

*INFORMATION FOR **DOMESTIC
WORKERS** WORKING FOR **DIPLOMATS***



Ban Ying

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Ban Ying is a counselling center for migrant women. On a regular basis the center is also approached by domestic workers of members of diplomatic and consular missions when problems arise in the employer-employee relationship. Even though domestic workers working for diplomats are de facto legal migrant workers, they are not subject to the Residence Act; therefore the immigration office is not responsible for them. Instead of the usual residence permit they receive a special document – the protocol ID (Protokollausweis) which is issued by the Federal Foreign Office. The Federal Foreign Office’s department no. 703 is responsible for issuing the document. The application for this document must be accompanied by a verbal note¹ of the employer’s embassy addressed to the Federal Foreign Office stating that minimum standards regarding labor regulations will be met. These are listed in circular note no. 9/2015 as well as 34/2011, which constitutes the basis of this brochure.

¹ A verbal note is a form of correspondence between the diplomatic missions in the receiving foreign country and the foreign ministry of this country.

ENTRY PROCEDURE

Domestic workers coming to Germany from abroad in order to work for diplomats, need a visa to enter the country. They can only enter the country if a diplomat is willing to employ them. As a rule, the employer's embassy will first inform the Federal Foreign Office that it has the intention of hiring a domestic worker. If there are no reservations on the part of the Federal Foreign Office, a visa is issued to enable the domestic worker to enter Germany.

The employer must ensure that the domestic worker is registered with the Federal Foreign Office within 14 days after entering Germany. In order to do so, the employer submits the domestic worker's papers to his/her diplomatic or consular mission. The diplomatic mission then applies to the Federal Foreign Office for the protocol ID. In the process, the domestic workers must submit their papers to the employer, as they cannot apply for the ID card themselves. The protocol ID is then handed out to the employer's diplomatic or consular mission. The employer has made a commitment to the Federal Foreign Office to return the domestic worker's documents afterwards.²

Even though the protocol ID is the domestic worker's personal document, this document also states the name of the employer and his/her diplomatic or consular mission. This identity document is only valid for working in the household of this person. In case of termination of employment by either the domestic worker or the employer, the domestic worker must leave Germany immediately – at the expense of the employer. The protocol ID is valid for one year; for every renewal the domestic worker needs to appear before the Federal Foreign Office personally and may then collect the extension of the protocol ID. The protocol ID is extended for the duration of the diplomat's posting in Germany – however, the maximum duration is five years. At the earliest, re-entry to Germany is possible after staying abroad for one year.

² Compare to the Federal Foreign Office's circular note no. 34/2011, art. III.3

WHY A NEW CIRCULAR NOTE?

We assume that diplomats are usually good employers who treat their domestic workers fairly and pay them adequate wages. Unfortunately, however, there have been cases in the past where German minimum labour and social standards were violated. In a few cases physical violence and crimes against the personal freedom of the domestic workers even occurred.

In response to this situation and in order to offer better protection to domestic workers, the Federal Foreign Office has compiled a new circular note (no. 9/2015) – in addition to circular note 34/2011 – in which the obligations of the employers towards their domestic workers are laid down. In order to be able to hire domestic workers in the future, the employer's embassies will therefore have to pledge in a verbal note (see annex 4) that the minimum standards stated in circular note no. 9/2015 and 34/2011 will be met.

In addition, the application must include the following declarations:

- **Labor contract (see annex 4a)**
- **Declaration of the employee (see annex 4b)**
- **Declaration of the employer (see annex 4b)**
- **Health insurance certificate (see annex 4c)**

The circular note with the annexes has been sent to all diplomatic missions. We have published this brochure to ensure that domestic workers are also informed of their rights. Therefore you will find here the English, French, Indonesian and Tagalog translations of the verbal note and all annexes.

2. CIRCULAR NOTE 9/2015

Reference No. (please quote when replying): 703-RL-701 AM allg.

Federal Foreign Office salutes the diplomatic missions in the Federal Republic of Germany – in connection with circular note NR 34/2011 of December 1, 2011 (attached copy) and number 6 of the protocol directives from January 1, 2013 – and has the honor of announcing the following supplementary and new regulations for the employment of private domestic workers effective April 1, 2015:

The Foreign Ministry gives great importance to protecting the rights of private domestic workers and therefore gives great importance to the compliance with all the regulations cited above for the employment of private domestic workers from sent members of foreign missions.

As an example, the annual Information Seminar that takes place in the Foreign Office since 2012 for private domestic workers serves as a forum for them to learn about their rights and obligations. The Foreign Office would appreciate it if the number of participants is increased in the future and that the same is also used as an opportunity – assuming that the respective employers gladly allow participation of domestic workers – to ask the employers to encourage their domestic workers to attend in future events.

The Foreign Office believes that private domestic workers in the Federal Republic of Germany can also move outside the households of their employers and also operate autonomously with the local authorities (not only when needed) and otherwise interact socially. Basic knowledge in German or in one of the official and working languages of the United Nations (English and French), would serve as an advantage for approval, although these are not a mandatory requirement.

The process that has been practised by the Federal Foreign Office since mid-2012, that of inviting the private domestic staff once a year for an interview upon renewal of a protocol ID, has proved successful and will be continued.

On this occasion, the Federal Office will be provided with proof of the employer's proper payment of wages through bank statements. In this Context, the Foreign Office reminds the need to open a bank account for private domestic staff, on which the monthly wage is to be paid.

The regulations in Paragraph 6.2.1 of the protocol guidelines 2013 [rates of pay](#) of the private domestic workers will be revoked and newly determined by adjusting them to the current collective wage agreement for private housekeeping [with effect from April 1, 2015](#):

1. The present monthly net minimum salary for simpler tasks following individual instructions without respective professional education will be augmented from the previously €840 to €950 from hereon, including [free board and lodging](#).
2. The previously minimum net salary for better qualified ,independent activities requiring a completed vocational training or equivalent skills (ex. cook, driver, personal assistant) will be augmented from €1,030 to [€1,170 including free board and lodging](#). From April 1, 2015, working overtime by order of the employer has to be reimbursed with the net hourly rate of [€5.69](#) or [€7.01](#) respectively.

The supplementary regulations in Annex 4 (Sample Note Verbal) and 4a (Contract of Employment) of the protocol guidelines are enclosed with this circular note and will be provided promptly by email to the diplomatic representations; it is requested to stop using the existing templates as of April 1, 2015.

The Foreign Ministry would like to emphasize that non-compliance or the disregard with these regulations, can lead to the non-approval for the recruitment of private domestic workers. If after entry of private domestic workers it is informed that the above rules and regulations are not respected, the Foreign Office in individual cases, will take legal measures regarding the application of benefits that arise from the Vienna Convention of embassy legal measures.

The Federal Foreign Office requests diplomatic designations to bring this circular note to the attention of all consular missions and also uses this opportunity to reaffirm its distinguished regard to the diplomatic missions in the Federal Republic of Germany.

Berlin, February 27th, 2015

L.S.

2A. CIRCULAR NOTE 34/2011

Reference No. (please quote when replying): 703-701 AM allg.

The Federal Foreign Office salutes the diplomatic missions in the Federal Republic of Germany and – subsequently to circular note no. 32/2011 of November 18, 2011 – has the honour of announcing the following new regulation for the employment of private domestic workers **with effect from January 1, 2012**:

I.

1. The Federal Foreign Office will continue to grant delegation members of diplomatic and consular missions in the Federal Republic of Germany the right to recruit private domestic workers abroad and to hire them to be employed exclusively in their own households. Heads of diplomatic missions may employ up to three, heads of consular missions up to two and all other delegation members one person as private domestic workers. We expressly want to point out the possibility to recruit private domestic workers from the German job market.
2. **With the termination of the official activity of the employer or at the latest after 5 years** of residence, private domestic workers must leave Germany. **At the earliest they can re-enter the country at the end of one year** to take up the same occupation with an official member of a diplomatic or consular mission. During the period of residence in the Federal Republic of Germany a **change of employer** or “sharing” or “lending” of private domestic workers to other persons is **not permitted**. Private domestic workers pursuing an occupation other than the one authorised by the Federal Foreign Office or not living in the household of their employer must leave the Federal Republic of Germany immediately. It is **not permitted** for private domestic workers recruited abroad to **bring along** or **to reunite with family members** from abroad later.
3. The Federal Foreign Office cannot consent to delegation members of a diplomatic/consular mission **hiring family members or relatives** as private domestic workers. Private domestic workers of delegated beneficiaries who are allowed to employ several domestic workers **must not be related to one another**.

To all Diplomatic Missions in the Federal Republic of Germany

II.

The rates for remuneration of private domestic workers ruled under no. 6.2.1 of the protocol directives 2006 are revoked and newly determined by adjusting them to the current collective wage agreement **with effect from January 1, 2012**:

1. The present monthly net minimum salary for simpler tasks following individual instructions without respective professional education will be augmented from previously €750 to **€840** from now on, **including free board and lodging**.
2. The present monthly net minimum salary for better qualified, independent activities requiring a completed vocational training or equivalent skills acquired otherwise (e.g. cook, driver, personal assistant) will be augmented from previously **€915** to **€1,030** from now on, **including free board and lodging**.
3. From January 1, 2012, working overtime by order of the employer has to be reimbursed with the regular net hourly rate of **€5.03** or **€6.17** respectively.

III.

1. The employment of private domestic workers is **subject to authorisation** and needs to be **notified** by the diplomatic missions **in good time** prior to the intended arrival in Germany, stating the name and nationality of the domestic worker with the enclosed **exemplary verbal note** including a declaration of commitment (**annex 1**, replacing annex 9 of the protocol directives 2006).
2. Private domestic workers recruited abroad principally **require an entry visa**. The visa needs to be **personally** applied for in good time prior to the intended date of entry to Germany at the competent German foreign mission. **Documents substantiating the application** (e.g. labour contract, verbal note of the local foreign ministry respectively the embassy in Germany, **declaration of the employee** including a declaration of commitment of the employer according to **annex 2**) as well as a **travel health insurance** valid for the validity period of the visa must be submitted with the visa application. Approval of the issuance of the visa can only be granted after the employer has entered the Federal Republic of Germany and has registered with the Federal Foreign Office. Subsequently the competent

German foreign mission issues the private domestic worker with a temporary entry visa valid for one month.

3. For the employment of private domestic workers [from January 1, 2012](#), the new [model labour contract](#) enclosed as [annex 3](#) must be used and submitted to the Federal Foreign Office as a document substantiating the application. Particular attention should be paid to the following:
 - The employer is obliged to comply with the German minimum standards regarding labour and social law. Regular working hours are 38.5 hours per week or 167 hours per month. Overtime is reimbursed according to fixed rates. The working hours have to be communicated to the employee who is also to be provided with the regulations of the Working Hours Act.
 - Statutory minimum paid leave according to the regulations of the Federal Holiday Benefits Act is currently four weeks per year.
 - The employer provides the employee with a room of her/his own in her/his household. The employee is provided with three full meals per day.
 - The total salary must be transferred to a current account given by the employee subsequently at the end of each month.
 - The employer leaves the discretionary power over his/her passport and protocol ID to the employee.
 - The employer complies with article 618 of the German Civil Code (obligation to provide protective measures).
 - The employer pays for the employee's travel costs to Germany and back to her/his country of origin after termination of employment.
 - A health insurance has to be taken out for the employee and the employer pays for the monthly contributions. Insurance benefits must conform to those of the German statutory health insurance and must include pre-existing conditions. All German insurers and all insurance companies within the EU/EEA represented with a branch in Germany can be recognised. The health insurance certificate according to [annex 4](#) (the form corresponds with annex 10 of the protocol direc-

tives 2006) must be sent to the Federal Foreign Office as before.

- In the event of the employee being incapacitated through no fault of her/his own due to illness, the employer continues payment of the employee's regular salary for the duration of six weeks. The regulations of the Maternity Protection Act must be observed.
- Termination of employment by notice or annulment contract as well as contractual amendments must be in writing in order to be effective. English translations of annexes 2 and 3 will be given later.

IV.

In the event of future violations of these regulations, the Federal Foreign Office expressly reserves the right to deny the authorisation for employment of private domestic workers.

The Federal Foreign Office requests the diplomatic missions to bring this circular note to the attention of all consular missions and also uses this opportunity to reaffirm its distinguished estimation of the diplomatic missions in the Federal Republic of Germany.

Berlin, December 1, 2011

L.S.

3. SAMPLE VERBAL NOTE

Annex 4 of the Protocol Directives – To be submitted to Dept. 703
PP Private domestic staff of diplomatic/consular mission members

The Embassy of _____ has the honor of notifying the Federal Foreign Office, that the delegate member of the embassy/consulate _____ has the intention of hiring _____ Ms/Mr _____ as a private domestic worker.

We assert that:

- mutuality is guaranteed,
- the employer has concluded a written labor contract with the employee,
- the employer bears the costs for the employee's travel to Germany in order to commence work,
- the employee receives a minimum monthly salary of €950 net and at the minimum €5.69 per working hour,
- for simpler tasks following individual instructions the employee receives a minimum monthly salary of €1,170 net and €7.01 per working hour,
- no portion of the salary (see wage limits above) will be deducted for accommodation and lodging,
- the salary is transferred to the employee's account and the opening of this account is verified before the Federal Foreign Office when the protocol ID is issued,
- the employee will be issued a health insurance to be paid by the employer through his/her regular monthly contributions of the health plan. No portion of the salary (see wage limits above) will be deducted for this
- all other minimum standards regarding labor and social law effective in the Federal Republic of Germany will be observed,
- the employee is provided with a room of her/his own inside the employer's household

- after termination of employment (at the latest at the end of 5 years) or in case of early termination of contract (whether from the employee or employer herself/himself) the employer pays for the employee's travel costs back to her/his country of origin
- the employer leaves the discretionary power over her/his own passport and her/his protocol ID to the employee.

A declaration of the employee as well as the declaration of commitment of the employer (Annex 4b of the Protocol Directives) will be submitted together with the application for the protocol ID,

The Embassy of _____ uses this opportunity to reaffirm its distinguished regard to the Federal Foreign Office.

_____, of _____
(Place) (Date) (Designation) Seal

4. CONTRACT OF EMPLOYMENT

Annex 3

The following contract of employment shall be concluded between _____ and Ms/Mr _____
(Surname and address, hereinafter referred to as "the employer") (hereinafter referred to as "the employee")
born on _____ resident in _____

1. Duties

- a) The employee shall be employed from _____ as _____ for the following duties: private servant in the household of Mr/Ms _____.
The place of work shall be _____.
- b) The employee is not permitted to enter into secondary employment.

2. General obligations

- a) The employee undertakes to carry out the tasks assigned to him/her with care.
- b) The employer undertakes to comply with the minimum labour and social standards in force in the Federal Republic of Germany.

3. Remuneration

- a) The monthly remuneration shall be € _____ net¹ plus board and lodging.
- b) The employee shall be allocated his/her own room in the employer's household. The employee shall be given at least three full meals (breakfast, lunch and dinner) per day. The employee shall comply with Section 618 of the German Civil Code (Duty to undertake protective measures).
- c) The remuneration shall be transferred at the end of the month to the account no. _____ at _____ bank sort code _____
IBAN BIC supplied to the employer by the employee.

¹ In the case of work carried out on the basis of individual instructions from the employer a minimum monthly net remuneration of €950 and in the case of more extensive work carried out independently a minimum monthly net remuneration of €1,170 must be paid. A higher net income is to be agreed upon in the case of more highly qualified work.

4. Working time and overtime

- a) The regular working time shall comprise 167 hours per month/38.5 hours per week. The following working time has been agreed upon _____.
- b) If the employee works overtime at the request of the employer, it shall be remunerated in line with the regular hourly remuneration of €5.69 net or €7.01 net respectively.
- c) The regulations of the Working Time Act are to be complied with.

5. Health insurance

Health insurance shall be taken out for the employee. The employer shall pay the monthly health insurance contributions. The employer is not permitted to deduct the health insurance contributions from the employee's remuneration or to offset them against the remuneration.

6. Annual leave

Annual leave is based on the provisions of the Federal Annual Minimum Holiday Act. The minimum paid annual leave is currently 24 working days (four weeks)²

7. Illness and maternity leave

In the case of incapacity of work due to illness through no fault of the employee, the employer shall continue to pay him/her the regular remuneration for six weeks (sickpay).

The employer shall comply with the provisions of the Maternity Protection Act.

8. Termination/termination contract

Written form is required for any termination of the employment relationship, be it by giving unilateral notice or by contractual agreement.

² The Federal Annual Minimum Holiday Act is based on a six-day working week (Monday to Saturday). In the case of a five-day working week, the leave entitlement is 20 working days (four weeks).

5. DECLARATION BY THE EMPLOYEE

Annex 4b – To be submitted to Division 703
PP Private servants of members of the diplomatic missions or career consular posts

The employment relationship may be terminated by either party with four weeks' notice to the 15th or end of a calendar month. In all other respects, the statutory period of notice shall apply.

The right to terminate an employment relationship without notice on important grounds in line with Section 626 of the German Civil Code shall remain unaffected. Where termination without notice is invalid it shall take effect as a regular termination to the next admissible date.

9. Reference

The employer must issue a reference to the employee upon termination of the employment relationship.

10. Passport, protocol ID card, cost of return home.

- a) The employer shall grant the employee full control over his/her passport and protocol ID card.
- b) The employer shall assume the cost of the employee's return to his/her country of origin on termination of the employment relationship.

11. Contract amendments

Any subsidiary agreements, amendments or additions to this Agreement must be made in writing.

_____, of _____
(Place) (Date)

(Employer's signature) (Employee's signature)

I _____ hereby declare that I have been informed that I have been granted permission to reside in the Federal Republic of Germany solely in order to take up employment as a private servant in the household of Mr/Ms _____ and that for the duration of such employment I shall receive a protocol ID card in place of the normal residence permit.

I am aware that while in Germany I must support myself financially through my work as a private servant and that I am not entitled to claim non-contributory social benefits (such as child benefit, housing benefit, child-raising allowance, income support, etc.). I am not permitted to bring members of my family (spouse, children) with me or to have them join me later.

I am also aware that I may not change my employer and that I must leave the Federal Republic of Germany immediately upon termination of my employment by Mr/Ms _____, or at the end of five years at the latest.

(Surname, first name)

_____, of _____
(Place) (Date) Signature

UNDERTAKING BY THE EMPLOYER

I give my assurance that the abovementioned conditions shall be met. I shall meet all costs incurred in connection with the stay of Mr/Ms _____ in the Federal Republic of Germany. I furthermore undertake to take out health insurance for him/her with effect from the day of his/her arrival, in accordance with the Directives on private servants, and to maintain such insurance cover through the regular payment of contributions.

Upon termination of the employment, I am responsible for ensuring that Mr/Ms _____ leaves the Federal Republic of Germany immediately and I shall make available the funds required for his/her return to his/her country of origin.

_____, of _____
(Place) (Date) Signature

Seal of the diplomatic mission/career consular post

6. HEALTH INSURANCE CERTIFICATE

Annex 4c please complete the form in print and submit to Dept. 703
 PP private domestic staff of diplomatic/consular mission members

Health insurance:

(name)

(address)

_____, of _____
(Place) (Date)

Case officer

Extension no.

File no.

Policy holder:

(employer name)

(address)

It is hereby certified that

Name, first name (insured person)

(address)

Date of birth

Insurance no.

is fully insured for costs of illness with a fixed term
 from _____ until _____.

There is a medical expense insurance in accordance with § 193 para. 3 sentence 1 VVG(Insurance Contract Act), which comprises of at least one reimbursement for outpatient and inpatient treatment, and a personal maximum deductible of 5.000 Euros per calendar year.

- Contributions have been paid without interruption.
- Contributions have not been paid since: _____

by proxy

(stamp and signature)

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GESTALTUNG

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STAND

Dezember 2015



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