents.

Cooperation with a private service provider shall be regulated, in coordination with STPS-, by a separate contract between the BA and such private provider.

ARTICLE 7. POSSIBILITIES OF EXCLUSION

Each Party reserves the right to discard those employers, service providers or private recruitment agencies that do not comply with the provisions of this Agreement. Those candidates, who are going to be employed in violation of this Agreement, may be excluded from the recruitment process. Ongoing monitoring of compliance with these provisions shall be carried out by both Parties.

ARTICLE 8. PRINCIPLES OF COOPERATION

The Parties to this Agreement shall collaborate to achieve the best possible implementation and shall exchange their experiences, with the aim of improving and simplifying processes. The details on general aspects of the cooperation are described in the Memorandum of Understanding signed between STPS and BA.

The Parties shall establish a joint steering group, which shall meet once a year in one of the countries or in a virtually format, with the aim of evaluating continuously the implementation of this Agreement.

ARTICLE 9. ADMINISTRATIVE EXPENSES AND COSTS

Each Party shall bear the administrative expenses and costs of its participation in the activities of cooperation undertaken under this Agreement, with the resources allocated in their respective budgets, according to their availability, budgetary appraisal and the provisions of their national legislations.



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ARTICLE 10. EXEMPTION OF RECRUITMENT FEES AND RELATED COSTS FOR CANDIDATES

The selection and recruitment services for being placed in an employment in the Federal Republic of Germany within the framework of this Agreement shall be provided at no cost or fee for the corresponding worker.

German private sector employers shall not claim any payment from candidates to whom they provide services or facilitate a job.

BA shall not mediate for German employers that intend to include the so-called reimbursement clauses or agreements in the labour contract, or the corresponding complementary agreements which oblige workers to reimburse costs in case of early termination of the employment relationship (this applies in particular to the costs of German language courses, translations, recognition procedures, adaptation qualifications and travel expenses).

ARTICLE 11. INFORMATION ON CONSULAR SERVICES AND LABOUR RIGHTS PROTECTIONS

Once the German authority issues the working visa and prior to the departure of the Mexican workers, STPS shall provide them with information about the consular services available in Germany; the labour rights protections provided by the German laws and regulations, and the German agencies responsible of the enforcement of the labour laws and regulations.

ARTICLE 12. ANTI-CORRUPTION

Both Parties as part of the United Nations Convention against Corruption shall guide their actions according to its provisions.

ARTICLE 13. NON-DISCRIMINATION.

Both Parties as part of the International Labour Organization Convention 111, on Discrimination (Employment and Occupation) shall guide their actions according to its provisions.

ARTICLE 14. DATA PROTECTION

The Parties shall protect the information exchanged during the development of the activities of cooperation under this Agreement, in accordance with the provisions of their respective national legislations.



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The Parties understand that the information exchanged within the framework of the cooperation activities under this Agreement shall not be published or communicated to third participants without the prior written authorization of the Party who generated such information.

ARTICLE 15. DISPUTES SETTLEMENT

This Agreement, as well as the specific agreements that may derive from it, are product of the good faith of the Parties, so they shall take all possible actions for their due compliance.

Any dispute derived from its interpretation or implementation, shall be resolved by mutual agreement of the Parties.

ARTICLE 16. FINAL PROVISIONS

The Agreement shall enter into force from the date of its signature and shall remain in force until any of the Parties communicates the other Party, in writing, of its intention to terminate this Agreement thirty (30) days in advance.

This Agreement may be modified at any time, by mutual consent of the Parties, formalized through written communications.

Termination of this Agreement has no effect on existing employment relationships in which candidates were recruited according to this Agreement. Existing labor relations shall not be invalidated by the termination of this Agreement.

Signed in Berlin and Mexico-City this 15 day of december, 2021, in two original copies in the Spanish, German and English languages, all texts being equally authentic. In case of divergence of the interpretation, the English text shall be used.

**FOR THE MINISTRY OF LABOUR AND
SOCIAL WELFARE OF THE UNITED
MEXICAN STATES**



**Undersecretary of Employment and
Labor Productivity**

**FOR THE FEDERAL EMPLOYMENT
AGENCY OF GERMANY**



**Managing Director International
Affairs**



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Annex 1: Candidate Selection

of the
Joint Agreement on the Recruitment and Placement of Mexican workers
for obtaining a job as qualified personnel in the Federal Republic of Germany
between
the Ministry of Labour and Social Welfare of the United Mexican States
and
the Federal Employment Agency of Germany.

I. Candidate selection criteria

Applicants have completed an education with a degree recognized within the United Mexican States in the following professions:

- Bachelor's in Nursing
- Bachelor's in Gastronomy

Proof of the degree is provided by the following documents:

- Diplomas, certificates, and apostilles when applicable

When processing the visa, the level of German will be B1 for the Bachelor's in Nursing and A2 for the Bachelor's in Gastronomy in accordance with the Common European Framework of Reference for Languages (CEFR). The applicants should state their willingness to learn German by signing a letter of commitment between the German company and the participant.

The language level is confirmed through a certificate recognized by the Embassy of Germany in Mexico City (Goethe, Testdav, TELC, and ÖSD).

For the time being, this annex only considers the selection of candidates with a Bachelor's in Nursing or Gastronomy; however, there is an intention to incorporate new professions for work in Germany as soon as the German Federal Employment Agency (BA) gains new knowledge about authorizing additional occupations and considers those in demand in the German job market.

II. Finding candidates

The Mexican National Employment Service (SNE, for its Spanish initials) should always be included in the process of finding candidates.

The SNE is responsible for formally verifying the authenticity of documents. The authenticity of the corresponding diploma or degree should be verified with a Hague apostille.



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III. Preparation stage: language course

The German course is selected by the corresponding German company; the language certificate should meet the requirements for obtaining a residency card.

The participants are not charged for the costs or fees of the German course.

The duration of the German course depends on the language level that must be met.

IV. Recognition in Germany

All selected candidates for the German labor market enter a job related to their reference occupation in accordance with the applicable legal regulations in Germany until their professional qualification is successfully recognized by the competent institution in Germany.

The authorization and certification process can take up to three years; however, if the selected individual is able to obtain the equivalent of the professional qualification and/or obtain a permit for professional activities beforehand (for example, within a year), at that time, they will no longer be an assistant and can work professionally as authorized and qualified staff and also receive the same income as the qualified staff in that profession.

The details of the process for obtaining the equivalence of the foreign professional qualification and for obtaining a professional activity permit will be addressed in more detail in annex 2 of the Placement Agreement.

V. Preparation phase: general information and entry process

The Federal Employment Agency (BA for its German initials) is in charge of informing applicants about life and work in Germany before they enter the country.

The BA is in charge of preparing and organizing the visa appointment.

The SNE provides information about Mexico's legal requirements for emigrating (for example, pre-departure training).



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Annex 2: Procedure for Determining the Equivalence of the Foreign Professional Qualification and Issuing a Professional Activity Permit

of the

Joint Agreement on the Recruitment and Placement of Mexican workers

for obtaining a job as qualified personnel in the Federal Republic of Germany

between

the Ministry of Labour and Social Welfare of the United Mexican States

and

the Federal Employment Agency of Germany.

I. Authorization and/or recognition process

On the basis of this placement agreement, the BA can place foreign workers in Germany to carry out the procedure of determining the equivalence of the foreign professional qualification. If necessary, this also includes granting a professional practice permit. That is, this residency card allows the qualified foreign worker to enter Germany without having to establish professional qualification equivalence before entering Germany. However, this determination of equivalence should be requested and addressed immediately after entering Germany.

Still, the qualified worker must demonstrate their professional qualification in the country of origin, just as stipulated in the placement agreement. After arriving in Germany and working a paid job, it is necessary to begin the recognition procedure for this foreign professional qualification. Furthermore, it might be necessary to request and obtain a professional activity permit.

The residency card based on the internship agreement is always initially granted for a maximum of 12 months and can be extended for a total duration of a maximum three-year residency for the purpose of gaining the recognition of the foreign degree. This extension is only possible if it is demonstrated that the recognition procedure of the foreign professional qualification is carried out coherently.

Subsequent employment as a qualified worker recognized in Germany is possible if the professional recognition procedure has been successfully completed within the stated period.

II. Content of the recognition procedure

Below, the recognition procedure is described in general terms. You can find detailed information (also translated into numerous languages) on the official website www.anerkennung-in-deutschland.de. The content of the recognition procedure is usually the following:



- Translation and certification of the required documents and verifications
- Application for the equivalence of the foreign professional degree examination at the competent recognition office
- If applicable, the application for the professional license or license for practicing medicine
- If differences are found during the procedure, the professional qualifications to compensate for these differences
- Additional language training (for example, if it is required to for professional activities)
- If applicable, proof of other admission requirements for this professional profile (for example, a certificate of good conduct or health)

In the recognition procedure, the competent body examines to what extent a professional qualification earned abroad is comparable to the qualification required for this occupation in Germany. This examination is usually based on German training regulations, professional regulations, or regulations on the studies related to the profession in Germany. Professional experience demonstrated in the country of origin can also be accredited.

In the case of total compliance, full recognition of the professional qualification is granted. In the case of partial compliance, partial recognition is granted. Upon a decision of partial recognition, the competent recognition office specifies what practical or theoretical qualifications are required.

In the case of regulated professions,¹ a professional license must also be requested. To this end, other requirements must be fulfilled (for example, a certain language level, good health, etc.).

III. Costs of recognition and provisions to cover these costs

The recognition procedure is subject to costs. The expenses result from applying to the competent recognition office (fee) and translating and certifying necessary documents. There are often additional costs for the qualifications. The table below shows how the costs are defrayed.

1. The required expenses of applying for the foreign professional qualification equivalency examination at the competent recognition body are charged to the employer.
2. The costs of translating and certifying the documents required by the competent recognition body for the equivalency examination will be charged to the employer. This

¹ Regulated professions are those involving legally protected activities. In the case of these professions, in addition to a certain professional qualification, other requirements are usually necessary to obtain a professional license. This is especially for professions in the fields of health, security, or social services, either as a doctor or a professor. The protected professional degree, such as that of engineering, certificates of competency and expertise for some activities and independent trades, as well as ongoing education certificates, such as that of master artisan, are also forms of regulation.



excludes any expenses previously arranged by the foreign specialist to translate documents for an application to a German employer or for the selection procedure in the country of origin (for example, for diplomas, curriculum vitae/resumes).

3. The employer pays for professional qualifications with public funds (or those from third parties).
4. Costs of additional language training related to the job in Germany are also paid by the employer or public funds. In some circumstances, the professional may have to cover part of these expenses.

IV. Maximum duration of residency before obtaining full equivalency and, when applicable, admission to a profession

The residency card is initially limited to one year. Extension is dependent on being able to demonstrate to the German Federal Employment Agency that the recognition procedure has been carried out coherently and that necessary qualifications, exams, etc. have also been met and completed (see annex 3 of this Placement Agreement—Access to the Job Market).

The qualified worker must satisfy the necessary qualifications and meet full equivalency within a maximum period of three years. If necessary, the professional activity permit should also be available at this time. Renewed residency in Germany to work as a recognized specialist is only possible if full equivalency is met within this period.

V. Support from the employer

German employers who hire qualified workers entering the country through the placement agreement should support them as they carry out the entire recognition process, including with the necessary qualifications. In some cases, public institutions and bodies as well as non-profits are also available to support and assist in these processes. However, the primary responsibility of carrying out the procedure falls upon the qualified foreign workers and the companies that have hired them.



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Annex 3: Procedure for Admission to the Job Market

of the

Joint Agreement on the Recruitment and Placement of Mexican workers

for obtaining a job as qualified personnel in the Federal Republic of Germany

between

the Ministry of Labour and Social Welfare of the United Mexican States

and

the Federal Employment Agency of Germany.

The described procedure refers to foreign professionals from the United Mexican States who wish to enter Germany on the basis of this internship placement agreement. They need an entry visa and a residency card. The hosting agreement establishes this residency card. The relevant legal grounds are set forth in article 16d (4) of the Residency Law (AufenthG) and article 2 of the Employment Regulations (BeschV).

I. Entry visa

To enter Germany, the applicable residency card is the visa issued by the German embassy or consulate in the country of origin. To issue the visa, the Federal Employment Agency (BA, for its German initials) requires labor market approval. The visa grants its holder the right to enter Germany and take up employment.

The Embassy of Germany limits the visa to several months. The duration of the visa may vary in each case. The following requirements must be met before applying for a visa:

1. Proof of the required language skills (see annex 1).
2. Approval by the BA to take up employment during the recognition procedure in accordance with the applicable legal regulations in Germany. The BA will accompany the successful completion of the recognition process. Full-time employment is permitted only in this field of work and only if full-time employment does not adversely affect the recognition procedure, such as, for example, the duty to attend any professional training programs.
3. a guarantee of a specific job offer provided by the employer for employment as a recognized specialist worker from the time of successful completion of the recognition procedure. The BA will accompany the successful completion of the recognition process. This is to prevent abuse of the specialist worker by employing him/her as an auxiliary worker all the time and to ensure completion of the recognition procedure;
4. a declaration to be submitted by the foreign specialist worker as early as during the prerecognition procedure stating that, after entering the country, he/she will institute and complete the procedure of determining and confirming equivalence of his/her foreign



professional qualification with the competent recognition authority and, if necessary, that of issuing the license required for exercising his/her profession.

II. Objective of the stay in Germany

The purpose of the stay in Germany is the successful professional recognition of the Mexican profession (see appendix 2). Therefore, the professional recognition procedure must be carried out from the moment of entry and completed within three years.

III. German residency card

Before the entry visa expires, the foreign qualified worker must apply for a residency permit from the competent foreign affairs authority at their new place of residence in Germany.

Then, the Foreigners Registration Office examines the granting of the residency card, consulting with the BA, based on the proof that the recognition procedure has indeed been carried out and that employment has been accepted. In that case, the qualified worker will obtain a residency card for an extended stay in Germany. It is limited to one year.

The first time the residency card is issued, it may be extended for one year at the time of expiration if the applicable proof is provided. Alternatively, if the requirements are met, the foreigner may apply for a new residency card to work as a recognized specialist (see below). A condition for extension in both cases is that the foreign specialist proves they have systematically followed the recognition procedure (see annex 2) during their previous stay.

Proof of coherently carrying out the recognition procedure, or the procedure for the granting of a professional activity permit in the case of regulated professions, may be provided with the appropriate written documents, for example:

- Application for recognition procedure or professional activity permit
- Notice of partial recognition
- Confirmation of the provider's participation in a qualification measure
- The company's employment test with qualification content
- Confirmation of completed exams
- Proof of good prospects for repetition in the case of failed exams
- Additional correspondence with the authorities responsible for recognition

The residency card may be extended to a maximum stay of three years.

IV. Additional stay with a new residency card once the residency card from this placement agreement has expired

If the maximum three-year residency period has expired, this residency card cannot be extended again. This is because the qualified worker must have gained the right to work in Germany as a recognized qualified worker during their previous residency period.



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If the foreign specialist has successfully completed their professional recognition during this period and if they have the necessary professional activity permit, they may then work as a recognized specialist. For this purpose, the foreign specialist may then apply for a residency card at the foreigner affairs authority responsible for paid employment in Germany.