



Federal Office  
for Migration  
and Refugees

# Migration, Integration, Asylum

Political Developments in Germany 2018

Annual Policy Report by the German National Contact Point  
for the European Migration Network (EMN)



Forschung





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# Summary

The 2018 Policy Report provides an overview of the most important political discussions and political, legal and institutional developments in the areas of migration, integration and asylum in the Federal Republic of Germany in the year 2018. It describes changes to the general political structure, for instance due to elections, the establishment of new institutions and institutional developments. In addition, it deals with issues relating to legal migration, international protection and asylum, unaccompanied minors and other vulnerable groups, integration and non-discrimination, citizenship and statelessness, irregular migration, return, smuggling, border control and visa policy, return, human trafficking and migration and development.

Developments in the area of the **general migration, asylum and integration system** in 2018 were characterised by the renewed formation of the CDU/CSU (Christian Democratic Union of Germany/Christian Social Union in Bavaria) and SPD (Social Democratic Party of Germany) government in March 2018 at federal level and their strategic orientation in the coalition agreement for the new legislative period (see Chapter 2.2). European policy and international developments also had an impact on the national framework, for instance on the debate about the rescue of refugees from the Mediterranean Sea and the subsequent distribution from the neighbouring and host countries to the other EU Member States. It was in this context that the 'Cities of Safe Harbours' alliance was established which numerous towns and municipalities have since joined, declaring their willingness to admit refugees. The Global Compact for Safe, Orderly and Regular Migration and the Global Pact for Refugees, in addition to the various crises, wars and centres of conflict in the world and the displacement associated with them represented important decisions and innovations made at international level (Chapter 2.2).

Labour migration and other forms of **legal migration** were characterised by positive macroeconomic developments, accompanied by an increase in the number of employees subject to social security contributions, with more than half of all new jobs being taken up by foreign workers. The number of highly qualified third-country nationals who held an EU Blue Card also rose by 25.4% from 21,727 in 2017, bringing the total up to 27,241. In addition, the Federal Government, under the auspices of the Federal Ministry of the Interior

(BMI) and the Federal Ministry for Economic Affairs and Energy (BMWi) worked on the 'Skilled Labour Immigration Act' (Fachkräfteeinwanderungsgesetz) announced in the coalition agreement, which was passed by the federal cabinet in December 2018 and provided for various measures aimed at facilitating access to the labour market for foreign employees.

**Refugee migration** to Germany declined once again in 2018 similar to the previous year with a total of 185,853 first-time and subsequent asylum applications being filed. During the same period, 216,873 decisions were taken on first-time and subsequent applications, with the overall protection rate dropping to 35% (2017: 43.4%). Several legal amendments entered into force once again in 2018. Since 1 August 2018, family reunification to beneficiaries of subsidiary protection has been permitted once again subject to a contingent. Per month, 1,000 visa may be granted for this purpose. With the entry into force of the 'Act Amending the Third Act on Asylum' (Gesetz zur dritten Änderung des Asylgesetzes), cooperation requirements for refugees similar to those in the asylum application procedure were also introduced in withdrawal and revocation procedures. Other measures were aimed at limiting and controlling immigration and speeding up the return of persons whose asylum claim has been rejected. So-called AnKER facilities (arrival, decision and return facilities), for instance were opened in three Länder.

In 2018, 12,201 **unaccompanied minors** were admitted to Germany, which is almost half the number of unaccompanied minors admitted the previous year (2017: 22,492). "4,087 unaccompanied minors filed an application for asylum in 2018 and the number of unaccompanied minors who were granted protection dropped to 59% compared to 78% in 2017".

In the **field of integration**, 202,933 persons enrolled in an integration course for which the federal budget had earmarked around EUR 765 million. The main countries of origin of the course participants were Syria, Afghanistan and Iraq. The vocational German language courses, which the Federal Office for Migration and Refugees ((BAMF) has been running together with the Federal Ministry of Labour and Social Affairs (BMAS) since 2016, recorded a significant increase in the number of course participants. 165,876 persons enrolled in these courses in 2018, almost twice as many as

in 2017. In the field of **non-discrimination**, attacks against refugees, their shelters, relief organisations and volunteers remained at a high level with 1,775 registered offences, although the number of offences was lower than the previous year. In addition, a nationwide anti-Semitism reporting office was set up in Germany in 2018 under the auspices of the Federal Government's Anti-Semitism Commissioner, as well as an expert commission on antiziganism.

In 2018, 112,340 persons obtained German **citizenship** through naturalisation, with Turkey, Iraq and Kosovo among the most important third countries of origin. The same year, 25,995 stateless persons were registered in Germany, representing an increase of 1,345 year-on-year.

In the field of **irregular migration, smuggling, border controls** and **visa policy**, the number of persons who were found to be illegally entering Germany by the Federal Police dropped by more than 20% compared to the previous year, with the main countries of origin being Afghanistan, Nigeria and Iraq. At the same time, the number of persons who were enforceably required to leave the federal territory rose by 7,098 to 235,957 of which 180,124 were persons whose removal had been suspended (Duldung). In addition to providing technical equipment, the Federal Police participated in Frontex measures in other European countries throughout the year, deploying 919 police officers. At European level, the Regulation on the European Travel Information and Authorisation System (ETIAS) entered into force in October. It means that third-country nationals who do not need a visa to enter the Schengen Zone (2018: 61 countries), will in future have to apply for an ETIAS visa and will be required to undergo a detailed security check in this context.

In the **field of return policy**, the number of persons removed exceeded the number of voluntary returns supported under the REAG/GARP programme in 2018 for the first time since 2012. 15,941 persons left the federal territory supported under the REAG/GARP programme whereas 23,617 persons were removed, just under one-third of whom were Dublin transfers (7,102 Dublin transfers). Germany also signed a readmission agreement with Guinea and an agreement on simplified readmission with Moldova.

The number of officially registered **victims of human trafficking** for the purpose of sexual exploitation was 489 in 2017. There were no data available for 2018 at the time this report was finalised. 180 victims were registered in the area of human trafficking for the purpose of labour exploitation. Two victims were

registered in the figures on exploitation for the purpose of begging in 2017 which were included for the first time in the situation report issued by the Federal Criminal Police Office (BKA). The Federal Office for Migration and Refugees in turn trained almost 100 new specially-commissioned case officers for victims of human trafficking in 2018.

In the area of **migration and development**, the Federal Government focused on three objectives in a bid to reduce the causes of displacement: to prevent the causes of displacement, to reduce the existing structural causes of displacement and to provide support for migrants who have already fled their regions of origin, transit countries and host countries. An important instrument in this context is, among others, the federal return programme 'Returning to New Opportunities' (Perspektive Heimat), under which three new migration advice centres were established in Afghanistan, Iraq and Senegal in 2018 where the International Organisation for Migration (IMO) counsels refugees about their reintegration prospects in their country of origin. In 2018, EUR 11.6 million were earmarked in the Federal Government's budget to finance the migration advice centres. Furthermore, the 'Employment Offensive for the Middle East' was continued, creating more than 68,800 jobs in Jordan, Lebanon, Iraq, Syria and Turkey for refugees, internally displaced persons (IDPs) and residents of host communities.

# The European Migration Network

The European Migration Network (EMN) was launched by the European Commission in 2003 on behalf of the European Council in order to satisfy the need of a regular exchange of reliable information in the field of migration and asylum at the European level. Since 2008, Council Decision 2008/381/EC forms the legal basis of the EMN and National Contact Points have been established in the EU Member States (with the exception of Denmark, which has observer status) plus Norway.

The EMN's role is to meet the information needs of European Union institutions, Member States' authorities and institutions as well as the wider public by providing up-to-date, objective, reliable and comparable information on migration and asylum, with a view to supporting policymaking in these areas. The National Contact Point for Germany is located at the Federal Office for Migration and Refugees in Nuremberg. Its main task is to implement the annual work programme of the EMN. This includes the drafting of the annual policy report "Migration, Integration, Asylum" and of up to four topic specific studies, answering Ad-Hoc Queries launched by other National Contact Points or the European Commission. The German National Contact Point also carries out visibility activities and networking in several forums, e. g. through the organisation of conferences or the participation in conferences in Germany and abroad. Furthermore, the National Contact Points in each country set up national networks consisting of organisations, institutions and individuals working in the field of migration and asylum.

In general, the National Contact Points do not conduct primary research but collect, analyse and present existing data. Exceptions might occur when existing data and information are not sufficient. EMN studies are elaborated in accordance with uniform specifications valid for all EU Member States plus Norway in order to achieve comparable EU-wide results. Furthermore, the EMN has produced a Glossary, which ensures the application of comparable terms and definitions in all national reports and is available on the national and international EMN websites.

Upon completion of national reports, the European Commission drafts a Synthesis Report. This report summarises the most significant results of the individual national reports and thus allows an overview at the European level. In addition, topic-based policy briefs, so-called EMN Informs, are produced in order to present and compare selected topics in a concise manner. The EMN Bulletin, which is published quarterly, informs about current developments in the EU and the Member States. With the work programme of 2014, the Return Expert Group (REG) was created to address issues around voluntary return, reintegration and forced return.

All EMN publications are available on the website of the European Commission Directorate-General for Migration and Home Affairs. The national studies of the German National Contact Point as well as the synthesis reports, Informs and the Glossary are also available on the national website:  
[www.emn-germany.de](http://www.emn-germany.de)

# EMN

European Migration Network  
Europäisches Migrationsnetzwerk



GERMANY  
DEUTSCHLAND





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# 1 Introduction

## Structure and content

The 2018 Policy Report provides an overview of the most important political discussions as well as political and legislative developments in the areas of migration, integration, and asylum in the Federal Republic of Germany in the year 2018. Nevertheless, it does not purport to be exhaustive. Its main focus is on developments concerning third-country nationals. The rules concerning the mobility of EU citizens within the EU and changes to these rules do not form part of the present report. The report was written by the German National Contact Point for the European Migration Network (EMN Germany) at the Federal Office for Migration and Refugees in Nuremberg. It is intended to provide the institutions of the EU and the authorities and institutions of the Member States with the information they require in order to support policymaking in the European Union.<sup>1</sup>

The findings gathered for the EMN are also intended for the public. The results of the national policy reports will be included in a comparative synthesis report – the ‘Annual Report on Migration and Asylum’ – prepared and released by the European Commission. In addition, the European Commission (which co-ordinates and co-finances the work of the EMN) also prepares topic-based ‘Country Fact Sheets’ that build on the policy reports of the Member States and provide a comparison of the national results.

Chapter 1 provides an overview of the structure of the political system and the existing institutions as well as the general legal structure in the areas of migration, integration and asylum in 2018. Chapter 2 outlines relevant political and legislative developments, as well as important political debates. Chapters 3 to 11 focus on specific political and legal measures in certain areas of immigration, asylum and integration policy.

This 15th EMN Policy Report is based on the reports from previous years, even though several structural changes were made this year. The former sub-chapter 3.5 ‘Citizenship’ was shifted to a new Chapter

‘Citizenship and Statelessness’ (Chapter 3), which is why the order of the subsequent chapters has changed. Chapter ‘Irregular migration, migrant smuggling, border controls and Visa’ is now Chapter 8 and includes a subchapter on ‘visa policy’ (Chapter 8.4) which previously was Chapter 3.6. The chapter ‘Return’ is now Chapter 9, the Chapter on ‘Human Trafficking’ is Chapter 10 and ‘Migration and Development’ is Chapter 11.

Events and measures were chosen and weighted based on how relevant the facts and developments could be to the work of policy-maker, both on a national and European level. Specifically, it was necessary to limit the number of issues addressed in the section on important political and legislative debates (Chapter 2.2).

## Terms and definitions

The terminology used in this report is largely based on the German version of the EMN Asylum and Migration Glossary 5.0<sup>2</sup>. Terms referring specifically to the legal situation in Germany are regularly explained in the text or in footnotes. Background information from previous EMN policy reports is referenced accordingly.

## 1.1 General structure of the political system and institutions for migration, integration and asylum

In the Federal Republic of Germany, legislative and executive authority is divided between the Federal Government and the 16 Länder. The executive branch operates on three principles: the chancellor principle, the collegiate (or cabinet) principle, and the departmental principle. Under the chancellor principle, the chancellor sets policy guidelines and manages the affairs of the Federal Government. Under the collegiate (or

1 We wish to thank Sandy Chwastek, Janine Joachim and Paula Lingscheid for their research and editing assistance during their internships at the Research Centre of the Federal Office for Migration and Refugees.

2 The German version of the EMN Glossary can be downloaded from the website of the German National Contact Point for the EMN: [www.emn-germany.de](http://www.emn-germany.de). An online version in English and other available languages is available online. Furthermore, since 2018 the Glossary is also available as an App-version for Android and iOS: [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/glossary/index\\_a\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary/index_a_en).

cabinet) principle, however, issues of general political importance must be decided by a majority of ministers. Finally, the departmental principle gives the ministers responsibility for and the authority to run their departments.

Below is a brief outline of the roles of the top actors in asylum, immigration, and integration policy.

The **Federal Ministry of the Interior, Building and Community (BMI; until March 2018: 'Federal Ministry of the Interior')** has primary responsibility. In addition to drafting legislation, it addresses European harmonisation and supervises the Federal Office for Migration and Refugees and the Federal Police (BPOL) as the central operational authorities in the areas of asylum, migration, integration and return policies. Since 2017, the Federal Ministry of the Interior also runs the 'Repatriation Support Centre' (ZUR; see Chapter 9.1.2).

The **Federal Ministry of Labour and Social Affairs (BMAS)** is also active in the fields of migration and integration. In coordination with the Federal Ministry of the Interior, it works on the basics of the employment of migrants and their integration into the labour market. The **Federal Labour Office (BA)**, which runs a nationwide network of employment agencies and branches, is supervised by the BMAS. The Federal Labour Office also approves or rejects applications for a residence permit of third-country nationals for remunerated, in the case of professions requiring approval (see Chapter 3.1).

The diplomatic missions abroad supervised by the **Federal Foreign Office (AA)** are responsible for passport and visa issues, which means that they are the first point of contact for those foreign nationals who need a visa to enter Germany. In addition, the Federal Foreign Office has been introducing information campaigns in third countries in recent years. These campaigns follow the goal to tackle rumours which are launched by migrant smugglers as well as to provide information on legal pathways and the asylum system in Germany for migrants and third-country nationals seeking protection (see Chapter 8).

Since 2016, the **Federal Ministry for Economic Cooperation and Development (BMZ)** has been expanding its efforts in the area of voluntary return and reintegration of foreign nationals. While, until then, the BMZ focused on (temporary) return support for qualified workers, it is now cooperating more closely with the Federal Ministry of the Interior and running return and reintegration programmes, which also address persons who are obliged to leave the federal territory (see

Chapter 11). The development policy initiatives of the Federal Ministry for Economic Cooperation and Developments are actually implemented by implementing bodies. In the area of 'migration and development' this mainly is the Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH. The GIZ, which operates in 120 countries (GIZ 2019d) understands itself as a "Service Provider of international cooperation for the purpose of sustainable development and international education work" (GIZ o. J.).

The **'Federal Government Commissioner for Migration, Refugees, and Integration'** is appointed by the Federal Government. Since 2005, the office of the Commissioner has been a Minister of State under the purview of the Federal Chancellery. The Commissioner's task is, in particular, to support the Federal Government in developing its integration policy, and s/he shall be involved in relevant law-making projects. In addition, s/he is responsible for further developing the necessary conditions for the most harmonious co-existence possible between foreigners and Germans and between different groups of foreigners (Section 93 subs. 2 of the Residence Act)<sup>3</sup>.

The **'Federal Government Commissioner for Repatriation Issues and National Minorities'**, whose office was created in 1988, operates under the Federal Ministry of the Interior. S/he is responsible for coordinating all measures relating to ethnic German repatriates (see Chapter 3.4.1). The Commissioner is the central contact for national minorities and serves as a contact for ethnic Germans who still live in the countries of origin of the repatriates. Furthermore, the Commissioner co-chairs the existing Government Commission on matters of German minorities (BMI 2019a).

The **Federal Office for Migration and Refugees (BAMF)** is a superior Federal authority among the subordinate authorities of the Federal Ministry of the Interior and performs numerous tasks in the field of migration, integration, and asylum inter alia on the basis of the Residence Act and the Asylum Act. At its arrival centres, branch offices and decision centres, its employees examine the applicants' right to asylum, which is enshrined in the German constitution, and conduct all asylum procedures in Germany, including the Dublin procedure to determine responsibility in the asylum procedure. They determine the applicants' right to asylum, their refugee status under the Geneva Convention relating to the Status of Refugees and the requirements for subsidiary protection under

<sup>3</sup> Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory.

the Qualification Directive and for national bans on removals. In addition, the Federal Office for Migration and Refugees coordinates the humanitarian admission programmes and procedures of the Federal Government and the Länder, as well as Germany's participation in the UNHCR and EU resettlement and relocation programmes (see Chapter 4.3). The Federal Office for Migration and Refugees is also responsible for implementing integration courses and vocational German language promotion which together form the 'Overall programme Language' of the Federal Government. Furthermore, the Federal Office for Migration and Refugees is responsible for the Migration Advice Service for Adult Migrants, the development of a federal integration programme and for the registry of the German Islam Conference (see Chapter 6). In addition, it conducts applied and policy-related migration research, promotes voluntary return and reintegration (see Chapter 9), for running the Central Register of Foreigners (registry authority), the national ICT contact point, the national contact point for EU Blue Cards, the national REST contact point in the framework of legal migration and the EU-wide promotion of immigration of qualified workers, the national contact point for the EU long-term resident status directive (see Chapter 3.3), for conducting the admission procedure for Jewish immigrants (see Chapter 3.4), for coordinating the authorities responsible for labour migration, and for taking measures against threats to public safety under immigration, asylum, and nationality laws. In addition, the BAMF has been running the Advice Centre on Radicalisation since 2012. It offers advice to persons who "observe the Islamist radicalisation of a relative or acquaintance" (BAMF 2017a).

The **foreigners authorities** in the administrative districts and larger cities are responsible for practically all procedures relating to residence and passports under the Residence Act, for implementing other immigration regulations, including decisions about removals and its organisation, and for examining any bans on removals outside the authority of the BAMF. The foreigners authorities from Germany's major cities meet twice a year to exchange experiences.

The **Federal Police** is the Federation's police force and, as such, is supervised by the Federal Ministry of the Interior. It secures the borders of the German federal territory (border protection) in order to prevent and stop unlawful entry and to fight people smuggling. Border security refers to policing the borders, conducting checks on cross-border traffic, including examining travel documents and authorising entry, conducting investigations along the border. The duties of the Federal Police emanate from the Federal Police

Act and other statutory provisions, such as those set forth by the Residence Act (Section 71 subs. 3 of the Residence Act) or the Asylum Act (Section 18 of the Asylum Act). The Federal Police is also responsible for forced returns and coordinating the escorted removal via air of third-country nationals residing illegally in the federal territory. In doing so, it closely cooperates with other authorities, specifically the foreigners authorities (see Chapter 9).

Among its many other administrative duties on behalf of the Federal Government, the **Federal Office of Administration (BVA)** is responsible for the entry and reception procedures for ethnic German repatriates. It also runs a central register portal, which provides the foreigners authorities and diplomatic missions abroad with a selection of the data in the Schengen Information System (SIS)<sup>4</sup> and all eligible authorities with access to the Visa Information System (VIS), and runs, on behalf of the Federal Office for Migration and Refugees, the records in the Central Register of Foreigners (AZR), which consist of a general database and the Visa File. In addition and due to the renewal of the family reunification rules for beneficiaries of subsidiary protection, since 2018, the BVA also selects up to 1000 persons monthly among all applicants who fulfil the requirements (see Chapter 4.1.2.2). Furthermore, the BVA is also responsible for matters of citizenship in case of persons living abroad, such as in cases when people apply to be released from German citizenship (BVA 2019a).

## 1.2 General structure of the legal system for migration, integration and asylum

### 1.2.1 Legislative authority of the Federal Government and the Länder

Legislative authority is also divided between the Federal level and the Länder. Migration issues such as nationality, freedom of movement, immigration and emigration, passports, registration and identity documents as well as right of residence and permanent settlement for foreign nationals have been regulated by Federal law. Likewise, all overarching legislation on asylum and refugees has been adopted at nationwide level. Major

<sup>4</sup> The German Federal Criminal Police (BKA) acts as national central agency for the SIS (SIRENE; similar offices have been established in all Member States). It is responsible for the national and international exchange of information in connection with SIS searches (BKA 2019; EU 2013).

policy areas in terms of migration that are almost exclusively under the jurisdiction of the Länder are education, research, and policing.

In addition, the Länder effectively help to shape in particular the enforcement, i.e. the administrative implementation, of the law by the foreigners authorities through decrees and administrative regulations. The Länder are also responsible for the accommodation of asylum seekers and for the provision of cash benefits and in-kind assistance. Moreover, several Länder (Baden-Württemberg, Bavaria, Berlin and North Rhine-Westphalia) have passed their own integration acts. Other Länder have adopted integration plans or concepts.

The Länder also shape Federal law via the German Bundesrat, which consists of representatives from the 16 Länder and has extensive rights of involvement and veto power. When passing laws, the German Bundesrat has a similar role to the upper houses or senates in other parliamentary democracies. While the German Bundesrat debates all bills passed by the German Bundestag, its approval is only required for laws that specifically affect relations between the Federal Government and the Länder (so-called consent bills). In all other instances (so-called objection bills), bills rejected by the German Bundesrat can still be passed by a qualified majority in the German Bundestag. Since practically all political action in the area of migration and asylum directly affects the Länder in one way or another and burdens them with administrative tasks, such bills usually have to pass the German Bundesrat.

At the level of the Länder, authority on asylum and migration issues is usually vested in the Ministries of the Interior, while integration issues may be covered by different ministries (for example the ministries of social or family affairs or the ministries of justice). An important venue for policy-making is the Permanent Conference of Ministers and Senators for the Interior of the Länder (**IMK**), in which the Federal Minister of the Interior participates in an advisory role. The conference usually takes place twice a year, and its unanimous decisions serve as policy recommendations with strong binding effects that are often taken into consideration in the legislation and administrative practice of the Länder and the Federal Government. In 2018, the 208th meeting of the Permanent Conference took place in Quedlinburg on 6 – 8 June 2018 and the 209th meeting in Magdeburg on 28 – 30 November 2017, respectively.

Issues of labour migration and the integration of migrants into the labour market are also addressed by

the Conference of Ministers and/or Senators for Labour and Social Affairs (**ASMK**) which, similar to the IMK, helps the Länder to work together to coordinate their interests in labour and social policy. The annual ASMK meeting took place in Münster on 5 and 6 December 2018.

Similar to the IMK and ASMK, the Ministers and Senators of the Länder responsible for integration regularly meet to discuss and coordinate political projects on integration (**IntMK**). The 13th IntMK took place in Nuremberg on 15 and 16 March 2018.

### 1.2.2 Law and statutory instruments at the Federal level

German migration and asylum law is based on international law, European Union law, and German constitutional and statutory law.

The **Residence Act** (AufenthG) forms the core legal basis for the entry, residence and economic activity of third-country nationals. It also defines the minimum legislative framework for state efforts to promote integration, mainly through language and orientation courses. However, the **Schengen Borders Code** (Regulation (EC) 562/2006) governs the initial entry and subsequent short-term stay of third-country nationals in Germany.<sup>5</sup>

Article 16a para 1 of the **Basic Law** (GG) grants the right to asylum to victims of political persecution. Applications for asylum are examined during the asylum procedure as set forth in the Asylum Act (AsylG).

The provisions of the **Asylum Act** are based on the Convention relating to the Status of Refugees (Geneva Convention) of 28 July 1951 and the EU Qualification Directive (Directive 2011/95/EU)<sup>6</sup>. Pursuant to these provisions, a third-country national who has a “well-founded fear of being persecuted for reasons of race<sup>7</sup>, religion, nationality, membership of a particular social

5 Regulation (EC) 562/2006 of the European Parliament and of the Council of 15 March 2006 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code).

6 Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted.

7 The term “race” is used in accordance with the wording of the Geneva Convention (for a critical reflection on the term and an alternative proposal to change the term into “racist”, see ADS 2015).



group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country” will be recognised as a refugee. The Asylum Act also defines the preconditions for subsidiary protection. Provisions concerning the issuance of residence titles to persons eligible for asylum or subsidiary protection, to persons who are granted refugee status and to persons whose removal is inadmissible are part of the Residence Act (Section 25 subs. 1 and 2 as well as subs. 3 in conjunction with Section 60 subs. 5 and 7 of the Residence Act).

The **Act on Benefits for Asylum Seekers** (AsylbLG) forms the legal basis for providing benefits to asylum seekers during the asylum procedure and to other foreign nationals whose residence is not permanent (such as persons whose removal has been suspended).

The **Act on the Central Register of Foreigners** (AZRG) is the primary legal basis for the administration of government databases on foreign nationals.

The acquisition of German citizenship is governed by the **Nationality Act** (StAG), which includes the conditions under which immigrants can be naturalised, the conditions under which children born in Germany to foreign nationals receive German citizenship, and the extent to which multiple citizenship is possible.

The **General Act on Equal Treatment** (AGG) provides a comprehensive legal framework to protect citizens against discrimination not only by the state (as set out in the Basic Law), but also by private agents. The purpose of the Act is to prevent or to stop discrimination on racist grounds and grounds of ethnic origin, gender, religion or belief, disability, age or sexual orientation.

Below the Federal level, several **statutory instruments and administrative regulations** have been enacted to specify the legal framework for the residence, employment and integration of immigrants, as well as for benefits for asylum applicants and the procedures for handling them.

The **Ordinance Governing Residence** (AufenthV) clarifies issues relating to entry and residence in the Federal territory, fees, and procedural rules for issuing residence titles.

The **Employment Regulation** (BeschV) governs the procedures for the employment of foreigners whose access to the labour market is not regulated by law.

The **Ordinance on Integration Courses** (IntV) details the implementation of integration courses under the Residence Act, including terms of attendance, data transmission, fees, the basic structure of the courses, course duration, and course content. It also governs the admission procedures for public and private course providers.

The **Ordinance on Determining Responsibilities in the Area of Asylum** (AsylZBV) contains provisions on the competencies and responsibilities of the key operational authorities in the asylum procedure (Federal Office for Migration and Refugees, border authorities, Federal Criminal Police).

The **Ordinance on Naturalisation Tests** (EinbTestV) governs the testing procedure for naturalisation.

The **General Administrative Regulation to the Residence Act** (AVwVAufenthG), which took effect in October 2009, serves to standardise administrative practices in the application of the Residence Act throughout the Federal territory. It sets “binding standards for the interpretation of indeterminate legal concepts and existing discretion” (Bundesrat 2009: 2).

### 1.2.3 Legislative authority and regulations at the EU level

The European Union has legislative authority in several areas of migration policy, with the scope of its competencies differing depending on the individual field. The EU exercises its legislative powers mainly by adopting regulations and directives. Regulations must be applied directly by the Member States; they have the same status as national laws and need not be implemented separately. Directives must be transposed into national law and thus become a part of national acts, such as the Residence Act or the Asylum Act. Directives come with a timeframe, within which they should be implemented by national law, and give the Member States more leeway concerning their integration into national law.

#### Border controls and visa rules

Simultaneously with the abolishment of internal border controls, the EU adopted the **Schengen Borders Code** (Regulation (EU) 2016/399), which defines uniform entry conditions and rules for border control at external borders. The EU has sole legislative authority concerning the issuance of short-stay visas for stays of up to 90 days within a timeframe of 180 days. The **EU**

**Visa Code** (Regulation (EC) 810/2009)<sup>8</sup> contains uniform rules for the visa procedure and the conditions for the issuance of such visa (Hailbronner 2017a: 32).

### Common European Asylum System (CEAS)

Since the Amsterdam Treaty of 1999, the EU also has legislative authority in the fields of asylum and refugee policy. The goal is to create a Common European Asylum System and a uniform status of protection in the EU (Article 77 para 2 TFEU). The most important EU Directives and Regulations in the fields of asylum and refugee policies are as follows:

The **Dublin Regulation** (Regulation (EU) 604/2013)<sup>9</sup> defines the criteria for determining the Member State responsible for processing an asylum application. The **Eurodac Regulation** (Regulation (EU) 603/2013)<sup>10</sup> forms the legal basis for a central fingerprint database which allows to enter and compare the fingerprints of asylum seekers and irregular migrants in order to determine via which Member State these persons have entered the EU.

The **Qualification Directive** (Directive 2011/95/EU) sets out common standards for the recognition of asylum applicants as refugees or beneficiaries of subsidiary protection and grants them specific rights, for example the right to residence, to work or to education.

The **Asylum Procedure Directive** (Directive 2013/32/EU)<sup>11</sup> contains rules and standards for the asylum procedure as well as provisions concerning legal protection, legal advice and legal representation.

The **Reception Directive** (Directive 2013/33/EU)<sup>12</sup> sets out standards for the accommodation, meals, employment opportunities and healthcare provided to asylum applicants.

### Legal migration

There are EU Directives for certain areas of legal migration. One of them is the **Family Reunification Directive** (Directive 2003/86/EC)<sup>13</sup>, which contains provisions for family reunification with third-country nationals and EU member state nationals. The **Permanent Residence Directive** (Directive 2003/109/EC)<sup>14</sup> defines the legal status of third-country nationals who have been legally resident in an EU Member State for at least five years.

In the field of labour migration, the **Blue Card Directive** (Directive 2009/50/EC)<sup>15</sup> established a right of residence and employment for highly qualified employees. In addition, the EU has adopted directives on the employment of **seasonal workers** (Directive 2014/36/EU)<sup>16</sup> and on **intra-corporate transfers** (Directive 2014/66/EU)<sup>17</sup> of third-country nationals.

Moreover, the so-called **REST Directive** (Directive (EU) 2016/801)<sup>18</sup> was adopted in 2016. It replaces former EU Directives concerning students and researchers and contains provisions for the residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing.

8 Regulation (EC) 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code).

9 Regulation (EU) 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person.

10 Regulation (EU) 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of Eurodac for the comparison of fingerprints for the effective application of Regulation (EU) 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice.

11 Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection.

12 Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection.

13 Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification.

14 Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents.

15 Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment.

16 Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose employment as seasonal workers.

17 Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer.

18 Directive (EU) 2016/801 of the European Parliament and the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing.

## Irregular migration

The EU has also adopted directives on certain issues of irregular migration. The most important of them is the **Return Directive** (Directive 2008/115/EC)<sup>19</sup>, which contains provisions and standards for the treatment of third-country nationals staying irregularly on the territory of a Member State and for voluntary and forced returns. The **Sanctions Directive** (Directive 2009/52/EC)<sup>20</sup> defines minimum standards for sanctions against employers who employ irregularly staying third-country nationals. Under the **Victims' Directive** (Directive 2004/81/EC)<sup>21</sup>, victims of trafficking in human beings who are irregularly staying in the EU may be granted a temporary right of residence if they cooperate with the authorities during criminal proceedings.

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19 Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals.

20 Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals.

21 Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities.

# 2 Political, legal and institutional developments

## 2.1 General political developments

In March 2018, the CDU, CSU and SPD agreed to form a 'grand coalition' and sign their coalition agreement after endeavours to form a government had failed in the months following the parliamentary elections held on 24 September 2017. In 2018, the Land parliaments of Bavaria and Hesse were newly elected.

### Government formation after the Bundestag elections

After the parliamentary elections were held on 24 September 2017, the CDU/CSU, FDP and Alliance 90/The Greens (Bündnis 90/Die Grünen) began exploratory talks on the formation of a new government, but these talks foundered at the end of 2017. In March 2018, the CDU/CSU and SPD agreed to form a new 'grand coalition'. Angela Merkel (CDU) was elected Chancellor of the Federal Republic of Germany on 14 March 2018 by a majority of the members of parliament (Deutscher Bundestag), marking her fourth term in office. Horst Seehofer (CSU) was appointed Federal Minister of the Interior, Building and Community the same day, replacing Thomas de Maizière (CDU).

With regard to migration, asylum and integration policy measures, the coalition agreement of the new Federal Government provides, inter alia, for a commitment to the fundamental right to asylum, the Geneva Refugee Convention, "to the obligations ensuing from EU law, to the processing of every asylum application as well as to the UN Convention on the Rights of the Child and to the European Convention on Human Rights". At the same time, however, the coalition parties also stress that they "want to avoid any repetition of the situation of 2015", which they perceive as "controlling" and "limiting migration movements" (CDU/CSU/SPD 2018: 103) "with a view to society's ability to integrate" (CDU/CSU/SPD 2018: 103 15). In terms of migration movement, the parties agreed to create a "corridor for migration of 180,000 to 220,000 persons per year" (BMI 2019b). In addition, the government coalition agreed "to set up reception, decision-making and return facilities to speed up asylum procedures",

"independent and comprehensive asylum procedure counselling" additional measures for voluntary return as well as "consistent removal of persons are enforceably required to leave the federal territory" (CDU/CSU/SPD 2018: 16; cf. AnkER facilities, Chapter 4.1.2). Also outside the context of displacement, the governing parties set themselves several goals, such as the creation of a law governing the immigration of skilled workers, "which regulates the increasing demand for skilled workers through labour migration in a new and transparent way" (CDU/CSU/SPD 2018: 16; cf. Chapter 3.1.2). The definition of skilled workers includes "both university graduates and immigrants with vocational training qualifications or a high level of practical vocational skills" (CDU/CSU/SPD 2018: 105). In the area of integration policy the coalition agreement announces an expert commission "Capability for Integration" (CDU/CSU/SPD 2018: 103), as well as "a federal strategy following the principle of 'challenge and support', with the aim of achieving greater transparency in "the labyrinth of the existing integration measures" by concentrating the various integrations measures. In addition, more "control of success" in the area of integration is meant to follow, for which the Federal government wants to "intensify integration research and measurement in terms of a real integration monitoring" (CDU/CSU/SPD 2018: 21). But they also intend to improve "healthcare (and nursing care in particular) specifically for the first generation of migrant workers who came to Germany in the 1950s and 1960s regardless of their cultural origin and status" (CDU/CSU/SPD 2018: 106). In addition, "improvements and simplifications for residence, training and labour market integration" are to be made possible for persons whose removal has been suspended for many years (CDU/CSU/SPD 2018: 106).

### Elections to the Land parliament of Bavaria

The CSU emerged as the strongest party in the Bavarian Land parliament elections held on 14 October 2018, garnering 37.2% of the vote. The party lost over ten percentage points compared to the Land parliament elections of 2013. Alliance 90/The Greens emerged as the second-strongest party at 17.6%, representing a gain of nine percentage points. The

Bavarian Free Voters (Freie Wähler) finished third at 11.6%, the Alternative for Germany (Alternative für Deutschland (AfD)) at 10.2%, the SPD at 9.7% and the FDP at 5.1% (The State Election Commissioner of the Free State of Bavaria 2018). The Left (DIE LINKE) garnered 3.2% of the votes but failed to clear the five percent hurdle. The CSU and Free Voters finally agreed to form a coalition. Markus Söder (CSU) was appointed Minister-President. The Bavarian State Ministry of the Interior, for Sport and Integration (Bayerisches Staatsministerium des Innern, für Sport und Integration (StMI)) under the direction of State Minister Joachim Herrmann (CSU) is responsible for the issues relating to foreigners and asylum law, integration and accommodation for asylum seekers as well as return (StMI 2019).

The coalition agreement between the CSU and Free Voters provides, among other things, for an increase in the number of Bavarian border police officers to 1,000, an expansion of special searches and investigations and the retention of border controls at the Bavarian-Austrian border “until EU external border protection is guaranteed” (CSU/Freie Wähler 2018: 6). In view of the asylum procedures and the large number of legal proceedings being instituted against asylum decisions, the coalition partners plan to provide a “sufficient” number of administrative judges (CSU/Freie Wähler 2018: 7). The Land government also intends to advocate a “more consistent return policy for persons without the right of residence” and has set itself the goal for “Bavaria [...] to [continue] to be a pioneer in returns”. To this end, additional detention facilities to prepare removal are to be built in Passau and Hof (CSU/Freie Wähler 2018: 8). At the same time, the “forces [...] that use the challenge [...] as a pretext for inflammatory and racist action are to be massively opposed” (CSU/Freie Wähler 2018: 8). Integration policy is to focus on the integration of migrant women in the areas of employment and education, on the grounds that “women, and mothers in particular, play a key role in integration” (CSU/Freie Wähler 2018: 9). At EU level, the new Land government supports the planned expansion of the European Border and Coast Guard Agency (FRONTEX) in terms of staffing and competences, the reform of the Dublin procedure and the expansion of further return agreements with third countries (CSU/Freie Wähler 2018: 9).

### Elections to the Land parliament of Hesse

The CDU emerged as the strongest party in the elections to the Land parliament of Hesse on 28 October 2018, garnering 27.0% of the votes. The party lost over eleven percentage points compared to the

Land parliament elections held in 2013. Alliance 90/The Greens emerged as the second-strongest party, garnering 19.8% of the votes, representing a gain of almost nine percentage points. The SPD also received 19.8% of the votes, but in absolute terms just slightly less than Alliance 90/The Greens, making it the third-strongest party. AfD followed with 13.1%, FDP with 7.5% and The Left with 6.3% (HSL 2018). CDU and Alliance 90/The Greens decided in December 2018 to form a government and hence to continue their coalition. Volker Bouffier (CDU) was appointed Minister-President. Due to their strong gain in votes, the Greens received two additional ministries compared to the previous period of government, including Hesse’s Ministry of Social Affairs and Integration (Hessisches Ministerium für Soziales und Integration) under the leadership of Kai Klose. This Ministry is responsible, among other things, for strategic planning, coordination and promotion of Hesse’s integration policy as well as issues relating to integration law and integration monitoring (HMSI 2019). Hesse’s Ministry of the Interior and Sport, under the direction of Peter Beuth (CDU), is in turn responsible, inter alia, for foreigners law and asylum procedures as well as citizenship (HMdIUS 2019).

The government parties signed their coalition agreement in late December 2018 (CDU/Bündnis 90/Die Grünen 2018). They state, among other things, that integration is a “cross-sectional task for society as a whole” and that a Hessian integration law needs to be drawn up (CDU/Bündnis 90/Die Grünen 2018: 25). One focus will be early access to language support “for all migrants [...] regardless of how long they are likely to stay in our country or how long they have already been here” (CDU/Bündnis 90/Die Grünen 2018: 26). In the case of successful integration projects, the transition from temporary project funding to regular funding needs to be examined (CDU/Bündnis 90/Die Grünen 2018: 26). For young, unaccompanied beneficiaries of protection who have reached the age of 18, a sponsorship programme needs to be set up to help them “lead an independent life” (CDU/Bündnis 90/Die Grünen 2018: 27). The “intercultural opening of institutions and administration as an interdepartmental task” is to be further strengthened (CDU/Bündnis 90/Die Grünen 2018: 26). In addition, the coalition agreement states that discrimination needs to be recognised as a “social reality” and that anti-discrimination policy for “non-discriminatory coexistence” should be established as an important component of “modern Land policy” (CDU/Bündnis 90/Die Grünen 2018: 28). With regard to asylum and displacement, the existing independent legal advice for asylum seekers is to be promoted through state funds, removal from educational

and care institutions and hospitals is to be avoided, custody to secure departure is to be used in exceptional cases only and the administrative courts are to be better staffed in view of the multitude of legal proceedings being instituted against asylum decisions (CDU/Bündnis 90/Die Grünen 2018: 123).

In a referendum held as part of the 2018 Land parliament elections, 82.4% of Hesse's citizens also voted in favour of including the commitment to a united Europe in Hesse's constitution. Article 64 now states: "Hesse is part of the Federal Republic of Germany and as such is part of the European Union. Hesse is dedicated to a united Europe that is committed to democratic, constitutional, social and federal principles as well as the principle of subsidiarity, preserves the independence of the regions and safeguards their participation in European decision-making" (CDU/Bündnis 90/Die Grünen 2018: 43).

## 2.2 Overview of the main political developments and debates on migration, integration and asylum

The beginning of the year and the progression of the political and discursive debate in the area of migration, integration and asylum policy in 2018 were marked by various national, European and international events. At national level, these include the formation of a government after the 2017 Bundestag elections, the re-establishment of a grand coalition (CDU/CSU and SPD) and the associated programme in the Federal Government's asylum, migration and integration policy, the course of which was set both in the coalition agreement (see Chapter 2.1) and in the so-called Migration Master Plan drawn up by the Federal Ministry of the Interior.

At international level, in addition to the various wars and conflicts in the world, two Global Pacts in particular, namely the Global Compact for Safe, Orderly and Regular Migration and the Global Pact for Refugees represented important developments (see below).

### Migration Master Plan

On 4 July 2018, the Federal Ministry of the Interior, Building and Community (BMI), under the direction of the Federal Minister of the Interior Horst Seehofer (CSU), published the 'Migration Master Plan - Measures for the Master Plan for Orderly, Managed and

Limited Immigration' (BMI 2018a), which serves as a guide to the migration and refugee policy of the Federal Ministry of the Interior and the Federal Ministry for Economic Cooperation and Development (Bundesministerium für wirtschaftliche Zusammenarbeit (BMZ)). 63 measures are formulated in four areas on action based on the "fundamental idea" that "society's readiness to take in immigrants [...] presupposes the orderly management of migration", which, according to the Federal Ministry of the Interior, is granted by means of the measures of the master plan and is intended to further develop the asylum and return policy of the previous legislative period (BMI n.d.).

The four central fields of action, which make up the 63 measures, are aimed at four regional levels:

- Countries of origin
- Transit countries
- the European Union and
- Germany

With regard to countries of origin, the master plan provides, among other things, for measures to reduce the causes of displacement by expanding development cooperation and various individual measures to promote employment and education, while at the same time integrating them more closely to return policy measures (readmission) (BMI 2018a: 4 et seq.; see also Employment Offensive for the Middle East, Chapter 11.2). With regard to transit countries, the master plan provides for "stabilisation of their political situation [...] in particular North Africa and the Sahel region, Libya, Egypt, Jordan, Lebanon and Turkey", including, inter alia, support for the infrastructure of host communities in relation to the "short-term admission of and basic supplies for refugees", but also investment in "medium and long-term future prospects" at local level (BMI 2018a: 8 et seq.; see also EU-Turkey Statement and cooperation with third countries, Chapter 4.3). At European level, the master plan envisages, among other things, strengthening and expanding the European Border and Coast Guard Agency (Frontex) into a "European Border Police Force", "insisting on consistent compliance" with the Dublin Regulation and "increasing the number of transfers of asylum seekers to the responsible Member States" (BMI 2018a: 10 et seq.). The majority of the measures announced (38 out of 63 measures) are in turn aimed at the federal territory and the institutional framework conditions of (internal) border controls, asylum and residence law, integration and return (BMI 2018a: 12 et seq.; see for instance the planned integration measures, Chapter 6.1.1).

The master plan itself and many of the individual measures listed in it have met with harsh criticism by some actors (see criticism of individual measures for instance in Chapter 4; also Deutscher Bundestag 2018a; FES 2018; Pro Asyl 2018, Schader/Rohmann/Münch 2018). The Head of the Commissariat of German Bishops (Kommissariat der deutschen Bischöfe), Karl Jüsten, criticised the master plan in principle “as leading to a considerable deterioration of the situation of asylum seekers in Germany”, claiming that “many of the points raised [...] seem to indicate a general mistrust towards asylum seekers, persons in need of protection and beneficiaries of protection, as the phrase 'combating abuse of asylum benefits' makes clear” (Scholz 2018). At the same time, Jüsten welcomed the intention to expand development cooperation in order to create prospects in the countries of origin and transit (Scholz 2018).

### Global Compact for Migration / UN Migration Pact

On 10 December 2018, 164 countries adopted the “Global Compact for Safe, Orderly and Regular Migration” in Marrakech (Morocco) (Vereinte Nationen 2018a: 1) which was formally adopted by the UN General Assembly on 19 December (IOM n.d.). 152 countries voted for the Compact, twelve countries abstained from the vote, five countries<sup>22</sup> voted against the Compact and 24 Member States of the United Nations did not take part in the vote (Deutscher Bundestag 2019a: 7). The Compact was based on the 'New York Declaration for Refugees and Migrants' issued on 19 September 2016, which 193 UN Member States had agreed to (Vereinte Nationen 2016). The Global Compact adopted at the end of 2018 is in turn the “first global agreement negotiated between governments under the auspices of the United Nations (UN) to cover all aspects of international migration” (Deutscher Bundestag 2018b: 2), even though it is not a “binding framework for cooperation under international law [...]” (Deutscher Bundestag 2018c: 1). It was precisely this aspect of non-binding character that was one of the points criticised in a motion tabled by The Left party. This party supports the Compact in principle but urged the Federal Government, inter alia, to include “concrete and binding measures to combat the causes of displacement and migration” (Deutscher Bundestag 2018d: 3).

The Global Compact for Safe, Orderly and Regular Migration pursues a total of 23 objectives and recommendations for action in which international cooperation is to be improved, while at the same time

highlighting “the sovereign right of States to determine their national migration policy and their prerogative to govern migration within their jurisdiction, in conformity with international law” (Vereinte Nationen 2018b: 4).

The 23 objectives on which the Member States agreed include the following measures and framework conditions, each of which is further differentiated in the Compact itself with numerous concrete declarations of commitment:

1. Collect and utilize accurate and disaggregated data as a basis for evidence-based policies
2. Minimize the adverse drivers and structural factors that compel people to leave their country of origin
3. Provide accurate and timely information at all stages of migration
4. Ensure that all migrants have proof of legal identity and adequate documentation
5. Enhance availability and flexibility of pathways for regular migration
6. Facilitate fair and ethical recruitment and safeguard conditions that ensure decent work
7. Address and reduce vulnerabilities in migration
8. Save lives and establish coordinated international efforts on missing migrants
9. Strengthen the transnational response to smuggling of migrants
10. Prevent, combat and eradicate trafficking in persons in the context of international migration
11. Manage borders in an integrated, secure and coordinated manner
12. Strengthen certainty and predictability in migration procedures for appropriate screening, assessment and referral
13. Use migration detention only as a measure of last resort and work towards alternatives
14. Enhance consular protection, assistance and cooperation throughout the migration cycle
15. Provide access to basic services for migrants
16. Empower migrants and societies to realize full inclusion and social cohesion
17. Eliminate all forms of discrimination and promote evidence-based public discourse to shape perceptions of migration
18. Invest in skills development and facilitate mutual recognition of skills, qualifications and competences
19. Create conditions for migrants and diasporas to fully contribute to sustainable development in all countries

<sup>22</sup> Israel, Poland, Czech Republic, Hungary and the United States.

20. Promote faster, safer and cheaper transfer of remittances and foster financial inclusion of migrants
21. Cooperate in facilitating safe and dignified return and readmission, as well as sustainable reintegration
22. Establish mechanisms for the portability of social security entitlements and earned benefits
23. Strengthen international cooperation and global partnerships for safe, orderly and regular migration” (Vereinte Nationen 2018b: 6 et seq.).

Before, during and after the adoption of the Global Pact for Migration, Germany and numerous other countries faced some strong controversy over it (Hanewinkel/Hartmann 2019). In Germany, right-wing populists and right-wing extremists took up the debate about the Compact and spread “distorted interpretations and misinformation” on the UN Migration Pact on a large scale, as analysed by the Institute for Strategic Dialogue at King’s College London (ISD 2019; FES 2019). For Germany, researchers came to the conclusion that “various actors from the right-wing populist and right-wing extremist spectrum [interpreted] the Migration Pact through the lens of their own ideological world view: identitarians argued that the Compact proved the “Great Replacement”; conspiracy theorists see it as a conspiracy of global elites or freemasons; for “Reich Citizens” (a label for several groups and individuals in Germany and elsewhere who reject the legitimacy of the modern German state), the Compact is the best proof that Germany is not a sovereign state” (FES 2019). In their analysis, the migration researchers Angenendt and Koch identified three central grounds for rejection by critics of the Compact, namely “that the Compact will (1) restrict the national sovereignty of states in the area of immigration, (2) blur or abolish the legal distinction between migrants with and without a legal residence permit, and (3) lead to more migration towards the affluent industrialised countries”, while invalidating all three points of criticism (Angenendt/Koch 2018: 3).

#### **Agreement on the admission of refugees from rescue operations in the Mediterranean Sea**

The question of how civilian aid organisations should deal with the admission and care of refugees rescued from the Mediterranean Sea has been discussed repeatedly at EU level in recent years. In the summer of 2018, the political debate was heavily fuelled when Italy and Malta refused to admit migrants from rescue operations in the Mediterranean Sea and called for a distribution among other EU Member States (Deutscher Bundestag 2019b).

Non-governmental organisations pointed out that these developments, such as “the refusal to allow sea rescue vessels to enter European ports, the intensified criminalisation of civil sea rescue initiatives and the confiscation of private sea rescue vessels (...) are leading to a dramatic increase in the number of deaths in the Mediterranean Sea” (Pro Asyl 2018). At the same time, the alliance ‘Cities of Safe Harbours’ was founded in 2018, which an increasing number of cities and municipalities have joined, declaring themselves willing to admit refugees rescued in distress at sea (Deutscher Bundestag 2019b; Seebrücke 2019).

Against this background, since 2018, Germany along with several EU Member States, agreed in individual cases to voluntarily take in a certain number of rescued refugees. Article 17 paragraph 2 of Regulation (EU) 604/2013 (Dublin III Regulation) provides the legal basis for doing so. When selecting asylum seekers admitted to Germany, priority will be given “in particular to persons from countries of origin with a high protection rate, persons with family connections to Germany, joint family units and vulnerable persons” (Deutscher Bundestag 2019b: 2).

Opposition parties and civil society actors welcomed the willingness of the Federal Government but criticised that the actual transfer of refugees rescued in distress at sea to Germany frequently takes too long. Moreover, they argue that distribution is based on the Königstein key and not on the willingness of the cities and municipalities to admit them (TAZ 2019; Zeit online 2018). The Federal Government pointed out that the persons admitted to Germany initially have to go through an asylum procedure and that the provisions set forth in the Asylum Act with regard to accommodation and distribution apply. For this reason, they say no direct allocation to municipalities can take place (Deutscher Bundestag 2019b: 3 et seq.).

#### **Repeated refusal to classify other countries as safe countries of origin**

The government parties agreed in the coalition agreement to expand the list of safe countries of origin. Against this backdrop, several attempts have been made to declare Algeria, Morocco and Tunisia safe countries of origin. Already in 2017, a majority in the Bundesrat refused to approve the ‘Act on the Classification of the People’s Democratic Republic of Algeria, the Kingdom of Morocco and the Republic of Tunisia as Safe Countries of Origin’ which had already been adopted by the Bundestag on 13 May 2016 (EMN/BAMF 2017: 5). Following this, neither the amendment tabled by the parliamentary group of the FDP in



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the Bundestag in October 2018 nor the Federal Government's bill to classify the three Maghreb states, as well as Georgia, as safe countries of origin, received the necessary majority in the Bundestag (Deutscher Bundestag 2018g). Supporters argue with the low recognition rates of persons from these countries and emphasise the desired signal effect the planned measure would have (Deutscher Bundestag 2018h). However, the criterion of low recognition rates for classifying safe countries of origin remains controversial. The German Institute for Human Rights (Deutsches Institut für Menschenrechte), for example, pointed out the risks members of political and other minorities in these countries currently face: in all of the above-mentioned countries, "homosexuality is punishable and prosecuted, as is critical political activity" (Deutsches Institut für Menschenrechte 2018).

# 3 Legal migration and mobility

There are numerous ways in which migrants from third countries can enter Germany legally, for example via labour migration, family reunification, or migration for study or training purposes. In addition, access channels exist for certain groups of persons, such as the admission of Jewish immigrants and ethnic German repatriates. This Chapter will provide a more detailed overview of developments in these areas. It must also be taken into account that EU nationals, who are not discussed in detail below, account for a large proportion of migration movements in Germany, especially with regard to labour and educational migration.

## 3.1 Labour migration

### 3.1.1 Background and general context

Sections 18 to 21 of the Residence Act, in conjunction with the Ordinance on the admission of foreigners for the purpose of taking up employment (Employment Regulation), offer third-country nationals several opportunities to stay temporarily or permanently in Germany for the purpose of gainful employment.<sup>23</sup> The majority of migrants need a visa to enter the Federal Republic which must be replaced afterwards by a residence permit.<sup>24</sup> In principle, the granting of residence permits to third-country nationals for gainful employment is linked to approval by the Federal Labour Office (Bundesagentur für Arbeit (BA)) and the determination of the equivalence of the professional qualification acquired abroad with a German qualification. Third-country nationals who do not have vocational qualifications face major restrictions when it

comes to immigration. Pursuant to Section 18 subs. 3 of the Residence Act, a temporary residence permit for the purpose of taking up employment which does not require a vocational qualification may only be issued if regulated by an intergovernmental agreement or if issuance of approval for a temporary residence permit for the said employment is permissible by virtue of a statutory instrument (see shortage of skilled labour). Pursuant to Section 18 subs. 4 of the Residence Act, in justified individual cases, a temporary residence permit may be issued for the purpose of taking up employment when there is a public interest, and in particular a regional, economic or labour market interest.

For labour migration more favourable conditions apply to highly qualified workers, researchers and self-employed persons as well as foreign graduates of German universities and those who have completed vocational training courses. While, in principle, labour migration to Germany hinges on migrants' having a concrete employment offer, Section 18c of the Residence Act however may allow qualified workers to also obtain a residence permit for up to six months for the purpose of seeking employment provided their subsistence is secure.

In addition to creating the necessary legal framework, the Federal Government is taking practical measures and offering information and advice in order to attract skilled workers. These include a central hotline on 'Working and Living in Germany' run by the Federal Office for Migration and Refugees and the portal 'Make it in Germany' run by the Federal Ministry for Economic Affairs and Energy, the Federal Ministry of Labour and Social Affairs) and the Federal Employment Office which acts as the central information portal of the Federal Government for skilled workers from abroad since 6 November 2018 (BMW 2018a).

### Shortage of skilled labour

The regular immigration opportunities for third-country nationals who have undergone qualified vocational training are largely limited to specific occupational groups in which a shortage of skilled workers has been identified. To this end, the Federal Labour Office in

<sup>23</sup> In addition to EU nationals, nationals of EEA countries (Article 45 et seqq. of the Treaty on the Functioning of the European Union (TFEU)) and Switzerland have general freedom of movement for workers (Agreement on the Free Movement of Persons between the EU and Switzerland).

<sup>24</sup> Nationals of Australia, Israel, Japan, Canada, the Republic of Korea, New Zealand, the USA generally do not require a visa (Section 41 subs. 1 of the Ordinance Governing Residence (Aufenthaltsverordnung (AufenthV)). Persons from these countries can apply to the competent foreigners authority for a residence permit for the purpose of gainful employment within 90 days of their entry into Germany.

cooperation with the Federal Ministry of Labour and Social Affairs draws up “a so-called positive list on the basis of the so-called skilled labour shortage analysis, covering occupations in which it is difficult to find domestic skilled workers. It is the basis on which the Federal Labour Office can grant approval. In addition, it is intended to serve as a source of information for qualified applicants from third countries, making it transparent for them in which occupations and professions, in principle, they have prospects of becoming gainfully employed in Germany. It is limited to occupations for which qualified vocational training is a requirement. If the vocational qualifications of a job applicant in an occupation in which a labour shortage has been identified are established as being equivalent to German vocational qualifications, the Federal Labour Office can issue approval without having to carry out the usual priority check. The legal basis for this is set forth in Section 6 subs. 2 and 3 of the Ordinance on the admission of foreigners for the purpose of taking up employment” (Vollmer 2015: 40).

### Special rules for nationals of western Balkan countries

As of 1 January 2016 and until end-2020, conditions for obtaining a residence permit for the purpose of employment have been eased for nationals of western Balkan countries, namely Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro and Serbia (Section 26 subs. 2 of the Employment Regulation). Once the Federal Labour Office, which conducts a priority check, gives its approval, these nationals may take up any employment, regardless of whether they have had vocational training or can prove their knowledge of German. What is still necessary, however, is that an employer in Germany has made them a concrete offer of employment.<sup>25</sup> In addition, the applicant must not have touched any benefits under the Act on Benefits for Asylum Seekers in Germany during the 24 months before the application.<sup>26</sup> The application must be filed with the relevant German diplomatic mission in the country of origin. This provision was adopted in response to the large number of asylum seekers from the western Balkans in 2014 and 2015 and their low protection ratio; it aimed to separate asylum from labour migration.<sup>27</sup>

25 The same conditions apply – although indefinitely – for nationals of Andorra, Australia, Israel, Japan, Canada, the Republic of Korea, Monaco, New Zealand, San Marino as well as the United States of America (Section 26 subs. 1 of the Employment Regulation).

26 For MINT professions (Mathematics, Informatics, Natural Science, and Technology) and for physicians, the annual gross salary was just EUR 40,560 in 2018.

27 The Western Balkan provision is being discussed in depth in Brücker/Burkert 2017.

### Highly qualified persons

In order to improve access to the labour market for highly qualified persons from third countries, the EU Blue Card was introduced in 2012 in accordance with Section 19a of the Residence Act as part of the implementation of the Directive of the European Union on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment. The EU Blue Card is a specific residence title that is accompanied by a residence permit for a maximum period of four years when issued for the first time. An EU Blue Card may be issued if the holder has obtained a German university degree or a recognised or comparable foreign university degree, can submit an employment contract or provide a binding employment offer and will earn an annual gross salary of at least EUR 52,000 in 2018.<sup>28</sup> The EU Blue Card does not require a priority check to be carried out and also offers “advantages in terms of mobility, family reunification and consolidation of residence” (Hanganu/Heß 2016: 5). Moreover, EU Blue Card holders may already be issued a permanent settlement permit 33 months of employment as highly qualified workers. If their language skills are sufficient (level B1), this period may even be shortened further to 21 months.

In addition, researchers from third countries have several possibilities of obtaining legal residence in Germany (see Chapter 3.3).

### Self-employment

Pursuant to Section 21 of the Residence Act, a foreigner may be granted a temporary residence permit for the purpose of self-employment in Germany. A foreigner may be granted a temporary residence permit for the purpose of self-employment if “an economic interest or a regional need applies”, “the activity is expected to have positive effects on the economy” and if “the foreigner has personal capital or an approved loan to realise the business idea” (Section 21 subs. 1 of the Residence Act).

Graduates of a German university as well as foreign researchers employed in Germany may also be issued a residence permit provided the envisaged self-employment demonstrates a connection to the knowledge acquired during the higher education studies or the research or scientific activities (Section 21 subs. 2a of the Residence Act). Foreigners older than 45 should

28 For MINT professions (Mathematics, Informatics, Natural Science, and Technology) and for physicians, the annual gross salary was just EUR 40,560 in 2018

be issued a temporary residence permit only if they possess adequate provision for old age (Section 21 subs. 3 of the Residence Act). The residence permit is issued for a maximum period of three years and can be exchanged for a permanent settlement permit if adequate income ensures the subsistence of the foreigner and the dependants living with him as a family unit and whom he is required to support (Section 21 subs. 6 of the Residence Act).

### Implementation of the EU Directive on Intra-Corporate Transfers (Directive 2014/66/EU)

The ‘Act to Implement the EU Residence Directives on Labour Migration’, which entered into force on 1 August 2017, transposed the EU Directive on Intra-Corporate Transfers (“ICT Directive”; Directive 2014/66/EU). The Act introduces the so-called ‘ICT card’, a new residence title issued for intra-corporate transfers of managers, experts and trainees which go beyond a period of more than 90 days. In addition, the new provisions permit the residence of third-country nationals who already stayed in a different EU Member State in the framework of an intra-corporate transfer. On condition that the corresponding requirements are fulfilled, they can be issued with a ‘mobile ICT card’ for a stay of more than 90 days. Under the ICT Directive, persons holding a residence title issued for an intra-corporate transfer and who went through the newly regulated notification procedure for short-term mobility from another EU Member State may stay and work for up to 90 days in Germany without holding a German residence title. ICT card and mobile ICT card holders are entitled to have their spouses or civil partners join them in Germany; the spouses or civil partners will not need to prove that they have a basic knowledge of German.

### Transposition of the EU Seasonal Workers Directive

On 1 August 2017, the ‘Act to Implement the EU Residence Directives on Labour Migration’ entered into force. Among other things, this Act transposes the EU Seasonal Workers Directive (Directive 2014/36/EU). The Directive deals with the entry and employment of third-country nationals for up to six months (Bundesrat 2017a: 1). This requires approval by the Federal Labour Office, which will also set the total number of approvals depending on the labour-market situation (Bundesrat 2017a: 61). The preconditions and the procedure for the issuance of the necessary work permit will be defined by a statutory instrument to be issued by the Federal Ministry of Labour and Social Affairs (Bundesrat 2017a: 21). Until the transposition of the Directive, agreements between the Federal Labour

Office and the labour agencies of the countries of origin formed the basis for seasonal employment contracts for non-EU citizens. However, from 1993, this only covered countries which have in the meantime become EU Member States, which means that their nationals fully enjoy the free movement of workers (see BMI/BAMF 2014: 190).

## 3.1.2 National developments

### Statistics

#### Labour market development in Germany

As in the preceding years, the situation on the German labour market developed positively in 2018. The Federal Labour Office generally speaks of an “upward” economic trend in 2018 that has, however, “lost momentum” (BA 2019a: 8). The number of employees subject to social security contributions continued to rise, reaching 33.51 million in November 2018 (+ 683,000 compared to November 2017), reaching its peak since reunification. On average, employment also increased by 562,000 persons in 2018 (BA 2019a: 38). Foreign employees accounted for more than 50% of the new employment relationships subject to social security contributions (+ 379,000 to 3.87 million foreign employees subject to social security contributions). In 2018, the number of recipients of unemployment benefits decreased on an annual average year-on-year by 0.5 percentage points to 5.2% (2017: 5.7%), with 11.7% of foreign nationals and 3.7% of the German civilian labour force being registered as unemployed in December 2018 (BA 2019a: 48, 76). This means that an average of 2.34 million men and women were registered as unemployed in 2018. At the same time, the number of recipients of unemployment benefits I and II (Hartz IV) who are able to work also fell, which the Federal Labour Office attributes primarily to the positive situation on the labour market.

Every six months, the Federal Labour Office prepares so-called skilled labour shortage analyses. In these analyses, the Federal Labour Office states for the second half of 2018 that there is a (regional) shortage of skilled workers in certain occupations in Germany, such as “some technical occupations, construction occupations and healthcare and nursing occupations” (BA 2019b: 4).

#### Highly qualified persons

The EU Blue Card has become an instrument of legal immigration which is in ever-growing demand. In

2018, 27,241 EU Blue Cards were issued – representing an increase of 25.4% year-on-year (2017: 21,727 EU Blue Cards). Out of the 51,130 third-country nationals who had obtained an EU Blue Card on the cut-off date in late December 2018, 25.9% came from India, 8.5% came from China, 6.9% came from the Russian Federation, 4.8% came from Turkey and 4.3% came from Ukraine (Graf 2019). Germany remains the EU country with the highest number of EU Blue Cards granted. In 2016, 84.0% of the total number of EU Blue Cards were issued by Germany (BAMF 2018b).

As recorded by the Federal Statistical Office (Statistisches Bundesamt (StBA)), the latest figures for foreign academics and scholars at German universities are available for 2017. They indicate that a total of 46,553 foreign academic and artistic staff were employed at German universities in 2017 - corresponding to 11.8% of all university employees - including 3,244 full-time professors (StBA 2018a). As can be seen from the Federal Government's Migration Report, "[s]ince 2006 [...] there has been a continuous increase in the number of foreign academic and artistic staff at German universities [...]. In 2017, an increase of 6.5% compared to the previous year was registered" (BMI/BAMF 2019: 101). Almost half (approx. 40%) of the foreign academics employed, were engaged in research in the so-called MINT subjects.<sup>29</sup> Around 45% of the foreign academic staff came from European countries. The most important non-European countries of origin in 2017 were China with 2,781 academics and scholars at German universities, India with 2,573 and the United States with 2,268 (StBA 2018a).

### Development of the simplified legal labour migration channel for nationals of the Western Balkan countries

In 2018, 21,078 visas were issued for the purpose of taking up employment in Germany via the simplified legal labour migration channel for nationals of the Western Balkan countries pursuant to Section 26 subs. 2 of the Employment Regulation, while the Federal Labour Office issued 46,118 approvals and 10,657 rejections in the same period (Deutscher Bundestag 2019q: 9 et seqq.)

Reasons for the high discrepancy are attributed to the applicants themselves on the one hand (e.g. missing documents or documents not being submitted on time) and employers in Germany (for instance job offers being withdrawn before visas are issued). On the other hand, the diplomatic missions abroad say they

are experiencing capacity bottlenecks and are "often unable to process all visa applications within a reasonable period of time. Among the missions abroad in the six Western Balkan countries, Bosnia-Herzegovina and Kosovo have, according to the Federal Government, waiting times of eight months or longer for an appointment, Albania and Serbia twelve weeks or longer. Montenegro is the only country that says it does not have longer waiting times" (Brücker/Burkert 2017: 7). The problem with long waiting times is on the one hand that the Federal Labour Office's pre-approval is only valid for six months and some companies are likely to fill their posts elsewhere in the meantime on the other (Brücker/Burkert 2017: 7).

### Skilled Labour Immigration Act (Fachkräfteeinwanderungsgesetz)

As early as the summer of 2018, the Federal Government announced its intention to introduce a law on the immigration of skilled workers. In October, a joint paper drawn up by the Federal Ministry of the Interior and the Federal Ministry for Economic Affairs and Energy provided the first cornerstones. The first joint bill followed in November and was adopted by the federal cabinet on 19 December 2018 as the 'Skilled Labour Immigration Act' within the framework of the Federal Government's skilled workers strategy, following the adoption of a number of amendments (BMI 2018b).

The Skilled Labour Immigration Act does not constitute an independent immigration code, but merely regulates immigration for the purposes of gainful employment, above all in the Residence Act and the Employment Regulation. Some minor amendments also affect other laws, such as the Social Code (Sozialgesetz) and the Income Tax Act (Einkommenssteuergesetz).

The main change in the bill drawn up at the end of 2018 (the review period covered by this policy report) concerned the planned abolition of the priority check for migrants who have qualified vocational training, a recognised qualification and a current employment contract. This would also eliminate the preferential treatment of or limitation to occupations with a shortage for non-academic skilled workers. Specialists in the IT sector would even be given the opportunity to immigrate without any professional qualifications at all if they have sufficient work experience (five years) and a relevant job offer. However, it remains possible to issue a regulation to reintroduce priority checks in the short term for certain professions or regions.

<sup>29</sup> MINT subjects: Mathematics, Informatics, Natural Science, and Technology.

In addition to this easing of requirements for immigration within the framework of already established gainful employment, persons with qualified vocational training are also to be given the opportunity to enter Germany for a limited period of time in order to seek employment. Previously, this had only been possible for university graduates (Section 18c of the Residence Act). However, they were required to have knowledge of the German language and an independent means of subsistence. The Federal Ministry of Labour should be able to waive this requirement for individual occupational groups.

Although the bill created possibilities of immigration to Germany as part of the search for a training place for persons who had no prior vocational qualification, they had to overcome major hurdles, for instance with regard to the educational qualification document to be produced (for foreigners under 25 years of age who had to have a secure means of subsistence, good language skills and a school leaving certificate from a German school abroad or a certificate entitling the holder to admission to higher education in Germany). The bill also continued to provide for a priority check for the persons wishing to commence training. At the same time, the aim was to make it easier to obtain residence status in order to have existing vocational qualifications recognised in Germany within the framework of qualification measures.

In general, procedures and administration are also to be simplified, for instance by bundling responsibilities with at least one central foreigners authority for each Land. Accompanying measures, such as advertising campaigns in cooperation with the business community, faster recognition of educational qualifications acquired abroad and greater promotion of German language skills, particularly abroad, are intended to support the implementation of the skilled labour strategy (Bundesregierung 2019b).

The Act on Temporary Suspension of Deportation for Training and Employment' (Gesetz über Duldung bei Ausbildung und Beschäftigung) passed at the same time as the Skilled Labour Immigration Act is also intended to enable persons whose asylum claim has been rejected and whose removal has been temporarily suspended and who "secure their own livelihood through sustainable employment and are well-integrated (suspension of removal for employment purposes) to stay in a legally secure manner, indicating that they have the prospect of remaining" (BMI 2018c) (see Chapter 4.1).

## 3.2 Family reunification

### 3.2.1 Background and general context

Marriage and the family enjoy special protection under Article 6 of the Basic Law. The European Convention on Human Rights (Article 8) and the Universal Declaration of Human Rights (Article 16) also call for particular protection of these institutions. In addition, the EU Family Reunification Directive (Directive 2003/86/EC), which was adopted in 2003, provides for an EU-wide framework for the family reunification of third-country nationals or nationals of the relevant Member State with third-country nationals. All national provisions concerning the family reunification of Germans or third-country nationals with other third-country nationals in Germany are set out in Sections 27 – 36 of the Residence Act. Civil partnerships receive practically equal treatment with marriages in terms of family reunification (Section 27 subs. 2 of the Residence Act).

The right to family reunification refers in principle to the core family. Which are in each individual case spouses and civil partners as well as the minor unmarried children who join their parents or parents who join their unaccompanied minor children. Under certain conditions, other family members may also enter Germany "if necessary in order to avoid particular hardship" (Section 36 subs. 2 of the Residence Act). Since the amendment to the Residence Act and the Employment Regulation of 6 September 2013, all holders of a residence title for the purpose of family reunification are entitled to pursue an economic activity (Section 27 subs. 5 of the Residence Act).

Unless certain exemptions apply (for example for recognised refugees, see Section 29 subs. 2 of the Residence Act), certain preconditions must be met for family reunification (such as sufficient living space or a secure livelihood, Sections 29 and 5 of the Residence Act). Since September 2007, spouses and civil partners of third-country nationals and Germans living in Germany need to prove that they are able to communicate in German at least on a basic level before they enter the country (Section 30 subs. 1 first sentence no. 2 of the Residence Act). If the immigrants want to join nationals of certain countries (e.g., Australia, Japan, the United States) or family members who are permitted to reside in Germany on the grounds of an EU long-term residence permit or a so-called EU Blue Card, they are exempt from demonstrating German language skills. Moreover, the proof of language skills may be waived if, due to individual circumstances of the case, attempting to learn basic German

is impossible or unreasonable for the spouse or civil partner (Section 30 subs. 1 third sentence no. 6 of the Residence Act). This requires examination in each individual case.

Family reunification is not permitted under certain conditions, e.g. in case of a forced marriage or civil partnership or a marriage or civil partnership of convenience (Section 27 of the Residence Act), or when the spouse or civil partner living in Germany is married to several spouses or civil partners at the same time and already lives together with a spouse or civil partner in Germany, no further spouse or civil partner can immigrate (Section 30 subs. 4 of the Residence Act).

### 3.2.2 National developments

#### Statistics

In 2018, a total of 107,354 visas were granted for the purpose of family reunification, 10,637 fewer than the previous year (2017: 117,991). This is the first time there was a decline in the number of visas granted in 2018 after the number of visas granted for the purposes of family reunification had risen steadily since 2013. The vast majority of visas granted in 2018 were issued to spouses and civil partners who wanted to join their foreign partners (39,464). 37,949 visas were issued to children below the age of 18 who wanted to join a parent in Germany. The latter still represented the largest group in the two preceding years. Spouses who wanted to join their German partners represented the third largest group (19,099; visa statistics of the Federal Foreign Office).

#### Restriction of family reunification, family support programmes and hardship cases

For beneficiaries of subsidiary protection who were granted a temporary residence permit after 17 March 2016 family reunification was suspended up until 16 March 2018 (Section 104 subs. 13 of the Residence Act). The two-year suspension of family reunification was subsequently extended until 31 July 2018. Since 1 August 2018, family reunification to beneficiaries of subsidiary protection has been permitted once again. However, it is limited to 1,000 national visas for family members of beneficiaries of subsidiary protection per month. For information about developments in relation to the restriction and the renewed opening of family reunification as well as the respective hardship regulations, see Chapter 4.1.2.2.

## 3.3 Students and researchers

### 3.3.1 Background and general context

Possibilities under residence law for educational measures in Germany are enshrined in Sections 16 – 17b of the Residence Act. International students account for the majority of foreign nationals who immigrate to Germany within the framework of educational measures. In addition, however, immigration can also be made possible within other (vocational) training measures.

#### Studies<sup>30</sup>

Residence permits for educational purposes are regulated in Sections 16 – 17b of the Residence Act. The majority of foreign citizens who immigrate within this framework are international students. In addition, immigration is possible in the context of other vocational or educational training.

The residence title is issued by the local foreigners authority once the student has come to Germany. As a rule, students have to apply for a visa to the German diplomatic mission in the country of origin before they enter Germany.<sup>31</sup> If they spend less than twelve months in Germany (for example in the framework of a student exchange programme), they may be permitted to stay on the grounds of the visa alone (Hanganu/Heß 2014: 49). International students will usually need to provide their higher education entrance qualification<sup>32</sup> and proof of sufficient financial means for the first year of studies (2018: 8,640) and sufficient healthcare insurance (Deutsches Studentenwerk 2018) to obtain a residence permit for study purposes in Germany. Furthermore, they will need to prove that their knowledge of the language of training is sufficient, and a number of HEIs also require that they pass an admittance examination (see Hoffmeyer-Zlotnik/Grote 2019: 32).

<sup>30</sup> The information provided this section is based on Hoffmeyer-Zlotnik/Grote 2019.

<sup>31</sup> Exempted from this rule are students from EU Member States and students from Australia, Israel, Canada, Republic of Korea, New Zealand, the United States of America (Section 41 subs. 1 of the Ordinance Governing Residence) as well as Andorra, Brazil, El Salvador, Honduras, Monaco and San Marino (Section 41 subs. 2 of the Ordinance Governing Residence). Nationals of the following countries do not need a visa to enter Germany and may apply directly for a residence permit to the responsible foreigners authority within 90 days.

<sup>32</sup> Those still waiting for a letter of acceptance or having to take an entrance examination may apply for a student applicant visa. Upon arrival in Germany, the visa must then be presented to the foreigners authority at the place of study, which converts it into a residence permit for study purposes.

On 23 May 2018 the Students and Researchers Directive (Directive (EU) 2016/801) had to be transposed. In Germany the transposition of the Directive took place in 2017 already. Until January 2019 15 EU Member States had transposed the Directive, including Germany (BAMF 2019b). The (short-term) mobility, however, is possible with all participating Member States as the transposition deadline has passed.

Since the transposition of the Students and Researchers Directive students are now entitled to a residence permit for study purposes and the decision is no longer at the discretion of the authorities (Section 16 subs. 1 first sentence of the Residence Act). In addition, students are now entitled to a residence title for the purpose of seeking a job after graduation. Moreover, the law now allows students who drop out of a HEI to take up vocational training and obtain a residence permit for this purpose. The notification procedure introduced by the Directive makes it considerably easier for international students to move within the EU, if they hold a residence title for study purposes in another EU Member State.

Pursuant to Section 16 subs. 5 of the Residence Act, graduates may stay in Germany for up to 18 months in order to seek a job commensurate with their qualification. If they are successful, they may apply for a residence title for employment purposes (for example titles issued pursuant to Sections 18 or 19a of the Residence Act). After transposition of the Students and Researchers Directive individuals who fulfil the respective requirements will have a legal right to this.

## Research

There are three options for researchers from third countries for a legal stay in Germany:

1. a residence permit for research purposes (Section 20 of the Residence Act)
2. a residence permit issued by another EU Member State (apart from Denmark, the United Kingdom or Ireland) and short-term mobility within the meaning of the European REST Directive (Directive (EU) 2016/801)
3. Aa temporary residence permit for mobile researchers (Section 20b of the Residence Act).

In order to be eligible for a residence permit for research purposes, foreign nationals must have effectively concluded an admission agreement or a corresponding contract to conduct a research project. The residence permit allows researchers to take up teaching activities as well (Section 20 subs. 5 of the

Residence Act). Visa for a residence permit for research purposes are usually granted in a fast-track procedure. Spouses and civil partners of researchers are allowed to work (Section 27 subs. 5 of the Residence Act). The residence permit for research purposes pursuant to Section 20 of the Residence Act also includes stays in other EU Member States for research purposes.

Third-country nationals who stay in the EU for research purposes and hold a residence title from another EU Member State (apart from Denmark, the United Kingdom and Ireland) within the meaning of the REST Directive (Directive (EU) 2016/801) are allowed to stay and research in Germany without a specific German residence title ('short-term mobility'). "This assumes that they work at a German research facility for a maximum of 180 days within a period of 360 days" (BAMF 2018c). The same applies, vice versa, to researchers from third countries who hold a residence permit pursuant to Section 20 of the Residence Act. They are mobile within the EU Member States (apart from Denmark, the United Kingdom and Ireland). However, with the implementation period for the REST Directive running until 23 May 2018, numerous EU Member States did not yet transpose it during the reporting period, which resulted in restrictions to mobility.

The third residence title for researchers has been newly introduced under the REST Directive (see below). Third-country nationals who already hold a residence permit within the meaning of the REST Directive from another EU Member State (apart from Denmark, the United Kingdom and Ireland) and plan to stay in Germany for more than 180 days for research purposes may apply for a specific residence title: the temporary residence permit for mobile researchers (Section 20b of the Residence Act).

Apart from these residence permits for research purposes, research activities may be carried out within the framework of a residence permit which is not explicitly granted for research purposes, but to a highly qualified individual. This may be the case under a residence permit for employment purposes (Section 18 of the Residence Act in conjunction with Section 5 of the Employment Regulation) or a permanent settlement permit for highly qualified third-country nationals (Section 19 of the Residence Act), which may be granted to teaching or scientific personnel in prominent positions. The same applies to the issuance of an EU Blue Card (Section 19a of the Residence Act; see Chapters 3.1.1 and 3.1.2). Applicants may choose between a residence permit pursuant to Section 20 of the Residence Act or an EU Blue Card at the time of



the first issuance if they fulfil the preconditions for either of them (2.0.2.1.3 Guidelines of the Federal Ministry of the Interior).<sup>33</sup>

For research carried out within the framework of a doctorate a residence permit pursuant Section 20 of the Residence Act can be awarded, if the doctorate is on the basis of gainful employment, that exceeds “120 days or 240 half-days per year” (Section 16 subs. 3 of the Residence Act). Otherwise, the right of residence for study purposes (Section 16 of the Residence Act) applies.

### Other training

In addition to studies, the Residence Act also provides for legal immigration of third-country nationals for further (educational) measures. Foreign nationals can be issued with a residence permit to attend language courses and in exceptional cases, to attend school (Section 16b subs. 1 of the Residence Act) and also for other basic and advanced vocational training (Section 17 subs. 1 of the Residence Act). In the latter case, however, foreigners wishing to undergo other basic and advanced vocational training generally require the approval of the Federal Labour Office (Section 8 subs. 1 of the Employment Regulation), unless the Employment Regulation or intergovernmental agreements contain other provisions for training and further education in a particular occupational group (Section 17 subs. 1 and Section 42 of the Residence Act in conjunction with Sections 1 and 2 of the Employment Regulation).

Since 2015, it has also been possible to obtain a residence permit of up to 18 months for the purpose of recognising professional qualifications acquired abroad in order to carry out an educational measure or a subsequent examination (Section 17a of the Residence Act). After successful completion of such vocational training, the temporary residence permit may be extended by up to twelve months for the purpose of seeking a job commensurate with this qualification (Section 16b subs. 3, Section 17 subs. 3, Section 17a subs. 4 of the Residence Act). During the vocational training or recognition of the vocational qualification gainful employment of up to ten hours a week can be taken up. See Chapter 6.1 for further information about the recognition of vocational qualifications.

## 3.3.2 National developments

### Statistics

359,310 foreign students were enrolled at German universities for the summer semester of 2018 (both those who completed primary education in Germany and those who completed it abroad; StBA 2019a), whereas preliminary figures indicate that a total of 393,579 foreign students were enrolled in the winter semester 2018/2019. This represents an increase of 5.1% compared to the winter semester of the previous year. Foreign students accounted for 13.7% of all 2,863,609 students at German universities in the winter semester 2018/2019 (StBA 2019b).<sup>34</sup> Almost two years before, in the winter semester 2016/2017, the number of foreign students had risen above 350,000 for the first time, coming in at 358,895, meaning that the goal envisaged in the coalition agreement of the former Federal Government for 2020 of 350,000 foreign students at German universities was reached early (CDU/CSU/SPD 2013: 29). The proportion of students from a third country was 73.9% among all international students in the 2018 summer semester, with China and Turkey being by far the most important countries of origin at 10.9% and 10.3% respectively. Students who completed primary education in Germany and those who completed it abroad accounted for 23.8% of international students (StBA 2019a).

According to evaluations made from data in the Central Register of Foreigners, 12,920 third-country nationals who had obtained a residence permit in order to participate in a language course or attend school (Section 16b subs. 1 of the Residence Act) were residing in Germany at the end of 2018. Another 20,552 persons held a residence permit for the purpose of vocational training (Section 17 subs. 1 of the Residence Act), while 1,695 persons had the right of residence associated with measures for the recognition of professional qualifications acquired abroad (Section 17a subs. 1, 5 of the Residence Act) (Graf 2019).

### Impact of semester contributions for international students in Baden-Württemberg (from the winter semester 2017/2018 onwards)

In the winter semester 2017/2018, Baden-Württemberg became the only Land to charge international students from outside the EU exclusively a semester contribution of EUR 1,500 for their first course of

<sup>33</sup> Guidelines of the Federal Ministry of the Interior concerning the Act and the Statutory Instrument to implement European Union Residence Directives concerning Labour Migration.

<sup>34</sup> Due to the semester cycle, the numbers for the 2018 summer semester are lower than those of the previous winter semester, as in the previous years.

study and EUR 650 for any second course of study. EUR 300 of these semester contributions go directly to the universities in order to cover “any additional expenses incurred” (MWK 2017) and to improve the framework conditions for students. As a result, the number of new enrolments fell by 19.2% to the level of 2013 in the winter semester the semester contribution was introduced. This decline had been planned in advance by the Land government. However, due to various exemptions to the deadline for payment of the contribution – approx. 50% of the students were exempt from payment – the additional revenue of approx. EUR 4.3 million generated was lower than expected (Landtag Baden-Württemberg 2018).

### Abolition of the language requirement for stays for study purposes<sup>35</sup>

The draft version of the Skilled Labour Immigration Act also provided for amendments with regard to the legal situation of student migration (see above). The cabinet draft (as at: December 2018) contained a basic standard for residence for educational purposes, for example:

“Foreigners’ access to training fosters general education and international understanding and secures the German labour market’s need for skilled workers. In addition to strengthening Germany’s academic relations in the world, it also contributes to international development. It is designed to ensure the interests of public security are taken into account” (BMI 2018b: 10).

Thus, the retaining of international students as well as intergovernmental cooperation and international development have been defined as legal objectives in relation to the residence of students and trainees (see BMI 2018b: 102).

With regard to residence permits for study purposes, the bill does not, in contrast to the current regulation, provide for a determination of the language level required for the granting of a residence permit for study purposes. Instead, “proof of knowledge of the language of training required for the specific course of study” is required, as previously only required in the event that this has not yet taken place within the framework of admission by the university (BMI 2018b: 11). According to the explanatory reasoning, “as a rule, students should be required to have reached at least B2 level CEFR in German” (BMI 2018b: 104).

The bill also provides for standardisation and clarification of the possibilities of changing residence title (BMI 2018b: 12). Accordingly, it should be possible to change from a residence title for the purpose of studying to another residence title “for the purpose of qualified vocational training, the pursuit of employment as a skilled worker, the pursuit of employment with demonstrable practical vocational knowledge in accordance with Section 19c subs. 2 or in cases of a statutory entitlement” (BMI 2018b: 12).

Further amendments to the intra-EU mobility of international students relate to the notification procedure. This should “in future be carried out entirely by the Federal Office for Migration and Refugees in order to guarantee processing within the short rejection period (30 days)” (BMI 2018b: 106). After the Federal Office for Migration and Refugees has issued the certificate or refused mobility, responsibility for all residence regulations and measures is transferred to the competent foreigners authority (BMI 2018b: 106).

## 3.4 Other legal migration

### 3.4.1 Background and general context

In addition to migration on humanitarian grounds, for educational, training, and economic purposes and for reasons of family reunification, Jewish immigrants from the former Soviet Union and ethnic German repatriates have legal paths for immigrating to Germany.

#### Jewish immigrants

Germany has been admitting Jewish immigrants and their family members from the successor states of the former Soviet Union since 1990. Initially, the government of the German Democratic Republic (DDR) did so, and the Federal Republic of Germany continued this practice (Belkin 2017: 231 et seq.).<sup>36</sup> The Immigration Act, which entered into force on 1 January 2005, amended the procedure. Since then, the Federal Office for Migration and Refugees has been responsible for the procedure,

<sup>35</sup> The information provided this section/sub-Chapter is based on Hoffmeyer-Zlotnik/Grote 2019.

<sup>36</sup> German Democratic Republic: Item 6 of the Resolution on Preliminary Rules concerning the Residence of and Asylum for Foreigners taken at the 16th Meeting of the Council of Ministers of the German Democratic Republic on 11 July 1990 (see Belkin 2017: 231 et seq.); Federal Republic of Germany: Decision of the Conference of Minister Presidents of 9 January 1991.

which was defined in a practice direction<sup>37</sup> in 2007. An advisory council for the “preparation, observation and monitoring of the new procedure” was established, which is chaired by the Federal Ministry of the Interior, Building and Community and also includes representatives of the Central Council of Jews in Germany, the Union of Progressive Jews in Germany, the Federal Foreign Office, the Federal Office for Migration and Refugees and the Länder (BAMF 2017b: 1). The intention is to promote the integration of Jewish immigrants into both Jewish communities and German society as a whole, which is why the immigrants need to meet certain admission requirements. These include being a national of a successor state of the former Soviet Union, being able to prove that one of their parents or grandparents was Jewish, having basic German language skills (level A1 of the Common European Framework of Reference for Languages (CEFR)), being able to prove the ability to subsist in Germany and being able to be accepted into a Jewish community (BAMF 2017b: 2). Victims of National Socialism are exempt from needing the otherwise required ‘positive integration prognosis’<sup>38</sup> and proving basic German language skills. Family members of applicants can also be admitted. The legal basis for admitting Jewish immigrants is formed by Section 23 subs. 2 in conjunction with Section 75 no. 8 of the Residence Act and the Direction of the Federal Ministry of the Interior of 24 May 2007 in its amended version of 21 May 2015. The Federal Ministry of the Interior is authorised under Section 23 subs. 2 of the Residence Act to admit foreign nationals in order to safeguard special political interests in consultation with the supreme authorities of the Federal Länder.

Due to the conflict in eastern Ukraine, reception conditions were eased for Jewish immigrants from the districts of Lugansk and Donetsk in 2015. They need not prove their knowledge of German (level A1 CEFR) to enter Germany, provided that they meet all other requirements. However, they will need to prove their language skills to the competent local foreigners authority within 12 months after entering Germany. The relevant direction was issued by the Federal Ministry of the Interior in consultation with the Federal Länder and took effect on 13 January 2015. Moreover, applications from Ukraine have been given priority by the

Federal Office by Migration and Refugees since 2015 (Deutsche Botschaft Kiew 2018).

### Ethnic German repatriates

The Federal Expellees Act<sup>39</sup> contains the relevant provisions for the admittance of ethnic German repatriates. The entry and reception procedure is conducted by the Federal Office of Administration (BVA); applications are filed in the countries of origin, and applicants may only enter the country after having received their admission notification. Ethnic German repatriates shall automatically acquire German citizenship when they are issued a repatriates certificate (see Section 7 of the Nationality Act (StAG) in conjunction with Section 17 subs. 1 of the Federal Expellees Act). Reception hinges on the applicant’s being an ethnic German (Section 6 subs. 1 of the Federal Expellees Act), which is regularly assumed for persons who have at least one (ethnic) German parent and have declared their willingness to be part of the German people, for example by providing a declaration of nationality (e.g. by certificates of birth, marriage or death) or in other ways.<sup>40</sup> In addition, applicants must be able to hold a simple conversation in German (Section 6 subs. 2 of the Federal Expellees Act). Applicants from other countries (including Estonia, Latvia or Lithuania) than the former Soviet Union will also need to prove that they were subject to discrimination or consequences of past discrimination on the grounds of their being “ethnic Germans” (Section 4 subs. 2 of the Federal Expellees Act). Since the entry into force of the Tenth Act to Amend the Federal Expellees Act on 14 September 2013, spouses, civil partners and children of ethnic German resettlers and repatriates may also be admitted retroactively if they have at least a basic knowledge of German (level A1 CEFR) (Section 27 subs. 1 of the Federal Expellees Act). Before, these groups were only admitted if they entered Germany together with the applicant (Koschyk n.d.: 1 et seq.). The numbers of ethnic German repatriates have been steadily rising since this provision is in force (Beauftragter der Bundesregierung für Aussiedlerfragen und nationale Minderheiten 2018).

Ethnic German resettlers and repatriates are entitled to attend an integration course for free after their entry into Germany (Section 9 subs. 1 of the Federal Expellees Act). Moreover, in 2006 the Federal Office for Migration and Refugees started its programme “Identity and Integration PLUS”, which is especially

37 Direction of the Federal Ministry of the Interior pursuant to Section 23 subs. 2 of the Residence Act concerning the admittance of Jewish immigrants from the former Soviet Union, excluding the Baltic countries, of 24 May 2007, last amended on 13 January 2015, in the version of 21 May 2015.

38 An integration prognosis is based, among other things, on a person’s knowledge of German, their education and training and their age and professional experience (BAMF 2017b: 3).

39 Federal Expellees and Refugees Act (Gesetz über die Angelegenheiten der Vertriebenen und Flüchtlinge).

40 In particular by proving knowledge of German at level B1 CEFR or by proving that s/he learned German in their families.

directed at ethnic German repatriates, begins after the regular integration course and focuses on “the specific situation and needs of ethnic German repatriates” (BAMF 2018c). During the course, participants focus on questions concerning their “specific identity”, “problems and opportunities in everyday life in the new environment”, “education in Germany” and “opportunities on the German labour market, including self-employment” (BAMF 2018c).

Ethnic German repatriates from eastern Ukraine also benefit from easier admittance procedures. Since mid-2014, applications by persons who can credibly claim to be affected by the fighting are given priority during the written procedure. Still, applicants need to provide proof of their language skills and their origins (BVA 2014)

### 3.4.2 National developments

#### Jewish immigrants

In 2018, 1,038 Jewish immigrants entered Germany pursuant to the admission procedure for Jewish immigrants from the successor states of the former Soviet Union (2017: 873). The fights in eastern Ukraine are one reason for this increase. While the number of Jewish immigrants rose again, it is still low in comparison to former years. For example, in 2002 a total of 19,262 Jews and their family members came to Germany from the former Soviet Union.

Since 1993, the year in which the statistical series begins, a total of 209,134 Jewish immigrants (including family members) have entered Germany under the regular procedure (data as of December 2018). An additional 8,535 persons had filed an application before the starting date of the statistics or outside the regular procedure until 10 November 1991. This means that a total of 217,669 persons have entered Germany via this procedure by end-2017.

#### Ethnic German repatriates

In 2018, 7,126 ethnic German repatriates came to Germany – a year-on-year increase by 67 (2017: 7,059) and the sixth increase in a row (BVA 2019b). 7,112 of them came from the successor states of the former Soviet Union. Of these, 3,496 were from the Russian Federation, 2,292 from Kazakhstan, 873 from Ukraine and 451 from 12 other successor states (BVA 2019b: 7).

Since 1950, more than 4.5 million ethnic German resettlers and repatriates and their family members have been admitted into Germany. They form one of the

largest groups of immigrants in Germany, mainly due to the high influx during the 1990s (in 1990, for example, their number totaled 397,073).

#### New Federal Government Commissioner for Jewish Life in Germany and the Fight Against Anti-Semitism

Dr. Felix Klein was appointed the first Federal Government Commissioner for Jewish Life in Germany and the Fight Against Anti-Semitism on 11 April 2018. The position was newly created under the current coalition agreement (see Chapter 6.2 on anti-discrimination for information about the tasks involved).

#### New Federal Government Commissioner for Matters Related to Ethnic German Resettlers and National Minorities

On 11 April 2018, Dr. Bernd Fabritius, President of the Federation of Expellees (Bund der Vertriebenen) took over as Federal Government Commissioner for Matters Related to Ethnic German Resettlers and National Minorities. He succeeded Günter Krings who had been held this post since 1 November 2017 (BMI 2018d).

# 4 International protection and asylum

## 4.1 National asylum system

### 4.1.1 Background and general context

Asylum seekers need to contact a government authority<sup>41</sup> as soon as they enter Germany or immediately afterwards if they want to request asylum. They will be registered, and their data (including a photograph and fingerprints) will be stored in a central database. Afterwards, the asylum seekers will be sent on to one of the 16 Länder pursuant to a preset quota ('Königstein key'). The Länder are then responsible for accommodating the asylum seekers in 'reception centres'. Depending on the asylum seeker's country of origin, they will stay at the reception centres for up to six months or until the decision on their asylum application is taken (for example in the case of asylum applicants from safe countries of origin<sup>42</sup>).

If the asylum application is submitted at an arrival centre or at a branch office of the Federal Office for Migration and Refugees, the asylum seeker will be issued with a proof of arrival after his or her registration. Otherwise, he or she will receive a certificate directing them to the nearest reception facility. "As the first official document, the proof of arrival serves to document the entitlement to reside in Germany. And what is equally important is that it constitutes an entitlement to draw state benefits, such as accommodation, medical treatment and food" (BAMF 2019c: 11). During their stay at a reception facility, asylum seekers will

receive basic support in kind and a monthly sum for their everyday personal needs pursuant to the Act on Benefits for Asylum Seekers.

Following the request for asylum, asylum seekers must submit their application for asylum in person at a branch office or arrival centre of the Federal Office for Migration and Refugees. Before the Federal Office for Migration and Refugees processes an asylum application, it examines whether Germany is responsible according to the criteria set out in the Dublin III Regulation (Regulation (EU) 604/2013). "The aim of the Dublin procedure is that each asylum application which is lodged within the sovereign territory of the Member States, to only be examined upon its merits by one state. The [Dublin III Regulation] applies in all 28 Member States of the EU, as well as Norway, Iceland, Liechtenstein and Switzerland" (BAMF 2019c: 16). If there are indications that another Member State is responsible, "a request to take charge or take back the applicant is addressed to it. If the other Member State regards this request as justified, it shall agree to it within the response period" (BAMF 2017c: 36). The transfer of the applicant must take place within six months. Otherwise, the responsibility for the procedure will be transferred to the member state which made the take-charge request. The transfer period may be extended to twelve months (if the asylum seeker is detained) or 18 months (if the asylum seeker has absconded or cannot be detected). If protection has already been granted under the law on asylum in one Dublin state, no further examination of the asylum application is possible in Germany (BAMF 2019c: 28).

The non-public, personal interview is at the heart of the asylum procedure. During this interview, applicants can explain the reasons for their flight to the Federal Office for Migration and Refugees' decision-makers. If applicants do not attend and do not state why they are unable to attend, their application may be rejected or the proceedings discontinued. "The Federal Office for Migration and Refugees decides on the asylum application on the basis of the personal interview and of a detailed examination of documents and items of evidence. The decision rests on the fate of the individual

41 Such as a border, security or foreigners authority, a reception facility or an arrival centre.

42 The law defines those countries as safe countries of origin, where "because of the democratic system and the general political situation it can be assumed that in general there is no state persecution to be feared and that the respective state is generally capable to protect from non-state persecution. Protection from non-state persecution means for example, that legal and administrative regulations that protect the population exist and that they are accessible and implemented. The legal presumption that there is no risk of persecution applies in this case [...] In Germany the following countries are seen as safe countries of origin: the Member States of the European Union, Albania, Bosnia and Herzegovina, Ghana, Kosovo, Macedonia, the former Federal Republic of Yugoslavia, Montenegro, Senegal, Serbia" (BAMF 2019j).

applicant. It is reasoned in writing, and where appropriate is served on the person concerned, the applicant or the legal representative, as well as on the competent immigration authorities. [...] The Federal Office for Migration and Refugees examines each asylum application on the basis of the Asylum Act as to whether one of the forms of protection – entitlement to asylum<sup>43</sup>, refugee protection pursuant to the Geneva Convention<sup>44</sup>, subsidiary protection<sup>45</sup> or a national ban on removal<sup>46</sup> – applies. Only when none of the forms of protection can be considered is the asylum application [fully] rejected” (BAMF 201c: 21; see Figure 1).

43 A person has the right to asylum and is politically persecuted pursuant to Article 16a of the Basic Law, if upon return to the country of origin the person would face severe human rights violations because of her race, nationality, political opinion or membership of a particular social group (see BAMF 2019c: 22).

44 Refugee protection pursuant Section 3 subs. 1 of the Asylum Act “is more encompassing than the right of asylum and also applies in cases of persecution by non-state agents. According to the Geneva Convention persons are refugees if they, owing to a well-founded fear of persecution in their country of origin on account of their race, religion, nationality, political opinion or membership of a particular social group, reside outside the country whose nationality they possess, or where they used to have their habitual residence” (BAMF 2019c: 23).

45 Subsidiary protection pursuant to Section 4 of the Asylum Act is a second type of international protection, next to refugee protection, within the meaning of Directive 2011/95/EU. “People with subsidiary protection, have shown substantial grounds for believing that they would face a real risk of suffering serious harm in their country of origin and cannot or because of the threat do not want to draw on protection from their country of origin. A serious harm may emanate from the state as well as non-state agents. Serious harm consists of death penalty or execution, torture or inhuman or degrading treatment or punishment, or serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict” (BAMF 2019c: 24).

46 A person seeking protection must not be returned, if the return in the country of destination represents a violation of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) or if there is a substantial concrete danger to his life and limb or liberty” (BAMF 2019c: 25).

If applicants are granted a protection status, they will be issued with a residence permit for one to three years, depending on the type of protection. This permit may be extended or exchanged against a permanent residence permit afterwards. The first three types of protection include an unrestricted permission to gainful employment. Persons for whom a removal ban was issued may work, but only with the approval of the foreigners authority. Third-country nationals may not work during their obligatory stay at a reception facility (regardless of the length of this stay) or during the first three months of the asylum procedure.

Since the Integration Act entered into force on 6 August 2016 a residence rule (so-called Wohnsitzauflage) entered into force as well. The details and the application of this rule are at the discretion of the Länder. Section 12a subs. 1 of the Residence Act obliges persons entitled to asylum, recognised refugees, beneficiaries of subsidiary protection and certain groups of persons who have been granted an initial temporary residence permit on humanitarian grounds to stay for three years in that Land which was responsible for their asylum procedure or their admission. This rule does not apply if the person in question himor herself, his or her spouse, registered partner or minor child takes up or has taken up employment, at least 15 hours per week with full social security coverage, on account of which that person has a certain income (2017: EUR 712), or that person takes up or has taken up vocational training or is pursuing his or her studies or is in a training relationship (Section 12a subs. 1 second sentence of the Residence Act).

In addition, a stay in the Federal Republic may be granted for international, humanitarian or political reasons by admission from abroad or in Germany (Sections 22 – 25b of the Residence Act). This includes

Figure 1: Four forms of protection



humanitarian admission programmes and the re-settlement procedure described in more detail in Chapter 4.3.

## 4.1.2 National developments

### 4.1.2.1 Statistics

#### Development in the number of asylum applications

In the year 2018, 185,853 first-time and subsequent asylum applications were filed, representing a 16.5% decline year-on-year (2017: 222,683 first-time and subsequent asylum applications) (BAMF 2019d: 15). 161,931 of them were first-time asylum applications, 36,386 fewer than in 2017 (- 18.3%). As in 2017, the number of asylum applicants dropped to about the same level as 2014 (173,072 first-time asylum applications), having risen for nine years in a row.

With the Russian Federation and Turkey, two European countries were among the main nationalities in 2017 and 2018. The other main nationalities of asylum applicants in 2018 were Syria, Iraq, Iran, Nigeria, Afghanistan, Eritrea and Somalia. The ten nationalities with the highest number of applicants in 2018 were also among the top ten in 2017, albeit in a different order (see Table 1). In eight of the ten main countries of origin, on the other hand, there was a significant decline in the number of asylum applications filed. The largest

decreases in absolute figures were recorded for asylum applications from Afghanistan (- 6,481 first-time asylum applications), Iraq (- 5,597 first-time asylum applications), Syria (- 4,807 first-time asylum applications) and Eritrea (- 4,655 first-time asylum applications). The number of asylum seekers from Nigeria increased significantly at 30% (+ 2,357 first-time asylum applications) in the list of main nationalities, in addition to Turkey (+ 26.6%; + 2,133 first-time applications) and Iran (+ 26.1%; + 2,249 first-time asylum applications), compared to first-time asylum applications in the previous year (BAMF 2019e: 2).

#### Overall protection rate

The overall protection rate<sup>47</sup> declined from 43.4% to 35.0% in comparison to the preceding year. In 2018, a total of 216,873 decisions on first-time and subsequent applications were taken (2017: 603,428). 41,368, or 20.4%, persons were either eligible for asylum under Article 16a of the Basic Law or recognised as refugees under the Geneva Convention relating to the status of refugees (2017: 98,074). Subsidiary protection was granted to 25,055, or 11.6%, persons (39,659 in 2017),

47 The total protection ratio covers all positive decisions, according to which applicants were recognised as asylum seekers pursuant to Article 16a para 1 of the Basic Law, refugees pursuant to Section 3 subs. 1 of the Asylum Act or beneficiaries of subsidiary protection pursuant to Section 4 subs. 1 of the Asylum Act or in which national deportation bans were established pursuant to Section 60 subs. 5 or 7 of the Residence Act.

Table 1: First-time asylum applications and main countries of origin (2017 and 2018)

	2017		2018		Change in the number of asylum applications in %	Change in the number of asylum applications in absolute terms
	First-time applications for asylum	Total asylum applications	First-time application for asylum	Total asylum applications		
Syria	48,974	50,422	44,167	46,164	-9.8%	-4,807
Iraq	21,930	23,605	16,333	18,074	-25.5%	-5,597
Iran, Islamic Republic	8,608	9,186	10,857	11,846	26.1%	2,249
Nigeria	7,811	8,261	10,168	11,073	30.2%	2,357
Turkey	8,027	8,483	10,160	10,655	26.6%	2,133
Afghanistan	16,423	18,282	9,942	12,251	-39.5%	-6,481
Eritrea	10,226	10,582	5,571	5,920	-45.5%	-4,655
Somalia	6,836	7,561	5,073	5,754	-25.8%	-1,763
Unclarified	4,067	4,444	4,220	4,849	3.8 %	153
Russian Federation	4,884	6,227	3,938	5,282	-19.4%	-946
Sum total Top 10	137,786	147,053	120,429	131,368	-12.6 %	-17,357
Other nationalities	60,531	75,630	41,502	53,985	-31.4 %	-19,029
<b>Total</b>	<b>198,317</b>	<b>222,683</b>	<b>161,931</b>	<b>185,853</b>	<b>-18.3%</b>	<b>-36,386</b>

Source: BAMF 2019e: 2. The order is based on the top ten list of first-time asylum applications filed in 2018.

and national removal bans were established in 9,548, or 4.4%, cases (39,659 in 2017). 75,395 applications were rejected (34.8% of all decisions) and 109,479 decisions were taken on formal grounds<sup>48</sup> (18.1%) (BAMF 2019d: 55). The protection ratios in 2018 were highest for applicants from Syria (81.9%), Eritrea (70.2%) and Turkey (41.1%).

### Legal proceedings and court decisions

In 2018, more than half (53.6%) of the decisions on first-time and subsequent asylum applications were afterwards challenged in court. This total includes court actions brought against a full rejection (75.8% of all rejections were challenged in court) and actions brought against partial rejections (for example, 28.7% of all positive subsidiary protection decisions were challenged with the aim of being granted a right to asylum or being recognised as a refugee) (BAMF 2019d: 63).

The courts of first instance took a total of 171,905 decisions on asylum cases. In 29,573 cases (17.1%) they granted a protection status, while in 37.7% of all cases the challenges were refused and in 45.1% of all cases a decision was taken on formal grounds (such as a combination of actions brought by individual family members in one procedure or a withdrawal of an action). As of 31 December 2018, a total of 328,584 cases were pending before administrative courts, higher administrative courts or the Federal Administrative Court (BAMF 2019d: 66).

#### 4.1.2.2 Legal amendments, case law and asylum-related measures

During the 2018 review period, numerous measures were taken to limit and control immigration and to speed up the return of persons whose asylum claim had been rejected.

#### New regulation governing family reunification to beneficiaries of subsidiary protection

Since 1 August 2018, family reunification to beneficiaries of subsidiary protection that had been suspended for an initial period of two years and had been extended in 2018 with the creation of a transitional

regime<sup>49</sup>, was once again permitted.<sup>50</sup> The new regulation covers the reunification of spouses and the underage children of the beneficiaries of subsidiary protection and the parents of minors who are the beneficiaries of subsidiary protection. It states that family reunification is limited to 1,000 national visas. In contrast to persons with refugee protection (Article 3 of the Asylum Act), persons with subsidiary protection (Article 4 of the Asylum Act) do not have a legal entitlement to family reunification, it can be granted on humanitarian grounds (Section 36a of the Residence Act). These apply in particular if:

1. it has not been possible for the family to live together in one household for a long time,
2. it affects a minor, unmarried child,
3. the body, life or personal freedom of the spouse, minor unmarried child or parents of a minor foreigner are seriously endangered in the country of residence, or
4. the foreigner, the spouse or the minor unmarried child or a parent of a minor foreigner is seriously ill or in need of care in the sense of serious impairment of independence or abilities or has a serious disability. The illness, the need for care or the disability must be substantiated by a qualified certificate, unless there are other indications for the existence of the illness, the need for care or the disability in the case of a family member abroad (Section 36a subs. 2 nos. 1 to 4 of the Residence Act).

On the other hand, reunification is generally excluded if the marriage has not already taken place before the person fled their country of origin (Section 36a subs. 3 no. of the Residence Act), or if the person to whom the family reunification is to take place

- a. has been convicted of one or more criminal offences and has been sentenced to at least one year's imprisonment, or
- b. a conviction has been handed down for one or more intentional crimes against life, physical integrity, sexual self-determination, property or resistance to law enforcement officials

<sup>48</sup> Decisions on formal grounds are taken without a detailed examination of the applicant's case, for example because the Federal Office for Migration and Refugees is not responsible for the asylum procedure under the Dublin Regulation, because a subsequent procedure is rejected or because the procedure is stopped after the applicant has withdrawn the application.

<sup>49</sup> Act suspending the suspension of family reunification to beneficiaries of subsidiary protection (Gesetz zur Verlängerung der Aussetzung des Familiennachzuges zu subsidiär Schutzberechtigten) of 8 March 2018, Federal Law Gazette I 2018, Deutscher Bundestag 2019d).

<sup>50</sup> Act regulating family reunification to beneficiaries of subsidiary protection (Family Reunification Renewal Act) (Gesetz zur Neuordnung des Familiennachzuges für subsidiär Schutzberechtigte (Familiennachzugsneuregelungsgesetz)) of 12 July 2018, Federal Law Gazette I 2018, 1147).



- c. has been the subject of a judgment which has the force of *res judicata* sentencing him to a juvenile sentence of at least one year for one or more intentional offences and the sentence has not been suspended; or
- d. has been convicted of one or more intentional offences under Section 29 subs. 1 first sentence no. 1 of the Narcotics Act (*Betäubungsmittelgesetz*) (Section 36a subs. 3 no. 2 letters a – d of the Residence Act).

In addition, in hardship cases a residence permit can be issued in accordance with Section 22 of the Residence Act, or within the framework of federal or state admission programmes in accordance with Section 23 of the Residence Act. Family reunification pursuant to Section 22 of the Residence Act from the beginning of 2017 until 6 October 2017, a total of 19 persons who had applied to join family members with subsidiary protection status received the possibility of family reunification pursuant to Section 22 of the Residence Act. The applicants were Syrian nationals (Deutscher Bundestag 2017a: 5).

The new regulation governing family reunification fuelled debates: it is pointed out, among other things, that the law applies to parents but not siblings of unaccompanied minors (BumF 2018a; Cremer 2017). In addition, it is argued that the quota system and the associated examination lead to long waiting times and insecure conditions for those concerned (Bündnis 90/Die Grünen 2018; UNHCR 2019). The procedure also leads to unused quota places: 2,612 visas were issued between August and December 2018 (Deutscher Bundestag 2019c).

#### Obligation to cooperate within the scope of withdrawal and revocation procedures

No more than three years after the decision becomes incontestable, the Federal Office for Migration and Refugees shall examine whether the conditions for revocation pursuant to subs. 1 or withdrawal pursuant to subs. 2 exist (Section 73 subs. 2a of the Asylum Act). Until now, the persons concerned were only given the opportunity to comment but were not obliged to attend a hearing. This was newly regulated by the new 'Act on the Third Amendment to the Asylum Act' passed by the Bundestag on 8 November 2018 (which entered into force on 12 December 2018).<sup>51</sup> According to this Act, refugees have similar obligations to cooperate in withdrawal and revocation

proceedings as they had previously in the asylum application procedure (Section 15 of the Asylum Act). In the event of non-participation, the Federal Office for Migration and Refugees can “leverage the means of administrative compulsion to force the beneficiary of protection to fulfil his obligations to cooperate and, if further conditions are met, to decide on the revocation or withdrawal based on the facts of the case” (Deutscher Bundestag 2018f: 1 et seq.). Failure to participate or inadequate participation of the person concerned can also be taken into account to his or her detriment (Grote 2019: 30). The Federal Office for Migration and Refugees hopes that the introduction of obligations for the affected refugees to cooperate will ease and speed up the procedures (Deutscher Bundestag 2018f). Welfare associations and representatives of the lawyers' organisations, among others, criticised the law, pointing out that the new regulations would not only impose a huge burden on those concerned, but would also lead to high administrative expenses (Caritas 2018a).

#### Continuation of federal participation in integration costs

In order to ease the financial burden on the Länder and municipalities with regard to the integration costs they incur, the 'Act on federal participation in the costs of integration and on further relief for the Länder and Municipalities' (Gesetz zur Beteiligung des Bundes an den Kosten der Integration und zur weiteren Entlastung von Ländern und Kommunen) was adopted back in 2016. On 29 November 2018, the Bundestag decided to continue the Federal Government's participation in the integration costs incurred by the Länder and municipalities.<sup>52</sup> It states that the financial relief granted to the Länder and municipalities in 2017/18 will be extended for one year until the end of 2019 with regard to refugee and integration costs. In addition, the lump sum for 2018 was increased to around EUR 2.4 billion (Deutscher Bundestag 2018i; 2018j). In the context of integration and refugee migration, the Federal Government also supported the Länder and local authorities in areas such as the expansion of childcare, unaccompanied minors, housing subsidies and housing costs for refugees (Deutscher Bundestag 2018k).

<sup>51</sup> Act on the Third Amendment to the Asylum Act of 1 December 2018 (Federal Law Gazette I 2018, 43).

<sup>52</sup> Act on the continued participation of the Federal Government in the integration costs of the Länder and municipalities and on the regulation of the consequences of the financing of the “German Unity” Fund (Gesetz zur fortgesetzten Beteiligung des Bundes an den Integrationskosten der Länder und Kommunen und zur Regelung der Folgen der Abfinanzierung des Fonds “Deutsche Einheit”) of 20 December 2018, Federal Law Gazette I 2018, 2522).

### Changed procedural rules in church asylum in the context of Dublin procedures

In February 2015, the Federal Office for Migration and Refugees and representatives of the churches agreed on how to manage church asylum cases in Dublin procedures. It was agreed that “in justified exceptional cases, in order to avoid particular humanitarian hardships, a solution-oriented individual case examination by the central partners of both sides will take place within the framework of what is legally feasible” (BAMF 2018d). The Federal Office for Migration and Refugees declared its willingness to re-examine the cases on the basis of a meaningful file submitted as early as possible before the transfer deadline expires by the central contact persons of the churches.

Since the beginning of August 2018, new procedural rules for church asylum in Dublin cases also apply (BAMF 2018d). If the hardship file is not submitted on time or the church asylum is not left on time after the refusal to exercise the right to examine an application for international protection lodged by a third-country national or a stateless person, even if such examination is not the Member State’s responsibility, the 18-month transfer period applies. Church congregations and welfare associations expressed concerns that the longer those concerned remain on church premises before the transfer period expires and until the transition has been made to the national procedure, the greater the burden will be on asylum seekers. They argue that this could lead to a decline in church asylum cases (Caritas 2018b; Flüchtlingsrat Niedersachsen 2018). The number of church asylum cases has fallen significantly since the new procedural rules were introduced. While only 341 cases were registered from the beginning of August until the end of 2018, this figure was twice as large in 2017 over the same period (716 cases) (BMI 2019). The Federal Office for Migration and Refugees welcomes the decrease in the number of church asylum cases notified, as church asylum is only intended for absolute exceptional cases involving special hardships.

#### 4.1.2.3 Changes and measures in the area of refugee management

##### Arrival, decision and return facilities (AnKER facilities) in the pilot phase

In autumn 2018, three federal states (Bavaria, Saxony and Saarland)<sup>53</sup> opened so-called AnKER facilities (ar-

rival, decision and return facilities) in which all actors directly involved in the asylum process are represented. The aim is to concentrate in one location the asylum procedure from registration right up to municipal distribution or return (BAMF 2019f). At the end of 2018, these facilities were still in the pilot phase, which is set to continue until the beginning of 2020. Whereas the processes have been similarly organised at arrival centres since 2016 already, work and communication processes are now to be further “optimised” and new procedures and measures introduced (e.g. establishment of identity at registration, asylum procedure counselling, initial orientation and roadmap courses at local level and the initiation of return measures from within the institution) (BAMF 2019f; Deutscher Bundestag 2018).

Apart from the Länder which piloted the AnKER facilities, no other federal states were planning to set up AnKER facilities in 2018.<sup>54</sup> Some Länder argued that they had already set up accommodation (in particular arrival centres) providing the same functions (Zeit online 2019), which also led to some Länder initiating talks at the end of 2018 to run 'similar facilities'.

However, the concept of the AnKER facilities met with criticism from NGOs, some welfare associations and researchers who fear that speeding up the procedures could affect the quality of the asylum procedure and that access to independent asylum procedure counselling and legal advice would be restricted (Schader et al. 2019). Criticism was also directed against centralised accommodation centres and persons without a positive decision remaining at the central accommodation facilities (which, however, was already common before the AnKER concept was introduced). They argue that these kind of facilities promote exclusion and impose a major burden on those concerned, incurring consequential costs for “catch-up” integration in the long term. According to the critics, in the medium term, “paradoxically, far from easing the burden on municipalities, they are placing an even greater burden on them” (Hess et al. 2018: 9). It was also argued that there was no guarantee that particularly vulnerable persons such as children and adolescents would receive care that is tailored to their specific needs (Paritätischer Gesamtverband 2018; BumF 2018b). The Federal Ministry of the Interior, on the other hand, pointed out that asylum seekers in the Anker facilities receive, immediately upon arrival, asylum procedure

<sup>53</sup> AnKER facilities have been set up in the following cities: Bamberg, Deggendorf, Donauwörth, Manching, Regensburg, Schweinfurt, Zirndorf, Dresden, Lebach.

<sup>54</sup> A nationwide introduction of the AnKER facilities can only take place within the framework of cooperation between the Federal Government and the Länder, as it is the Länder that are responsible for accommodation, among other things.

counselling with information on the Dublin and asylum procedure, alternatives to the asylum procedure, legal protection options and are referred to other counselling services. It also states that initial orientation courses are being offered through so-called signpost courses and initial orientation courses (BMI 2018e; see below).

### Implementation of asylum procedure counselling as a two-stage model at the AnKER facilities

Since August 2018, the Federal Office for Migration and Refugees has been offering advice on asylum procedures at the AnKER facilities and similar facilities. This includes general information on asylum procedures in group discussions prior to application and individual counselling on asylum procedures in individual discussions. Asylum procedure counselling covers the period from “before the application is lodged” to “the completion of the administrative procedure” (BAMF 2019f). Welfare associations expressed concerns about the independence of the advice on the asylum procedure given by Federal Office for Migration and Refugees employees (BAGFW 2019). By contrast, the Federal Office for Migration and Refugees emphasises the fact that asylum procedure counselling is separate from the area of asylum in organisational terms and that asylum procedure counsellors undergo training prior to their assignment (Deutscher Bundestag 2018l).

### Initial orientation and teaching values in the asylum seekers’ mother tongue

So-called “initial orientation courses” were introduced in 2017 in particular for “asylum seekers who come neither from a country with a high recognition rate (who have good prospects of remaining in Germany) nor from a safe country of origin”. These courses are intended to give them an initial overview of life in Germany and the German language (BAMF 2017 et seq.). From October 2018 until the end of 2019, in addition to initial orientation courses, roadmap courses will also be tested at Bavarian AnKER facilities in a pilot project launched by the Federal Office for Migration and Refugees, which will be based on the roadmap courses in Saxony. In these, specially trained, native speaker ‘cultural mediators’ will provide asylum seekers with information to assist them with everyday life and inform them about living together in Germany (BAMF 2019g).

### The Federal Office for Migration and Refugees’ Digitisation Agenda 2020<sup>55</sup>

In 2018, the Federal Office for Migration and Refugees pressed ahead with steps to digitise the asylum procedure and administrative procedures at the Federal Office for Migration and Refugees in general (BAMF 2019j). At the heart of the agenda are three stages. Stage I involves electronic data storage in which all documents are available electronically at each stage of the workflow undertaken at the Federal Office for Migration and Refugees and can be processed decentrally accordingly (keyword: “paperless administration”; Grote 2018: 60). Stage II stands for digital workflows, in which the need for manual data input is to be gradually reduced within the individual work processes. Within a process, all data are made to be electronically available, readable and usable which is meant to also reduce susceptibility to errors caused by manual data entry (keyword: “digital end-to-end processes”; Grote 2018: 60). Stage III envisages systematic decision-making support. This includes the automatic interpretation of the data and the resulting support for employees (automatic plausibility check of the spelling of names) up to fully automated partial steps (keyword: “IT-assisted decisions”; Grote 2018: 60). All three stages include the expansion of digital data exchange between the Federal Office for Migration and Refugees and various other actors relevant to the procedure (such as asylum seekers themselves, foreigners authorities, the Federal Labour Office, branch offices of the Federal Office for Migration and Refugees, the police, other security authorities, administrative courts, associations and NGOs).

The portfolio includes 134 different plans, projects and processes (as at: December 2018). The Federal Office for Migration and Refugees is working on 19 digitisation initiatives in parallel in 2018 (BAMF 2019j: 11). Among other things, proof of arrival, central inbound mail and electronic data exchange with courts were introduced as well as the interface with the foreigners authorities was digitised (BAMF 2019j).

### Closure of arrival centres in the Länder

After the Federal Office for Migration and Refugees had experienced a strong expansion of the infrastructure and external locations in the previous years and at the end of 2016 had more than 140 properties at about 80 locations, planning and concrete steps for the closure and conversion of individual external

<sup>55</sup> This section is based on the explanations given in Grote 2018: 60.

locations began in 2017 (EMN/BAMF 2018: 52 et seq.). A total of 26 properties were closed in 2017, including the branch office in Meßstetten at the end of 2017. In 2018, the branch office in Reutlingen/Eningen and the arrival centre in Münster were closed down (see Figure 2).

**Figure 2: Active facilities of the Federal Office for Migration and Refugees as of 1 January 2019**



**Active locations\* of the Federal Office for Migration and Refugees**

- Location
- Branch Office in an Anker facility
- Branch Office in a Waiting room
- Headquarter
- Branch Office in an Arrival centre
- Branch Office (Dublin centre)
- Branch Office (Decision-making centre)
- Branch Office in a Processing line
- Branch Office (Dispatch centre)

\*more than one facility at once location possible

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Cartography and layout: Federal Office for Migration and Refugees, date: January 2019

### Investigations into irregularities and allegations of corruption in asylum decisions at the Bremen branch office

Based on findings about possible irregularities at the branch office of the Federal Office for Migration and Refugees in Bremen, an audit was initiated by the Federal Office's Internal Audit Department at the end of 2017 and the Public Prosecutor's Office was brought in. The allegations related to unlawful granting of asylum and employees possibly taking advantage in office. Against this background, the Federal Minister of the Interior decided in May 2018 that no more asylum decisions would be taken at the Bremen branch office until the investigation procedure and the ongoing investigations have been completed (BMI 2018f.). "While incidents at the Arrival Centre in Bremen were being processed, various audits of asylum procedures at the Federal Office for Migration and Refugees were commissioned and the Federal Audit Office was asked to audit them" (BMI 2018m). On the basis of the results, "measures were initiated to further improve quality assurance, internal processes, cooperation with partners and the structure of the Federal Office for Migration and Refugees" (BAMF 2018e). In addition, the following structural changes were made:

- a. "The decision-making processes at the Federal Office were again clearly structured and the responsibility of the heads of department was restored.
- b. In order to improve the management of decentralised branches, a group leader level was introduced between the branch managers and the responsible department managers.
- c. The importance the Federal Office attaches to careful and quality-assured work in all areas is demonstrated by the establishment of a separate quality assurance group.
- d. The new Department for Security and Return reflects the fact that the Federal Office for Migration and Refugees sees itself as a security agency" (BAMF 2018e).

As a result, the Federal Office for Migration and Refugees and the Federal Ministry of the Interior agreed that the Bremen branch office could resume processing asylum procedures on 15 November 2018. The investigations had not yet been completed by the end of the 2018 reporting period and were ongoing in 2019.

### New President and Vice-President of the Federal Office for Migration and Refugees

On 21 June 2018, Hans-Eckhard Sommer was officially appointed the new President of the Federal Office for Migration and Refugees, taking over from his predecessor Jutta Cordt who had been in charge since the beginning of 2017. On the same day, Markus Richter took over the office of Vice-President and Andrea Schumacher was also appointed Vice-President on 6 July 2018.

#### 4.1.3 Developments in the EU context

##### Dublin transfers to other Member States

On 8 December 2016, the EU Commission recommended the Member States to resume Dublin transfers to Greece from 15 March 2017 onwards. The Federal Office for Migration and Refugees had stopped all Dublin transfers to Greece in January 2011 and invoked the discretionary clause pursuant to Article 17 section 1 of the Dublin III Regulation. In spring 2017, Germany once again started making Dublin take-charge requests to Greece for non-vulnerable persons. In 2018, a total of 7,079 requests were made, 183 of which were accepted. Six transfers were made in 2018 (Deutscher Bundestag 2019d).

Moreover, Germany stopped Dublin transfers to Hungary in May 2017 after the EU Commission instituted asylum-related Treaty infringement proceedings against Hungary and Hungary failed to provide individual assurances that transferred asylum seekers would be treated in accordance with EU law (Deutscher Bundestag 2019d: 34 et seq.).

In 2018, Germany submitted 54,910 take-charge requests to the Member States under the Dublin procedure, 17% fewer than the previous year (2017: 64,267). 9,209 persons were transferred in 2018, 29.7% more than the previous year (2017: 7,102, BAMF 2019d: 45). As in the previous year, the majority of transfers were made to Italy (2,848), France (753) and Poland (691) (BAMF 2019d: 16; Deutscher Bundestag 2019d).

The number of take-charge requests Germany received from the other Member States dropped from 26,931 requests in 2017 to 25,008 in 2018. 7,580 persons were actually transferred to Germany (2017: 8,754), with most of them coming from Greece (3,495 transfers), France (978 transfers) and the Netherlands (875 transfers) (Deutscher Bundestag 2019e: 19).

## 4.2 European Asylum Support Office

### 4.2.1 Background and general context

The European Asylum Support Office (EASO) is an agency of the European Union headquartered in Malta. It was established under Regulation (EU) 439/2010 of 19 May 2010.<sup>56</sup> According to the Regulation, the primary duties of EASO are:

- supporting the Member States whose asylum and admission systems are heavily burdened either with operational measures or by coordinating support,
- strengthening the practical cooperation on asylum issues between EU Member States, and
- contributing to the further development of the Common European Asylum System (CEAS), including cooperation with the neighbour states of the EU (so-called external dimension of the CEAS).

Apart from the assistance in the operational field, the EASO also coordinates the multilateral components of the intra-European relocation programme with which EU countries admit asylum seekers from those Member States facing a particularly large influx of asylum seekers.

In recent years, efforts to reform EASO have further developed towards an EU Agency for Asylum. After the EU Commission released a proposal for a reform of EASO on 4 May 2016 which aimed to replace the current legal basis and expand the Office's mandate (KOM 2016a), this process was still under negotiation at the end of 2018.

### 4.2.2 Developments in the EU context

Beyond dealing with its national tasks, the Federal Office for Migration and Refugees deployed a total of 139 employees for about 10,500 days (2017: around 12,100 days) for EASO measures in 2018 (2017: 140) 127 of whom were deployed in Greece and 12 of whom were deployed in Italy. "Decision-makers from the Federal Office for Migration Refugees who had been sent to hot spots in Greece mainly conducted interviews and prepared documents for decision-making. Staff from the Federal Office's asylum procedure

secretariats [...] were deployed to support registration efforts (in Italy) and to pass on information" (Deutscher Bundestag 2018m: 2).

Furthermore, the Federal Office for Migration and Refugees participated in training measures, for instance by providing trainers, and helped to develop training modules. The Federal Office benefited from these efforts by having its staff participate in EASO-training or organising its own training modules for its staff on the basis of EASO training modules.

In addition, EASO-related work once again focused on the following issues during the past year:

- Strengthening the role of common training and professional development in the field of asylum,
- Improving the quality of asylum processes and decisions,
- Producing common country of origin information (COI),
- Collecting and exchanging accurate and up-to-date information and documentation on the functioning of the CEAS and further developing an Early Warning- and Preparedness System (EPS) to provide trend analysis,
- Providing timely and comprehensive operational support to Member States,
- Fostering synergies between migration and asylum practices, including the return of persons whose asylum claim has been rejected,
- Supporting the external dimension of the CEAS.

#### Judicial practice guide for country of origin information

In 2018, EASO, inter alia, drew up a guide called the "Judicial practical guide on country of origin information" that is intended to be a guide on country of origin information to provide courts and tribunals in Member States with assistance in dealing with country of origin information (COI) (EASO 2018: 6). The judicial practical guide is intended to assist judges and decision-makers in using a consistent method for evaluating country of origin information. It is intended to ensure that use of country of origin information in decision-making complies with the common criteria for qualification for international protection in the Recast of the Qualification Directive [...] and the requirements for fairness and effectiveness in the Recast Asylum Procedures Directive (EASO 2018: 6).

<sup>56</sup> Regulation (EU) 439/2010 of the European Parliament and of the Council of 19 May 2010 establishing a European Asylum Support Office.

## 4.3 Cooperation with third countries, resettlement, humanitarian admission, relocation

### 4.3.1 Background and general context

Germany has been running humanitarian admission programmes (HAP) since 1956.<sup>57</sup> Admission in the framework of a HAP is usually temporary, and the foreigners are not expected to stay permanently. Rather, they are permitted to stay as long as the state of crisis, war or threat in their country of origin continues. The third-country nationals are issued with a residence permit pursuant to Section 23 subs. 2 and, where applicable, 3 in conjunction with Section 24 of the Residence Act, which is first granted for three years, may be prolonged and allows its holder to pursue a remunerated activity.

Resettlement is an internationally recognised policy tool which is used to deal with long-term refugee crises. If refugees, for who the UNHCR has established vulnerability according to the criteria laid out in the Geneva Convention and who are unable to return to their country of origin and cannot be integrated in their country of refuge in the foreseeable future, they are allowed to legally enter other countries which are prepared to admit them and take up permanent residence in these countries. Refugees are resettled in cooperation with the UNHCR, the IOM, the appropriate national agencies in the initial countries of refuge, and the local German diplomatic mission, all with the financial participation of the EU Commission. Resettlement refugees will receive a residence permit pursuant to Section 23 subs. 4 of the Residence Act, which entitles them to take up paid employment or touch social security benefits. During a pilot phase from 2012 until 2014, 300 refugees were admitted by Germany every year. Since then resettlement admissions have been permanently adopted and the admission quota has been increased from 500 persons to 1,600 admission spaces, which have been reported for the EU resettlement programme for 2018/2019. The Federal Government and the Länder decide the resettlement quota for Germany in agreement with one another.

Germany also has admitted refugees in the framework of the EU relocation procedure, which has now been

ended. Germany also participates in humanitarian admission of Syrian refugees from Turkey in the framework of the EU-Turkey Statement and has agreed to a monthly admission quota of up to 500 persons. In addition to this there exist private sponsorship programmes in several of the Länder pursuant to Section 23 subs. 1 of the Residence Act.

### 4.3.2 National developments

#### Extension of the Länder programmes

Five Länder have extended their private sponsorship programmes beyond 2018. They include Berlin (which has extended its admission programme until 31 December 2019), Brandenburg (which has extended until 31 December 2019), Hamburg (which has extended until 30 November 2019), Schleswig-Holstein (which has extended until 31 December 2019) and Thuringia (which has extended until 31 December 2020; see Resettlement.de 2019b). In the other eleven Länder, the private sponsorship programmes were phased out in the years following their introduction in 2013.

For each applicant, a declaration of commitment (guarantee) must be issued in which the guarantor declares that he or she will bear all the costs incurred by the family members' stay and that he or she has an appropriate income. As such, all costs must be borne by the guarantors, "immigrants do not receive any social benefits with the exception of [sickness] benefit" (Resettlement.de 2019a).

### 4.3.3 Developments in the EU context

#### Resettlement and humanitarian admission within the framework of the EU-Turkey Statement

On 27 September 2017, the EU Commission presented a new European Resettlement Programme for at least 50,000 persons in need of protection which are to be admitted in the Member States by October 2019. The Commission has allocated EUR 500 million for this purpose, whereby the resettlement of people in need of protection from Turkey is to be continued. However, the focus is also to be shifted to people in need of protection in North Africa and the Horn of Africa (KOM 2017a). Member States were asked to indicate how many resettlement refugees they would accept under the new programme.

Following the formation of a new government, the Federal Ministry of the Interior announced to the

<sup>57</sup> For an overview of the humanitarian admission programmes since 1956 see Grote/Bitterwolf/Baraulina 2016: 15.

EU Commission that Germany would participate in the 2018/2019 EU Resettlement Programme by offering up to 10,200 places. The German resettlement quota consists of the places offered under the resettlement schemes (up to 3,200 places), admissions from Turkey on humanitarian grounds (up to 6,000 places), a new federal admission pilot programme called 'Neustart im Team' ('A team for starting over' (NesT)), in which state and civilian actors work together (up to 500 places) and an admission programme of the Land of Schleswig-Holstein (500 places) (Resettlement.de 2019b).

In July 2018, the Federal Ministry of the Interior ordered the admission of up to 300 persons of Syrian, Iraqi, Eritrean or Somali nationality or Palestinians who had been evacuated by the UNHCR from Libya to Niger within the framework of the German resettlement quota (BMI 2018g). On 11 December 2018, the Federal Ministry of the Interior issued a further admission order under the resettlement programme for the years 2018 and 2019 for 2,900 particularly vulnerable persons from Egypt, Ethiopia, Jordan and Lebanon (BMI 2018h). In 2018, the total number of admissions under the EU resettlement scheme was 276 persons from Niger, including 36 Somali nationals and 240 Eritrean nationals (see Table 2). In addition, 107 Egyptian nationals were admitted on 15 February 2018, which can be traced back to the admission and entry commitments undertaken for Egyptian nationals in 2017 (BMI admission order of 4 April 2016).

Already on 11 January 2017, the Federal Ministry of the Interior ordered the admission of Syrian persons in need of protection from Turkey in accordance with

Section 23 subs. 2 of the Residence Act as part of a humanitarian admission procedure which initially expired on 31 December 2018. However, with the admission order issued on 21 December 2018, the Federal Ministry of the Interior decided to allow up to 500 persons per month to be admitted until 31 December 2019. 5,554 persons were admitted from Turkey by the end of 2018 on humanitarian grounds, which also runs within the framework of the 1:1 mechanism (see Table 3).

### EU relocation

In 2018, Germany admitted a total of 573 asylum seekers under the EU relocation scheme, 555 of whom came from Italy and 18 from Greece (see Table 4). The relocation process dates back to 2015 when migration caused by displacement peaked. On 14 September 2015, the Justice and Home Affairs Council of the EU (JHA Council/Council of the European Union) decided to redistribute 40,000 asylum seekers from Italy and Greece within 24 months ((EU) 2015/1523) in order to achieve a fairer distribution of asylum seekers within Europe and, above all, to ease the burden on Italy and Greece, which are mainly confronted with refugee migration via the Mediterranean Sea and first admissions ((EU) 2015/1523)<sup>58</sup>. Germany pledged to admit 10,500 of these asylum seekers.

On 22 September 2015, the Council adopted a further Decision (second resettlement decision) establishing provisional measures in the area of

<sup>58</sup> Council Decision 2015/1523 of 14 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and of Greece.

**Table 2: Admissions within the framework of the EU resettlement scheme (2016 to 2018)**

Admission programme	2016	2017	2018	Total
Resettlement from Turkey (within the framework of the EU-Turkey Statement)	1,060	-	-	1,060
Resettlement from Lebanon	155	22	-	177
Resettlement from Egypt	-	256	107	363
Resettlement from Niger	-	-	276	276

Source: BAMF

**Table 3: Admissions from Turkey on humanitarian grounds within the framework of the EU-Turkey Statement (2016 to 2018)**

	2016	2017	2018	Total
Admissions from Turkey on humanitarian grounds within the framework of the EU-Turkey Statement (2016 to 2018)	-	2,997	2,557	5,554

Source: BAMF



**Table 4: Admissions within the framework of the EU resettlement scheme (2015 to 2018)**

	2015	2016	2017	2018	Total
Relocation from Italy	11	444	4,439	555	5,449
Relocation from Greece	10	634	4,729	18	5,391

Source: BAMF

international protection for the benefit of Italy and Greece and providing for the relocation of 120,000 additional asylum seekers to the other Member States ((EU) 2015/1601).<sup>59</sup> A distribution key was used to determine the proportion of persons to be resettled in each Member State based on the four indicators population, total GDP, average number of asylum applications per million inhabitants between 2010 and 2014 and the unemployment rate (KOM 2015a: 2). The 120,000 relocation places of the second decision were divided into two proportions of 66,000 and 54,000 places respectively.

The first proportional relocation provided for an admission quota for Germany of 17,036 asylum seekers<sup>60</sup> from both countries together, for which Germany has had a monthly quota of 500 places each since September 2016. For each resettled person admitted under the relocation procedure, the host Member State receives a lump sum payment of EUR 6,000 from the EU. As of 31 December 2018, Germany had accepted 10,840 asylum seekers from both countries under the relocation scheme - 5,449 asylum seekers from Italy and 5,391 from Greece (see Table 4). The scheme was phased out in spring 2018.

For the second proportion of 54,000 relocation places in the second resettlement decision by the European Council on 29 September 2016, the European Council adopted Decision ((EU) 2016/1754)<sup>61</sup> allowing the redeployment of these places inter alia for the admission of vulnerable Syrian nationals from Turkey under the EU-Turkey Statement (1:1 mechanism). In 2016, Germany initially participated in the 1:1 mechanism as part of its increased resettlement quota (see Table 2).

<sup>59</sup> The 17,036 promised relocation places in Germany were to be divided between the two countries as follows: 4,027 asylum seekers from Italy and 13,009 asylum seekers from Greece.

<sup>60</sup> Council Decision 2016/1754 of 29 September 2016 amending Council Decision 2015/1601 of 14 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and of Greece.

<sup>61</sup> Since 1995, the ATCR and the preceding Working Group on Resettlement (WGR) have brought together representatives of states, non-governmental organisations and international organisations each year to promote the international exchange of experience on the issue.

#### 4.3.4 Developments with an international dimension

##### Chair of the Annual Tripartite Consultations on Resettlement

On 13 June 2017, Germany took over the chairmanship of the Annual Tripartite Consultations on Resettlement (ATCR),<sup>62</sup> the most important international conference on resettlement and admission on humanitarian grounds. The Federal Ministry of the Interior assumed the chairmanship and the German Caritas Association (Deutscher Caritasverband) the role of civil society co-chairmanship for Germany (BMI 2018i). One of the focal points was the promotion of private sponsorship programmes. Against this backdrop, the Federal Ministry of the Interior announced the launch of a pilot project for a private sponsorship programme at federal level (BMI 2018i): the 'Neustart im Team' ('A team for starting over' (NesT)) project aims to enable the admission of up to 500 particularly vulnerable refugees within the framework of the admissions on humanitarian grounds envisaged by Germany for 2018/2019 (BMI 2019d).

##### Global Compact on Refugees

On 17 December 2018, 181 States of the United Nations General Assembly adopted the Global Compact on Refugees which two Member States voted against (Hungary and the United States) and three Member States abstained from (Vereinte Nationen 2018a). The Global Compact on Refugees, which is also based on the New York Declaration (see above) and was drawn up largely by the High Commissioner for Refugees (UNHCR) and is not legally binding, provides for four objectives:

“The objectives of the global compact as a whole are to: (i) ease pressures on host countries; (ii) enhance refugee self-reliance; (iii) expand access to

<sup>62</sup> Since 1995, the ATCR and the preceding Working Group on Resettlement (WGR) have brought together representatives of states, non-governmental organisations and international organisations each year to promote the international exchange of experience on the issue.

third country solutions; and (iv) support conditions in countries of origin for return in safety and dignity. The Global Compact will seek to achieve these four interlinked and interdependent objectives through the mobilisation of political will, a broadened base of support, and arrangements that facilitate more equitable, sustained and predictable contributions among States and other relevant stakeholders” (Vereinte Nationen 2018c: 3).

According to the Federal Foreign Office, Germany had already met the formulated objectives when the Compact was signed or met them “to an even higher extent than provided for in the Compact” (AA 2018a), so that hardly any changes or measures were expected for Germany as a result of the Compact. However, the Federal Foreign Office stressed that in “many countries of the world [...] the situation of refugees and the people who admit them would be improved by the voluntary commitments of the Compact”, which the Federal Government supports in order to achieve a “fair distribution of responsibilities and burdens” (AA 2018a). At a meeting held with UN Commissioner for Refugees Filippo Grandi, Chancellor Angela Merkel stressed that the Global Compact on Refugees has been a “great success” and that the United Nations has thus “accepted” that “displacement and expulsion are international, global tasks and that these tasks can only be tackled jointly by focusing on the human rights of the individual refugee, but of course also on the obligations of the countries of origin, as well as on the tasks of the countries of arrival” (Bundesregierung 2019a). Unlike the UN Migration Pact, the adoption of the Global Compact on Refugees met with less criticism (Hanewinkel/Hartmann 2019).

### Sea rescue

The redistribution of asylum seekers from Italy and Greece (Council Decisions 2015/1523 and 1601) within the framework of relocation was not continued beyond 2018 because the EU Member States had not yet adopted a new decision. In order to further ease the burden on EU Member States whose asylum systems were under huge pressure, the Federal Government agreed in 2018 to admit refugees rescued at sea (Deutscher Bundestag 2019b).

The background is that in the summer of 2018, Malta and Italy refused to accept migrants rescued from the Mediterranean Sea (Deutscher Bundestag 2019b). In this context, Germany, as well as several other EU Member States, declared its willingness vis-à-vis the first countries to receive migrants to voluntarily admit

a certain number of rescued migrants in individual cases (see Debate in Germany, Chapter 2.2). Article 17 para 2 of Regulation (EU) No 604/2013 (Dublin III Regulation) provides the legal basis for doing so. On this basis, the Federal Republic of Germany agreed to assume responsibility for processing the asylum procedures of 50 asylum seekers from Italy and a total of up to 65 asylum seekers from Malta (Deutscher Bundestag 2018n).

# 5 Unaccompanied minors and other vulnerable groups

## 5.1 Unaccompanied minors

### 5.1.1 Background and general context

Unaccompanied minors<sup>63</sup> are third-country nationals or stateless persons below the age of 18 years who arrive unaccompanied by an adult responsible for them and are not factually in the care of another responsible adult. Unaccompanied minors come to Germany because they are fleeing from acts of war, human-rights violations or economic distress or because they are sent to Europe by their family. There are also child-specific reasons for flight, for example being forced to serve as child soldiers, gender related persecution (genital mutilation), violence in the family, child prostitution, forced marriages or clan liability (Deutscher Bundestag 2017h: 45). Some UMs lose their family members before, during or after the flight, others are separated from or left behind by their parents during the flight.

As soon as unaccompanied minors arrive in the Federal territory, they are taken into preliminary care by the responsible youth welfare office (Section 42a subs. 1 first sentence of the Eighth Book of the Social Code). As part of preliminary care, these children and juveniles receive accommodation and medical care. Preliminary care includes an official procedure to assess the minor's age (Section 42 et seq. of the Eighth Book of the Social Code)<sup>64</sup>. The regular taking into care of the unaccompanied minors, where the competent authority provides accommodation and healthcare, only takes place after the distribution procedure and arrival at the municipality of destination. After the unaccompanied minor has been taken into regular care, the individual need for child and youth welfare service

measures is assessed during the 'clearing procedure' (Section 42 subs. 2 first sentence of the Eighth Book of the Social Code). Depending on the available capacities and the minor's individual assistance needs, the unaccompanied minor will be accommodated in regular youth welfare institutions, in facilities designed specifically to the needs of unaccompanied minors or in host or foster families. In addition, the family court will appoint a guardian who has personal custody for the unaccompanied minors and represents the children or adolescents in all legal matters. Individuals, registered associations can be guardians as well as the youth welfare office (in this case as official guardian) (for a detailed overview see Tangermann/Hoffmeyer-Zlotnik 2018: 25 et seqq.).

Whether an asylum application is actually in the best interests of the child is considered with the unaccompanied minor within the framework of the clearing procedure. "In cases, in which facts justify the presumption that the child or juvenile is in need of international protection within the meaning of Section 1 subs. 1 no. 2 of the Asylum Act, Section 42 subs. 2 sentence 5 of the Social Code (Book Eight) foresees an obligation to promptly file an asylum application for the unaccompanied minor" (Tangermann/Hoffmeyer-Zlotnik 2018: 17). Asylum applications on behalf of unaccompanied minors are filed to the Federal Office for Migration and Refugees in writing by the responsible youth welfare office or guardian. Minors are not considered to have the legal capacity to act on their own account in the asylum procedure and therefore cannot file the application themselves. Asylum decision-makers are trained as so-called specially-commissioned case-officers in how to deal with unaccompanied minors in order to ensure that the hearing responds sensitively to minors' special needs.

If the asylum application is rejected or if no asylum application or other application for a residence permit is filed, unaccompanied minors are usually issued a suspension of removal until they reach the age of maturity. As a rule removals of unaccompanied minors

63 Several terms are being used for the group of minors who arrive in Germany without their parents: unaccompanied minors, unaccompanied minor refugees, unaccompanied foreign minors or unaccompanied minor foreigners. Which term should be used eventually, is intensively discussed (see, for example, BumF 2015a; Noske 2012). This report uses the term 'unaccompanied minors'.

64 For the debate on and possibilities of age assessment, see Deutscher Bundestag 2018ab.

did not take place in recent years. However, there have been a comparatively small number of cases of assisted returns as well as removals following unauthorised entry and refusals of entry at the border (Tangermann/Hoffmeyer-Zlotnik 2018: 68).

### 5.1.2 National developments

#### Statistics – Number of unaccompanied minors taken into care and number of asylum applications

In 2018, 12,201 unaccompanied minors were taken into temporary or regular care, about half the number taken into care the previous year (2017: 22,492) (see Table 5).

Looking at the development of asylum applications filed by unaccompanied minors, we can see that their number continues to decline sharply. Whereas the number of applications rose from 2,486 to 35,939 between 2013 and 2016, the number dropped significantly to 9,084 in 2017. In 2018 this number decreased yet again by more than half when a mere 4,087 unaccompanied minors applied for asylum in Germany (BAMF 2019d: 21; see Table 5). The main countries of origin in 2018 were Afghanistan (17.5% of all asylum applications filed by unaccompanied minors), Somalia (14.1%), Guinea (12.8%), and Eritrea (11.7%), with these four countries of origin accounting for more than half of all asylum applications filed by unaccompanied minors (BAMF 2019d: 21).

The number of asylum applications filed is much lower than the number of unaccompanied minors taken into care because on the one hand, the latter figure includes unaccompanied minors from other EU Member States, and minors taken into care abscond and for

instance travel to other countries. On the other hand, unaccompanied minors are protected from removal until they reach the age of maturity even if they do not file an application for asylum and there is no person responsible for them in the country of origin or if there is no reception facility available.

#### Statistics – Returns of unaccompanied minors

No removals of unaccompanied minors took place between the beginning of 2015 and the end of 2018. In 2018, 128 unaccompanied minors were refused entry at the border (2017: 171) and 56 (2017: 66) unaccompanied minors were removed following unauthorised entry (Deutscher Bundestag 2019f: 27).<sup>65</sup> 51 unaccompanied minors left Germany supported under the REAG/GARP programme (2017: 80, 2016: 170; figures supplied by IOM).

#### Family reunification to unaccompanied minors who are beneficiaries of subsidiary protection

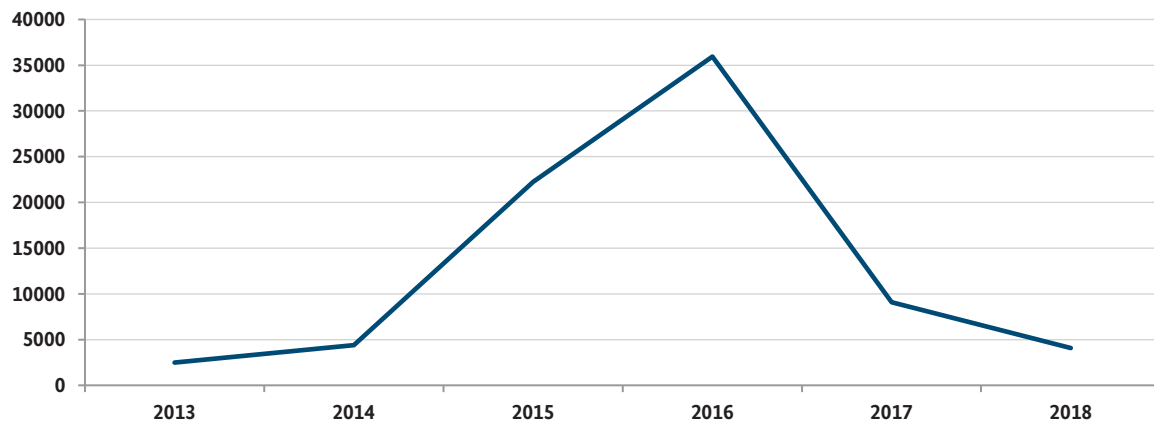
Since 1 August 2018, family reunification to beneficiaries of subsidiary protection, which was restricted by the Federal Government on 17 March 2016, has once again been permitted, albeit subject to a contingent. This includes reunification of parents to unaccompanied minors in Germany (see Chapter 4.1.2.2).

<sup>65</sup> Please see the box in Chapter 8.1 for a definition of the terms used.

**Table 5: Unaccompanied minors taken into care and asylum applications filed by unaccompanied minors (2013 to 2018)**

Year	Unaccompanied minors and adolescents entering from abroad and taken into care	Asylum applications filed by unaccompanied minors	Protection rate of unaccompanied minors filing first-time asylum applications
2013	6,584	2,486	57 %
2014	11,642	4,398	73 %
2015	42,309	22,255	90 %
2016	44,935	35,939	89 %
2017	22,492	9,084	78 %
2018	12,201	4,087	59 %

Source: StBA 2019c; Tangermann/Hoffmeyer-Zlotnik 2018; StBA 2018d; BMI/BAMF 2019; BAMF 2019d: 26

**Figure 3: Unaccompanied minors, first-time applicants in persons (2013 to 2018)**

Source: BAMF

### 5.1.3 Background and general context

#### Right to family reunification for unaccompanied minors who reach the age of 18 during the asylum procedure

On 12 April 2018, the European Court of Justice (ECJ) ruled (Case C-550/16) in a case, which underlined Dutch law, that “nationals of non-EU countries and stateless persons who are below the age of 18 at the moment of their entry into the territory of a Member State and of the introduction of their asylum application in that state, and who, in the course of the asylum procedure, attain the age of majority and thereafter are recognised as having refugee status” qualify as “minors” in the sense of the regulation (EuGH 2018: 1). The application for family reunification must be made “within a reasonable time, namely in principle within three months of the date on which the minor concerned is recognised as having refugee status” (EuGH 2018: 1). “The conclusion of agreements within the Federal Government regarding the implementation of the decision of the European Court of Justice [...] in the case C-550/16 are not yet completed” (Deutscher Bundestag 2019r: 10459).

- a. disabled people,
- b. elderly people,
- c. pregnant women,
- d. single parents with minor children,
- e. victims of human trafficking,
- f. persons with serious illnesses,
- g. persons with mental disorders and persons who have been subjected to
- h. torture,
- i. rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation

While there is no reliable data on the share of particularly vulnerable refugees, there are estimates which assume that up to 15% of all refugees belong to one of the groups listed above (Deutscher Bundestag 2017c: 2).

It is the Länder which are responsible for housing and accommodating vulnerable refugees. They need to make sure that refugees are “housed in appropriate accommodation, which provides adequate protection against violence, for example separate bedrooms which can be locked. This includes adequate training for the staff working at the facility” (Deutscher Bundestag 2017c: 11).

## 5.2 Other vulnerable groups

### 5.2.1 Background and general context

Pursuant to Article 21 of the European Reception Conditions Directive (Directive 2013/33/EU), vulnerable groups with special needs of protection include besides unaccompanied minors, as well as accompanied minors:

The Federal Office for Migration and Refugees trains specially-commissioned case officers in how to handle the asylum procedure for four particularly vulnerable groups: unaccompanied minors, persons persecuted on the grounds of their gender, victims of human trafficking or torture and traumatised asylum applicants. These are decision-makers who are trained in specific legal, cultural and psychological issues so that they can carry out the procedures in a sensitive manner and

are better able to put the asylum application into context. In 2018, the Federal Office for Migration and Refugees had 151 specially-commissioned case officers for victims of trafficking, 396 specially-commissioned case officers for unaccompanied minors, 211 specially-commissioned case officers for gender-specific persecution and 218 specially-commissioned case officers for traumatised persons and victims of torture (Deutscher Bundestag 2019g).

In addition, all decision makers are required to “take potential impairments of the applicants into account [...]. This applies to both physical and psychological impairments, regardless of whether the impairments were caused by persecution or displacement” (Deutscher Bundestag 2017c: 9). Federal Office employees themselves are not trained to diagnose illnesses. If the question arises whether or not the applicant is fit for the asylum procedure or if the decision on the application itself depends on whether or not the applicant has an illness or impairment, a medical assessment is taken into consideration that may be presented by applicants themselves or requested by the Federal Office for Migration and Refugees.

The Act on Benefits for Asylum Seekers contains provisions on medical treatment for particularly vulnerable asylum applicants. Section 4 of the Act on Benefits for Asylum Seekers guarantees basic medical treatment for all asylum seekers. Particularly vulnerable applicants will additionally receive necessary medical or other care (Section 6 subs. 2 of the Act on Benefits for Asylum Seekers). Other benefits may be granted “if they are necessary to secure the applicants’ livelihood or their health” (Section 6 subs. 1 of the Act on Benefits for Asylum Seekers). Asylum applicants who have been in Germany for 15 months are entitled to the same healthcare benefits as those who are members of the statutory healthcare system (see Section 2 subs. 1 of the Act on Benefits for Asylum Seekers; Deutscher Bundestag 2017c: 3).

Special integration courses exist for refugees with sensory impairments including 900 units of language class (general integration courses contain 600 units of language class). “In addition, the Federal Office for Migration and Refugees may reimburse the course provider on application for special expenses incurred as far as they are necessary for enabling course attendance” (Deutscher Bundestag 2017c: 18).

## 5.2.2 National developments

### Round table 'Together opposing violence against women'

On 18 September 2018, the so-called Round Table Opposing Violence against Women together' commenced its work, in which representatives of the Federal Government, the Länder and the municipalities work “in joint responsibility, but each in their own competence” on how women who are affected by violence can be given secure access and protection to (outpatient) specialist counselling centres and women’s shelters (Deutscher Bundestag 2019h: 24). One focus of the joint work is to close any “gaps in the aid system”, which also includes “target groups that have so far been insufficiently reached”, “such as displaced women and women who are the victims of violence” (Deutscher Bundestag 2019h: 24).

### Project 'Queer Refugees Germany'

As part of the project 'Queer Refugees Germany' initiated by the Lesbian and Gay Federation in Germany (Lesben- und Schwulenverband Deutschland) in December 2017, three nationwide networking meetings of refugee LGBTI activists took place in 2018, at which they discussed topics such as the founding of the association, strategies against discrimination and hostility, experience with asylum procedures in Germany, safety in shelters and the “distribution and allocation of LGBTI refugees” (Queer Refugees Germany 2019). The aim of the project is to “integrate existing structures throughout Germany as well as refugee LGBTI activists and support them in their work. To this end, the existing website 'www.queer-refugees.de' was relaunched, so that they can find a wealth of information and local contact points via online mapping in different languages” (Queer Refugees Germany 2019). Another aim is to help refugees “organise themselves and build their own networks” (Queer Refugees Germany 2019). They are also offered legal advice and social counselling. The project is funded by the Federal Government Commissioner for Migration, Refugees, and Integration. The website is available in eight<sup>66</sup> languages.

66 Arabic, German, English, Farsi, French, Pashto, Russian and Turkish. Some information brochures are also available in Albanian, Bosnian/Croatian/Serbian, Dari, Sorani-Kurdish, Spanish and Urdu.

# 6 Integration and anti-discrimination measures

## 6.1 Integration

### 6.1.1 Background and general context

Integration is a cross-sectional task that covers a wide range of political, social and individual areas and thus also affects various state and non-state actors at federal, state and local level as well as migrants themselves. At federal level, the Federal Ministry of the Interior, the Federal Ministry of Labour and Social Affairs, the Federal Ministry of Education, Science, Research and Technology, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth and the Federal Ministry for Economic Affairs and Energy are responsible for sub-areas of integration policy. The operational responsibility for the integration measures implemented by the Federal Government rests with the Federal Office for Migration and Refugees.

The Immigration Act, which took effect on 1 January 2005, enshrined integration offers into federal law for the first time (Sections 43-45a of the Residence Act). Integration is perceived in Germany as a task for which federal, as well as state and local governments are responsible.

The central integration offer of the Federal Republic of Germany, the integration course Sections 43-44a of the Residence Act and the Ordinance on Integration Courses (IntV).<sup>67</sup> Foreign nationals who obtained their residence title after 1 January 2005 may be entitled to attend integration courses under certain conditions. Participation is compulsory for eligible newly arrived migrants if they are unable to communicate at a basic or sufficient level in German or if they are drawing unemployment benefits, although some exemptions apply (Section 44a subs. 2 of the Residence Act). Persons who are not entitled to participation in an integration course can upon request be allowed to attend by the Federal Office for Migration and Refugees,

provided there are places available. The integration courses are at the very heart of federal integration measures.

If possible, participants are to start an integration course soon after they become entitled or obliged to do so. Moreover, the entitlement to participate in an integration course lapses one year after the residence title establishing the entitlement has been issued or if this title expires (Section 44 subs. 2 of the Residence Act). In addition the entitlement to participate lapses when the eligible person does not start the integration course within one year after registration with the integration course provider or suspends participation for more than one year, for reasons of his or her own making (Section 4 subs. 1 sentence 3 IntV).

The general integration course comprises 600 hours of language tuition and 100 hours of an orientation course in which topics such as rights and obligations, equal rights for men and women, information on the German education system, modern German history and knowledge of the legal system, culture and history in Germany are taught. Courses are also available for special target groups with a larger number of instruction hours (900 hours of language tuition), such as persons who are illiterate, young people, parents, women, persons with a special language educational needs and second-literacy learners. Persons with good learning preconditions have the possibility to participate in intensive courses (400 hours of language tuition and 30 hours of an orientation course). Some specialised courses are also offered by other ministries, such as the Federal Ministry of Labour and Social Affairs or the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (for a comprehensive overview, see BMAS 2016a). The integration courses are delivered by private and public institutions that have been approved by the Federal Office for Migration and Refugees. These include, for example, adult education centres and language schools. These institutions acquire the right to offer integration courses and the corresponding examinations via admission procedures. Teachers involved in integration courses must also be approved by the Federal Office for Migration and Refugees.

<sup>67</sup> Ordinance on Integration Courses for Foreigners and Ethnic German Repatriates (Integration Course Ordinance, IntV). (Verordnung über die Durchführung von Integrationskursen für Ausländer und Spätaussiedler (Integrationskursverordnung – IntV)).

In 2017, the so-called initial orientation course was set up in particular for “asylum seekers who come neither from a country with a high recognition rate (who have good prospects of remaining in Germany) nor from a safe country of origin” after a one-year pilot phase. These courses teach an initial overview of life and everyday life in Germany and the German language (BAMF 2017f; see Chapter 4.1.2.3).

The area of integration into the labour market is governed by Social Code Books II and III and is essentially the responsibility of the Federal Ministry of Labour and Social Affairs and the Federal Labour Office (BA). Since 2015, vocational language courses specially tailored to the start of a career have been held in accordance with Section 45a of the Residence Act.

In order to actively participate in the labour market, third-country nationals need a residence permit that allows gainful employment. This and the permit for gainful employment linked to it are regulated in the Residence Act and the Employment Regulation (BeschV)<sup>68, 69</sup>

On 1 April 2012, the Professional Qualifications Assessment Act (BQFG)<sup>70</sup> entered into force as part of the Recognition Act<sup>71</sup>. It covers more than 600 professions regulated by Federal law (BIBB 2017a). This Act created at the Federal level a general entitlement to have the equivalence of professional qualifications acquired abroad with a German reference profession evaluated. Aside from the Federation, all Länder have enacted laws on recognising academic qualifications acquired abroad for professions regulated at the Land level (teachers, early childhood educators, engineers, social workers, etc.). On 18 January 2016, amendments to the Professional Qualifications Assessment Act, which had become necessary under the provisions of the EU Professional Recognition Directive (Directive 2013/55/EU)<sup>72</sup> entered into force. The

Recognition Acts of the Länder were amended at the same time (BMBF 2016: 14). The range of qualification documents which may be recognised was extended and an entitlement to quicker access to the examination necessary during the recognition procedure was implemented. This examination now has to take place within six months (Section 11 subs. 4 of the Professional Qualifications Assessment Act).

The 'Integration through Qualification (IQ)' funding programme was launched back in 2005. The aim of the programme is “to ensure that vocational qualifications acquired abroad - irrespective of the residence permit - lead more frequently to employment appropriate to one’s level of education” (IQ Netzwerk 2018a). IQ Netzwerk consists of five competence centres and a multiplier project as well as 16 Länder networks and Länder coordinators that are jointly responsible for a total of 488 practical projects in the funding period 2015-2018 (including among others recognition and qualification counselling, qualification measures in the context of the Recognition Act and intercultural competence development; IQ Netzwerk 2019a). In the current funding period 2019-2022, the above-mentioned actors are currently working on 378 practical projects in a total of four priority areas. The programme is funded by the Federal Ministry of Labour and Social Affairs and the European Social Fund (ESF). The Federal Ministry of Education and Research and the Federal Labour Office are strategic partners in implementing the programme. The Federal Office for Migration and Refugees has been entrusted with administrative implementation.

The demand for information and consultation services, which were introduced along with the Recognition Act in 2012, is high and has risen steadily in the last few years. In addition to the online portal [www.anerkennung-in-deutschland.de](http://www.anerkennung-in-deutschland.de)<sup>73</sup> a hotline on the recognition of professional qualifications was launched in April 2012 and replaced in December 2014 by the central hotline 'Living and Working in Germany'<sup>74</sup> of the Federal Office for Migration and Refugees and the Federal Labour Office. The hotline provides multi-language and personalised advice to skilled workers, students and apprentices who consider coming to Germany and informs them on issues such as entry into Germany, residence, qualification opportunities, the

68 Ordinance on the admission of foreigners for the purpose of taking up employment (Verordnung über die Beschäftigung von Ausländerinnen und Ausländern).

69 “IQ Netzwerk of Lower Saxony has compiled an overview of over 100 legal bases for residence under the Residence Act that provide access to the labour market” (Tangermann/Grote 2018: 21; IQ Netzwerk 2018a).

70 Assessment and Recognition of Foreign Professional Qualifications Act (Gesetz zur Verbesserung der Feststellung und Anerkennung im Ausland erworbener Berufsqualifikationen).

71 Gesetz über die Feststellung der Gleichwertigkeit von Berufsqualifikationen.

72 Directive 2013/55/EU of the European Parliament and of the Council of 20 November 2013 amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation (EU) 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation').

73 There is also an app which provides the relevant information: <https://www.anerkennung-in-deutschland.de/html/de/app.php> (17 April 2019).

74 The hotline is available from Monday to Friday from 9:00 to 15:00 under +49 (0)30-1815-1111.



search for work, the recognition of professional qualifications and ways to learn German.

The 'BQ-Portal'<sup>75</sup> which is a database of foreign vocational qualifications, occupational groups, country profiles and working aids, was set up as far back as 2011 on behalf of the Federal Ministry for Economic Affairs and Energy in the context of the IQ Network. It is aimed at companies, employers but also at public institutions to facilitate the determination of the occupational suitability of employees (Happ 2018). The databases were considerably expanded with regard to the recording of foreign vocational qualifications and occupational groups in the course of increased migration caused by displacement. New information from refugees' main countries of origin was added and has been in high demand among users. In 2018, the database contained around 3,500 country and professional profiles.

Among the multitude of integration measures at the Federal, Land and local level, the Migration Advisory Service for Adult Migrants (MBE) is particularly important. This programme, which is offered by the Federal Government, provides newly arrived immigrants who intend to stay and are older than 27 with individual advice for a limited period of time; it was established by the Residence Act in 2005 (Section 75 no. 9 in conjunction with Section 45 first sentence of the Residence Act). Migrants who have been living in Germany for some time but still "need to catch up in terms of integration" can also get advice under the Migration Advisory Service programme. Due to the significant increase in the number of refugees over the last few years the Migration Advisory Service was opened to persons with a suspension of removal and asylum applicants with a permission to remain who are likely to stay legally and permanently in Germany (good prospect to remain; see no. 2.3.6 of the Migration Advisory Service support guidelines of 20 July 2016). Migration Advisory Service for Adult Migrants is funded by the Federal Government and implemented by the national associations of the non-statutory welfare and the Federation of Expellees (Bund der Vertriebenen). In 2018, 305,000 counselling cases were counted. If family members are added, the number of persons counseled was 593,000. Since the end of 2017, the MBE has been expanded to include a messenger app and an information platform<sup>76</sup> which allows advice to be given online

via chat. The introduction of online consulting in the MBE is currently being evaluated.

In addition, the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) funds the Youth Migration Services (Jugendmigrationsdienst, JMD) across Germany. These services are directed at juveniles aged between 12 and 27 and provide individual advice in cooperation with schools, companies which provide vocational training, integration course providers and other youth welfare institutions (JMD 2017a). From 2015 onwards, 24 JMD locations provided specialised advice to young refugees and young people whose removal has been suspended in the framework of the pilot project 'jmd2start – Youth Migration Services for Young Refugees'<sup>77</sup>. On 1 January 2017, this project was expanded to over 450 JMD advice centres in Germany (JMD 2017b; BMFSFJ 2017).

In 2017 and 2018 the pilot project 'Youth Migration Services in the District' ('Jugendmigrationsdienste im Quartier' was established and extended. The aim of this programme is to reach adolescents with a migration background in socially disadvantaged and structurally weak areas directly at their place of residence, for example with creative workshops and group field trips. The project is jointly funded by the Federal Ministry of Construction and the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth. It represents an interconnection between integration measures and social urban development (JMD 2018). In the last few years schools have introduced integration measures – especially for refugee children and adolescents – in addition to vocational training. Because school education is managed by the Länder and not the Federal Government, the planning and implementation usually take place at the Länder level.

In addition to the statutory integration programmes, the Federal Government supports projects for the social and societal integration of immigrants. They focus on enabling the migrants to arrive in their local communities, on providing opportunities for meetings between the migrants and the host community and on communicating values (BAMF 2018i).

### 6.1.2 National developments

In 2018 the integration courses were delivered nationwide by around 1,700 providers (above all adult

75 Website of the BQ portal: <https://www.bq-portal.de/> (17 April 2019).

76 Website of the online counseling service and the app of the Migration Advisory Service for Adult Migrants: <https://www.mbeon.de/> (17 April 2019).

77 Website of the pilot project "jmd2start – Youth Migration Services for Young Refugees": <http://www.jmd2start.de/> (17 April 2019).

education centres, private language schools and specialised technical schools, education establishments, in-company training centres, initiative groups, church and unaffiliated organisations). Between 2005 and the end of 2018, around 2.2 million persons had begun an integration course (BAMF 2019h: 3). In 2018, 202,933 persons began an integration course. Participation in the courses was compulsory for somewhat fewer than two-thirds of these participants, slightly more than one-third took part voluntarily. 45% of the new participants were men and 55% were women in 2018. Integration courses will also be implemented in 2019 (BMI 2018j).

In 2018, most new participants came from Syria (38,725), Afghanistan (14,633), Iraq (13,180), Romania (11,729) and Turkey (8,841) (see Table 6). In the German test for immigrants in 2018, 52% of participants reached language level B1 and just under 33% level A2. Successful participation in the integration course is often hindered by a lack of childcare facilities for women (Brücker et al. 2019: 9; Wieczorek et al. 2019). Therefore, it is of paramount importance to expand local childcare facilities.

In 2018, around EUR 874 million from federal budget were spent for integration courses (2017: around EUR 859 million; 2016: around EUR 510 million). For 2019, the Federal Ministry of the Interior has earmarked a total of EUR 720 million for the implementation of integration courses (BMI 2018j).

### Language courses for vocational purposes

In 2017, more than 95,000 people took part in vocational language courses that the Federal Office for Migration and Refugees and the Federal Ministry of Labour and Social Affairs have jointly developed since 2016 (2016: 4,900). The number of new enrolments rose to 165,876 in 2018. For 2019, the federal budget has earmarked around EUR 470 million for vocational language courses which will finance the course for over 186,000 participants.

### Migration Master Plan

As the legal basis for implementing integration courses by the state had already been created in the previous years, no significant amendments were made to integration legislation at federal level in 2018. However, the 'Migration Master Plan' launched by the Federal Ministry of the Interior (see Chapter 2.2) contains nine measures that are aimed at improving integration, above all at improving the quality of the courses (evaluation, increased control density of the providers, more targeted allocation of participants to special courses and social support during the courses), at expanding the regulations governing course attendance (tightening attendance requirements, introducing sanctions, making the sanction system between the Länder and the Federal Labour Office more effective and tightening the obligation to submit medical certificates) (BMI 2018a: 19 et seq.).

**Table 6: New course participants in 2017 and 2018 according to the most common nationalities**

Country	2018			2017		
	Rank	In absolute terms	In percent	Rank	In absolute terms	In percent
Syria	1	38,725	19.1	1	101,010	34.6
Afghanistan	2	14,633	7.2	3	20,277	6.9
Iraq	3	13,180	6.5	2	27,493	9.4
Romania	4	11,729	5.8	6	11,518	3.9
Turkey	5	8,841	4.4	9	6,973	2.4
Bulgaria	6	8,434	4.2	7	9,077	3.1
Poland	7	6,653	3.3	8	7,685	2.6
Iran	8	6,599	3.3	5	11,956	4.1
Eritrea	9	6,302	3.1	4	12,140	4.2
Italy	10	5,031	2.5	11	5,204	1.8
Other (incl. late repatriates)		82,806	40.8		78,578	26.9
<b>Total</b>		<b>202,933</b>	<b>100.0</b>		<b>291,911</b>	<b>100.0</b>

Source: Abbreviated table from BAMF 2019h: 6, Table 5

## Quality assurance in relation to integration courses

To ensure the quality and success of integration courses, the rules relating to course structure were expanded in 2018. An incentive system for the implementation of literacy courses was introduced and the project 'Social support in integration courses' was successfully piloted with around 500 course providers. In addition, funding was extended for the teacher training 'Working with traumatised refugees'.

## Recognition of professional qualifications acquired abroad

In 2018, "36,400 vocational qualifications acquired abroad were recognised nationwide as fully or partially equivalent to qualifications acquired in Germany" within the framework of occupational groups regulated by federal or state law (StBA 2019). This represents an increase of 20% year-on-year. More than half (61%) of the recognised qualifications were in the medical and healthcare professions. In addition, Syrian nationals had the highest number of recognitions (4,800), followed by Bosnia and Herzegovina (3,000) and Serbia (2,100). A total of 39,100 new applications were submitted in 2018..

## 'Integration through Qualification (IQ)' programme

The aim of the programme is to integrate people with a migration background permanently into the labour market. The IQ recognition and qualifications counselling and IQ qualification measures are open to refugees and are available to them free of charge. The programme has 72 fixed points of contact and 100 mobile counselling stations (IQ Netzwerk 2019b). One of the key counselling issues involves offering support during the assessment of existing qualifications and exploring further qualifications to integrate into the German labour market. This includes, for instance, identifying the occupation used as a reference for the assessment, clarifying the entitlement and need for recognition and assisting with the application procedure (IQ Netzwerk 2018b: 1). Furthermore, the funding programme helps to identify suitable qualification programmes, clarify admission requirements and provide information on financing (IQ Netzwerk 2018b: 1). In the first six months of 2019, 28,409 persons received advice from IQ counselling centres (2018: 41,333; 2017: 42,668; 2016: 41,325). In the period between 1 January 2015 and 31 December 2018, 194,568 persons sought advice on recognition or qualifications. This figure does not include follow-up advice, i.e. persons who have had several advisory sessions.

## Fair integration of refugees

The 'Fair Integration' programme was set up within the framework of IQ Netzwerk in 2017, offering advice on issues relating to social and employment law for refugees at all IQ Länder Netzwerk offices. Since 2019, these services have also been available to third-country nationals. Several organisations, some of which have close ties with trade unions, are involved and already "have experience in providing advice on labour and social law" (IQ Netzwerk 2018c). According to IQ Netzwerk, the reasons why refugees need legal advice are as follows: "Lack of knowledge about the general conditions and support structures in Germany, an unstable residence status and a precarious financial situation also increase the risk of refugees becoming victims of exploitation and discrimination" (IQ Netzwerk 2018d). Between the end of 2017 and 30 June 2019, a total of 3,294 advice sessions were recorded (IQ Netzwerk 2019c).

## Welcome guides

In 2018 the welcome guides helped almost 10,000 refugees find some kind of employment, including 2,850 training places (2017: ca. 1,960), 3,700 internships, 1,390 introductory training places and over 1,220 jobs (BMWi 2019). The total costs incurred by the project amounted to EUR 10 million, two-thirds of which were borne by the Federal Ministry for Economic Affairs and Energy and one-third by the business community. The programme is managed by the German Confederation of Skilled Crafts (Zentralverband des Deutschen Handwerks (ZDH)).

The project of welcome guides was launched at the initiative of the Federal Ministry for Economic Affairs and Energy and the German Confederation of Skilled Crafts in the spring of 2016. Around 170 welcome guides have been supporting small and medium sized enterprises in employing and training refugees since spring 2016. Since the new funding guideline entered into force on 28 September 2017, large companies have also been able to enlist the services of the welcome guides who provide advice on legal framework conditions, regional support services or language courses and help companies to find suitable applicants. "The aim of the advisory service is to raise awareness regarding skilled workers among entrepreneurs and to convince them that refugees may be a help for any company, be it as trainees or (future) skilled workers" (BMWi 2018b).

## The German Islam Conference (Deutsche Islam Konferenz, DIK)

The German Islam Conference should be mentioned in this context, too. It provides a forum for dialogue between the Government and Muslim associations. The Conference was established in 2006 with the goal of promoting the integration of Islam as a part of Germany into German religious law and the participation of Muslims in German society. During the current legislative period 2018–2020 the Conference wants to align itself more practically and concentrate on grassroots local integration. In addition, the Conference, which has been formed for the fourth time, will be loosened structurally: permanent bodies, working group, committees and memberships as in the previous Islam Conferences shall no longer exist to lead a more open “broad, public and controversial” led dialogue (DIK 2018). The German Islam Conference IV took up its work in the fourth quarter of 2018 and was met with big interest by the media. Especially the tension between more liberal and conservative forces within the Muslim participants of the Conference were discussed in the media (Lau 2018).

## 6.2 Anti-discrimination efforts

### 6.2.1 Background and general context

Anti-discrimination laws and policies in Germany are based on Articles 1 and 3 of the Basic Law (Grundgesetz, GG). Article 1 of the Basic Law obliges the state to respect and protect human dignity, which is inviolable. Article 3 para 1 of the Basic Law spells out the basic right of equality before the law, which binds the legislative, executive and judiciary powers. “Pursuant to the judgments of the Federal Constitutional Court, the basic right of equality means that materially equal facts and situations should be treated equally and unequal facts and situations, unequally” (BPB 2017). Article 3 para 2 and 3 of the Basic Law define which facts are no reasons for favouring or disfavouring a person (non-discrimination principles). Men and women shall have equal rights (Article 3 para 2 of the Basic Law), and no person shall be favoured or disfavoured because of sex, parentage, race, language, homeland and origin, faith, or religious or political opinions or be disfavoured because of disability (Article 3 para 3 of the Basic Law). “While it is admissible to treat German nationals and foreigners differently, the different treatment must still meet the conditions of the right of equality” (BPB 2019).

Article 3 para 2 of the Basic Law additionally states that the “state shall promote the actual implementation of equal rights for women and men and take steps to eliminate disadvantages that now exist”.

On 18 August 2006, the General Act on Equal Treatment (AGG) entered into force. It provides a comprehensive legal framework to protect citizens against discrimination not only by the state (as set out in the Basic Law), but also by private agents (such as employers, landlords or owners of clubs or restaurants). This Act transposed four European Directives into German law:

- the Anti-Racism Directive (Directive 2000/43/EC)<sup>78</sup>,
- the Employment Equality Framework Directive (Directive 2000/78/EC)<sup>79</sup>,
- the Gender Directive Civil Law (Directive 2004/113/EC)<sup>80</sup>,
- the Gender Equality in Employment and Occupation Directive (Directive 2006/54/EC)<sup>81</sup>.

The purpose of the Act is to prevent or to stop discrimination<sup>82</sup> on the grounds of race or ethnic origin, gender, religion or belief, disability, age or sexual orientation (Section 1 of the General Act on Equal Treatment).

With the entry into force of the General Act on Equal Treatment, the Federal Anti-Discrimination Agency (ADS) was established with the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth (Section 25 of the General Act on Equal Treatment). It provides independent support to people who believe that they have been discriminated against for one of the

<sup>78</sup> Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

<sup>79</sup> Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation. “With this Directive, the European Union aims to create a general framework to combat discrimination for reasons of race or belief, disability, age or sexual orientation in the field employment and occupation” (ADS 2015: 4).

<sup>80</sup> Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services.

<sup>81</sup> Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast).

<sup>82</sup> An evaluation of the General Act on Equal Treatment from 2016 proposed replacing the German term “Benachteiligung” by “Diskriminierung” (“discrimination”) in order to “comply with the goals of the European anti-discrimination directives and strengthen legal certainty and improve people’s awareness by using more precise terms” (ADS 2016: 25).

reasons listed in Section 1 of the General Act on Equal Treatment by informing them about their legal entitlements and available legal procedures, by handing them over to other advisory centres and by supporting them in trying to achieve a settlement (Section 27 subs. 2 of the General Act on Equal Treatment). In addition, the Federal Anti-Discrimination Agency engages in public relations efforts, takes measures to prevent discrimination for the reasons set out in Section 1 of the General Act on Equal Treatment and conducts scientific research concerning such discrimination (Section 27 subs. 3 of the General Act on Equal Treatment). Every four years, the Federal Anti-Discrimination Agency and the Federal Government and Bundestag Commissioners shall report to the Bundestag on discrimination on the grounds set out in Section 1 of the General Act on Equal Treatment and give recommendations on how to remove and prevent such discrimination (Section 27 subs. 4 of the General Act on Equal Treatment). The third such joint report was presented by the end of September 2017 (ADS 2017a). The Federal Anti-Discrimination Agency shall adequately include in its efforts non-governmental organisations and institutions which work to prevent discrimination on the grounds set out in Section 1 of the General Act on Equal Treatment at the European, Federal, Land or regional level (Section 29 of the General Act on Equal Treatment).

Alongside the Federal Anti-Discrimination Agency, there are state, state-funded and/or non-governmental anti-discrimination institutions in numerous Länder, which not only provide advice and information, but in some cases also equality, diversity, anti-discrimination and anti-racism trainings – increasingly to the administration and the police, too. Since January 2015, numerous advisory initiatives have been supported by the Federal programme “Live Democracy! Active against Right-wing Extremism, Violence and Hate”.

The ‘National Action Plan against Racism’ (‘Nationaler Aktionsplan gegen Rassismus’ (NAP)) is an initiative from 2008 to combat racist violence, discrimination and ideologies. On 14 June 2017 the Federal Government passed a new revised NAP, which was amended to include the topics “homo- and transphobia” (BMI 2017).

The Federal Government outlines the following objectives:

- “People who face racist discrimination, violence or other ideologies of inequality require protection and solidarity: they are to be strengthened by government action as well as measures from public

institutions and social organisations and to be included in the drawing up of solutions,

- Dismantling racism and racist discrimination and enabling a life free of discrimination in a democratic, diverse and pluralistic society,
- Intensifying the examination of ideologies of inequality, the battle and dismantling of racism as well as the related discriminations and stereotypes,
- Continuing to ensure the promotion of civil society engagement, courage and conflict skills as well as the strengthening of the lived, diverse, democratic society and its values,
- Carrying out the further development or initiating of the appropriate measures taking into consideration of international standards and on the basis of human rights,
- Reaching the continuous increase of public awareness and raising awareness for equality and parity on all societal levels” (BMI/BMFSFJ 2017: 6 et seq.).

Since 2012, the Advice Centre on Radicalisation is set up at the Federal Office for Migration and Refugees, which can be approached by anyone “who observes an islamist-motivated radicalisation in their personal environment” (BAMF 2017a). Relatives, friends or for example also teachers may contact the staff at the hotline of the Advice Centre, “which record the cases and provide individual and demand-oriented counselling together with the non-profit organisations. There are almost 70 persons involved on site nationwide. Among the employees are social pedagogues, political scientists, scholars of Islam and psychologists, all trained accordingly to conduct the counselling interviews, to develop consulting strategies and put them into practice with those seeking for counsel. Counselling is provided in the languages German, Turkish, Arabic, English, Farsi, Russian and Urdu” (BAMF 2018e; see also an evaluation of the Advice Centre on Radicalisation, Uhlmann 2017). Since its establishment, the Advice Centre on Radicalisation has led more than 4.100 consultations. Currently around 40 to 50 calls come in monthly (BAMF 2018i).

## 6.2.2 National developments

### Attacks on refugees, refugee shelters and refugee support networks

In 2018, the Federal Criminal Police Office (BKA) registered more than 1,775 politically motivated crimes against refugees, their accommodation facilities, support organisations and voluntary helpers (2017: more

than 2,350), ranging from insults to grievous bodily harm, arson and attempted murder (Deutscher Bundestag 2019i). With few exceptions, the offences were classified as right-wing politically motivated crimes<sup>83</sup>. As of 26 February 2019, investigations into 1,108 crimes led to 1,409 suspects being identified, with the breakdown as follows: 1,323 suspects were investigated in connection with 1,042 crimes against asylum seekers, 61 in connection with 45 registered attacks on asylum seekers' shelters and 25 in connection with 21 crimes against support organisations or volunteers (Deutscher Bundestag 2019i: 16).

However, the recording of politically motivated crimes in the statistics on right-wing politically motivated crimes has long been criticised for statistically underestimating politically motivated violence. The reason for this is that the crimes are classified at the time they are recorded. If a politically motivated background is only established in subsequent investigations, the classification of the offence is not changed. In addition, it is criticised that the statistics focus too much on offences that are extremist, i.e. anti-constitutional, meaning that the term 'racism' is very narrowly defined. Raising police officers' awareness of the issue is also relevant in this context. In many cases, evidence of racist motivation is not interpreted or recorded as such. Only since 2017 do investigations have to take into account the views of those concerned, which can often provide valuable information with regard to racist motivation (Lang 2018). In addition, racist crimes are not always reported by the victims, "among other things because they have little confidence in the police. The number of offences registered by victim counselling centres which keep their own statistics is significantly higher than those registered by the authorities" (Lang 2018: 8).

### Establishment of a nationwide reporting office against anti-Semitism

A nationwide reporting office against anti-Semitism was established in 2018. Patron is the Federal Government Commissioner for Anti-Semitism, Felix Klein (Jüdische Allgemeine 2018; Niewendick 2018). The

<sup>83</sup> Crimes are classified as right-wing politically motivated if the circumstances of the crime and/or the perpetrator's stance suggest that they can be reasonably assumed to have been perpetrated on the grounds of a "right-wing" political orientation. The act as such need not necessarily be aimed at suspending or eliminating an element of the free, democratic organisation of the state (extremism). In particular, this applies to offences perpetrated in full or in part for nationalist, racist, social-darwinist or national-socialist reasons. These politically motivated crimes are to be classified as right-wing extremist crimes" (Landtag Baden-Württemberg 2016: 2).

Central Reporting Office, headed by the Federal Association of Anti-Semitism Research and Information Centres (Bundesverband Recherche- und Informationsstellen Antisemitismus (RIAS)) that is based in Berlin, commenced its work in November 2018. Its main task is to collect and evaluate the quality of reports on anti-Semitic incidents from decentralised reporting offices. Persons affected by anti-Semitism in Germany include both German Jews and third-country nationals. However, anti-Semitic patterns of hostility are not a migration-specific problem but are a widespread problem in some sections of German society, as studies have repeatedly shown in the past and also in 2018 (Decker et. al. 2018: 78 et seqq.; Möller et. al. 2016: 329 et seqq.).

A number of projects against anti-Semitism are also being implemented at the level of the Länder. In Baden-Württemberg, for instance a council of experts was set up at the state anti-Semitism Commissioner. It consists of "around 20 Jewish and non-Jewish experts from academia, associations and civil society" (State Ministry of Baden-Württemberg 2018). The aim of the council of experts is to address three prevalent topics in particular: anti-Semitic conspiracy myths in the digital media, anti-Semitism among immigrants and radicalisation in old age. In future, the council of experts will publish a report every four years (Staatsministerium Baden-Württemberg 2018). In Schleswig-Holstein, a new contract was concluded with the Jewish state associations to improve the situation of Jewish life in the Land. The annual subsidy of EUR 800,000 is to be used for the professionalisation of youth workers and for urgently needed Rabbinical positions in order to keep Jewish life in Schleswig-Holstein fit for the future (Ministerium für Bildung, Wissenschaft und Kultur Schleswig-Holstein 2018).

Anti-Semitism continues to be a widespread social problem in Germany, which affects all social strata both subtly and directly, especially the extremist margins. In the area of anti-Semitism, it is particularly common for assaults such as insults, abuse and threats either not to be reported or to fall below the threshold of criminal liability and therefore not to appear at all in the official Police Crime Statistics (Polizeiliche Kriminalstatistik (PKS) (Niewendick 2018).

### Expert Commission on antiziganism

The Federal Government comprising the CDU, CSU and SPD agreed in its coalition agreement to set up a commission of experts on antiziganism (CDU/CSU/SPD 2018: 119). The Federal Ministry of the Interior is responsible for setting up the Expert

Commission. “With a view to the content and structural design of an expert commission, an initial discussion took place at State Secretary level with the Chairperson of the Central Council of German Sinti and Roma at the Federal Ministry of the Interior at the end of August 2018” (Deutscher Bundestag 2018p: 2). According to the Federal Government, an essential task of the Expert Commission is to draw up a report by “independent experts [...] with regard to manifestations and stocktaking on the subject of antiziganism in Germany as a form of group-related xenophobia” (Deutscher Bundestag 2018p: 3). The commission of experts is funded to the tune of EUR 550,000 per year. Persons affected by anti-Semitism in Germany include both German Sinti and Roma and third-country nationals. However, patterns of hostility against Sinti and Roma are not a migration-specific problem, but a widespread problem in some sections of German society, as studies have repeatedly shown in the past and again in 2018 (Decker et. al. 2018: 103 et seqq.).

#### **'Youth social work in schools'**

Since March 2018, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth has been funding the programme 'Youth Social Work in Schools' which aims to protect young people from Islamist radicalisation. At 162 locations, socio-educational support is offered to young people at school and during the transition to working life. The programme focuses on cooperation at all levels: with the Länder, the municipalities and schools. Youth migration services as well as the bodies responsible for the prevention of radicalisation and civic education for children and young people are also involved (BMFSFJ 2018).

#### **Annual report by the Federal Anti-Discrimination Agency**

In 2018, the Federal Anti-Discrimination Agency reported 3,455 requests for counselling relating to grounds of discrimination under the General Equality Act. 31% of the requests made involved issues relating to ethnic origin. Ethnic origin was hence the most frequent reason for seeking counselling ahead of gender and disability (ADS 2019).

# 7 Nationality and statelessness

## 7.1 Acquisition of German citizenship

In general, foreigners and their children in Germany can acquire German citizenship by birth, adoption by a German parent or naturalisation.

On 1 January 2000, the provisions governing the right of German citizenship were extended by the principle of *ius soli* (right of the soil); before, German citizenship was governed by the principle of *ius sanguinis* (right of blood). Since then, children born in Germany whose parents are both foreigners receive German citizenship at birth when one parent has been legally ordinarily in Germany for eight years and has been granted a permanent right of residence (Section 4 subs. 3 of the Nationality Act (StAG)). As a rule, the foreign nationality(s) of the parents is/are also acquired. Only in the year 2000 was it also possible for a child born between 1990 and 1999 to be naturalised upon application if the conditions were met at the time of his or her birth and continue to be met (Section 40b of the Nationality Act). Until the end of 2014, both groups were obliged to declare whether they wished to retain their German or foreign citizenship pursuant to Section 29 of the Nationality Act. Once the children reached the age of 18, they had to decide whether they wished to retain their German or their foreign citizenship. Since then, they are only required to do so if they did not grow up in Germany (Worbs 2017).

Foreign nationals who have been residing lawfully in Germany for a longer period of time can obtain German nationality through naturalisation. Foreigners must fulfil a number of conditions in order to be entitled to naturalisation pursuant to Section 10 subs. 1 of the Nationality Act. This includes a residence permit which at least offers the prospect of permanent residence, as well as eight years of lawful ordinary residence in Germany (seven years after successful participation in an integration course, six years in the case of language skills at level B2 CEFR and above), and is able to ensure his or her own subsistence (exception: the person concerned is not responsible for the drawing of benefits under the Social Code Book II or XII) and does not have any criminal convictions. Naturalisation continues to require foreigners to have sufficient knowledge of the German language (level B1 of

the Common European Reference Framework (CEFR)). Since 1 September 2008, naturalisation applicants must also demonstrate knowledge of the legal and social system and living conditions in Germany by taking a nationally standardised naturalisation test. Persons who have a German school-leaving qualification are exempt from this requirement (BMI 2015: 15).

The provisions set forth in Section 10 subs. 1 of the Nationality Act described above form the basis for the majority of naturalisations in Germany (in 2018: 75% of all naturalisations). Naturalisation is also possible for spouses and minor children of a beneficiary (Section 10 subs. 2 of the Nationality Act) and at the discretion of the authorities (Section 8 of the Nationality Act). An overview of all possible legal bases can be found in the annual naturalisation series published by the Federal Statistical Office (StBa 2019d).

Owing to the principle of avoiding multiple nationality, the previous nationality must as a rule also be given up in the case of naturalisation (Section 10 subs. 1 first sentence no. 4 of the Nationality Act); however, exceptions apply if the foreigner is unable to give up his or her previous citizenship, or if doing so would entail particularly difficult conditions (Section 12 subs. 1 of the Nationality Act). Persons entitled to asylum, recognised refugees, nationals of another EU Member State or Switzerland generally have the option of retaining their previous nationality (Section 12 subs. 2 of the Nationality Act).

### Statelessness

Internationally, statelessness is an undesirable phenomenon because stateless persons “lack rights for which citizenship is a prerequisite. For example, stateless persons cannot claim diplomatic protection abroad” (Hoffmann 2017: 325). There are an estimated 10 million stateless people around the world, including many children who are already born stateless. According to the UNHCR, 75% of stateless people worldwide belong to minorities (Deutscher Bundestag 2018q: 1). Statelessness has many causes; in general, it occurs if there is a lack of birth registration (e.g. when the parents are already stateless), or if the person concerned loses citizenship at a later stage without obtaining a new one (Hoffmann 2017: 325).



In Germany, in implementing Article 1 of the 1954 Convention relating to the Status of Stateless Persons, anyone “who is not considered as a national by any State under operation of its law” is considered to be stateless (BMI 2015: 18). Stateless persons belong to the foreign population in Germany and are therefore also registered in the Central Register of Foreigners (AZR) and are identified as such. However, there is no “standard procedure” in place for determining statelessness (Hoffmann 2017: 334; Deutscher Bundestag 2019q: 2). The foreigners authorities are responsible for establishing statelessness. If statelessness is positively established or if the person concerned already has a legal residence permit - for instance through marriage to a German spouse - a travel document for stateless persons may be issued pursuant to Article 28 first sentence of the Convention on Stateless Persons which permits travel outside German territory. The travel document also entitles the holder to permanent residence within the country (Hoffmann 2017: 332).

In addition to residence-related issues, the phenomenon of statelessness is particularly relevant in asylum and citizenship law. In the asylum process, statelessness mainly affects Kurdish and Palestinian nationals who have previously lived in Syria or Lebanon. However, a distinction needs to be made between stateless persons and applicants with “unclarified” citizenship, the number of which is far higher (see further under Statistics). Statelessness must be proven in the asylum procedure by furnishing relevant documents such as a valid identity card or passport. The Federal Office for Migration and Refugees itself does not make any such determinations; in Germany, this can only be done by the immigration authorities.

When acquiring German citizenship in Germany, some exemptions apply to stateless persons. Stateless persons born in Germany, who have had their legal permanent residence in Germany for five years are to become naturalised upon application if the application is filed before they reach the age of 21 and if they have not been passed a final sentence to prison or youth custody of five years or more (Deutscher Bundestag 2016a: 3). Other stateless persons are recognised as being in need of protection under the Nationality Act (BMI 2015: 18, no. 8.1.3.1) and can, inter alia, become naturalised after six years instead of the usual eight years. Finally, the *ius soli* regulations also apply to the children of stateless persons born in Germany, according to which it is possible to acquire German citizenship pursuant to Section 4 subs. 3 of the Nationality Act.

In addition, it needs to be considered that a person may become stateless if they lose German citizenship. This is the case, for instance with the “generation gap” in relation to the birth of German parents abroad. German citizenship shall in this case not be lost in case of birth abroad if the child would otherwise become stateless and therewith not receiving the foreign nationality either (Section 4 subs. 4 first sentence of the Nationality Act). On the other hand, an unlawful naturalisation in Germany may be withdrawn – for instance if the applicant intentionally provides incorrect or incomplete information - even if resulting in statelessness (Section 35 subs. 2 of the Nationality Act; for information about the previous legal situation see Schmahl 2007). However, discretionary decisions always need to be taken on the merits of the individual case. Exceptions are “conceivable in a few cases involving hardship for the person concerned associated with statelessness which extends beyond the mere legal consequence” (BMI 2015: 62, Item 35.2).

## 7.2 National developments

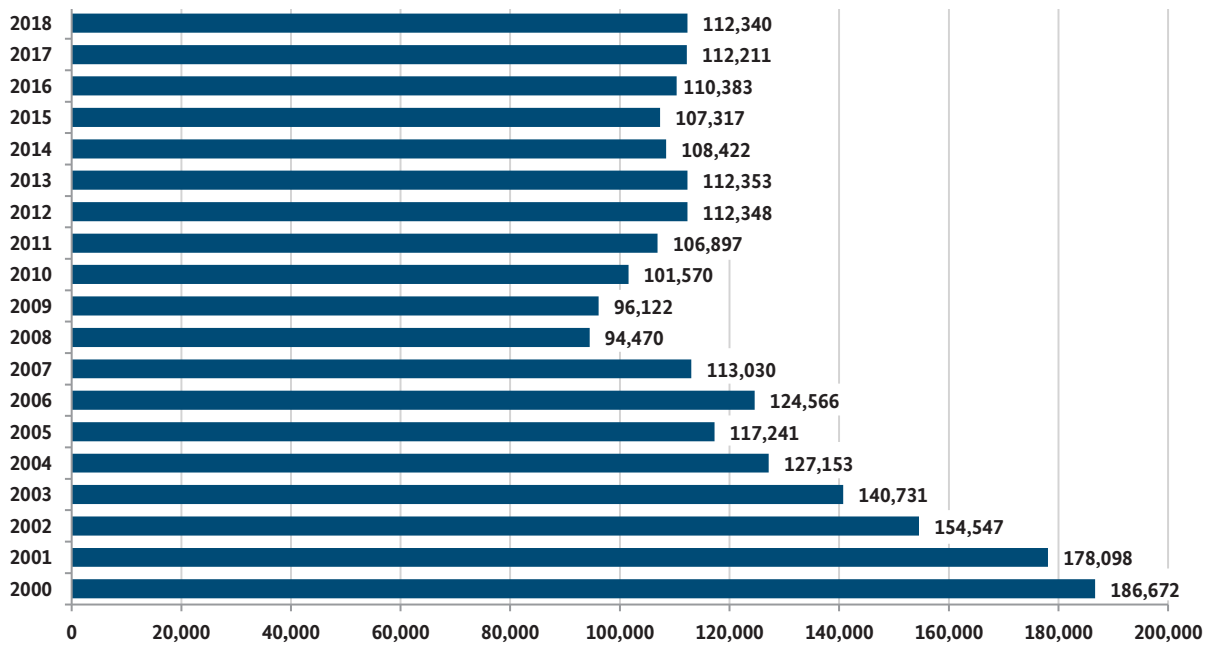
### Statistics on the acquisition of German citizenship by birth or naturalisation in Germany

In 2018, 112,340 persons became naturalised, 129 more than the previous year, indicating that the number of naturalisations has remained fairly steady (2017: 112,211, Federal Statistical Office 2019d: 25). Figure 4 shows the naturalisation trends between 2000 and 2018. Since 2010, the number of naturalisations has fluctuated steadily between 101,000 and 112,000. The statistics on naturalisation do not include persons who acquired German citizenship by birth in Germany (Figure 4).

Out of this total of 112,340 naturalisations in 2018, 36,480 were naturalisations of citizens of European countries (EU or EEA Member States<sup>84</sup>/Switzerland) and 16,700 were naturalisations of Turkish citizens. The most important third countries of origin of the persons who became naturalised were Iraq (4,080 naturalisations), Kosovo (3,840), Iran (3,080), Syria (2,880), Afghanistan (2,545), Serbia (2,475), Ukraine (2,455), Morocco (2,365), Vietnam (2,230) and the Russian Federation (1,930) (StBA 2019d: 19, 22, 25).

The so-called maximised naturalisation potential calculated by the Federal Statistical Office, which describes the ratio between naturalisations and the total

<sup>84</sup> The countries of the European Economic Area (EEA) comprise all EU Member States plus Iceland, Liechtenstein and Norway.

**Figure 4: Naturalisations in Germany (2000 to 2018)**

Source: StBA 2019e

number of foreign citizens residing in Germany for ten years or more at the beginning of the relevant reporting year, was 2.2% in 2018 and therefore slightly lower than the previous year (2017: 2.22%, StBA 2019e). These figures indicate that the number of former third-country nationals leveraging the naturalisation potential was much higher than among EU citizens: “Among the countries with more than 1,000 naturalisations, Syria (16.0%) leads ahead of Iraq (13.0%), Afghanistan (12.4%) and Iran (12.2%)” (StBA 2019e).

### Statistics on statelessness

According to the Federal Statistical Office, 25,995 stateless persons were living in Germany at the end of 2018, representing an increase of 1,345 compared to the previous year (2017: 24,650) (StBA 2019d: 35). The number has risen relatively sharply since 2015. Prior to 2015, fewer than 15,000 persons were stateless. This is probably due to the strong influx of refugees in recent years. Nevertheless, at the end of 2018, stateless persons accounted for only 0.24% of Germany's total foreign population. The majority of them are men (58.5%), a slightly higher proportion than in the foreign population as a whole (53.8%) (StBA 2019d: 35).

Stateless persons can also become naturalised, a total of 6,305 persons did so between 2012 and 2017 (Destatis 2019b: 19, 22, 25). In 2018, 705

naturalisations of stateless persons were registered, corresponding to 0.63% of all naturalisations.

Within the framework of the asylum procedure, 1,126 first-time and 82 subsequent applications by stateless applicants were registered in Germany in 2018 (BAMF 2019i). Decisions were taken on the applications of 1,508 stateless persons, of whom 642 (42.6%) were granted refugee status pursuant to Section 3 subs. 1 of the Asylum Act. The protection rate for this group (sum total of all positive decisions) was 62.3% overall, well above the overall average of 35%. By contrast, significantly more asylum applications were received from persons with “unclarified” citizenship (see above under “Background and general context”): Persons with “unclarified” citizenship filed 4,220 first-time and 629 subsequent applications, placing them 9th in the top ten list of countries of origin for first-time applications.

### Other developments

On 5 September 2018, the federal cabinet adopted the bill<sup>85</sup> presented by the Federal Foreign Office for the transitional period after Brexit (based on the assumption at the time that the United Kingdom would leave

<sup>85</sup> Draft Bill for the transitional period following the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union (Act on the transition period after Brexit, 5 September 2018).

the EU on 29 March 2019 in a regulated procedure and then be subject to a transitional period until 31 December 2020 during which EU law would in principle continue to apply). The bill contains, inter alia, a regulation in favour of British and German nationals who submit an application for naturalisation in Germany or the United Kingdom before the end of the transitional period. They are to be allowed to retain their British or German nationality, even if the decision on their naturalisation is taken after the transitional period has expired. In these cases, under certain conditions, dual nationality will (continue to) be accepted (AA 2018b). The bill (Act on the transition period after Brexit, *Brexit-Übergangsgesetz*) is to enter into force on the day on which the withdrawal agreement enters into force.

In the event of a no-deal Brexit, a similar arrangement will be made for naturalisation applicants who submit an application for naturalisation before the date of withdrawal.<sup>86</sup>

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<sup>86</sup> Draft Bill on transitional arrangements in the areas of employment, education, health, social affairs and nationality following the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union (processing status 12 December 2018).

# 8 Irregular migration, migrant smuggling and border controls and visa policy

## 8.1 Irregular migration and smuggling of migrants

### 8.1.1 Background and general context

There are numerous reasons for and types of irregular migration. These terms cover unauthorised entry into Germany and subsequent irregular residence as well as legal entry followed by unauthorised residence, for example because the person concerned does not leave the country even though their residence title has expired. Persons whose asylum application has been rejected and who are therefore obliged to leave are considered to be irregularly residing, too. Persons with a suspension of removal are obliged to leave the country. However, their removal is currently impossible in fact or in law and has therefore been suspended (see Section 60a subs. 2 first sentence of the Residence Act).

Irregular migration to and unauthorised residence in Germany are managed, on the one hand, by using preventive and migration control measures, for example during the visa process and in securing external borders, and on the other hand, by measures promoting return or enforcing removals. In addition, there are pragmatic responses to the situation of those persons who reside irregularly in Germany, but whose obligation to leave cannot be enforced or those persons whose residence is unknown to the authorities<sup>87</sup>. This includes granting a suspension of removal or changing

from a suspension of removal to a residence title (Sections 18a, 25a and 25b of the Residence Act), which can be possible under certain preconditions, or facilitating access to school education and health services for irregularly residing persons (see Hoffmeyer-Zlotnik 2017; Grote 2015).

While the number of registered foreigners who are obliged to leave is captured in the Central Register of Foreigners, it is not possible to reliably determine the number of irregularly residing persons who have had no contact with the authorities; their number can only be estimated and extrapolated. For many years, the CLANDESTINO project has provided reliable estimates of the number of irregularly residing third-country nationals (excluding persons with a suspension of removal). Based on the method used, it was possible for the last time for the year 2014 to provide an estimation of the number of irregularly residing third-country nationals who have no contact with the authorities, their number being estimated at 180,000 to 520,000. As the number of asylum seekers jumped in 2015, leading to changes in registration methods and possible double registrations, the researchers have not been able to provide reliable estimates for later years (Vogel 2016: 5 et seqq.).

Unauthorised entry and residence are crimes that are generally punishable by fine or imprisonment. However, this does not apply to unauthorised entrants who apply for asylum immediately after having entered the country (see Article 31 para 1 of the Geneva Convention). Aiding and abetting any unauthorised entry/residence in exchange for a pecuniary advantage or the promise of a pecuniary advantage, or repeatedly, or for the benefit of several foreigners is also punishable by law (people smuggling, Section 96 subs. 1 of the Residence Act). Smuggling for gain or as an organised gang, carrying a firearm during the smuggling process, causing danger to life or limb or even causing the death of a smuggled person will lead to a significantly

<sup>87</sup> Employees of educational institutions are exempted from the obligation of public institutions to report on irregularly staying persons to the foreigners' authorities (Section 87 of the Residence Act). Medical Doctors, members of recognised medical professions and "the administrative staff of public hospitals involved in accounting, as well as psychologists, family, educational and youth counsellors, pregnancy conflict counsellors, addiction counsellors, social workers and social educators and all employees in public youth welfare" would in turn "violate their legal professional duties when they disclose personal data entrusted to them by a person without papers to the foreigners' authorities" (Caritas NRW 2019).

stricter punishment (Sections 96 and 97 of the Residence Act).

External controls (e.g., via the visa process and external border controls, see Chapter 8.2), as well as a system of internal controls are part of the German system for managing migration and preventing irregular migration (Schneider 2012: 50 et seqq.). At the national level, the Joint Analysis and Strategy Centre for Illegal Immigration (GASIM) plays a key role. It gathers and analyses data on irregular migration and related types of crime provided by the participating authorities<sup>88</sup> with the aim of generating information, analysis, a strategic basis and early warning signs. The Federal Police obtains information abroad in particular by using border police liaison officers and sending document and visa experts to selected countries of origin and transit. The same applies to liaison staff and liaison officers from the Federal Office for Migration and Refugees in selected EU Member States and third countries.

Information campaigns in the countries of origin and the online information campaign 'Rumours about Germany'<sup>89</sup>, which was launched by the Federal Foreign Office in October 2017 are another more recent component in the prevention of irregular entries from third countries. It aims to "refute common rumours spread by smugglers on the Net" and "bring together in a concentrated form all relevant information for migrants and refugees" and combine it with facts (AA 2017). The website is available in Arabic, Dari, English, Farsi, French, Tigrinya and Urdu and is optimised for mobile use and social media (AA 2019a).

In addition, knowledge is gained from the cooperation with the European Border and Coast Guard Agency (FRONTEX) and the European Police Office (Europol), as regular and/or topic-specific joint evaluations are exchanged and a variety of networks are used to exchange information. Within Europol, a "European Migrant Smuggling Centre" was created in February 2016. This centre supports the Member States in their fight against migrant smuggling by the exchange of information as well as by initiating bi- and multilateral investigations (Europol 2018). Moreover, Europol supports the cross-border fight against crime, for example by joint investigation teams of several Member States and Europe-wide days of action (Deutscher Bundestag 2017d: 5).

### 8.1.2 National developments

#### Statistics – Persons who are obliged to leave the Federal Republic

The number of persons obliged to leave the country was 235,957 on 31 December 2018, which means that it has almost doubled since 2012 (see Table 7). Compared to the same date of the previous year, this represents an increase of 7,098 persons or 3.1% (31 December 2017: 228,859). In 2018, 180,124 of the 235,957 persons obliged to leave the country lived in Germany with a temporary suspension of removal (Duldung), which is almost 8.5 % more than in the previous year (2017: 166,068). Of the 131,995 persons obliged to leave the country, 131,995 were rejected asylum seekers (2017: 118,704) (Deutscher Bundestag 2019j: 67ff; Deutscher Bundestag 2018r: 77ff)<sup>90</sup>.

#### Statistics - Regulations governing residence rights

Persons whose removal has been suspended can be granted a temporary residence permit if they fulfil

88 The following authorities are involved in GASIM: the Federal Police, the Federal Criminal Police Office, the Federal Office for Migration and Refugees, the Financial Investigation Office for Clandestine Employment (Finanzkontrolle Schwarzarbeit – FKS) of the Federal Customs Administration, the Federal Intelligence Service, the Federal Office for the Protection of the Constitution and the Foreign Office.

89 Website on #rumours about germany – facts for migrants: <https://rumoursaboutgermany.info/>.

90 The obligation to leave the country is not necessarily due to the rejection of an asylum application. The figures also include rejections issued several years ago, see Deutscher Bundestag 2018r: 82.

**Table 7: Persons obliged to leave the Federal Republic and persons whose removal had been suspended as per reporting date (2012 to 2018)**

	31 December 2012	31 December 2013	31 December 2014	31 December 2015	31 December 2016	31 December 2017	31 December 2018
<b>Persons obliged to leave Germany</b>	118,347	131,598	154,191	204,414	207,484	228,859	235,957
<b>whose removal had been temporarily suspended</b>	85,344	94,508	113,221	155,308	153,047	166,068	180,124

Source: Central Register of Foreigners

certain conditions (inter alia Section 25a subs. 1 of the Residence Act). As of 31 December 2018, 5,878 persons were residing in Germany with a residence permit for well-integrated young persons and young foreigners whose removal had been suspended (Section 25a subs. 1 of the Residence Act) and hence 38% more than the previous year (2017: 4,261 persons). 1,036 persons had a residence permit as parents or minor children of these persons (Section 25a subs. 2 of the Residence Act), which corresponds to an increase of 9.5% over the previous year (2017: 946). A residence permit in case of lasting integration in accordance with Section 25b subs. 1 of the Residence Act was issued to 2,625 people in 2018, compared to 1,782 the previous year. 1,054 persons had a residence permit in 2018 as family members of these persons, compared to 671 persons the previous year (Section 25b subs. 4 of the Residence Act; Deutscher Bundestag 2019j: 30, 34; Deutscher Bundestag 2018r: 31 et seqq.).

### Clearing office for healthcare in Berlin

On 31 July 2018, the Berlin Senate decided to set up a 'Clearing office for the healthcare of uninsured persons without standard care / anonymous healthcare scheme'<sup>91</sup> (Der Senat von Berlin 2018: ). For the first two financial years, a grant of EUR 1.5 million per year was approved, half of which will cover personnel and material costs and half of which will go to an emergency fund to cover the costs of treatment (Der Senat von Berlin 2018: 8). Target groups are "persons without legal residence status, EU citizens and persons from third countries, self-employed persons without health insurance, students with private (very limited) health insurance as well as uninsured homeless persons" (Der Senat von Berlin 2018: 1). The clearing office is to clarify possible claims for benefits from a health insurance fund or a cost unit "in order to refer people with regular claims to standard care. If no claim can be made for health insurance or a cost unit, the necessary medical treatment is made possible and financed through an emergency fund provided for this specific purpose" (Der Senat von Berlin 2018: 2). Staff of the clearing office provide advice to clients daily in seven languages<sup>92</sup>. Clients can arrange an appointment

to receive advice in other languages (Der Regierende Bürgermeister 2018).

The context for the establishment of the clearing office are estimates by non-governmental organisations according to which "approx. 60,000 persons in Berlin are living without adequate health insurance cover" (Der Senat von Berlin 2018: 1) and the "healthcare of these groups of people [...] is currently being provided, by and large, outside the regular system" (Der Senat von Berlin 2018: 2).

### 8.1.3 Developments in the EU context

#### Action against smuggling in the Mediterranean – EU-NAVFOR MED Operation SOPHIA

German participation in the EUNAVFOR MED Operation SOPHIA in the southern central Mediterranean, launched in June 2015, was extended for another year on 14 June 2018. Germany participated in the operation with 950 troops (Deutscher Bundestag 2018s). The core mandate of the operation was "to disrupt the business model of human smuggling and trafficking networks in the Southern Central Mediterranean" (Europäischer Rat 2018a). This entailed, inter alia, capture and disposal of vessels suspected of being used for human smuggling or trafficking, training of the Libyan coastguards and navy and contributing to the implementation of the UN arms embargo on the high seas off the coast of Libya (EUNAVFOR MED 2019). As with the extension of German participation the previous year, some members of the opposition criticised the renewed extension of the participation, the operation and the support of the Libyan coastguard (Deutscher Bundestag 2018s; see also Deutscher Bundestag 2017e). Non-governmental organisations and journalists who rescue migrants in distress at sea in the central Mediterranean also reported that Libyan coastguard had engaged in violent actions against their vessels in 2018, as in the previous year (Das Erste 2018; Deutscher Bundestag 2018t: 2).

#### EU Trust Fund for Africa (EUTF)

Over the years, the focus of the EU Trust Fund for Africa (EUTF) which was established in 2015 has shifted increasingly towards migration control measures, a fact that has been welcomed by the Federal Government (Deutscher Bundestag 2018u). In April and September 2018, the Strategic Board of the EUTF agreed to further prioritise migration-related funding priorities with the aim of achieving "better migration

91 An anonymous health insurance card is intended to enable persons without regular residence status to receive medical treatment in the respective Länder without having to rely on voluntary medical care organised by associations and organisations, often on the basis of donations, or without having to apply for treatment cards from the responsible social services body (for an overview of medical care for irregular migrants in Germany, see Mylius 2016).

92 German, English, Russian, Bulgarian, Turkish, Portuguese and Spanish.

management” (KOM 2019a: 6), including six priority criteria:

- “Return and reintegration (International Organisation for Migration (IOM)/United Nations High Commissioner for Refugees (UNHCR));
- Refugees management (Comprehensive Refugee Response Framework);
- Completing progress on the securitisation of documents and civil registry;
- Anti-trafficking measures;
- Essential stabilisation efforts in Somalia, Sudan and South-Sudan and in the Sahel;
- Migration dialogues (Gambia, Ethiopia, etc.)” (KOM 2018a: 2; KOM 2019a: 6).

The EUTF Operational Committee, for instance, adopted four new migration-related programmes on 14 December 2018. One of the programmes, a regional initiative to “promote legal migration and mobility between North Africa, its southern neighbours and Europe” is being implemented, inter alia, by the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) in cooperation with the International Organisation for Migration and the International Labour Organisation (ILO) (KOM 2018b). In December 2017, the Federal Foreign Office announced an increase of EUR 100 million in the funds earmarked by Germany.

Various parliamentary groups in the German parliament, including the SPD, Alliance 90/The Greens and the FDP, criticised the orientation of the fund, 30% of which was to be used for migration management, spending a higher proportion on transit countries than for migrants’ countries of origin. They say the fund should therefore be seen “more as an instrument for border security than as an instrument of development cooperation” (Deutscher Bundestag 2018u).

## 8.2 Border controls

### 8.2.1 Background and general context

The Federal Police (BPOL) generally only conducts border controls at German air and maritime borders. Even after the abolition of controls at borders inside the Schengen Area<sup>93</sup>, the Schengen Border Code permits exercising police authority in order to combat

cross-border crime. Such controls are conducted by the Federal Police along the German Federal railway system, in trains, and at seaports as random checks and based on situation reports or experiences in border control. Border protection includes prohibiting and preventing unauthorised entry, combating cross-border people smuggling and other cross-border crime. If a person who has entered German territory without authorisation and without applying for asylum is found within a 30 km corridor along the border to EU Member States, she or he will be removed following unauthorised entry (see Chapter 9).

External air and maritime borders are controlled based on the regulations of the Schengen Border Code. Document scanning and verification equipment is used for verifying a document’s authenticity based on optical and digital features. In addition, biometric procedures are increasingly used, mainly in order to verify the identity of travellers (e.g. e-Passport controls, automated border control systems).

The Federal Police cooperates with the police forces of the EU Member States and of third countries in the area of border control. As part of its own externalisation strategy, this cooperation with third countries to police borders is an important part of integrated border management for controlling the external borders of the EU. In addition to the deployment of personnel, it includes assisting in capacity building for border controls. This usually takes the form of training in the framework of bilateral measures and projects supported by the EU<sup>94</sup>. The purpose of these measures is to improve cooperation with foreign (border) police forces while taking into account key aspects relevant to migration. Moreover, border police structures in other countries are strengthened.

In addition, the European Border and Coast Guard Agency (Frontex), with headquarters in Warsaw, has increased in relevance in the past years with regard to control and protection of EU-borders as well as the operational carrying out of return measures (see Chapter 9.3). Furthermore, several developments at the European level in the area of data exchange between the Member States were put into place in order to strengthen controls of entry and departure especially of third country nationals. The Schengen Border Code was amended as of 15 March 2017 in order to allow intensified checks against relevant databases at the external borders of the EU. The amendment is based on

<sup>93</sup> The EU Member States (with exception of the United Kingdom, Ireland and Cyprus) as well as Iceland, Norway and Switzerland are part of the Schengen Area. Bulgaria, Croatia and Romania are candidate countries to the Schengen-Area.

<sup>94</sup> For a detailed list of police activities abroad, including in bi- and multilateral projects, see Deutscher Bundestag 2019l.

Regulation (EU) 2017/458.<sup>95</sup> It obliges Member States, as of 7 April 2017, to conduct systematic controls of EU citizens and persons who are entitled to free movement under EU law once they leave the Schengen area and to compare their data with databases for lost or stolen identity documents as well as to make sure that they are no threat to public order and domestic security. Moreover, the data of third-country nationals must be checked not only at the time of entry, but also at the time of leaving in order to make sure that the foreigners are not a threat to public order and domestic security. The authenticity of the identity documents with an electronic memory element of all these persons must be checked in relation to the data stored there. In case of doubts about the authenticity of the document or the identity of its holder at least one of the biometric identifiers integrated in the documents shall be examined.

In June 2017, the EU Directive on Passenger Name Record ((EU) 2016/681) entered into force via the Passenger Name Record Act<sup>96</sup> which had as its objective the prevention, detection, investigation and prosecution of terrorist offences and serious crime. The Directive foresees an “obligatory transfer of PNR data by air carriers for flights going from the European Union to a non-EU Member State or from a non-EU Member State to an EU Member State. It also permits the EU Member States to include flights between the Member States themselves and data transfers by other economic operators which provide travel-related services including flight bookings” (Deutscher Bundestag 2017f).

In October 2017, the European Parliament introduces an entry/exit system for third-country nationals<sup>97</sup>. The new system will register all third-country nationals who enter the EU for a short stay (i.e. less than 90 days). Personal data (name, date of birth, nationality, sex), passport data, fingerprints and face scans will be stored (Article 16 para 1 of the EES Regulation). The system shall be linked to the Visa Information System (VIS), and prosecution authorities shall be allowed to conduct crosschecks against the EES (Europäisches Parlament 2018a: 1). The European Agency for the operational management of large-scale IT systems in

the area of freedom, security and justice (eu-LISA) will establish the system jointly with the Member States and ensure that it is ready for use by 2020 (Rat der EU 2017a). Among other things, the new system will help to make border controls quicker and more efficient and to monitor compliance with authorised periods of stay (Europäisches Parlament 2018).

## 8.2.2 National developments

### Statistik

In 2018, the Federal Police and the authorities in charge of police control of cross-border traffic registered a total of 36,496 unauthorised entries, a decrease of 20.5% compared to the previous year when there were 43,970 unauthorised entries, significantly fewer than in previous years (2016: 111,843; 2015: 217,237), (Deutscher Bundestag 2019j: 66; EMN/BAMF 2018: 89). The entry of a foreigner into the federal territory shall be unlawful if s/he does not possess a required passport or passport substitute or does not possess the residence title required (see Section 14 subs. 1 nos. 1 or 2 of the Residence Act in conjunction with Section 3 subs. 1 and Section 4 of the Residence Act). In 2018, the ten most frequent nationalities among irregular immigrants were Afghanistan, Nigeria, Iraq, Albania, Ukraine, Syria, Iran, Serbia, Turkey and the Russian Federation (Deutscher Bundestag 2019j: 66). 12,079 persons were refused entry at the border for attempting to enter the country irregularly (2017: 12,370, 2016: 20,851; see Chapter 8.2.2).

### Temporary reintroduction and extension of border controls at Schengen internal borders

Border controls<sup>98</sup> at the German-Austrian border, which had been reintroduced in September 2015, were prolonged for another six months during the entire year under review on 12 November 2018 until 11 May 2019 (BMI 2018k). Border controls on flights from Greece to Germany have also been extended for the time being (EMN/BAMF 2018: 87), although the restrictions were eased from April 2018 onwards.

<sup>95</sup> Regulation (EU) 2017/458 of the European Parliament and of the Council of 15 March 2017 amending Regulation (EU) 2016/399 as regards the reinforcement of checks against relevant databases at external borders.

<sup>96</sup> Gesetz über die Verarbeitung von Fluggastdaten zur Umsetzung der Richtlinie (EU) 2016/681.

<sup>97</sup> Regulation (EU) 2017/2225 is the basis; Regulation (EU) 2017/2225 of the European Parliament and of the Council of 30 November 2017 amending Regulation (EU) 2016/399 as regards the use of the Entry/Exit System.

<sup>98</sup> “The internal border controls are ordered under national responsibility on the basis of Articles 25 to 27 of the Schengen Borders Code for reasons of migration and security policy. Pursuant to Article 27 of the Schengen Borders Code, where a Member State plans to reintroduce border control at internal borders under Article 25, it shall notify the other Member States and the Commission at the latest four weeks before the planned reintroduction” (BMI 2018k).



The renewed extension and increasing duration of border controls met with growing criticism. The EU Commissioner for Migration, Home Affairs and Citizenship, Dimitris Avramopoulos, for instance had said before the announced extension that the time had come to end border controls (FAZ 2018: 4). The parliamentary group of Alliance 90/The Greens also criticised the planned extension of internal border controls in a motion tabled in the Bundestag and called for them not to be extended beyond 11 November 2018. They argued, inter alia, that the German-Austrian border controls in place for three years at the time violated Article 22 of the Schengen Borders Code, according to which internal borders may be crossed at any point without checks on persons, irrespective of the nationality of the persons concerned (Deutscher Bundestag 2018v: 2). The Federal Minister of the Interior Horst Seehofer justified the extension by stating that “the prerequisites for the abolition of internal border controls [...] have not yet been met” (BMI 2018k). “The continuation of internal border controls has been carried out in close coordination with the Ministries of the Interior in Austria, Denmark, Sweden and Norway” (BMI 2018k).

#### Re-establishment of a Bavarian Border Police

On 11 July 2018, the Bavarian Parliament passed the Act on the Establishment of the Bavarian Border Police (Gesetz zur Errichtung der Bayerischen Grenzpolizei) with a majority of 90 to 62 votes. The Act incorporated a new Article 5 into the Police Organisation Act (Polizeiorganisationsgesetz (POG)), providing for the re-establishment of a Bavarian Border Police force as part of the Land police force (Article 5 para 1 first sentence 1 of the Police Organisation Act). The tasks of the border police therefore include “1. police surveillance of borders, 2. police checks of cross-border traffic, including a) checking border crossing documents and entitlement to cross borders, as well as objects carried along and means of transport used when crossing the border, b) border searches, c) eliminating disturbances and averting dangers originating outside the territory of the Federal Republic of Germany, 3. in the border area to a depth of 30 kilometres, the elimination of disturbances and the prevention of threats affecting the security of borders” (Article 5 paras 2 nos. 1-3 of the Police Organisation Act).

Joachim Herrmann, Bavarian Minister of the Interior, justified the re-establishment, inter alia, on the following grounds: “Unfortunately, well-functioning protection of the EU’s external borders is still not fully guaranteed” and “with the establishment of the Bavarian

Border Police, the fight against cross-border crime as well as the fight against illegal migration will be further intensified” (StMI 2018a) and “inhuman smuggling gangs will be fought even more effectively” (Bayerische Staatsregierung 2018).

The establishment of the Bavarian Border Police met with both fundamental criticism regarding its constitutional conformity (Gründigital 2018; StMI 2019b) and criticism of the results of border controls. In the first six months of its establishment, the Bavarian Border Police had “apprehended a mere 15 persons directly at the German-Austrian border in 196 independent checks carried out for offences against the Foreigners Act, five of whom were refused entry” (FAZ 2019). The Bavarian Minister of the Interior nevertheless described the border police as a success and confirmed that the number of employees is set to increase from 500 to 1,000 by 2023 (FAZ 2019).

#### Automated border controls - EasyPASS

In 2018, the (partially) automated border control system (EasyPASS) was further extended at German airports. By the end of the year, 194 control lanes were in operation at the following airports (BPOL 2019a: 32) Berlin-Schönefeld, Berlin-Tegel, Düsseldorf, Frankfurt am Main, Hamburg, Cologne-Bonn, and Munich (BPOL 2019b). EasyPASS is based on the photograph saved in passports as well as in German identification cards on an optional basis. The EasyPASS procedure is available to citizens of the EEA Member States and Switzerland as well as to registered travellers from selected third countries. In 2018, it was additionally made available to South Korean nationals. In 2018, relevant agreements had also been concluded with the United States of America and the Hong Kong Special Administrative Region of the People's Republic of China. In return, German nationals can use the 'eGates' in the respective countries (BPOL 2018a).

### 8.2.3 Developments in the EU context

#### Statistics

In 2018, the number of unauthorised border crossings decreased considerably both at the external borders of the EU and at German borders. A total of 150,114 such border crossings were documented, representing a decrease of 26.7% compared to the previous year (2017: 204,719, Frontex 2019: 8). 190,930 persons were refused entry at the EU external borders, an increase of just under 4% compared to the previous year (2017: 183,548, Frontex 2019: 9).

## 8.2.4 Developments with an international dimension

### Federal Police liaison officers

In 2018, 33 Federal Police liaison-officers for border police issues were deployed in 31 countries all over the world (BPOL 2019a: 46, 50). In addition, a total of 64 document and visa experts worked in 27 countries on 35 location sites (BPOL 2019: 46). 100 Federal Police officers have been deployed internationally in ten 'Police and Customs Cooperation Centres', including the Joint Centre for German-Polish Police and Customs Cooperation in Swiecko, the Joint Centre in Passau (cooperation between Germany and Austria), and the Joint Centre for Police and Customs Cooperation in Luxembourg (cooperation between Belgium, Germany, France and Luxembourg), the Joint Centre of German-French Police and Customs Cooperation in Kehl, the Joint Centre for German-Czech Police and Customs Cooperation in Petrovice-Schwandort and the Joint Centre for German-Danish Police and Customs Cooperation in Padborg (BPOL 2019a: 50).

### Cooperation with third countries in the area of border security

The Federal Government programme on training and equipment for foreign police forces (AAH-P) that was launched in 2017 continued in 2018 and will run until 2020. Tunisia, the Palestinian Territories, Morocco, Jordan and Nigeria will benefit from the programme during this time for which the sum total of EUR 20 million has been appropriated (BPOL 2018b: 23). The programme focuses primarily on police training but also on the procurement of related equipment, excluding instruments for the direct use of force. The aim is to enable the police in the host countries to conduct high-standard police work. Strengthening border management in third countries and combating people smuggling and irregular migration are additional goals. As such, the rule of law and respect for human rights are to become an integral part of the police forces' work (EMN/BAMF 2018: 89).

### Cooperation with third countries within the framework of the Khartoum process

Within the framework of the 'Better Migration Management' project, Germany, France, Italy, the Netherlands and the UK support countries which participate in the Khartoum Process<sup>99</sup> (Ethiopia, Djibouti, Eritrea,

Kenya, Somalia, Sudan, South Sudan and Uganda as well as Egypt and Tunisia at regional level) between 2016 and 2019 with the aim of improving their migration management and preventing people smuggling and human trafficking in particular (GIZ 2019a). The Federal Ministry for Economic Cooperation and Development (BMZ) has allocated EUR 6 million and the EU Trust Fund for Africa (EUR 40 million; see Chapter 8.1.3) (GIZ 2019a) to fund this project with a total of EUR 46 million. The project is being implemented at four levels: harmonisation of the countries' migration policies and strengthening of regional co-operation, strengthening of institutions which combat human trafficking, support and protection for migrants, and information and advice to migrants (GIZ 2019a). In 2018, a number of projects were initiated and established in all of the above-mentioned countries, information centres were set up along the borders of Sudan and Ethiopia and capacity-building measures were implemented by the border authorities of both countries (GIZ 2019b: 3) Cooperation between the border authorities of Djibouti, Ethiopia, Kenya, Somalia, Sudan, South Sudan, Uganda and Tanzania was intensified and joint border patrols were carried out by several countries (GIZ 2019c: 1 et seq.).

The project has been criticised above all by civil society for being "too one-sidedly oriented towards tightening border controls and curbing irregular migration to Europe" (Angenendt/Kipp 2017: 3). Cooperation with third countries whose governments systematically violate human rights has also been criticised (Angenendt/Kipp 2017: 4). GIZ, which implements the project together with other partners, emphasises that the rights and protection of the migrants concerned are at the forefront of implementation (GIZ 2019a).

## 8.3 European Border and Coast Guard Agency (Frontex)

### 8.3.1 Background and general context

The European Border and Coast Guard Agency (Frontex) coordinates the operational cooperation of the EU Member States at the external borders of the EU, supports the Member States as a "service provider" for

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between EU Member States and nine African countries from the Horn of Africa and transit countries, as well as the European Commission, the African Union Commission and the European External Action Service. The objective is to establish a long standing dialogue on migration and mobility aimed at enhancing the current cooperation" (KOM 2015c).

<sup>99</sup> The Khartoum Process "is a regional dialogue on migration

training national border police officers for the purpose of harmonisation, produces risk analyses and provides the Member States with technical and operational support, specifically through joint operations or other services (“EUROSUR” information network, research and development, studies/recommended courses of action, etc.).

As such, Frontex is becoming increasingly important, influential and responsible at European level. This is being achieved, among other things, by significantly increasing the number of staff and new areas of responsibility (including increasingly support for return measures). On 18 September 2018 the European Commission tabled a proposal for the amendment of the regulation on the European Border and Coast Guard Agency. This proposal provides, amongst others, that a “standing corps” is made available to the agency, which continuously increases in size (from 2021 to 5,000, from 2024 to 7,000 and from 2027 to 10,000 staff (Deutscher Bundestag 2019k: 1; KOM 2019b: 2). The Federal Republic of Germany supports Frontex operations by deploying members of the Federal Police, the police forces of the Länder, the Federal Criminal Police Office and the customs administration (Deutscher Bundestag 2019k: 3). Since 2013, the agency’s independent Fundamental Rights Officer and the Consultation Forum on Fundamental Rights have been tasked with ensuring that fundamental rights are observed in all Frontex activities.

### 8.3.2 Developments in the EU context

#### Involvement in Frontex operations

In 2018, Germany sent Federal Police officers to participate in Frontex-coordinated operations for a total of around 240.480 hours. Overall, 919 police officers were deployed in Frontex measures throughout the year, on average 115 Federal Police officers took part in Frontex operations each day (BPOL 2019a: 5, 47). Most officers were deployed to Bulgaria, Greece, Italy, Croatia, Spain and Hungary (BPOL 2019: 16).

In 2018, the Federal Police also made technical equipment available to the Greek authorities in various Frontex operations such as two control and patrol boats for the Joint Operation 'Poseidon', ten patrol vehicles for the surveillance of the Bulgarian-Turkish external land border within the framework of the 'Flexible Operational Activities' Frontex operation, five patrol vehicles for the surveillance of the northern Greek external land border for the 'Flexible Operational Activities' Frontex operation and from

1 September to 31 October 2018, one police helicopter within the framework of the 'Indalo' Frontex operation for the surveillance of Spain's southern maritime borders (Deutscher Bundestag 2019l: 16; see also BPOL 2019a: 65).

In addition, Germany participated in several return measures coordinated by Frontex, involving several EU Member States and in some cases Norway and Switzerland. The target countries of the joint return measures which involved Germany were Albania, Bangladesh, Gambia, Georgia, Kosovo, Nigeria and Pakistan (Deutscher Bundestag 2019l: 17).

## 8.4 Visa Policy

### 8.4.1 Background and general context

In general, third-country nationals need a visa if they want to enter and stay in Germany. Short-term visa ('Schengen visa'), which are valid for stays of up to 90 days per 180-day-period, and transit visa are subject to EU legislative authority. The EU Visa Code (Regulation (EC) 810/2009) contains uniform rules for all Schengen member states. The list of countries whose nationals do not need a visa for short stays in

the Schengen area is also prepared at the EU level.<sup>100</sup> Third-country nationals who plan to stay in Germany for more than three months can apply for a national visa (D-type visa). (D-Visum).

#### Schengen visa

Schengen visa entitle their holder to stay in the Schengen area for up to 90 days during a 180-day period. They are issued by the Schengen member state which is the only or main destination or via which the holder enters the Schengen area (AA 2019b). They will in general have to apply for a visa to the responsible diplomatic mission before they travel to Germany. A Schengen visa does not entitle its holder to an economic activity during his or her stay. The responsible diplomatic mission decides at its discretion, on a case-by-case basis, “an entitlement to a Schengen visa does not exist” (AA 2019b). Several requirements need to be met by the applicants before the respective German foreign representation will issue the visa. These requirements include the following: “The purpose of

<sup>100</sup> A list of visa-free countries may be found on this website: <https://www.auswaertiges-amt.de/de/einreiseundaufenthalt/staatenlistevisumpflicht/207820> (19 July 2019).

the trip to Germany must be plausible and comprehensible, “the applicant must be in a position to finance his/her living and travel costs from his/her own funds or income”, “the visa holder must be prepared to leave the Schengen area before the visa expires” and the “documentary evidence must be provided to travel health insurance with minimum coverage of EUR 30,000 valid for the entire Schengen area” (AA 2019b; Article 31 para 1 of the Visa Code). It is also possible that a third person assures to cover all costs (so-called *Verpflichtungserklärung*) related to the trip in accordance with Sections 66 – 68 of the Residence act (AA 2019b). Furthermore, the applicant may not be considered to be a threat to public security and order (Article 32 para 1 Lit) a) vi) of the Visa Code).

The Visa Information System (VIS) provides a database, which all foreign representations of the Schengen States and border police at the external EU borders have access to. The database stores finger prints, passport photos and additional information on the visa applicants (KOM 2019c).

### National visa

Third-country nationals who want to work or study in Germany or stay in Germany for a longer period for another purpose need a national visa. They will “in general have to apply for a visa to the responsible diplomatic mission before they travel to Germany. As a rule, approval by the appropriate foreigners preconditions for a national visa depend on the preauthority in Germany is required” (AA 2019b). The conditions for the residence title for the relevant purpose (residence or settlement permit, EU Blue Card, ICT card, or EU long-term residence permit). Once the third-country national has entered the country, he or she may apply to the foreigners authority for the necessary residence title. Citizens of Australia, Israel, Japan, Canada, New Zealand, the Republic of Korea and the United States of America can enter Germany without a visa and apply directly to the foreigners authority for the necessary residence title (AA 2019b). Moreover, national visa holders may move freely within the Schengen area for 90 days within any 180-day period (AA 2019b).

### Visa liberalisation

Several third countries were exempt from visa requirements for entry into the Schengen area in the past years. Most recently visa exemption came into force for Ukrainian citizens with a biometric passport on 11 June 2017. The European Commission amended the

EU Visa Regulation (Regulation (EC) 539/2001) accordingly (Regulation (EU) 2017/850)<sup>101</sup> (Rat der EU 2017b). Before this, on 27 March 2017, the visa exemption for Georgian nationals had entered into force (Regulation (EU) 2017/372)<sup>102</sup>. Visa exemption for North Macedonia (former EJR Macedonia), Montenegro and Serbia had already been introduced on 19 December 2009, for Albania as well as Bosnia and Herzegovina on 15 December 2010 and the Republic of Moldova on 28 April 2014. Eight countries are thus now exempt from visa requirements at the entry into the Schengen area (see Hoffmeyer-Zlotnik 2019: 17 et seq.). Visa liberalisation “can in turn have an impact on migration - both desirable (e.g. increasing short-term stays or business connections) and undesirable (e.g. increase in the number of overstayers<sup>103</sup> or of unfounded asylum applications). This is one reason why agreements to facilitate visa issuance and visa liberalisation are generally linked to readmission agreements (European Commission 2018b)” (Hoffmeyer-Zlotnik 2019: 15).

## 8.4.2 Developments in the EU context

### Reform of the EU visa policy

On 14 March 2018, the European Commission proposed a recast of the Visa Code (KOM 2018c). In addition to “faster and more flexible procedures”, “multiple-entry visas with longer validity”, “short-stay visas at external borders” for tourist purposes, “additional resources for a secure procedure”, “improved cooperation on irregular migration and return/readmission” was also proposed. With the latter “a new mechanism will be introduced to trigger stricter conditions for processing visas when a partner country does not cooperate sufficiently on the readmission of its own nationals who are staying in the EU irregularly” (KOM 2018d, the so-called visa lever). The proposed amendments were forwarded by the European Commission to the European Parliament and the European Council

101 Regulation (EU) 2017/850 of the European Parliament and of the Council of 17 May 2017 amending Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (Ukraine).

102 Regulation (EU) 2017/372 of the European Parliament and of the Council of 1 March 2017 amending Regulation (EC) 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (Georgia).

103 “Overstayers” are persons who do not leave the country after the expiry of the validity of a residence permit or after the expiry of the period during which they are entitled to reside in a country without a visa or other residence permit, and who are therefore irregular residents.

for discussion. The negotiations between the institutions on the Commission proposals were still ongoing at the end of 2018 (KOM 2019d: 47).

### European Travel Information and Authorisation System (ETIAS)

In October 2018, the so-called European Travel Information and Authorisation System (ETIAS) was introduced with the entry into force of European Regulation (EU) 2018/1241<sup>104</sup> (KOM 2019: 39). The aim of ETIAS is to ensure that third-country nationals who have been able to enter the Schengen area without a visa until now (2018: 61 countries), will in future have to apply for an ETIAS visa and will be required to undergo a detailed security check in this context. Applications are made online, cost EUR 7 and are fully automated, with the data that is entered being “automatically cross-checked with EU and relevant Interpol databases to determine whether there are grounds for refusing travel authorisation. If no hits or other elements requiring further analysis are displayed, the travel authorisation is issued automatically and promptly. [...] When a hit or an element requiring further analysis is displayed, the request is processed manually by the competent authorities. In this case, the ETIAS central office will first check whether the information in the application file corresponds to the data that resulted in a hit. If this is the case or if there are still doubts, the application is processed manually by the national ETIAS unit of the competent Member State” (Europäischer Rat 2018b). The system should be operational by the end of 2020 (KOM 2019d: 39) or 2021 (KOM 2019f).

### Reform of the Common Visa Information System (VIS)

On 16 May 2018, the EU Commission presented a reform proposal for a revised Regulation on the Common Visa Information System (VIS) (KOM 2018e). “Biometric data, in particular fingerprints, are cross-checked for identification and verification purposes via the VIS, which links the consulates of the Member States worldwide and all external border crossing points” (KOM 2018e: 1). The proposal provides, inter alia, for interoperability between VIS, ETIAS (see above) and the entry/exit system (EES) on a single platform; for the introduction of a detector for multiple identities in order to better combat identity fraud; and for the European Search Portal (ESP) to allow “results from different systems to be obtained from a

single search” (KOM 2018e: 2). This would, however, require the rules on visa processing to be changed; meaning that, in future, the data of persons holding visas and residence permits for longer stays (longer than 90 days) would also be stored, making it easier for security and law enforcement authorities to have access to data on this category of persons (KOM 2018e: 4).

The European Commission submitted the proposal to the European Parliament and the European Council, which have been discussing it ever since. The negotiations between the institutions on the Commission proposals were still ongoing at the end of 2018 (EUR-Lex 2019).

### Visa liberalisation for Kosovo

On 18 July 2018, the European Commission confirmed the assessment made in its report on Kosovo 2018 (KOM 2018f) that Kosovo fulfils all the conditions for granting the visa waiver. The European Commission recommended visa liberalisation for Kosovo to the European Parliament and the European Council. Previously, Kosovo had signed a border agreement with Montenegro in March 2018, thus fulfilling the last of two open criteria for visa liberalisation since 2016 (KOM 2018g). By the end of the 2018 reporting year, the negotiations between the institutions on the Commission proposals on this issue had not yet been concluded (see Europäisches Parlament 2018b).

<sup>104</sup> Regulation (EU) 2018/1241 of the European Parliament and of the Council of 12 September 2018 amending Regulation (EU) 2016/794 for the purpose of establishing a European Travel Information and Authorisation System (ETIAS).

# 9 Return migration

## 9.1 Background and general context

Return policy is a control instrument in migration policy. It aims at making those who have no right of residence and are therefore obliged to return leave the Federal or European Union territory. An obligation to leave the country may stem from the rejection of an asylum application or from the expiration of a residence title or the period for which a person may legally stay without a visa.

Return policy includes measures to promote voluntary return<sup>105</sup> or onward migration and reintegration as well as measures of forced return (e.g. removal following unauthorised entry or removal). Voluntary return takes precedence over forced return, as set forth both in national law (see, for example, Section 58 subs. 1 of the Residence Act) and in European law (Directive 2008/115/EC on return). That is why persons who are obliged to leave the country are usually granted between seven and 30 days to leave voluntarily. Only after that period will a forced return take place. The responsibilities in the area of voluntary and forced return are divided between the Federal Government and the Federal Länder, with forced returns being regulated in much greater detail at the Federal level than voluntary returns (see Grote 2015: 22).

### 9.1.1 Voluntary return and assisted voluntary return

The REAG programme, which is funded by the Federal Government and the Länder, was launched in 1979 and expanded by the GARP<sup>106</sup> programme in 1989.

<sup>105</sup> The term “voluntary return” is often regarded as inappropriate, as the persons who are obliged to leave the country usually do not have any legal alternative, which means that they do not return “voluntarily” in the strict sense of this word (SVR 2017: 7). However, from the government’s vantage point the return is “voluntary” because no coercive means are used and the persons may leave Germany voluntarily within a given period of time; in other words, the obligation to leave the country is not immediately enforced (SVR 2017: 7). Since the term “voluntary return” is commonly used in residence-law discussions about persons who are obliged to leave the country as an opposite to forced return (removal following unauthorised entry or removal), it is used in this report as well.

<sup>106</sup> REAG: Reintegration and Emigration Programme for Asylum-Seekers in Germany; GARP: Government Assisted Repatriation

It is the most important programme for the promotion of voluntary return in Germany. The REAG/GARP programme is run by IOM and offers, in addition to paying travel costs, travel aid (REAG) and, if applicable, start-up aid for reintegration (GARP), with the amount of the assistance depending on the country of origin (REAG/GARP-Programm 2018). Since 1 February 2017, the ‘StarthilfePlus’ programme complements the REAG/GARP programme and offers financial support (see Chapter 9.2.1). In addition, there are numerous transnational, European, Federal, Land and local projects to promote return to and reintegration in the country of origin and offer support in addition to and beyond REAG/ GARP. Some of them focus on certain (vulnerable) target groups, specific regions of origin or types of assistance or return preparation measures (for a list of the relevant institutions see Grote 2015 and SVR 2017). For example, several Länder offer for example travel aid to persons from the western Balkan countries, who are not eligible for REAG/GARP support in 2018.

All branch offices of the Federal Office for Migration and Refugees offer standardised return information to asylum applicants. This information also refers to return advice provided by the Länder and the associations of the non-statutory welfare. Most Federal Länder offer voluntary return counselling in the arrival and reception centres and at the foreigners authorities. Moreover, there is independent counselling on voluntary returns at the Land level, for example by associations of the non-statutory welfare. An overview of counselling options and assisted voluntary return programmes can be found on the website [www.returningfromgermany.de](http://www.returningfromgermany.de), which the Federal Office for Migration and Refugees developed in cooperation with IOM. The portal includes information on the return and reintegration programmes offered at the national level as well as information on programmes in the Länder. In addition, contact details of state and non-state counselling centres are available on the portal.

In addition, the Federal Office for Migration and Refugees offers initial information on voluntary departure as well as on return and reintegration programmes in German and English via a nationwide return hotline

Programme; for more details on REAG/GARP and other transnational, federal, state and local return programmes see Grote 2015.

that can be reached via the central telephone number of the Federal Office's Service Centre<sup>107</sup>. This is intended to supplement the services offered by the return counselling centres and to make information more easily accessible (BAMF 2017d).

### 9.1.2 Forced returns

In addition to measures supporting voluntary return, there are a number of ways for the authorities to enforce the obligation to leave the country, namely removal following unauthorised entry and removal (please see the

<sup>107</sup> Telephone number of the Federal Office's Service Centre: +49(0)9119430. It is available from Monday to Friday (between 9:00 am and 3:00 pm).

infobox for more information on the terms). The requirement to leave is enforceable if the period granted for departure has passed and no appeal which stays removal is possible anymore. In addition, removal, removal following unauthorised entry and expulsion result in a ban on entry and residence pursuant to Section 11 of the Residence Act (see Hoffmeyer-Zlotnik 2017: 49 et seq.).

If an asylum application is rejected, the removal warning is issued together with the decision by the Federal Office for Migration and Refugees. If a foreigner is to be transferred to a safe third country<sup>108</sup> or to a coun-

<sup>108</sup> 'Safe third countries' are the Member States of the European Community as well as Norway and Switzerland, where the compliance with the Geneva Convention and the Human Rights Convention is guaranteed. Persons who enter Germany from a 'safe third country' cannot invoke the basic right to asylum (Section 26a of the Asylum Procedure Act).

#### Info box: Forced returns

- **Return** is a general term which covers all measures to end or prevent a stay in a country. It is often used to denote that the return is not voluntary or autonomous. The term is mainly used in the context of EU law (see Article 3 para 3 of the Return Directive; see also SVR 2017: 10).
- **Removal / deportation** (Section 58 of the Residence Act) means that a foreigner's obligation to leave the country is enforced using coercive measures. It requires that the obligation to leave is enforceable and that the foreigner has not voluntarily left the country during the period granted for this purpose or that supervision of the departure appears necessary.
- **Removal** following unauthorised entry (Section 57 of the Residence Act) is a measure which immediately ends the stay of a foreigner who is intercepted in conjunction with an unlawful entry near the border (SVR 2017: 10). Such a removal can only take place if the person concerned has not applied for asylum and if removal is not prohibited. If the foreigner entered Germany irregularly from another EU Member State, s/he will be removed to that state. In contrast to a 'regular' removal, a removal following unauthorised entry does not require a warning or the granting of a period for voluntary return (Hailbronner 2017a: 359); in addition, any legal remedies usually do not have a suspensory effect (see Chapter 7.2.2).
- **Refusal of entry** (Section 15 of the Residence Act) takes place at the border and thus does not end, but prevent a stay in Germany. Persons can be refused entry at the border if they enter the country without authorisation or if they do not comply with the requirements of entry.
- **Expulsion** (Sections 53 - 56 of the Residence Act) is not an actual procedure, but an administrative act to terminate the lawfulness of the foreigner's residence in Germany and create an obligation to leave the country. Foreigners whose stay endangers public safety and law and order or the interests of the Federal Republic of Germany can be expelled.
- A **removal order** pursuant to Section 58a of the Residence Act contains both an expulsion order and the relevant order of enforcement. It can serve as grounds for detention if the removal cannot be enforced immediately (Section 62 subs. 3 no. 1a of the Residence Act; Kreienbrink 2007: 124). This is an exceptional provision for particularly dangerous situations, which permits the supreme Land authorities or the Federal Ministry of the Interior to remove a foreigner "in order to avert a special danger to the security of the Federal Republic of Germany or a terrorist threat" (Section 58a subs. 1 first sentence of the Residence Act).

try responsible for processing the asylum application under the Dublin Procedure, the Federal Office for Migration and Refugees shall order his or her removal to this country as soon as it has ascertained that the removal can be carried out (Section 34a subs. 1 first sentence of the Asylum Act). If a foreigner is obliged to leave the country because his or her residence title has expired, been withdrawn or got lost, the competent foreigners authority shall issue the return decision (see Section 50 subs. 1 of the Residence Act; Section 59 subs. 1 first sentence of the Residence Act in conjunction with Section 71 subs. 1 of the Residence Act).

The Länder are responsible for the preparation of forced returns, including the provision of travel documents and the order to detention to prepare removal. “The return procedure as such, i.e. the physical removal from the Federal territory, is conducted by the border authorities, i.e. usually the Federal Police (Section 71 subs. 3 no. 1d of the Residence Act)” (EMN/BAMF 2016: 15). The provisions on terminating a foreigner’s stay in Germany are often implemented differently, depending on the Land or foreigners authority which is responsible (SVR 2017: 33 et seq.). In order to improve the cooperation between the Federal Government and the Länder and to increase the coherence in terms of return measures, the Repatriation Support Centre (ZUR), which is based in Berlin, was established in 2017. The Repatriation Support Centre coordinates the operative efforts of the Federal and Land authorities in the areas of both voluntary and forced returns. For example, it supports the Länder in organising collective removals or procuring passport substitutes for return purposes (Deutscher Bundestag 2017g: 3). In addition, coordination in the field of voluntary returns is improved. The Repatriation Support Centre is run by the Federal Ministry of the Interior (IMK 2017: 8).

In order to facilitate and accelerate return measures the Federal Government has signed readmission agreements or other non-binding declarations with 31 countries of origin specifying the obligation to readmit their own nationals (as of June 2018)<sup>109</sup>. Furthermore, the agreements signed in recent years typically include a requirement, under certain conditions, to admit and transfer those required to depart who are not nationals of one of the respective contracting parties (third-country nationals and stateless persons). More recent agreements and declarations also

include the option to conduct removals with passport substitutes issued by the EU, which means that it is no longer necessary to request passport substitutes from the country of destination (Hoffmeyer-Zlotnik 2017: 35). One example is an agreement with Afghanistan signed in October 2016. In order to provide incentives for a better co-operation of third countries in the area of readmissions, the EU has offered additional financial support in other areas (“more for more”) (BMI 2016). Alongside the Federal Republic, the EU has also signed readmission agreements with numerous third countries (Deutscher Bundestag 2018x: 4).

In addition, Germany participates in several other exchange and cooperation networks in the area of forced returns. The EURINT<sup>110</sup> network, which consists of 27 EU Member States and Schengen States, and the European Border and Coast Guard Agency (Frontex; KOM 2019e). In Germany, the Federal Police is the FRONTEX Contact Point. Moreover, a Return Expert Group (REG) has been established within the European Migration Network (EMN); its members come from the EU Member States and Norway. This is where issues of voluntary and forced return and reintegration are discussed and practical experience is exchanged.

### 9.1.3 Reintegration

The return programmes are complemented by a number of programmes that support reintegration in the country of origin.

In Kosovo, the return and reintegration project ‘URA’ offers social counselling, job placement services and psychological care as well as financial emergency support and longer-term reintegration offers for returnees. This is a joint project run by the Federal Government and several Länder (for more details see Chapter 10.2).

The European Return and Reintegration Network (ERRIN), which replaced the predecessor project European Reintegration Network (ERIN) on 1 October 2018, is an international return and reintegration programme involving 15 EU Member States and two Schengen States led by the Netherlands in which Germany participates (see Chapter 9.2.1).

Since 1 February 2017, persons receiving support under the REAG/GARP programme have also been able to benefit from the ‘StarthilfePlus’ programme,

<sup>109</sup> A list of Germany’s the bilateral readmission agreements (as of June 2018) is accessible on the Website of the Federal Interior Ministry: [https://www.bmi.bund.de/SharedDocs/downloads/DE/veroeffentlichungen/themen/migration/rueckkehrfluechtlinge.pdf?\\_\\_blob=publicationFile&v=3](https://www.bmi.bund.de/SharedDocs/downloads/DE/veroeffentlichungen/themen/migration/rueckkehrfluechtlinge.pdf?__blob=publicationFile&v=3) (7 June 2019)

<sup>110</sup> European Integrated Return Management.



which also includes a reintegration component. The amount of support received depends on when the return decision is taken (IOM/BAMF n.d.). The 'StarthilfePlus' programme 2018 includes a graduated incentive system whereby early return in the asylum procedure involves a higher amount of support for return than for persons whose asylum claim has been rejected.

## 9.2 National developments

### 9.2.1 Voluntary returns and reintegration

#### Statistics

In 2018, 15,941 persons who returned voluntarily (2017: 29,522) received support under the REAG/GARP programme. This corresponds to a decrease of 46% compared to 2017 following a decline of 45.3% the previous year (2016: 54,006 assisted departures). However, the number of departures assisted under REAG/GARP in 2016 was particularly high, also compared to the number of removals (see Figure 5), which can be explained primarily by the high proportion of returnees who are nationals of the Western Balkan countries. Since 2016, significantly fewer nationals have arrived from these countries meaning that the number of returnees to these countries has also decreased since then. In 2018, 5,184 persons left the federal territory via the federal 'StarthilfePlus' programme (2017: 10,000 assisted departures). These returns are included in the total number of assisted returns under the REAG/GARP programme, as GARP funding is a prerequisite for StarthilfePlus support (IOM 2017).

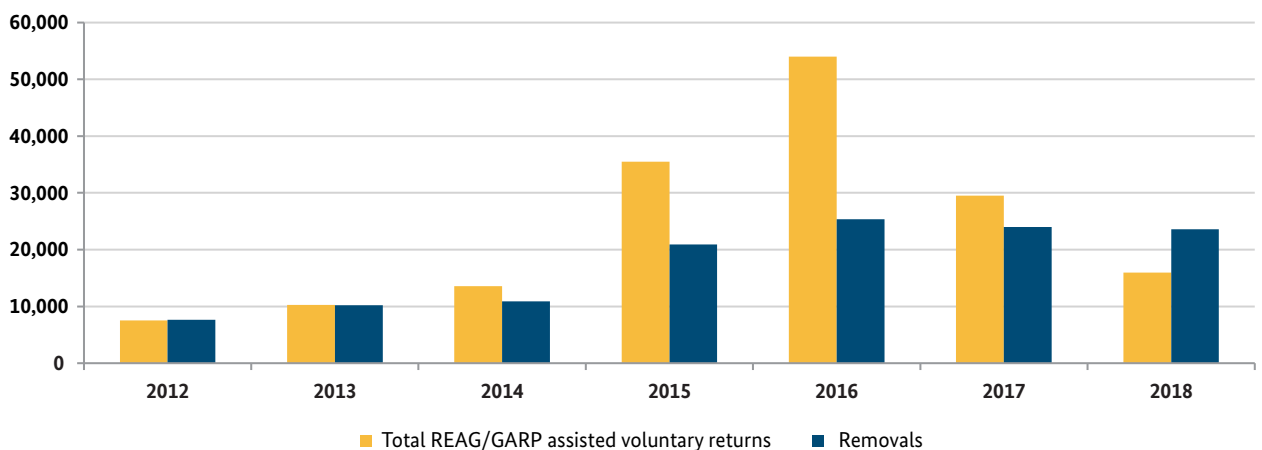
In 2018, the number of removals was higher than the number of supported voluntary returns under the REAG/GARP programme for the first time since 2012. Whereas the number of voluntary departures assisted each year has always been higher than the number of removals since 2012, in 2018 the number of removals carried out was 48% higher than the voluntary departures supported (see Figure 5). In 2017, the number of voluntary departures assisted was around 23.2% higher than the number of removals made.

In 2018, 1,802 of the persons assisted under the REAG/GARP programme were Iraqi nationals, 1,557 Albanian, 1,381 Russian, 1,239 North Macedonian and 1,144 Serbian. While there are comprehensive statistics available on returns supported under the REAG/GARP programme, there are no complete figures available on returns supported by Länder or local programmes. The number of persons who leave Germany without any support whatsoever is not registered either (Hoffmeyer-Zlotnik 2017: 27 et seq.).

#### 'Your country. Your future. Now!' campaign - expansion of the 'StarthilfePlus' campaign

In the period between 15 September and 31 December 2018, the Federal Government extended the 'StarthilfePlus' programme to include the campaign 'Your country. Your future. Now!'. The incremental support within the framework of 'StarthilfePlus' for migrants without prospects of staying was supplemented by a twelve-month housing subsidy worth up to EUR 3,000 during the period of the campaign. For example, families were eligible to receive "benefits in kind, for example for rent, construction and renovation work or the basic equipment for the kitchen or bathroom, up to a value of EUR 3,000, individuals up

Figure 5: REAG/GARP departures and removals (2012 to 2018)



Source: IOM Germany, BAMF

to a value of EUR 1,000” (BMI 2018l: 1). Grants were ultimately awarded to more than 600 people, including returnees from Iraq, the Russian Federation, Iran, Armenia, Afghanistan, Azerbaijan and other countries (Deutscher Bundestag 2019m: 3).

The campaign 'Your country. Your future. Now!' campaign met with some harsh criticism after its initiation and a widespread poster campaign launched by the Federal Ministry of the Interior from civil society actors, opposition parties, the media as well as from many migrants who in principle were not the target group of the campaign but felt the poster design included them “because the posters gave the impression that migrants were not welcome in Germany and should generally be urged to leave” (Deutscher Bundestag 2019m: 1; Van Laak 2018). The Federal Ministry of the Interior then issued a press release stating that “the campaign was only aimed at persons who have no prospects of remaining” and that “if persons such as skilled foreign workers or German nationals with a migration background felt the campaign was aimed at them, this had certainly not been intentional” (Deutscher Bundestag 2019m: 8).

## 9.2.2 Forced return

### Statistics

In 2018, Germany carried out 23,617 removals, 2,497 removals following unauthorised entry and 12,079 refusals of entry. The figures for removals and removals following unauthorised entry also include 7,102 Dublin transfers conducted in 2018. The number of removals and refusals of entry thus remained comparatively steady (see Table 8 and figure 6), whereas the number of refusals of entry rose by 46.3%. The five most frequent nationalities among removed persons were Albanian, Serbian, Kosovar, Georgian and North-Macedonian.

### New readmission agreement with Guinea

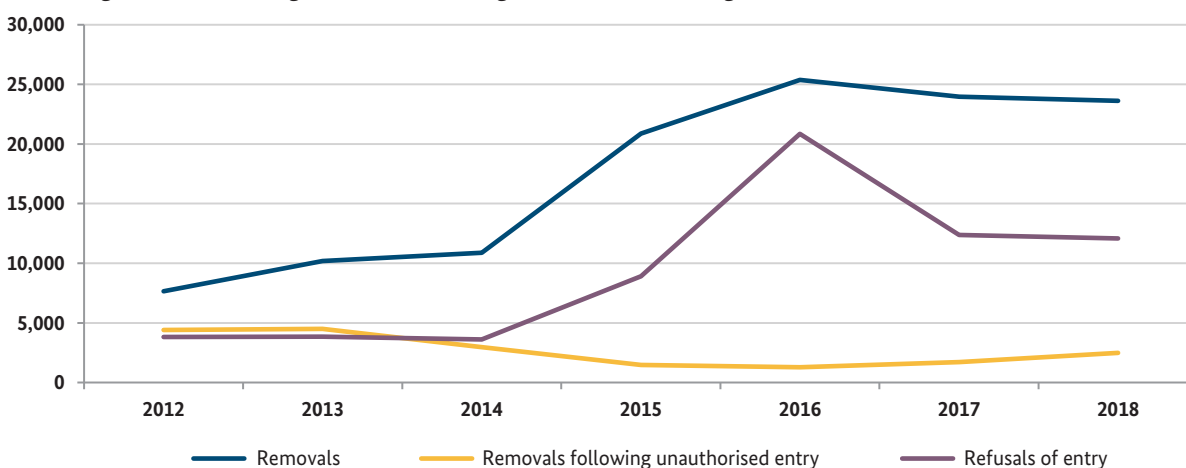
Germany and Guinea signed a readmission agreement on 15 January 2018 (BMI 2019e: 1). The Federal Government considers such readmission agreements to be an “important element of an effective return policy”, but also notes that their importance should not be “overestimated” (Deutscher Bundestag 2018x: 1 et seq.). On the one hand, such agreements reinforce “the already international legal obligation of all countries to readmit their own nationals”. On the other hand, these agreements “are not a guarantee for

**Table 8: Number of enforced removals, removals following unauthorised entry and refusals of entry (2012 to 2018)**

	2012	2013	2014	2015	2016	2017	2018
<b>Removals</b>	7,651	10,198	10,884	20,888	25,375	23,966	23,617
<b>Removals following unauthorised entry</b>	4,417	4,498	2,967	1,481	1,279	1,707	2,497
<b>Refusals of entry</b>	3,829	3,856	3,612	8,913	20,851	12,370	12,079

Source: Deutscher Bundestag 2013b, 2014, 2015a, 2016c, 2017p, 2018d, 2019f

**Abbildung 6: Abschiebungen, Zurückschiebungen und Zurückweisungen (2012 bis 2018)**



Source: Deutscher Bundestag 2013b, 2014, 2015a, 2016c, 2017p, 2018d, 2019f

improvement in cooperation on readmission in practical terms". "On the contrary, intergovernmental practice has shown that even mere arrangements made at administrative level can be more effective than formal agreements. The decisive factor here is therefore not so much the concrete form of the arrangement or the agreement with the respective country of origin but the fact that concrete, reliable agreements have been concluded in the first place" (Deutscher Bundestag 2018x: 2).

#### Arrangement for simplified return with the Republic of Moldova

On 26 September 2018, an agreement was also signed between Germany and the Republic of Moldova "on the application of a simplified procedure for the re-admission of Moldovan nationals" (BMI 2018l: 1). The core of the agreement is the simplified issuing of EU laissez-passer documents by the foreigners authorities, even if the returnees do not have passport documents. "There is no longer any need for an elaborate procedure to obtain a passport substitute" (BMI 2018l: 1).

#### Bavarian State Office for Asylum and Return

On 11 July 2018, the Bavarian Parliament adopted the 'Act establishing the Bavarian State Office for Asylum and Return' (Gesetz zur Errichtung des Bayerischen Landesamts für Asyl und Rückführungen) (STMI 2018). On 1 August 2018, the Bavarian State Office for Asylum and Removals (Landesamt für Asyl und Rückführungen (LfAR)) commenced its work. Since then "the tasks in the area of return have been centrally bundled in a competent authority throughout Bavaria" (STMI 2019c).

## 9.3 Developments in the EU context

### ERRIN – European Return and Reintegration Network

Since June 2018, the European Return and Reintegration Network (ERRIN) has replaced the predecessor project European Reintegration Network (ERIN), with the new programme running until May 2020. This is an international return and reintegration programme involving 15 EU Member States and Schengen States<sup>111</sup> under the leadership of the Netherlands, in which

Germany participates and which is largely financed by the Asylum, Migration and Integration Fund (AMIF) (ICMPD 2019; BAMF/IOM 2019).

The following reintegration assistance is eligible for funding under the programme:

- Counselling after arrival
- Vocational qualification measures, help in finding a job
- Support for business start-ups
- Basic housing equipment
- Advice and accompaniment to appointments at public authorities, medical and charitable institutions (BAMF/IOM 2019).

The funding was offered to returnees from Germany in 13 countries of origin in 2018: Ethiopia, Afghanistan, Bangladesh, Gambia, Ghana, India, Iraq, Morocco, Nigeria, Pakistan, Russian Federation, Sri Lanka, Ukraine (BAMF/IOM 2019). Since 1 January 2019 the ERRIN return funding is also open to Armenian returnees. In the case of voluntary returns, individuals could receive up to EUR 2,000 in benefits in kind, families up to EUR 3,300 in the case of voluntary departures, with vulnerable persons receiving a one-off payment of an additional EUR 500. Persons who are forced to return could be eligible for funding of up to EUR 1,000 (BAMF/IOM 2019). In case of need, departure costs can also be financed from funds under the REAG/GARP return programme (see Chapter 9.1.1).

### EU migration and mobility partnerships, common agendas on migration and mobility

Many EU instruments, programmes and measures also have return policy components, but - as in Germany - they sometimes overlap with development policy programmes (see Chapter 11.3).

<sup>111</sup> Austria, Belgium, Denmark, Finland, France, Germany, Greece, Luxembourg, Malta, the Netherlands, Norway, Spain, Sweden, Switzerland and the United Kingdom.

# 10 Human trafficking

## 10.1 Background and general context

The EU Directive on preventing and combating trafficking in human beings and protecting its victims<sup>112</sup> was implemented by the Act on Improving Measures to Combat Human Trafficking<sup>113</sup>, which entered into force on 15 October 2016. This Act entailed sweeping amendments to the criminal law provisions on human trafficking. The definition of the crime as set out in Section 232 of the German Criminal Code is similar to the international definition of human trafficking; the recruitment, transport, referral, harbouring or sheltering of persons who are to be exploited is punishable by law. In addition, the victims must be either in an economic or personal predicament or below 21 years of age or helpless because they are in a foreign country (Section 232 of the German Criminal Code). The German Criminal Code differentiates between different types of exploitation, namely forced prostitution (Section 232a of the Criminal Code), forced labour (Section 232 of the Criminal Code), labour exploitation (Section 233 of the Criminal Code) or exploitation for the purpose of begging, for the purpose of committing criminal offences or for the purpose of organ trafficking (Section 232 subs. 1 first sentence letters c and d and third sentence of the Criminal Code).

The Federal Office for Migration and Refugees has employed specially commissioned case officers during the asylum procedure for victims of human trafficking at its branch offices since 1996. The special case officers are involved in the decision on the asylum application. Some rules of the asylum procedure may be waived for victims of human trafficking, for example the automatic redistribution or a transfer under the Dublin procedure, and the victims may be housed in particularly protected apartments.

Moreover, foreign victims of human trafficking may be granted a residence permit pursuant to the humanitarian special regulation of Section 25 subs. 4a of the Residence Act, even if they are enforceably required

to leave the Federal territory, provided that the stay of the foreigners is considered to be appropriate in connection with criminal proceedings, that the foreigners have broken off contact to the persons accused of having committed the criminal offence and that the foreigners have declared their willingness to testify as a witness in the criminal proceedings relating to the offence. Such a residence permit is initially granted for one year and may be extended on humanitarian or personal grounds once the criminal proceedings are over (Section 25 subs. 4a third sentence of the Residence Act). In addition, victims of human trafficking are granted at least a three-month period for reflection and recovery, during which no residence-related actions are taken, regardless of whether or not they actually testify in court later on (Section 59 subs. 7 of the Residence Act).

Various organisations and working groups deal with the issue and/or take care of the victims of human trafficking. The 'Federal Government and Länder working group on human trafficking' coordinates the fight against trafficking in women in particular (BMFSFJ 2016). It consists of representatives of the relevant Federal Ministries, the Federal Criminal Police Office, the Federal Office for Migration and Refugees, Länder representatives and non-governmental organisations. The tasks of the working group include "analysing the specific problems associated with combating human trafficking" and "drawing up recommendations and, if necessary, joint campaigns to combat human trafficking" (BMFSFJ 2016). The work performed by the working group includes providing advanced training for security authorities, developing standards of training and advanced training in the area of human trafficking for the purpose of sexual exploitation.

In order to coordinate the fight against human trafficking for the purpose of labour exploitation more effectively, the 'Federal government and Länder working group on combating human trafficking for the purpose of labour exploitation' was established in February 2015 and is based at the Federal Ministry of Labour and Social Affairs. The working group aims to improve cooperation between the Federal Government and the Länder as well as between ministries, international organisations, trade unions and civil society actors (BAFzA 2019). The Federal Länder working group has in turn given rise to the 'Service Agency against Labour

<sup>112</sup> Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.

<sup>113</sup> BGBl. 2016 Part I No. 48 p. 2226

Exploitation, Forced Labour and Trafficking in Human Beings', which aims to "establish and expand cooperation structures against labour exploitation, forced labour and trafficking in human beings nationwide and thus strengthen competences within the competent bodies' and to this end offers training courses, prepares information online<sup>114</sup> and promotes international exchange (Servicestelle gegen Zwangsarbeit 2019).

In addition, specialist counselling centres to victims play an important role. Victims of human trafficking often do not file a complaint unless they are accompanied by counsellors from a specialist counselling centre.

Under the Victims Compensation Act, victims of violence receive the same benefits as victims of war, independently of any other welfare benefits. The Federal Ministry of Labour and Social Affairs regularly updates and publishes a brochure titled 'Assistance for Victims of Violence' as a handout for police officers and special victim support services so that, for instance, victims of human trafficking can quickly and clearly be informed about any compensation that is available (BMAS 2016b).

The Federal Office for Family and Civil Society Functions (Bundesamt für Familie und zivilgesellschaftliche Aufgaben, BAFzA) has been operating the 'Violence against Women' helpline since March 2013. The helpline operates round the clock, 24 hours a day and 365 days a year. Victims and their friends or relatives can call the number 08000 116 016 to receive free and, if desired, anonymous advice on all forms of violence against women. It is also available to females who suffered violence during the flight or in shelters. The helpline

<sup>114</sup> Information portal of the service centre against labour exploitation, forced labour and human trafficking: <http://www.servicestelle-gegen-zwangsarbeit.de/> (25 July 2019).

provides information and advice in 17 languages<sup>115</sup> and a sign language service for the deaf and hearing impaired in order to deal with the specific situation of female refugees or female migrants (BAFzA 2019). Counselling is also provided via e-mail or a chat service (BAFzA 2019).

## 10.2 National developments

### Statistics

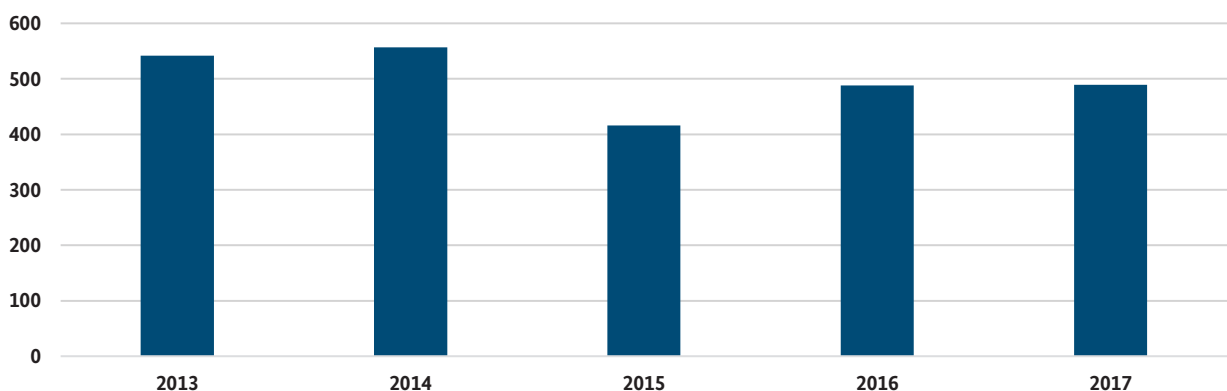
The number of officially registered victims of human trafficking for the purpose of sexual exploitation was 489 in 2017<sup>116</sup> (2016: 488; see Figure 7), however, this only includes victims in completed investigations (BKA 2018: 2).

Out of the 489 identified victims of trafficking for sexual exploitation, 484 were women (99%), 4 were men and one person was of unknown gender. The most frequent victims of trafficking for sexual exploitation were Bulgarian (114 persons, 23.3% of all trafficked persons) and Romanian nationals (109 persons, 22.3%). 94 persons were German nationals (19.2%). As in the preceding years, Nigerians accounted for the largest group of victims from third countries. After the number of victims had risen to 25 in 2015 and 2016, it climbed again to 39 (8%) in 2017. All in all, 51 victims of human trafficking for the purpose of sexual exploitation in completed investigations came from African countries (BKA 2018: 8).

<sup>115</sup> Albanian, Arabic, Bulgarian, Chinese, English, Farsi/Dari, French, Italian, Kurdish, Polish, Portuguese, Romanian, Russian, Serbian/Serb-Croatian, Spanish, Turkish, Vietnamese.

<sup>116</sup> The National Situation Report by the Federal Criminal Police Office on trafficking in human beings is usually published in autumn of the following year, meaning that no data were available for 2018 at the time this report was completed.

**Figure 7: Number of victims of human trafficking for the purpose of sexual exploitation (2013 to 2017)**



Source: BKA 2018

219 of the victims of human trafficking for the purpose of sexual exploitation identified were below the age of 21 (45,8%), 65 of whom were minors (2016: 96 victims of human trafficking were minors) – based on the 478 persons whose age was known (BKA 2018: 9).

In 2017, 327 investigations were conducted (2016: 363) in the area of human trafficking for the purpose of sexual exploitation involving a total of 523 registered suspects (2016: 524). As in the previous years, German nationals accounted for the largest group of suspects (131; 25%) in 2017, followed by Bulgarians (116; 22.2%) and Romanian (92; 17.6%) nationals. The highest number of third-country nationals among the suspects were Nigerian nationals, the number of which almost tripled to 29 compared to the previous year (2016: 11) (BKA 2018: 13).

### **Human trafficking for the purpose of labour exploitation**

In the area of human trafficking for the purpose of labour exploitation (Section 233 of the Criminal Code (Strafgesetzbuch)), 11 investigations were closed in 2017 (2016: 12) with 27 suspects being identified (2016: 27). In this context, 180 victims of trafficking for the purpose of labour exploitation were registered (2016: 48), rising sharply compared to the previous year (BKA 2018: 15). The victims of labour exploitation in 2017 came mostly from Macedonia (52 persons) and Latvia (39 persons). Out of the 180 identified victims of trafficking for the purpose of labour exploitation, 54 were male (BKA 2018: 16).

### **Exploitation for the purpose of begging**

The number of cases of exploitation in the practice of begging was included in the 2017 Situation Report for the first time. This was introduced as a separate offence in 2016 when the provisions governing trafficking in human beings were amended in the Criminal Code. In 2017, two proceedings involving two victims and two suspects respectively were registered (BKA 2018: 18).

### **Special Commissioners for the victims of human trafficking at the Federal Office for Migration and Refugees**

In 2018, the Federal Office for Migration and Refugees provided five training courses for almost 100 new special commissioners for victims of human trafficking.

# 11 Migration and development

## 11.1 Background and general context

A stronger interlinkage of migration and development policies has been a topic of international discussion since the early 2000s (Kraler/Noack 2017) and of German discussion since 2006/2007. For Germany, the frames of reference are the Sustainable Development Goals of the United Nations, which were adopted in 2015 and explicitly list migration as an element of development, and the Global Approach to Migration and Mobility (GAMM) of the EU, which has been developed steadily since 2005 and aims at maximising the positive contributions of migration and mobility to development (KOM 2018h).

Very different goals and interests may collide in the areas of migration and development policy. While migration policy predominantly focuses on managing migration flows and utilises instruments such as targeted recruitment or the promotion of returns to this end, development policy focuses on promoting structures in partner countries of development cooperation (Baraulina/Hilber/Kreienbrink 2012; Angenendt 2015).

Since 2015, refugee migration has become a more important topic of German development cooperation (Deutscher Bundestag 2017h: 114 et seq.; Sangmeister/Wagner 2017), leading to the assertion in the 15th Development Policy Report of the Federal Government of 2017: “Mitigating the structural causes of displacement over the medium to long term is a key task of development policy” (Deutscher Bundestag 2017h: 43).<sup>117</sup>

In addition, supported voluntary returns and reintegration (which are migration policy tools) were linked more closely to development cooperation instruments. While German development cooperation has been pursuing return promotion programmes for many years, these programmes were directed “mainly at migrants and refugees who were, however, qualified workers and wanted to return temporarily or permanently to their countries of origin. As refugee

migration and the number of asylum application rejections have increased considerably over the last few years, new target groups have come into focus: persons obliged to leave the country and to be removed, i.e. that did not leave voluntarily” (BAMF 2017e). This supposes a major shift of perspective within development cooperation.

At the same time, coping with refugee immigration within Germany itself was perceived as more of a development policy task. Certain expenses related to dealing with refugee immigration were counted towards German development policy spending, and numerous projects run by the Federal Ministry for Economic Cooperation and Development (BMZ) were directed at refugees in Germany (for example the ‘Returning to New Opportunities’ programme, see below). As a result, development support reached the threshold of 0.7% of gross national product (GNP) for the first time and thus met a target set by the United Nations in 1970 (BMZ 2017; OECD n.d.).

### Federal Ministry for Economic Cooperation and Development (BMZ)

The Federal Ministry of Economic Cooperation and Development (BMZ) is responsible for the drafting and promotion of the Federal Government’s development policy projects. The Federal Ministry for Economic Cooperation and Development cites the “sustainable fight against poverty and structural deficits in developing countries” as the goal of development policy, whereby “many causes of migration are also taken into account” (BMZ n.d.a). “German development policy sees migration [...] as a contribution to development and is committed to reducing the associated risks” (BMZ n.d.a). In addition, the Federal Ministry for Economic Cooperation and Development advocates “national and international framework conditions for migration that also take into account the needs of poor countries” (BMZ n.d.a). Migrants are regarded as “important cooperation partners for the Federal Ministry for Economic Cooperation and Development’s education work on development policy” because they are “particularly competent in reporting on their countries of origin and have the capacity to act as bridge-builders between countries” (BMZ n.d.a). Of particular relevance are the “measures to cope with the refugee

<sup>117</sup> Using development policy measures to mitigate migration pressures is a controversial issue among researchers (see Angenendt/Martin-Shields/Schraven 2017; Howden 2017).

crisis”, which focus primarily on the neighbouring countries of Syria, North Africa, West Africa, the Horn of Africa and South Sudan, the Central African Republic with its neighbours, Afghanistan, Pakistan, the Balkans and Ukraine (BMZ n.d.b).

The areas of intervention in 'Development cooperation in connection with flight and displacement' overlap and are intended to complement each other (BMZ n.d.c).

■ **First area of intervention - tackling the root causes of displacement**

The aim is “to improve people’s living conditions to such an extent that they will not be forced to leave their homeland” (BMZ n.d.c). As such, the Federal Ministry for Economic Cooperation and Development is helping countries in crisis to build and operate institutions that are based on the rule of law, it supports constructive and non-violent conflict management and finances projects undertaken by the Civil Peace Service ('Ziviler Friedensdienst (ZFD)'). Additional themes include employment and training schemes, upholding human rights, supporting fair trade, promoting environmental and social standards, food security and the improving infrastructure in its partner countries (BMZ n.d.c).

■ **Second area of intervention - stabilise host regions**

The measures are intended to create prospects for refugees and internally displaced persons (IDPs) in the host country and to help host regions and municipalities with supply and integration. They include development projects in the fields of employment, education and healthcare, investment in infrastructure and income-generating activities, support for government institutions and non-governmental organisations, financing measures to combat trauma and promote dialogue between the population and new arrivals (BMZ n.d.d).

■ **Third area of intervention - integration and reintegration of refugees, internally displaced persons and returnees**

The aim is to give refugees and internally displaced persons in host countries as well as returnees a basis for building a future for themselves in their countries of origin. Measures include meeting the immediate basic needs of refugees (food, water), cash-for-work measures, fostering the peace process and reconstructing schools and health centres. All activities are open to the inhabitants of host communities. Advice is also provided to some 3,000 migrants each year who are voluntarily returning from Germany to their home countries

with the focus being placed on helping them to re-integrate (BMZ n.d.e).

■ **Fourth area of intervention - promote voluntary return through the 'Returning to new opportunities' (Perspektive Heimat) programme**

The existing offers for returnees were expanded in 2017 and were harnessed in the 'Returning to new opportunities' (Perspektive Heimat) programme. The Federal Ministry for Economic Cooperation and Development supports voluntary return by financing projects in partner countries in which returnees and the local population receive advice and are placed in employment or education. Key issues include vocational training and employment, advice on start-ups and job interview training (BMZ n.d.f, see below.).

**Gesellschaft für Internationale Zusammenarbeit (GIZ) and Centre for International Migration and Development (Centrum für internationale Migration und Entwicklung)**

So-called implementing organisations are entrusted with the concrete implementation of development policy projects carried out by the Federal Ministry for Economic Cooperation and Development. GIZ is primarily responsible for the area of 'migration and development'. It sees itself as a “service provider for international cooperation for sustainable development and international educational work” (GIZ n.d.) and is active in around 120 countries worldwide (GIZ 2019d).

The Centre for International Migration and Development (CIM) is jointly run by GIZ and the Federal Labour Office. CIM concentrates on the following three issues: it sources and places experts from the EU – and other experts from outside Europe who have settled in Germany – in developing countries and emerging economies; offers a network for those who have migrated to Germany and who wish to support development in their country of origin and advises individuals and policy-makers on migration-related issues.

With the help of the 'Migration for Development' programme, the development-relevant contributions of migrants are to be strengthened in a total of 24 countries. Since 2017, in a further module, returnees have also been informed and helped to reintegrate into their countries of origin. Furthermore, the framework conditions for legal migration in selected countries of origin are to be improved (GIZ n.d.).

The 'Migration for Development' programme is being delivered in Albania, Ethiopia, Ecuador, Georgia,



Ghana, India, Indonesia, Jordan, Cameroon, Kenya, Colombia, Kosovo, Morocco, Nepal, Nigeria, Palestinian Territories, Peru, Senegal, Serbia, Tunisia, Ukraine and Vietnam and covers the following aspects:

- Knowledge transfer by sponsoring returnees who are skilled workers
- Promotion of development-relevant projects by diaspora organisations and short-term voluntary secondments of diaspora experts
- Support for business start-ups by returnees in their countries of origin
- Providing advice on work and training opportunities in the country of origin and on legal migration channels
- Advising governments and political institutions on migration policy and helping them to develop and implement migration strategies (GIZ n.d.).

The module 'Informed Return and Reintegration' ('Flight and Development Cooperation' area) was introduced at the beginning of 2017 as part of the Federal Ministry for Economic Cooperation and Development's programme 'Returning to new opportunities' and is intended to help migrants and refugees returning from Germany to reintegrate into their countries of origin. This module is being delivered in Afghanistan, Albania, Ghana, Iraq, Kosovo, Morocco, Nigeria, Senegal, Serbia and Tunisia (GIZ n.d.).

### Actors of return promotion

Promoting return has long been a tool of managing migration, which, however, had not fully been connected to development cooperation. There are large-scale programmes promoting return, such as the REAG/GARP programme, which has been in place for decades, and numerous other return and reintegration programmes at the EU, Federal and Länder level that, for example, offer start-up assistance or support and training before the return of third-country nationals required to leave Germany in order to facilitate their reintegration in the country of origin (see Chapter 9). The Federal Ministry of the Interior and the Federal Office for Migration and Refugees are key organisations in the area of migration policy and the implementation of nationwide programmes promoting return. Due to the increased interaction between migration and development policies in the field of displacement, GIZ and the Federal Office for Migration and Refugees have institutionally cooperated on individual return and reintegration projects since 2015 (for example with regard to the 'URA' return and reintegration project in Kosovo; see Chapter 11.2).

## 11.2 National developments

The Federal Government focused on three priorities in a bid to reduce the causes of migration in 2018: to prevent the causes of displacement, to reduce the existing structural causes of displacement and to provide support for people who have already fled in their regions of origin, transit countries and host countries. In particular, measures were carried out in countries of the Middle East, Africa and some Asian countries (Deutscher Bundestag 2018y: 6 et seq.).

### 'Returning to new opportunities' (Perspektive Heimat)

As part of the 'Returning to new opportunities' federal return programme, three new migration advice centres were set up in 2018 in Dakar (Senegal) in January 2018, in Erbil (Iraq) in April and in Kabul (Afghanistan) in May (BMZ 2018). This means that by the end of 2018, migration advice centres had been set up in ten countries<sup>118</sup>. Plans were afoot to set up additional migration advice centres in Egypt, Pakistan and Iraq (Baghdad) in 2019 (Deutscher Bundestag 2019n: 5). IOM advise returnees about their prospects for reintegration in their country of origin at the migration advice centres. To this end, information is provided, among other things, on admission to training and further education programmes as well as employment opportunities in the local labour market in the country of origin, but also on opportunities for legal migration to Germany and on the risks of illegal migration (Deutscher Bundestag 2018z: 3; GIZ 2019e). In this context, the programme website [www.build-your-future.org](http://www.build-your-future.org) was renamed [www.startfinder.de](http://www.startfinder.de) in 2018. The website is an information service provided by GIZ on behalf of the Federal Ministry for Economic Cooperation and Development and provides information to those interested in returning from eleven countries of origin in eleven languages.

The programme implemented by GIZ is intended to give people who leave Germany as part of their voluntary return a new opportunity to start life in their country of origin. In addition to the migration advice centres, counselling on return and reintegration is offered before they leave Germany. In addition, the programme is intended to support the "creation of prospects of remaining for the local, non-migrated population" (Deutscher Bundestag 2018z: 13). In addition to the migration advice centres, other measures include the areas of "vocational qualification, support for start-ups, legal advice/social support and support

<sup>118</sup> Afghanistan, Albania, Ghana, Iraq (Erbil), Kosovo, Morocco, Nigeria, Senegal, Serbia and Tunisia.

in the primary education sector for children and young people” (Deutscher Bundestag 2018z: 6). Moreover, projects by local and international civil society organisations are promoted in order to increase the opportunities and prospects of returnees (GIZ n.d.).

In 2018, EUR 11.6 million were earmarked in the Federal Government's budget to finance the migration advice centres (2017: EUR 15.5 million; Deutscher Bundestag 2018aa: 3). In addition, a further EUR 12 million were earmarked for measures in Germany in the 2018 financial year (2017: EUR 19.8 million) and EUR 26.4 million were earmarked for the support by civil society actors in the countries of origin (2017: EUR 21.2 million; Deutscher Bundestag 2018aa: 4).

The Federal Ministry for Economic Cooperation and Development allocated a total of EUR 150 million to GIZ for the years 2017 to 2020 for the reintegration of returnees. These funds will be used to finance the various components of the programme (in Germany and in the countries of origin), but also to open up existing development cooperation projects for returnees at local level (Deutscher Bundestag 2018aa: 9).

From July 2017 to July 2018, “around 142,000 persons were supported (all target groups of the programme: local people, internally displaced persons, refugees and returnees from Germany and third countries). The figure refers to all measures involved in the 'Returning to new opportunities' programme in the countries of origin: migration advice centres and extended German development cooperation programmes [...]. These measures include qualification measures, support in setting up a company, psychosocial support and placement in direct employment relationships” (Deutscher Bundestag 2018aa: 8). From mid-2017 to February 2019, around 13,000 persons (including over 2,000 returnees) found employment and more than 40,000 advisory sessions were held at the migration advice centres, including over 4,800 with returnees (GIZ 2019e).

### Middle East/Cash-for-work campaign

The 'Employment Offensive for the Middle East' launched in 2016 as part of the special initiative 'Fighting the Causes of Displacement, Reintegrating Refugees' continued in 2018, with the Federal Ministry for Economic Cooperation and Development allocating EUR 195 million (2017: EUR 231 million; 2016: EUR 200 million). The employment campaign aims to create job opportunities, income and prospects for refugees in Syria's neighbouring countries (Deutscher

Bundestag 2019o: 2). The programme creates employment measures (cash-for-work), which are based on the local minimum wage to enable workers to pay for rent, healthcare and clothing. The aim is to stabilise regions receiving Syrian refugees, such as Iraq, Jordan, Turkey and Syria itself: “In order to foster social peace, all activities are open to both refugees and the inhabitants of host communities” (BMZ n.d.g).

In 2018, measures were promoted in Jordan, Lebanon, Iraq, Syria and Turkey (BMZ n.d.h). As such, more than 68,800 jobs were created for refugees, internally displaced persons (IDPs) and inhabitants of host communities (as at: October 2018; 2017: 85,000; 2016: 60,000, Deutscher Bundestag 2019p: 2). Reconstruction in Iraq was a focal point in 2018 (BMZ n.d.h).

### 'URA' Kosovo

The 'URA' return and reintegration project in Kosovo reflects the stronger cooperation between migration and development policy in recent years. URA was launched in 2007 as an EU project and has been managed by the Federal Office for Migration and Refugees since 2009. The Federal Office for Migration and Refugees implements URA together with some Länder<sup>119</sup> and charitable organisations. It has been implemented by GIZ since 2016. It is currently the largest reintegration project of any Member State in the EU (BAMF n.d.).

'URA' offers reintegration and support services to returnees in Kosovo, which can be subdivided into immediate and long-term reintegration services, including social counselling, help with finding a job, psychological support and (if necessary) financial assistance (BAMF n.d.). Voluntary returnees are also eligible for start-up assistance. The project is limited annually and will run until 31 December 2019, after which it will be extended for another year (BAMF 2019a). In 2017, 2,200 people were registered and received initial counselling under the programme and 1,688 people received financial support (2016: 5,453 persons registered and received initial counselling, 1,809 persons received financial support).

<sup>119</sup> Baden-Württemberg, Berlin, Bremen, Lower Saxony, North Rhine-Westphalia, Saxony, Saxony-Anhalt, Schleswig-Holstein, Thuringia.

## 11.3 Developments in the EU context

### EU mobility partnerships and common agendas on migration and mobility

Mobility partnerships between the European Union and third countries are part of the EU's migration policy, the overarching principles of which were laid down in the Global Approach to Migration and Mobility (GAMM) in 2005. One focus of the GAMM is to ensure better reintegration of migrants into their countries of origin "in order to effectively promote the development of the countries of origin" (Hitz 2014: 2). In addition to integrating migration and development policy, the mobility partnerships represent for the Federal Government "an important instrument for containing irregular migration and combating human trafficking, maximising the impact of migration and mobility on development, better organising legal migration and promoting mobility as well as strengthening refugee protection" (Deutscher Bundestag 2015b: 2). Mobility partnerships are aimed at neighbouring EU countries (Kipp 2018: 8) and are based on four objectives, which include "facilitating legal migration and mobility, reducing or preventing irregular migration and human trafficking, promoting international protection and the external dimension of asylum policy, [and] making better use of migration and mobility for development" (Angeordnet 2012: 13; KOM 2018h).

To date, mobility partnerships have been concluded with Cape Verde (2008), Moldova (2008), Georgia (2009), Armenia (2011), Azerbaijan (2013), Morocco (2013), Tunisia (2014), Jordan (2014) and Belarus (2016). With the exception of Cape Verde, Azerbaijan and Belarus, Germany is involved in all mobility partnerships (KOM 2018i).

The so-called "Common Agendas on Migration and Mobility" (CAMM) are another instrument within the framework of the GAMM, which are aimed at cooperation with more remote countries (Kipp 2018: 8). Three such Common Agendas have been concluded so far: with Nigeria (2015), Ethiopia (2015) and India (2016) (KOM 2015b; Europäischer Rat 2016).

### EU migration partnerships

In 2018, the Federal Government strengthened the migration partnership with Niger in particular, in which development policy and migration policy measures are being increasingly integrated. At a meeting held with Nigerien President Mahamadou in August 2018, Chancellor Angela Merkel stressed that "the

fight against illegal migration could only succeed 'if we also give the population prospects for their own economic development and for the education of their children'" (Bundesregierung 2018). President Mahamadou, in turn, stressed that the number of irregular migrants from Niger has been reduced by "90% since 2016 - from about 100,000 people per year to 10,000" (Bundesregierung 2018). Germany has pledged a total of EUR 115.5 million in support to Niger for the years 2018 to 2020. In its fourth Progress Report on the Migration Partnership Framework last year, the European Commission had already declared the partnership with Niger a success: "The strengthening of border controls and measures against human trafficking have led to the arrest of traffickers and a significant increase in the assisted voluntary return of migrants from Niger to their countries of origin" (KOM 2017c).

Niger is one of five African countries, alongside Ethiopia, Mali, Nigeria and Senegal, with which so-called EU migration partnerships were concluded in 2016. The partnerships consist of short-term and long-term measures, the first of which are saving lives at sea and in the desert, combating trafficking in human beings, promoting return and creating legal access routes to Europe, and the long-term objectives, in particular combating the root causes of displacement (KOM 2016: 1). The partnerships complement existing agreements, such as the mobility partnerships (see above).

Since their introduction, the migration partnerships have been criticised by political and civil society actors on various occasions, inter alia, because of their focus on return policy measures and making development policy support in the respective partner countries contingent on the return of refugees and migrants (Terre des hommes Deutschland/Deutsche Welthungerhilfe 2019: 18; Bachmann 2019; Bensch 2017; NRO 2017). Non-cooperation can result in appropriate sanctions being imposed such as "suspending development cooperation measures" (Kipp 2019: 20).

## 11.4 Developments with an international dimension

### Global Compact for Migration / UN Migration Pact

The "Global Compact on Safe, Orderly and Regular Migration" adopted by the United Nations on 10 December 2018 (Vereinte Nationen 2018d: 1) also contains several measures relating to migration and development cooperation (see Objectives 19, 23; Chapter 2.2).

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# Abbreviations

AA	Federal Foreign Office (Auswärtiges Amt)
AAH-P	Training and equipment programme for foreign police forces (Ausbildungs- und Ausstattungsprogramm für ausländische Polizeikräfte)
ABH	Foreigners authority (Ausländerbehörde)
Abs.	Sub-section
A.d.A.	Author's note
ADS	Federal Anti-Discrimination Agency (Antidiskriminierungsstelle des Bundes)
aEP	maximised naturalisation rate (ausgeschöpftes Einbürgerungspotenzial)
AEUV	Treaty on the Functioning of the European Union (Vertrag über die Arbeitsweise der Europäischen Union)
AfD	Alternative for Germany (Alternative für Deutschland)
AGG	General Act on Equal Treatment (Allgemeines Gleichbehandlungsgesetz)
AG Rück	Return Working Group – sub-group of IMK (Arbeitsgruppe Rückführung; Unterarbeitsgruppe der IMK)
AKST	Anonymous health insurance card Thuringia (Anonymer Krankenschein Thüringen)
ALG	Unemployment benefits (Arbeitslosengeld)
AMIF	Asylum, Migration and Integration Fund (Asyl-, Migrations- und Integrationsfonds)
ASMK	Conference of Ministers and/or Senators for Labour and Social Affairs (Konferenz der Ministerinnen und Minister bzw. Senatorinnen und Senatoren für Arbeit und Soziales der Länder)
AsylbLG	Act on Benefits for Asylum Seekers (Asylbewerberleistungsgesetz)
AsylG	Asylum Act (Asylgesetz - formerly Asylverfahrensgesetz – AsylVfG)
AsylVfG	Asylum Procedure Act (Asylverfahrensgesetz)
AsylZBV	Ordinance on Determining Asylum Jurisdiction (Asylzuständigkeitsbestimmungsverordnung)
ATCR	Annual Tripartite Consultations on Resettlement
AufenthG	Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory (Residence Act) (Aufenthaltsgesetz)
AufenthV	Ordinance Governing Residence (Aufenthaltsverordnung)
AVwV	Administrative Regulation (Allgemeine Verwaltungsvorschrift)
AVwVAufenthG	General Administrative Regulation to the Residence Act (Allgemeine Verwaltungsvorschrift zum Aufenthaltsgesetz)
AWO	Workers' Welfare Association (Arbeiterwohlfahrt)
AZR	Central Register of Foreigners (Ausländerzentralregister)
AZRG	Act on the Central Register of Foreigners (Gesetz über das Ausländerzentralregister)
BA	Federal Labour Office (Bundesagentur für Arbeit)
BAFzA	Federal Office for Family and Civil Society Functions (Bundesamt für Familie und zivilgesellschaftliche Aufgaben)
BAMF	Federal Office for Migration and Refugees (Bundesamt für Migration und Flüchtlinge)
BayIntG	Bavarian Integration Act (Bayrisches Integrationsgesetz)
BayRS	Bavarian archive of law (Bayerische Rechtssammlung)
BeschV	Employment Regulation (Beschäftigungsverordnung)
BFM	Commissioner for refugee management (Beauftragte(r) für Flüchtlingsmanagement)
BGBI	Federal Law Gazette (Bundesgesetzblatt)
BIBB	Federal Institute for Vocational Education and Training (Bundesinstitut für Berufsbildung)
GDP	GDP
BKA	Federal Criminal Police Office (Bundeskriminalamt)

BLK IRM	Coordination Agency for 'Integrated Return Management' of the Federal Government and the Länder (Bund-Länder-Koordinierungsstelle zum Integrierten Rückkehrmanagement)
BMAS	Federal Ministry of Labour and Social Affairs (Bundesministerium für Arbeit und Soziales)
BMBF	Federal Ministry for Education and Research (Bundesministerium für Bildung und Forschung)
BMEL	Federal Ministry of Food and Agriculture (Bundesministerium für Ernährung und Landwirtschaft)
BMF	Federal Ministry of Finance
BMFSFJ	Federal Ministry of Family Affairs, Senior Citizens, Women and Youth (Bundesministerium für Familie, Senioren, Frauen und Jugend)
BMI	Federal Ministry of the Interior, Building and Community (Bundesministerium des Innern, für Bau und Heimat)
BMJV	Federal Ministry of Justice and Consumer Protection (Bundesministerium der Justiz und für Verbraucherschutz)
BMWi	Federal Ministry of Economics and Technology (Bundesministerium für Wirtschaft und Technologie)
BMZ	Federal Ministry for Economic Cooperation and Development (Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung)
BNE	Gross national income
BPB	Federal Agency for Civic Education (Bundeszentrale für politische Bildung)
BPOL	Federal Police (Bundespolizei)
BPolG	Federal Police Act (Gesetz über die Bundespolizei)
BQFG	Vocational Qualifications Assessment Law (Berufsqualifikationsfeststellungsgesetz)
bspw.	For example
BumF	Federal Association for Unaccompanied Minor Refugees (Bundesfachverband unbegleiteter minderjähriger Flüchtlinge)
BVA	Federal Office of Administration (Bundesverwaltungsamt)
BVerwG	Federal Administrative Court (Bundesverwaltungsgericht)
BVFG	Federal Expellee and Refugee Act (Bundesvertriebenen- und Flüchtlingsgesetz)
bzw.	respectively
c.	circa
CDU	Christian Democratic Union (German Political Party)
CIM	Centre for International Migration and Development (Centrum für internationale Migration und Entwicklung)
COI	Country of Origin (Herkunftsland)
CSU	Christian Social Union (German Political Party)
DAA	German Employee Academy (Deutsche Angestellten Akademie)
DAAD	German Academic Exchange Service (Deutscher Akademischer Austauschdienst)
DaZ	German as a second language (Deutsch als Zweitsprache)
DDR	German Democratic Republic (Deutsche Demokratische Republik)
DeuFöV	Ordinance on Job-Related Language Training (Verordnung zur berufsbezogenen Deutschsprachförderung)
DFIR	Franco-German Integration Council (Deutsch-Französischer Integrationsrat)
DGB	German Trade Union Confederation (Deutscher Gewerkschaftsbund)
d.h.	i.e.
DIK	German Islam Conference (Deutsche Islam Konferenz)
DIMR	German Institute for Human Rights (Deutsches Institut für Menschenrechte)
DJI	German Youth Institute (Deutsches Jugendinstitut)
DVB	Document and visa experts
DZHW	German Centre for Higher Education Research and Science Studies (Deutsches Zentrum für Hochschul- und Wissenschaftsforschung)
EASO	European Asylum Support Office (Europäisches Unterstützungsbüro für Asylfragen)
Ebd.	Ibid.



ECRE	European Council on Refugees and Exiles
EES	Entry/exit system
EFSD	European Fund for Sustainable Development (Europäischer Fonds für Nachhaltige Entwicklung)
EG	European Community (Europäische Gemeinschaft)
EGBGB	Introductory Act to the Civil Code (Einführungsgesetz zum Bürgerlichen Gesetzbuch)
EinbTestV	Ordinance on Naturalisation Tests (Einbürgerungstestverordnung)
EIP	External Investment Plan (EU-Investitionsoffensive für Drittländer)
EMN	European Migration Network
EMRK	European Convention on Human Rights (Europäische Menschenrechtskonvention)
EPS	Early Warning and Prevention System
ERIN	European Integration Network
ESF	European Social Fund (Europäischer Sozialfonds)
etc.	Et cetera
ETM	Emergency Transit Mechanism
EU	European Union
EuGH	European Court of Justice (Europäischer Gerichtshof)
EURINT	European Integrated Return Management
EURODAC	European Dactyloscopy (European fingerprint database)
Europol	European Police Office
EUROSUR	European border surveillance system (Europäisches Grenzüberwachungssystem)
EEA	European Economic Area
EZ	Development cooperation (Entwicklungszusammenarbeit)
f.	following
FAP	Family aid programme
FAZ	Frankfurter Allgemeine Zeitung (German newspaper)
FDP	Free Democratic Party (Freie Demokratische Partei)
FES	Friedrich-Ebert-Stiftung
ff.	following
FIM	Measures to integrate refugees (Flüchtlingsintegrationsmaßnahmen)
FreizügG	Act on the General Freedom of Movement (Freizügigkeitsgesetz)
FRG	Foreign Pensions Act (Fremdrentengesetz)
FRONTEX	European Border and Coast Guard Agency
G20	Group of 20
GAMM	Global Approach to Migration and Mobility/Global Approach to Migration Topics
GASIM	Joint Analysis and Strategy Centre for Illegal Immigration (Gemeinsames Analyse- und Strategiezentrum illegale Migration)
GDISC	General Directors' Immigration Services Conference
GEAS	Common European Asylum System (CEAS)
GER	Common European Framework of Reference for Languages (CEFR)
GFK	Geneva Convention
GFMD	Global Forum on Migration and Development (Globales Forum für Migration und Entwicklung)
GG	Basic Law (Grundgesetz für die Bundesrepublik Deutschland)
Ggf.	if
GGUA	Gemeinnützige Gesellschaft zur Unterstützung Asylsuchender e.V.
GIZ	German Society for International Cooperation (Gesellschaft für Internationale Zusammenarbeit)
GRETA	Group of Experts on Action against Trafficking in Human Beings
GVB	Border police liaison officers (grenzpolizeiliche Verbindungsbeamtinnen und -beamten)

GVBl	Land law gazette (Gesetz- und Verordnungsblatt)
HAP	Humanitarian admission programmes (Humanitäre Aufnahmeprogramme)
HMdIS	Ministry of the Interior and Sport of Hesse (Hessisches Ministerium des Innern und für Sport)
IAB	Institute for Employment Research (Institut für Arbeitsmarkt- und Berufsforschung)
ICT-RL	EU Directive on Intra-Corporate Transfers (Directive 2014/66/EU)
IMK	Permanent Conference of Ministers and Senators for the Interior of the Länder (Ständige Konferenz der Innenminister und -senatoren der Länder)
Inkl.	including
IntMK	Conference of Ministers and Senators responsible for Integration in the Länder (Konferenz der für Integration zuständigen Ministerinnen und Minister, Senatorinnen und Senatoren der Länder)
IntV	Integration Course Ordinance (Integrationskursverordnung)
IOM	International Organisation for Migration
IPPNW	International Physicians for the Prevention of Nuclear War (Internationale Ärzte für die Verhütung des Atomkrieges)
IQ	Programme "Integration through Qualification (IQ)" (Förderprogramm „Integration durch Qualifizierung“)
i. V. m.	in conjunction with
JHA Council	Justice and Home Affairs Council
JMD	Youth migration services (Jugendmigrationsdienste)
KdU	Costs for accommodation and heating
KJSG	Act to strengthen children and adolescents (Kinder- und Jugendstärkungsgesetz)
KOK	Network against Trafficking in Human Beings (Bundesweiter Koordinationskreis gegen Menschenhandel e.V.)
KOM	European Commission (Europäische Kommission)
LpB	Land Agency for Civic Education (Landeszentrale für politische Bildung)
LSBTI	German acronym for "lesbian, gay, bisexual, transsexual, intersexual".
LSBTIQ	German acronym for "lesbian, gay, bisexual, transsexual, transgender, intersexual, queer".
LSVD	Lesben- und Schwulenverband Deutschland (German organisation of lesbians and gays)
MBE	Migration Advisory Service for Adult Immigrants (Migrationsberatung für erwachsene Zuwanderer)
MFFJIV RLP	Ministry for Family Affairs, Women, Youth, Integration and Consumer Protection of Rhineland-Palatinate (Ministerium für Familie, Frauen, Jugend, Integration und Verbraucherschutz Rheinland-Pfalz)
MI Niedersachsen	Ministry of the interior and sports of Lower Saxony (Niedersächsisches Ministerium für Inneres und Sport)
MIBS Saarland	Ministry of the interior, construction and sports of Saarland (Saarländisches Ministerium für Inneres, Bauen und Sport)
m	million
MKFFI	Ministry for Children, Family Affairs, Refugees and Integration (North Rhine-Westphalia) (Ministerium für Kinder, Familie, Flüchtlinge und Integration (Nordrhein-Westfalen))
MS Niedersachsen	Ministry of Social Affairs, Health and Equality of Lower Saxony (Niedersächsisches Ministerium für Soziales, Gesundheit und Gleichstellung)
MWK	Ministry of Science, Research and Arts (Baden-Württemberg) (Ministerium für Wissenschaft, Forschung und Kunst (Baden-Württemberg))
m. W. v.	Effective as of
NAP	National Action Plan against Racism (Nationaler Aktionsplan gegen Rassismus)
NetzDG	Network Enforcement Act (Netzwerkdurchsetzungsgesetz)
NGO	Non-governmental organization (Nichtregierungsorganisation)
Nr.	Number
NSU	Nationalsozialistischer Untergrund ("National-Socialist Underground", a German terrorist group)
OECD	Organisation for Economic Cooperation and Development (Organisation für wirtschaftliche Zusammenarbeit und Entwicklung)
OEG	Victims Compensation Act (Opferentschädigungsgesetz)

o. J.	Not dated
OVG	Higher Administrative Court (Oberverwaltungsgericht)
PAG	Act on Police Tasks (Polizeiaufgabengesetz)
PMK	Politically motivated crime (politisch motivierte Kriminalität)
PNR	Passenger Name Record
p. P.	Per person
ProstSchG	Prostitute Protection Act (Prostituiertenschutzgesetz)
PTU	Physical and technical examination
RBSFV	Regulation on determining the percentage for the extrapolation of the regular needs categories (Regelbedarfsstufen-Fortschreibungsverordnung)
rd.	roughly
REAG/GARP	Reintegration and Emigration Programme for Asylum-Seekers in Germany/Government Assisted Repatriation Programme
REG	Return Expert Group
REST Directive	Directive (EU) 2016/801 of the European Parliament and the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing
RL	Directive (Richtlinie)
SchIHWahlG	Land electoral law of Schleswig-Holstein (Schleswig-Holsteinisches Landeswahlgesetz)
SGB	Social Code (Sozialgesetzbuch)
SIS	Schengen Information System
SMS	Ministry of Social Affairs and Consumer Protection of Saxony (Sächsisches Staatsministerium für Soziales und Verbraucherschutz)
SPD	Social Democratic Party (Sozialdemokratische Partei Deutschlands)
SSW	Südschleswigscher Wählerverband (German party)
StAG	Nationality Act (Staatsangehörigkeitsgesetz)
StBA	Federal Statistical Office (Statistisches Bundesamt)
StGB	Criminal Code (Strafgesetzbuch)
SVR	Expert Council of German Foundations on Integration and Migration (Sachverständigenrat deutscher Stiftungen für Integration und Migration, SVR)
UAM	Unaccompanied foreign minors (Unbegleitete ausländische Minderjährige)
UE	Lessons
UM	Unaccompanied minor (Unbegleitete Minderjährige)
UMA	Unaccompanied minor foreigners (unbegleitete minderjährige Ausländer)
umF	Unaccompanied minor refugees (unbegleitete minderjährige Flüchtlinge)
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations International Children's Emergency Fund
VG	Administrative Court (Verwaltungsgericht)
VGH	Higher Administrative Court
Vgl.	see also
VIS	VISA information system
UN	United Nations
VO	Regulation (Verordnung); Ordinance (Verordnung)
FTE	Full-time equivalent
WJD	Wirtschaftsjunioren Deutschland (association of young entrepreneurs and managers)
WS	Winter semester
z. B.	for example
z. T.	partially
ZUR	Repatriation Support Centre (Gemeinsames Zentrum zur Unterstützung der Rückkehr)

# Tables

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## Publications available in English

### Working Paper

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| <b>WP 84</b> | Beneficiaries of protection travelling to their country of origin: Authorization, Policies and Revocation Procedure in Germany. Study by the German National Contact Point for the European Migration Network (EMN).<br>Author: Janne Grote (2019)                    | <b>WP 77</b> | Return Policy in Germany in the Context of EU Rules and Standards. Focussed study by the German National Contact Point for the European Migration Network (EMN).<br>Author: Paula Hoffmeyer-Zlotnik (2017)   |
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### Research Reports

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| <b>FB 31</b> | Evaluation of the Advice Centre on Radicalisation – Final Report.<br>Author: Milena Uhlmann (2017) |
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## Brief analyses

- 05/2019** Children and Adolescents after the Flight. Living situations among refugee families in Germany.  
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- 04/2019** Social Contacts of Refugees.  
Author: Manuel Siegert (2019)
- 01/2019** Second wave of the IAB-BAMF-SOEP survey. Language skills and employment rate of refugees improving with time.  
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- 04/2018** Resettlement in Germany – What is the programme for particularly vulnerable refugees accomplishing?  
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## Annual Reports (latest)

- PB** Migration, Integration, Asylum. Political Developments in Germany 2017. Annual Policy Report by the German National Contact Point for the European Migration Network (EMN) (2018)

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## Working Paper

- WP 81** Türkeistämmige Personen in Deutschland. Erkenntnisse aus der Repräsentativuntersuchung „Ausgewählte Migrantengruppen in Deutschland 2015“ (RAM).  
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über die Inanspruchnahme und Bedürfnisse in Hinblick auf die Ausstattung. – Im Auftrag der Deutschen Islam Konferenz.

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