



# ORGANISATION OF MIGRATION AND ASYLUM SYSTEM IN GERMANY

## OVERVIEW

LAST UPDATED IN JANUARY 2023



### INTRODUCTION

This document provides an overview of how asylum and migration policies are organised in Germany, including the organisation of the institutional and regulatory context and framework for dealing with third-country nationals coming for the purpose of legal immigration or for international protection. It is based on the information provided by Germany in January 2023.



### OVERVIEW OF ORGANISATION OF LEGISLATIVE AND INSTITUTIONAL FRAMEWORK

#### THE INSTITUTIONAL CONTEXT

The Federal Ministry of the Interior and Community (BMI) plays an important role in policy-making and preparing legislation in the field of migration and asylum.

The Federal Office for Migration and Refugees (BAMF) and the Federal Police are subordinated to the Federal Ministry of the Interior and are each responsible for the majority of operational tasks at Federal level.

Further central bodies in the administration and handling of asylum and residence procedures are the competent Ministries and Senate Administrations of the Federal states (Länder) and their local Foreigners offices, the Federal Employment Agency and the Federal Foreign Office with its diplomatic missions abroad.

#### THE LEGAL SYSTEM

Both the German asylum legislation and the immigration/residence legislation are uniformly regulated at the federal level due to the legislative competence of the federal government. Fundamental piece of legislation in this context is the Immigration Act, which came into force on January 1, 2005, and the Asylum Act.

The Residence Act - as the most important part of the Immigration Act - and the related regulations form the legal basis for the entry, residence, integration and employment of third-country nationals.

The asylum procedure and the recognition of refugees follow the principles laid down in the German constitution as well as the provisions of the Asylum Act, which is designed in accordance with the relevant EU directives,

and the application of the relevant EU regulation, e.g. Dublin III Regulation.

### **a. General residential regulations**

Before entering Germany, third-country nationals usually have to apply for a visa at the responsible German diplomatic mission. After entry, the local Foreigners authorities are responsible for all residence measures and decisions.

The general requirements for the issuance of a residence permit include a secure livelihood, proven identity and nationality, no existing reasons for expulsion and no endangering of national interests, as well as a valid passport or other travel documents.

Residence permits are issued for a specific purpose and for a limited period. They may be issued for the following occasions: work, for family reasons, training/study, self-employment, as well as for reasons of international law, humanitarian or political reasons. Depending on the purpose of the stay, special conditions must be met. While a residence permit is only valid for a limited period of time, a settlement permit or permit for permanent residence in the EU is valid for an unlimited period of time.

The granting and extension of a residence permit can be linked to integration performances rendered. Under certain conditions, third-country nationals born abroad can acquire German citizenship through naturalization.

Unauthorized entry and residence in Germany is punishable by law. Anyone staying in Germany without the necessary residence permit is obliged to leave the country.

### **b. Application for international protection/application for asylum**

With each asylum application, the conditions for international protection and the

recognition as a person entitled to asylum are examined. Likewise, it is examined ex officio whether national deportation obstacles apply. Applications for asylum must generally be submitted in person to the Federal Office for Migration and Refugees. Persons entitled to international protection or asylum are granted a residence permit. Negative decisions can be appealed to the relevant administrative court.

### **c. Access to the Labour Market**

The main provisions on residence and access to the labour market are summarised in the Residence Act.

Work permits are issued through an approval procedure by the local Foreigner's office, that will require the internal participation of the local labour administration.

Foreigners may only take up employment if their residence permit entitles them to do so by law or by explicit permission. The local Foreigner's office decides on the permit, and in certain cases according to the Employment Regulation the Federal Employment Agency is involved.

The Skilled Worker Immigration Act of 1 March 2020 enables the targeted and controlled immigration of skilled workers from outside the EU in order to counteract the shortage of skilled workers in certain areas of the labour market. Among the innovations of the Skilled Workers Immigration Act are the abolishing of priority check for job vacancies and of limitations to occupations that are in short supply, among other procedural simplifications.



### **INSTITUTIONAL CHART**

*The most up to date Institutional Chart will be added in as an Annex.*

# Germany

## Institutional Framework of the Migration- and Asylum Policy \*

