



THE ORGANISATION OF ASYLUM AND IMMIGRATION POLICY IN GERMANY

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INTRODUCTION

This information provides an overview of the organisation of asylum and immigration policy in Germany, including the organisation of the institutional and regulatory framework for dealing with third-country nationals entering Germany by way of legal immigration or seeking international protection.

The spectrum of other players has grown in recent years. In addition to an increasing number of non-governmental organisations, the focus has also shifted to migration research as well as policy advice.

OVERVIEW OF THE POLITICAL, STATUTORY AND INSTITUTIONAL FRAMEWORK



THE INSTITUTIONAL CONTEXT

The Federal Ministry of the Interior, Building and Community (BMI) plays an important role in policy-making and when it comes to preparing legislation. The Federal Office for Migration and Refugees (BAMF) and the Federal Police are subordinated to the Federal Ministry of the Interior as authorities, 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 *Länder* and their immigration authorities, the Federal Employment Agency and the diplomatic missions.

THE LEGAL FRAMEWORK

Both the German asylum legislation and the legislation on immigration and residence are regulated on a uniform nationwide basis due to the legislative competence of the Federation. The fundamental legislation in this context is the Immigration Act (*Zuwanderungsgesetz*), which came into force on 1 January 2005, and the Asylum Act (*Asylgesetz*).

The Residence Act – as the most important part of the Immigration Act – and the ordinances issued in relation to it, constitute the legal basis for the entry, residence, integration and employment of third-country nationals. The asylum procedure and the



recognition of refugees are effected in accordance with the standards laid down in the Basic Law, as well as with the stipulations (provisions?) contained in the Asylum Act, which is based on the relevant EU directives and regulations.

a. General provisions of the law on residence

As a rule, third-country nationals must apply for a visa at the responsible German diplomatic mission before entering Germany. After entering the country, the local foreigners authority is responsible for all measures and decisions relating to residence and under the law on passports.

The general conditions for issuing a residence permit include a secure livelihood, proven identity and nationality, no grounds for expulsion and no threat to national interests, as well as a valid passport or other travel documents. Residence titles are issued for a specific purpose and for a limited period of time. Such titles are issued for the following reasons: work, family reunification, training/study and self-employment, as well as for international law, humanitarian or political reasons. Depending on the purpose of residence, special conditions for granting a title must be satisfied in each case. Whilst a residence permit is only valid for a limited period of time, a settlement permit or permanent EU residence permit is valid indefinitely.

The granting and extension of a residence title may be made conditional on efforts being made towards integration. Third-country nationals born abroad can acquire German citizenship by means of naturalisation, subject to certain conditions.

b. Application for international protection/asylum

Each application for asylum is subject to an examination of recognition as an individual entitled to asylum, and of the preconditions for international protection. As a rule, asylum applications must be submitted to the

Federal Office for Migration and Refugees in person; exceptions are regulated in the Asylum Act. Individuals who are entitled to asylum or to international protection receive a residence permit. Negative decisions may be challenged before the administrative court which has jurisdiction in the individual case.

c. Access to the labour market

Foreigners may only engage in gainful employment if their residence title entitles them to do so by force of law or by express authorisation. The immigration authority decides on the permit, and consults with the Federal Employment Agency in those cases that are provided for in the Employment Ordinance (*Beschäftigungsverordnung*).

d. Termination of residence

There are many reasons for terminating residence, such as the expiry of the period of validity of the residence title, or its withdrawal. If the obligation to leave the country is enforceable, and the third-country national does not comply with it voluntarily, he or she can be deported. The immigration authorities have primary responsibility in such cases.

With regard to return, the focus is on the promotion of voluntary return, for which financial support is also available as part of the relevant programmes.

MIGRATION POLICY AND LEGAL DEVELOPMENTS

As a result of the increase in the number of displaced persons from 2014 to 2016, large numbers of measures were adopted, both nationwide and regionally, in order to manage the procedures and admission processes more reliably.

- **Border controls:** The German Federal Police have been increasingly involved in Europe-wide operations of the European Border and Coast Guard Agency (Frontex) in recent years.

- **Setting the course due to prospects to remain:**

Numerous measures have been taken for applicants from countries who have good prospects to remain, aimed at giving them privileged access to support services and participation structures, even before the end of the asylum procedure. For applicants from countries who have few prospects to remain (safe countries of origin), by contrast, measures have been taken to speed up the asylum procedure and increase their willingness to leave voluntarily.

- **Integrated identity management:**

This includes a uniform nationwide infrastructure for the registration of new arrivals in order to avoid multiple registrations and improve the exchange of data between public authorities.

- **Integrated refugee management:**

The Arrival Centre is at the heart of integrated refugee management. This integrates Federal and *Länder* processes, as well as other authorities and offices involved in the process, in one place. Optimisation can be brought about through closer integration between players and processes in the arrival and registration phase, in the asylum procedure and in the integration/return phase.

- **AnKER Centres:** AnKER Centres ("Centre for Arrival, Decision, Return") are a further development of the Arrival Centres, and are to be understood as reception centres for asylum applicants. Similarly, various Federal and *Länder* authorities work closely together so that the entire asylum procedure can be carried out in one place. If the asylum application is rejected, the persons concerned are no longer distributed among the municipalities, but remain in the accommodation. Repatriation is to take place from the AnKER Centre. The persons concerned continue to be distributed among the municipalities if their application is recognised (positive decision).

Further new developments have taken place at legislative level: In addition to two asylum packages to speed up the asylum procedures (in force since 24 October 2015 and 17 March 2016, respectively), laws have been passed to improve the accommodation,

care and supervision of foreign minors, as well as to improve cooperation between the Federation and the *Länder*, an Act to Combat Child Marriages, an Act to Improve the Enforcement of the Obligation to Leave the Country, and an Integration Act.

The foreigner's obligations to cooperate in the revocation and withdrawal procedure were most recently newly included in the Asylum Act. These lead, amongst other things, to procedural acts which had been omitted, in particular photographing and fingerprinting, submission of identity documents for the purpose of checking their authenticity, and the oral participation of the foreigner, being able to be carried out subsequently.

Cabinet passed a draft Bill of an Immigration Act for Skilled Workers (*Fachkräfteeinwanderungsgesetz*) in December 2018. The central element is the demand-orientated management and consolidation of the immigration of skilled workers. The aim is also to create conditions which will enable the equivalence assessment of professional or academic qualifications to be carried out as quickly and easily as possible. With regard to some countries of origin, skilled workers are to be targetedly recruited in cooperation with the business community. Language promotion is to be intensified at home and abroad in line with the countries targeted by the recruitment strategy. The procedures between visa offices, immigration authorities, the public employment service, the bodies responsible for the recognition of professional qualifications, and the Federal Office for Migration and Refugees, are also to be improved.

Cooperation mechanisms continue to exist between the Member States, as well as with third countries such as Turkey, in order to manage forced migration. This can be seen, for example, in support for border security at the EU's external borders, in the Declaration between the EU and Turkey, or in participation in the EU's relocation and resettlement procedures.

In addition to restricting forced migration, this cooperation helps to ensure humanitari-

an reception and a more equitable distribution of asylum-seekers, as well as to relieve the burden of the EU Member States with external borders.

In addition, Germany has extended its participation as part of the operational activities of the European Asylum Support Office (EASO).



THE INSTITUTIONAL FRAMEWORK

The latest version of the organisational chart is attached.

There are overlaps in migration policy with regard to

- **integration policy**, as well as labour market policy, in respect of the integration of foreign workers and vocational language promotion,
- **development policy**, for example in the context of remittances and facilitating the return of highly-skilled workers,
- **domestic and security policy** affecting the entry and residence of third-country nationals considered to constitute a risk,
- **health policy** with a particular focus on the needs of immigrant groups, or
- **anti-discrimination policy**, for example in the implementation of the EU's anti-racism directive (2000/43/EC).