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Federal Office
for Migration
and Refugees



Support Measures for Beneficiaries of Protection. Promoting their Integration into the Labour Market

Focus-Study by the German National Contact Point
for the European Migration Network (EMN)

Working Paper 66



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Executive summary

A large number of different instruments is available in Germany to guarantee the social and economic security of beneficiaries of protection. Firstly, all measures of active labour market policy also cover beneficiaries of protection. Therefore all services designed to integrate German nationals into the labour market are likewise available for anybody granted protection in Germany. Secondly, the measures of passive labour market policy equally apply to beneficiaries of protection who enjoy the same social security as Germans in case of unemployment. Therefore the level of social security provided does not depend on a person's residence status, but rather on whether or not he or she is governed by the regime of unemployment insurance or of basic income support for job-seekers. Thus beneficiaries of protection can rely on the socio-cultural subsistence level as a minimum.

Furthermore the beneficiaries of protection may not only benefit from labour market policy instruments, but also from integration courses that provide extensive language training and orientation guidance. Additionally, labour market integration instruments also reach out to beneficiaries of protection in the form of the IQ network and the BAMF ESF programme. They may therefore both obtain an assessment of equivalence of their qualifications earned abroad and access special technical language training related to their occupations.

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1 Introduction

Between January and August 2015 256,938 persons applied for asylum in Germany. More than one quarter of the asylum-seekers who arrived in this period came from countries for which the overall recognition rate exceeds 70 %, i.e. Syria, Eritrea or Iraq. The pattern for the number of people who have been granted asylum by the relevant proceedings and are now living in Germany is similar. At the end of 2013 257,719 persons with some type of protection status were staying in Germany; at the end of 2014 their number had already risen to 291,477.¹ Consequently a considerable number of asylum-seekers whose cases are currently pending can be expected to remain in Germany permanently.

The acceptance of beneficiaries of protection is not only a matter of residence law, it must also extend to ensuring their social and economic status. The present study therefore examines the various kinds of support available to guarantee the beneficiaries' social status in Germany. The first element to be described is the beneficiaries' access to the labour market including the supporting measures to achieve it. As a second element, selected social security benefits are presented which come in when the beneficiaries of protection cannot secure their livelihood on the labour market.

Generally one can say that beneficiaries of protection have the same legal entitlement to access both the labour market and social benefits as German nationals. The study, however, reveals that certain mechanisms of exclusion operate in the social security system that are independent of the residence status.

The foremost protection against hardship is the system of social insurance benefits in Germany. However, only individuals whose employment history is characterised by standard employment relationship (full time, permanent and with consistent wage increases)

that is interrupted for a short period only have the privilege of fully enjoying all of the system's benefits. The number of German nationals employed according to these criteria is consistently falling (Kress 1998; Oschmiansky et al. 2014), thus one can infer that also, and most particularly, beneficiaries of protection will be entitled to these benefits to a limited extent only and will therefore disproportionately have to resort to basic income support for job-seekers, which provides social security at the socio-cultural subsistence level.

Chapter 2 provides an overview of the different forms of protection that may be granted and the associated rights. Chapter 3 then illustrates the main aspects of German labour market policy and examines whether a distinction is made between German nationals and beneficiaries of protection and if so, which. Chapter 4 describes selected labour market policy instruments and additional support available to beneficiaries of protection. The study concludes with a summary of its major findings.

The present study is mainly drawn on the evaluation of prior reports and studies on selected aspects of the issue and on analyses of the relevant legal provisions. This paper is the German contribution to the EMN study „Integration of beneficiaries of international/humanitarian protection into the labour market: policies and good practices“. This study is compiled according to common specifications in all EU-Member States (with the exception of Denmark) and in Norway. The results of the national studies will be incorporated into a comparative synthesis report which shall provide an overall European survey of the integration schemes available for beneficiaries of protection. The study's results will be made available to decision-makers in politics and administration at the European as well as at the national levels.

1 These figures include persons granted asylum status, refugees under the Geneva Convention, those entitled to subsidiary protection and persons for whom a ban of deportation has been determined (settlement permit for beneficiaries of protection under sec. 26 subs. 3 and 4 of the Residence Act, residence permit under sec. 25 subs. 1, subs. 2, first sentence, first alternative, subs. 2 first sentence, second alternative, subs. 3 of the Residence Act).

2 Labour market access for beneficiaries of protection: legal and political framework

The first criterion determining the type of support and labour market access beneficiaries of protection may enjoy is their status under residence law. Which in turn depends on the type of protection they sought - as a rule this will be an application for asylum - and the decision on such application. This chapter focuses on the statuses beneficiaries of protection may hold under residence law and the resulting terms for labour market access. At first the forms of protection available in Germany and the associated rights are explained. In its second section the chapter goes on to describe the form of labour market access available for the different statuses under residence law.

2.1 Overview of the legal framework

There are two options for applying for protection in Germany. The best known and most widely used alternative is filing an asylum application with the Federal Office for Migration and Refugees (BAMF). There is, however, also the alternative of applying for the determination of a ban of deportation under sec. 60 subs. 5 and 7 of the Residence Act with the local foreigners authority. Once the Federal Office holds that there is a need to grant protection, this can be done in four different forms of protection which considerably differ in some respects: recognition as a person entitled to asylum, recognition as refugee, recognition as beneficiary of subsidiary protection and establishing that a ban on deportation applies.

Irrespective of the type of protection granted, beneficiaries of protection enjoy unrestricted access to the labour market and hence are treated equally to German and EU nationals in this regard. Persons granted a ban on deportation have an unlimited access to the labour market due to an ordinance, whereas other beneficiaries of protection are entitled to labour market access by law.

Differences exist in right of residence stemming from the type of protection granted. Anybody recognized as entitled to refugee or asylum status enjoys the most extensive rights; since the Immigration Act entered into force in 2005 the same rights are associated with these two forms of protection. Both groups have unrestricted access to the labour market and are entitled to apply for a settlement permit after three years. Although beneficiaries of subsidiary protection by law have unrestricted access to the labour market, they must wait longer for a settlement permit and meet several additional requirements. Persons protected by a ban on deportation enjoy unrestricted access to the labour market based on an ordinance.

The rights associated with each type of status are detailed in the next two sections.

2.2 Status of beneficiaries of protection under German residence law

In Germany the Federal Office for Migration and Refugees (BAMF) is responsible for deciding on asylum applications. Under sec. 13 subs. 2 of the Asylum Act every application for asylum constitutes an application for international protection (recognition of refugee status under the Geneva Convention and subsidiary protection) as well as for recognition of asylum status under the Basic Law, unless the foreigner expressly objects. Further the Federal Office will decide ex officio whether there are any bans on deportation pursuant to sec. 60 subs. 5 or 7 of the Residence Act (also see Parusel 2010). The latter may also be applied for separately with the foreigners authorities. The foreigners authority may, however, decide on the application only after prior consultation with the BAMF (sec. 72 subs. 2 of the Residence Act). Thereby the Federal Office's expertise about the conditions in the respective country of origin will be duly considered.

Recognition of asylum or refugee status

Asylum status may only be granted under art. 16a(1) of the Basic Law (GG), if the applicant is persecuted in his home country for political reasons and has not entered Germany via a safe third country. Safe third countries include the Member States of the European Union and the countries listed in annex I of the Asylum Procedure Act (Norway and Switzerland). The foreigners authorities must issue residence permits under sec. 25 subs. 1 of the Residence Act to asylum-seekers who have been granted asylum. The residence permit will be issued for three years (sec.26 subs. 1, second sentence of the Residence Act).

Refugee status will be granted under sec. 3 subs. 1 of the Asylum Act, if the applicant is under threat of persecution on account of his or her ethnicity, religion or nationality, membership of a certain social group or political convictions. The foreigners authorities must issue residence permits under sec. 25 subs. 2, first sentence, first alternative of the Residence Act to anyone granted refugee status. The residence permit will be issued for three years (sec.26 subs. 1, second sentence of the Residence Act).

After three years the BAMF will review whether the conditions for a revocation or withdrawal of the asylum or refugee status apply. If this is not the case, per-

sons holding asylum or refugee status may receive a settlement permit. Persons holding asylum or refugee status are exempted from the additional requirements listed in sec. 9 subs. 2 of the Residence Act (Dienelt 2013, marg. note 19).

Subsidiary protection and ban on deportation

The status of subsidiary protection under sec. 4 of the Asylum Act is granted if the applicant is under threat of capital punishment, torture, inhuman or degrading treatment or punishment in his or her country of origin. Persons whose life or physical integrity is under threat because of arbitrary violence during an armed conflict are likewise entitled to subsidiary protection.

The foreigners authorities must issue residence permits under sec. 25 subs. 2, first sentence, second alternative of the Residence Act to anyone granted subsidiary protection. This residence permit will be valid for one year when issued for the first time; it may be extended for two years in each instance (see sec. 26 subs. 1, third sentence of the Residence Act).

A national deportation ban under sec. 60 subs. 5 or 7 of the Residence Act is determined if the deportation would violate the European Human Rights Convention (EHRC) or if the foreigner would face a concrete

Table 1: Legal regulations governing the residence of beneficiaries of protection

	Persons entitled to asylum under sec. 16a of the Basic Law and refugees under sec. 3 of the Asylum Act	Beneficiaries of subsidiary protection under sec. 4 of the Asylum Act	Persons to whom a national deportation ban applies under sec. 60 subs. 5 and 7 of the Residence Act
Minimum validity of the residence permit	3 years	Initial issuance - 1 year; extension by 2 years possible	1 year
Maximum validity of the residence permit	3 years, thereafter revocation or settlement permit	2 years, thereafter review and possibly extension	3 years, thereafter extension
Average validity of the residence permit	3 years based on the law	23 months	29.35 months
Length of residence until settlement permit is granted	3 years	5 years, the duration of the asylum proceedings is considered as well	5 years, the duration of the asylum proceedings is considered as well
Further requirements for a settlement permit		Requirements under sec. 9 subs. 2 of the Residence Act	Requirements under sec. 9 subs. 2 of the Residence Act
Probable length of stay until potential naturalization	8 years (sec. 10 subs. 1 of the Nationality Act). After the successful attendance of an integration course the term may be shortened to 7 years. If special integration achievements have been made the term may be shortened to 6 years (sec. 10 subs. 3 of the Nationality Act).		
Further requirements for naturalization	General requirements for naturalization under sec. 8-14 of the Nationality Act.		

danger to his or her life, limb or liberty in the country of destination for the deportation. If a deportation ban is determined by the foreigners authority or the Federal Office a residence permit shall be issued to the foreigner under sec. 25 subs. 3 of the Residence Act.

A settlement permit may be issued to persons granted subsidiary protection status or a deportation ban after five years, subject to the requirements listed in sec. 9 subs. 2, sec. 26 subs. 4 of the Residence Act).

The same conditions for receiving German citizenship apply to beneficiaries of protection as to third country nationals holding other types of residence titles.

2.3 Labour market access for beneficiaries of protection

Any third country national wishing to take up employment generally requires the consent of the employment administration. Unless his or her residence title expressly permits, employment is only possible if

the Federal Employment Agency (BA) agrees (sec. 39 of the Residence Act) or if an ordinance permits employment (sec. 42 of the Residence Act).

Under law the employment of persons granted asylum, refugee status or subsidiary protection is exempted from the approval requirement. The residence permit entitles directly and unconditionally to pursue an economic activity (sec. 25 subs. 1, fourth sentence and subs. 2, second sentence of the Residence Act).

Also persons who have been issued a residence permit due to deportation bans pursuant to sec. 60 subs. 5 and 7 of the Residence Act are entitled to unrestricted access to the labour market. Although the residence permit does not automatically entitle to take up an economic activity, sec. 31 of the Employment Regulations grants derogation from the BA's approval requirement.

In the final analysis all types of beneficiaries of protection have equal standing as German citizens regarding access to the labour market.

Table 2: Labour market access for beneficiaries of protection

	Persons entitled to asylum under sec. 16a of the Basic Law and refugees under sec. 3 of the Asylum Act	Beneficiaries of subsidiary protection under sec. 4 of the Asylum Act	Persons to whom a national deportation ban applies under sec. 60 subs. 5 and 7 of the Residence Act
Legal provisions governing labour market access	Unrestricted labour market access by operation of law	Unrestricted labour market access by operation of law	Unrestricted labour market access by operation of an ordinance after a residence permit has been issued.
Conditions applying for labour market access in practice	None		
Difference to labour market access for German and EU citizens	None, equal labour market access		

3 Basic principles of labour market policy for beneficiaries of protection

The guiding principle of German labour market policy is that active participation in society requires successful participation in the labour market. Consequently the “improvement of labour market integration of migrants [...] is a core task of the Federal Government’s integration policy” (BMAS 2014).

Labour market policy is one part of Germany’s overall employment policy aiming at full employment. General employment policy seeks to create the conditions for full employment at the macro level. For this purpose economic growth was promoted to strengthen the demand for labour. Since 1969 this German policy has been complemented by active labour market policy, which mainly addresses the supply side. Under this policy demand-oriented employment policy promoted additional vocational qualification while laws governing modern services marked the transition from active to activating labour market policy. Thus the objective of labour market policy was defined as „maintaining or achieving an individual’s employability. [...] On the one hand, this was meant to enhance the unemployed persons’ flexibility and on the other the creation of a low-wage sector should generate new employment opportunities” (Bogedan 2009, p. 3-4). In this context supply-oriented labour market instruments became increasingly significant.

Thus basically two sets of instruments are available for the integration of beneficiaries of protection into the labour market. The first one are the general instruments of labour market policy aiming to improve the employability of all individuals seeking employment irrespective of their citizenship. Since persons holding asylum, refugee or subsidiary protection status and such to whom a deportation ban applies have unrestricted access to the labour market, all services promoting labour market integration are generally available to them.

The second set of instruments are the public integration services promoting the participation of people with a migration history in society. The beneficiaries of protection are also free to avail themselves of these services.

3.1 Overview of the labour market policy instruments for beneficiaries of protection

A basic distinction is made between the type of labour market policy that is reactive and compensatory, i.e. passive, and the other approach that is active labour market policy (Schmidt 1983).

Passive or reactive-compensatory labour market schemes

All services that are reactive and provide compensation, also referred to as passive labour market policy, try to mitigate the personal impact of a labour market risk that has already become manifest. This mainly refers to compensation payments in case of unemployment (Schmidt 1983, p. 28). In Germany such payments are unemployment benefits (Arbeitslosengeld), basic income support for job-seekers (Grundsicherung für Arbeitssuchende), insolvency allowance (Insolvenzgeld) and short time work allowance (Kurzzeitergeld). In case of need, entitlement to basic income support for job-seekers can arise, in order to secure the socio-cultural level of subsistence.

Unemployment benefits are contribution-based payments by the social security fund which become available as soon as an employee who has paid into the unemployment insurance fund for a certain time becomes unemployed. The amount paid out as unem-

ployment benefit depends on the income earned prior to unemployment.

The basic income support for job-seekers in turn is a social benefit funded from public tax money granted to all persons capable of work in case of need. The amount paid out is independent of the income earned prior to unemployment and merely covers the socio-cultural subsistence level. As it will only be granted in case of need the subsistence guarantee is secondary to unemployment benefits and will on the one hand only apply in the absence of an entitlement to unemployment benefits, i.e. when contributions were paid for less than 12 months during the previous 24 months period. This will regularly be true for new entrants to the labour market who do not find employment immediately. On the other hand, basic income support for job-seekers will also be paid to top up unemployment benefits due under Social Code III that fall short of the subsistence level.

Insolvency allowance (sec. 165-172 Social Code III) is an earnings replacement benefit funded from employer contributions and shall compensate for the loss of wages due to the employer's bankruptcy. The allowance is not paid during unemployment, but during the last three months for which the employee still had a claim to his or her wages.

The employer's economic situation is also the criterion for the payment of short time work allowance (sec. 95-100 Social Code III). When fewer orders are received and therefore working hours are cut, the short time work allowance shall compensate for the loss of wages. The BA grants and funds both the insolvency and the short time work allowance.

Active labour market policy

Labour market policies aim at sustainable integration of jobless persons into the labour and training market. In order to achieve permanent employment, employment chances are intended to be enhanced and employability is supposed to be preserved.

Professional training and development are the core elements of active labour market policies. In this way active labour market policy shall not only prevent individual hardship, but also serve an economic purpose

by training the existing labour force for other industrial sectors (reduction of mismatch). Active labour market policy was introduced in Germany when the Employment Promotion Act entered into force in 1968 (Oschmiansky 2010). The related instruments are currently defined in Social Code II and in Social Code III.

Activating labour market policy

Since the late nineties both the objectives and the methods of German labour market policy changed, these have been described either as „activating labour market policy“ (Oschmiansky 2010; Bogedan 2009) or „activating welfare state“ (Dingeldey 2006, 2011). Since the early 2000s elements of activating labour market policy were introduced in response to the long lasting structural unemployment of the nineties.

In essence, all traditional labour market policy instruments tried to reduce the mismatch, i.e. the sectoral imbalance between the supply and demand for labour; the labour market reforms started in the early 2000s, however, assumed that long-term unemployment could only be reduced, if the unemployed persons' willingness to work would be increased (Bogedan 2009). This does not mean that activating labour market policy is added to the existing active and passive policy schemes as one more set of tools; rather it follows a different guiding motive both regarding the objective of labour market policy and its implementation. Some conditions were attached to passive labour market policy instruments tying the receipt of these benefits also to the willingness to accept lower-level jobs; the legal claim to such benefits was restricted and the criteria defining the reasonableness of a job became more stringent (Dingeldey 2011).

The main legal bases for German labour market policy are the Social Codes II and III. Both acts include elements of passive and active labour market policy; but they differ regarding the scope of benefits and the criteria defining a reasonably acceptable employment (Dingeldey 2011).

The willingness to accept any reasonable employment is a requirement for receiving the benefits under Social Code III and the basic income support for job-seekers under Social Code II; but the criteria defining a reasonable employment differ, due to the different funding

mechanisms. Under Social Code III, which is funded by contributions from employers and employees, an employment is regarded as unacceptable if it “entails a reduction by more than 20 percent of the previous earnings in the first three months of unemployment [...] and by more than 30 percent in the next three months”; thereafter an employment will only be reasonable, if the effective wages is not below the amount paid out as unemployment benefit (sec. 140 subs. 3 Social Code III). However, under Social Code II, funded through general taxes, any employment is considered reasonable “even, if the wage is below the local collective wage” (Dingeldey 2011, p. 299). The more favourable criteria defining reasonable employment under Social Code III result from the fact, that the beneficiary has funded its claims through his own contributions and that these claims are protected by the constitution.

This division between employment promotion and social security will most probably affect the beneficiaries of protection, as they are de facto – as they usually have not been able to make insurance contributions for the required period – covered by the Social Code II. Pursuant to sec. 16 Social Code II, persons able to work are in general entitled to all active labour market policies provided under Social Code III, to which beneficiaries of Social Code III are entitled. In addition, the Social Code II provides special labour market integration policies, which are exclusively tailored to beneficiaries of the Social Code II who are able to work, such as sponsoring employment contracts or municipal reintegration measures such as debt counselling or substance abuse counselling. In addition, they can be obligated to take part in non-commodified work opportunities – so-called one-euro-jobs (sec. 16d subs. 1 Social Code II in conjunction with sec. 31 subs. 1 Social Code II).

In practice, there are a number of other social benefits contributing to the integration in the labour market that can be considered as passive or active labour market policy instruments. One example are the benefits under the German Federal Training Assistance Act for students at secondary schools and universities (Bundesausbildungsförderungsgesetz – BAföG) and housing allowances (Wohngeld).

The integration and orientation courses are also meant to contribute to a successful labour market entry. They, however, do not teach any vocational skills; rather they shall improve the general conditions for integration into German society at the individual level.

3.2 Organisational set-up of labour market policy

Structure and responsible agents

In Germany, benefits of employment promotion – including unemployment benefits – (Social Code III) are provided by the Federal Employment Agency, while basic income support for job-seekers (Social Code II) are provided by the Job Centres.

The Federal Employment Agency (BA) is an autonomous body incorporated under public law that is the executing authority for the provisions of Social Code III and thus the responsible agent of the unemployment insurance fund. It provides the passive labour market policies unemployment benefits, insolvency allowance and short time work allowance. Within the scope of active labour market policy the BA is responsible for counselling and placing job-seekers (sec. 29 to 39 Social Code III), assisting with the choice of occupation and vocational training (sec. 48 to 50 Social Code III), vocational preparation (sec. 51 to 55 Social Code III), granting vocational training subsidies (sec. 56 to 72 Social Code III), promotion of vocational training (sec. 73 to 80 Social Code III), providing dormitories for young people in vocational training (sec. 80a and 80b Social Code III) and the promotion of continuing vocational training (sec. 81 to 87 Social Code III) and furthermore the activation and vocational integration (sec. 44 to 47 Social Code III). The BA consists of the head office located in Nuremberg, regional directorates and the local Employment Agencies (sec. 367 Social Code III). The BA's activities are financed mainly by the contributions paid into the unemployment insurance scheme.

The distribution of responsibilities for the benefits under Social Code II is more complex. Usually, common facilities provide basic income support for job-seekers under Social Code II. These common facilities are established by the institutions of the Social Code II (the Federal Employment Agency and the municipal institutions). The Federal Employment Agency bears the functional responsibilities regarding the standardized average needs and active labour market policies, while the municipality is responsible for costs relating to accommodation and heating, education and reintegration measures as well as the social integration measures (for example debt counselling). However,

vis-a-vis the citizens the common facility is acting as a whole. It issues the notifications and participates in court proceedings (exception: when individual tasks are delegated to one of the institutions with consent of all institutions).

Approved municipal institutions (zugelassene kommunale Träger) are an exception to the common facilities. Instead of a common exercise of functions, rather one quarter of all municipalities provide all benefits for employment by themselves. Both the common facilities and the approved municipal institutions are referred to as Job Centres.

Coordination of integration services and labour market policy measures

The law provides that integration services and labour market policy services must be coordinated when basic income support for job-seekers is granted under Social Code II (sec. 44a subs. 1 of the Residence Act). A foreigner may be obligated to attend an integration course, if this is laid down in his employment integration agreement made with the Job Centre. This agreement specifies the efforts the job-seekers must make to find a job. An administrative act may impose the duty to cooperate (sec. 15 Social Code II) if no agreement can be made. If a beneficiary of protection fails to honour an obligation to attend an integration course although ordered to do so, he loses the right to early naturalization (sec. 10 subs. 3 of the Nationality Act). For beneficiaries of subsidiary protection and persons to whom a deportation ban applies who are obliged to attend an integration course, the subsequent issuance of a settlement permit depends on whether or not they comply with this requirement,² unless they can provide other evidence for their command of the German language and knowledge about Germany's legal and social order.

There are two nationwide programmes that seek to link the integration and labour market efforts below

the level of existing legislation: the IQ Network³ and the ESF-BAMF Programme.⁴ While neither of these programmes specifically targets the beneficiaries of protection, but all people with a migration history eligible to access the labour market, they are also in principle open to the former.

The IQ Network (integration by qualification) defines its work as a part of activating labour market policy. It was established to facilitate the practical implementation of the Federal Recognition Act. The objective of the programme is “that vocational qualifications earned abroad [...] will more frequently lead to corresponding employment”.⁵ The layout as a network shall provide a nationwide information service on the recognition of foreign vocational qualifications. And at the same time, it permits subsequent qualification as required to achieve the recognition of equivalence for a degree earned abroad. This applies both to regulated and non-regulated occupations. The Employment Agencies, the Job Centres and the Migration Advisory Services for Adult Immigrants (MBE) shall refer immigrants with such requirements to the IQ Network.

Since 1 July 2015, the focal point of action “Integration of Asylum seekers and Refugees” (Integration von Asylbewerberinnen, Asylbewerbern und Flüchtlingen – IvAF) will be implemented within the framework of the European Social Fund (ESF) and under the heading “ESF Integrationsrichtlinie Bund” until 2020. The programme aims at supporting the above mentioned groups to take up employment or an apprenticeship or when obtaining school diplomas by counselling, qualification, coaching, job placement and acquisition of employers. Furthermore, standardized training programmes are offered for employment agencies and Job Centres regarding the situation of asylum seekers and beneficiaries of protection in terms of their residence status and labour market access. The notion underlying such programmes is that integration into the labour market and the respective support measures should already be initiated during the asylum procedure if a high probability of granting protection can be assumed.

2 For third country nationals holding another provisional residence title than those under sec. 25 subs. 1, 2 or 3 of the Residence Act, the extension of the residence permit also depends on whether they complied with the requirement to attend an integration course, if it applies to them (sec. 44a subs. 3 of the Residence Act in conjunction with sec. 8 subs. 3 of the Nationality Act).

3 http://www.netzwerk-iq.de/netzwerk-iq_start.html (18.09.2015).

4 <http://www.bamf.de/DE/Infothek/ESFProgramm/esf-bamf-programm-node.html> (18.09.2015).

5 <http://www.netzwerk-iq.de/netzwerk-iq.html> (18.09.2015).

Another scheme specifically tailored to migrants are the ESF-BAMF courses for occupation-related language skills. They target people with a migratory background, who either receive unemployment benefits II pursuant to Social Code II, or unemployment benefits pursuant to the Social Code III or who are registered job-seekers without claiming benefits, or who are participating in the programme “ESF Integrationsrichtlinie Bund”.⁶ In order to be eligible for participation they must have completed mandatory schooling, have attended an integration course and possess sufficient German language skills, but lack the necessary language skill or qualification to obtain a job.

These courses shall improve the migrants’ technical language skills to such an extent that they do not pose an obstacle to their participation in the labour market anymore. The ESF-BAMF courses focus on teaching occupation-related language in combination with so-called technical skills. The latter may be rather general, such as learning IT skills or how to apply for a job. Courses in a special technical field will also provide classes related to this field (e.g. warehousing/logistics).

This programme, as well, is not specifically dedicated to beneficiaries of protection, but under the above mentioned conditions they may attend.

6 „Neither citizenship nor the time of immigration matter – also late repatriates from the East, people born in Germany, foreign families and so-called passport Germans are included“ (BAMF 2015b).

4 Selected labour market policy and complementary instruments

As explained in the previous sections, there are numerous instruments of active and passive labour market policy in Germany that were not devised particularly for beneficiaries of protection, but are open to them. Their access to some of these and associated schemes will be explained below. The main focus is on language and orientation courses, promotion of vocational training and employment, access to counselling services and subsidized housing as well as to subsistence payments and the recognition of vocational qualifications.

Language courses

Two types of language courses are available. One is acquisition of language through the integration course stipulated by the Residence Act, the other the occupation-related course, currently implemented through the occupation related language promotion for people with a migratory background (ESF-BAMF programme).⁷ Access for beneficiaries of protection is laid down in the Residence Act, the selection of participants for the ESF-BAMF programme is laid down in the programme's funding guidelines.⁸

The language part of the integration course consists of 600 hours of class. There are also special services for illiterates, women/parents and young people as well as special needs courses including 900 hours of language teaching. Anybody failing the examination at the end of the course may attend 300 additional hours of subsidized classes. There are also so-called intensive courses for immigrants who possess a school leaving or vocational qualification that corresponds to the German A levels or such who are about to take up employment soon (see BAMF 2015a: 10). The intensive classes consist of 400 hours of language lessons and 30 hours of orientation lessons. 1,300 organizations (mostly adult learning centres, private language and technical schools, educational institutions, initiatives and churches) teach these integration courses throughout Germany. From 2005 to mid-2014 over one million people started an integration course; including those that repeated a course, 1.2 million people have attended such courses (BAMF 2014: 2). Between early 2005 and the end of 2014 € 1.75bn were spent on integration courses.

The Federal Office for Migration and Refugees is responsible for the implementation of the integration courses (sec. 1 of the Ordinance on Integration Courses) and in turn commissions independent providers who employ freelance teachers. The teachers must either have completed the university course of studies „German as a foreign language“ or „German as second language“ or possess a corresponding additional qualification (sec. 15 subs. 1 and 2 of the Ordinance on Integration Courses). The Federation funds these integration courses and the attendants must contribute € 1.20 per hour of class (sec. 9 subs. 1 of the Ordinance on Integration Courses). Recipients of benefits under Social

7 In parallel to the fading-out of the ESF-BAMF programme at the end of 2017, a new occupation related language programme will be launched in 2016, which will be financed entirely through federal funds. Within the framework the new „Overall programme language“ (Gesamtprogramm Sprache – GPS) the profession related language classes and the integration course will be developed and merged into a modularized system in the medium term.

8 http://www.bamf.de/SharedDocs/Anlagen/DE/Downloads/Infothek/ESF/01_Grundlagen/20141231_foerderichtlinien.pdf?__blob=publicationFile (23.11.2015).

Code II or Social Code XII are exempted from the fee on request (sec. 9 subs. 2 of the Ordinance on Integration Courses).⁹

The objective of the integration courses is defined as the „integration into economic, cultural, and social life in Germany“ (43.1.1 General Administrative Regulations relating to the Residence Act). In this case economic integration is understood as independence from public assistance. Thus, unless self-employed persons are concerned, this equals successful participation in the labour market.

Persons holding asylum or refugee status and beneficiaries of subsidiary protection are entitled to attend an integration course under sec. 44 subs. 1 no. 1 of the Residence Act. Persons for whom a deportation ban has been established and those that obviously do have only little need of integration are not entitled to attend a course (sec. 44 subs. 3 no. 2 of the Residence Act). Persons not entitled to attend may be admitted to a course by the Federal Office for Migration and Refugees upon request based on availability (sec. 44 subs. 4 of the Residence Act).

Furthermore, foreigners who have signed an integration agreement pursuant to sec. 44a of the Residence Act can be obligated to participate in the integration course.

Orientation courses

The second element of the integration courses next to the language courses (see above) are the orientation courses „to provide an understanding of Germany’s legal order, culture and history“ (sec. 43 subs. 2 of the Residence Act). The orientation course wants to help the recent immigrants to find their way around in Germany after 60 hours of class and to gain a basic understanding for the values enshrined in the German constitution. Thus these orientation courses do not target economic independence, but a politically active citizenship and should therefore not be considered as part of active labour market policy.

The orientation courses form part of the integration courses and are organized by the BAMF with the help of independent providers. Just as the language courses they are funded by the Federal Office and a contribution by the participants (sec. 9 of the Ordinance on Integration Courses).

While the integration course aims at teaching German language skills at the level of B1 for the migrant to cope with daily life, occupation related language course (sec. 45a of the Residence Act) aim at enabling the migrant to cope with professional challenges and thus aim at a language level above B1.

Promotion of vocational initial and continued training and university studies

All beneficiaries of protection holding the required qualifications may take up tertiary education or vocational training.

Taking up vocational training by persons granted asylum, recognized refugees and persons granted subsidiary protection can be supported by a variety of measures. This includes the placement in training under sec. 35 Social Code III, i.e. the matching of a training applicant and an employer offering an apprenticeship. In the transitional period from school to work, guidance can be offered during the initial training period to “support young people [...] with special needs during the transition from general education to vocational training” (sec. 49 subs. 1 Social Code III). The target group of these services are young people who will probably have difficulties to graduate from general education or to cope with the transition to vocational training” (sec. 49 subs. 4 Social Code III). Persons with learning disability, and socially disadvantaged young people can be supported by educational measures preparing for a vocation and thus be prepared for taking up vocational training (sec. 51 Social Code III). These preparatory courses for vocational training also enable them to obtain a school leaving certificate at lower secondary (Hauptschulabschluss) or an equivalent level (sec. 53 Social Code III).

Apprenticeships may be subsidized by vocational training allowance. Apprentices lacking the income to cover their living expenses can receive such an allowance to guarantee their subsistence (sec. 56-72 Social Code III).

⁹ In the course of an ongoing legislative procedure, which aims at implementing „an appropriate contribution“ by the course participants changes are very likely. See also https://www.spd.de/scalableImageBlob/131046/data/20151105_koabeschluss-data.pdf (23.11.2015).

However, persons granted a ban on deportations are neither immediately eligible for vocational nor for training allowance benefits under the German Federal Training Assistance Act for students at secondary schools and universities. They can be supported with these benefits only after at least four years of residence in the Federal Territory (sec. 59 subs. 1 Social Code III, sec. 8 subs. 2 of the Federal Training Assistance Act). The same holds for some other support instruments. For example, persons granted a ban on deportations are eligible for support through an assisted apprenticeship, vocational preparatory training, vocational training outside a company or through support measures accompanying training only after the above mentioned periods.

Similar to the vocational training allowance, an allowance to guarantee subsistence during tertiary education is available under the Federal Training Assistance Act.

The BA may also subsidize the continued vocational training of workers threatened or affected by unemployment or such who do not have a recognized vocational qualification (sec. 81 subs. 1 Social Code III). Continued vocational training seeks to proactively prevent unemployment; at the same time it is a significant element for adjusting the structure of the workforce's qualifications to the changing demands of the labour market.

Recognition of vocational and educational qualifications

In the form of the "Law to Improve the Assessment and Recognition of Foreign Professional Qualifications" (the so-called Federal Recognition Act) of 2012 the Federal Government established a general legal entitlement to the examination of the equivalence of a foreign professional qualification. The act harmonizes the procedure and criteria for all occupations governed by federal law. Under this act, vocational qualifications earned abroad may be recognized as equivalent to a German qualification; there is, however, a difference between regulated and non-regulated occupations.

The recognition of equivalence is mandatory to practise a regulated occupation (such as physician, nurse, lawyer, teacher, educator, and engineer) and to hold

the associated occupational title. Therefore these occupations may not be practised in Germany without such recognition. For non-regulated occupations, however, the recognition of equivalence is not mandatory to exercise such occupation. The act covers about 500 occupations that are regulated under federal law (e.g. physician, nurse, master craftsmen and all of the 350 German vocational training occupations that are trained in the so-called dual system). The act does not affect tertiary education degrees for non-regulated occupations (e.g. economy, political science, geography). These diplomas may be individually assessed on request by the Central Agency for Foreign Education (Zentralstelle für ausländisches Bildungswesen - ZAB).

In addition to the federal level, the federal states also adopted laws governing the recognition of foreign vocational qualifications for the occupations regulated by state law (such as teacher, educator, engineer, social worker etc.).¹⁰

The online portal „Recognition in Germany“¹¹ (in German and English) brings together all information on recognition procedures and legal provisions for the practical implementation of these laws. The website is complemented by the telephone hotline “Recognition and living in Germany“ run by the BAMF on behalf of the Federal Ministry of the Interior (BMI) (in German and English). The assistance programme „Integration by qualification - IQ“¹² funded by the BMAS and the ESF (see above) currently supports about 40 first-contact counselling centres in the federal states that provide those interested in a recognition with initial information and advice and refer them to the responsible authority. The BA's labour market counselling services also includes recognition advice.

In sec. 14 subs. 1 BQFG the legislators also allows determining the equivalence of a qualification by other processes, if proof cannot be provided for reasons beyond the qualification holder's control. This provision aims particularly at those seeking protection whose flight often made it impossible for them to save the required proof (Deutscher Bundestag 2011, p. 52).

¹⁰ See <https://www.bq-portal.de/de/seiten/bund-laender-zustandigkeiten> (08.01.2015).

¹¹ See www.anerkennung-in-deutschland.de/html/de (30.09.2015).

¹² See www.netzwerk-iq.de (30.09.2015).

Sec. 14 subs. 2 lists as alternative procedures „work samples, technical discussions, practical and theoretical examinations and expert opinions.“

The BMBF supports the project *Prototyping* to define procedures for assessing the equivalence of a qualification in the absence of the corresponding diplomas and certificates. The project is run by the Association of Chambers of Crafts for West Germany (Westdeutscher Handwerkskammertag).¹³

Counselling and placement services

The BA provides counselling services within the scope of its active labour market policy. Career counselling services are available to “young people and adults participating in the labour market or intending to do so” as is stated in sec. 30 Social Code III (sec. 29 subs. 1 Social Code III). It covers information for vocational choice, career development, change of vocation, vocational training, job search, employment promotion and training promotion (sec. 30 Social Code III). The counselling services also include medical or psychological examinations to establish the suitability for specific occupations as required (sec. 32 Social Code III).

With sec. 131 Social Code III entering into force on 21 October 2015, asylum seekers without labour market access but a high probability of being granted protection have access to measures supporting job placement pursuant to Social Code III. The employment agencies can provide services and benefits pursuant to sec. 35 and following of Social Code III; previously it was only possible to provide counselling services pursuant to sec. 29 and following Social Code III. Consequently, the employment agencies can aim at integration of asylum seekers into the labour market at a very early stage.

¹³ <http://www.anerkennung-in-deutschland.de/html/de/prototyping.php> (30.09.2015). Furthermore so-called external examinations may be taken. These allow people with corresponding occupational experience who lack the formal qualification to subsequently acquire this without having to undergo the formal training. See <https://www.arbeitsagentur.de/web/content/DE/Veroeffentlichungen/Themenheftedurchstarten/Weiterdurchbildung/Bildungswege/Berufsabschluesse/Externenpruefung/index.htm> 09.10.2015).

Access to housing

There are two schemes to make basic provisions for housing in Germany: subsidized residential construction and a housing allowance.

Subsidized residential construction is available to lessors and investors that provide housing for persons unable to find adequate housing on the independent housing market (sec. 1 of the Act on the Promotion of Social Housing). The housing allowance shall prevent segregation of socio-economic groups by granting low-income households a subsidy towards the cost of housing. With the help of the subsidies the social mix in urban residential areas is to be maintained.

An eligibility certificate is required to receive the subsidy. The responsible state authorities issue such certificates to people whose annual income remains below a certain level and who are staying in Germany not only temporarily (sec. 27 subs. 2 of the Act on the Promotion of Social Housing). There are no special requirements regarding the applicants' migration status. Persons holding an eligibility certificate have access to subsidized housing. Under sec. 8 subs. 1 of the Act on Securing the Specific Purpose of Social Housing the rent for subsidized housing may not exceed its operating costs.

The granting of the housing allowance is based on a different approach. While subsidized housing shall benefit people looking for a new flat, the housing allowance shall „financially secure adequate housing suitable for families“ (sec. 1 subs. 1 of the Act on Housing Subsidies). „Tenants and house owners can receive an allowance if their rent or expenses exceed the financial capabilities of the household“ (BMAS 2015, p. 197). Third country nationals are eligible for the allowance if they are residing in Germany legally, with permission or tolerance (sec. 3 subs. 5 of the Act on Housing Subsidies). Thus, beneficiaries of protection generally have access to the housing allowance. However, recipients of benefits under Social Code II are excluded from the receipt of the housing allowance¹⁴ just as recipients of transition allowances under Social

¹⁴ Recipients of benefits under Social Code II can claim the payment of reasonable expenses for heating and housing, though.

Code VI, allowances for injuries under Social Code VII, benefits under the Federal Social Insurance Act or basic allowances under the Asylum-Seekers' Benefits Act. Nor is the allowance available for households whose members receive benefits under Social Code VIII (sec. 7 subs. 1 of the Act on Housing Subsidies).

Basic income support for job-seekers

The basic income support for job-seekers depends on the recipients' demand and neediness, the level is tied to the level of welfare payments and shall guarantee the socio-cultural subsistence level.

Besides the main beneficiary who is able to work, also dependant household members who are unable to work can receive minimum income benefits under the basic income support for job-seekers.

The requirement for receipt of unemployment benefits II¹⁵ is that the applicant is fit for work. Foreign nationals are only fit for work, when they are allowed to or may be allowed to engage in gainful employment. Thus beneficiaries of protection may in principle receive the subsistence allowance for job seekers.

Benefits under the basic income support for job-seekers cover the following needs:

- Standardized needs (generalized on the basis of a statistical procedure); it entails in particular food, clothing, personal hygiene, furniture, electricity (not including energy for heating and for local provision of domestic hot water) as well as individual needs of everyday life including participation in the social and cultural activities of the community.
- Appropriate costs for accommodation and heating,
- Specific educational and participatory needs for children, teenagers and young adults,

- Additional needs if applicable (for example for pregnant women and single parents),
- One time and special needs if applicable (for example for furnishing and equipments, including appliances and one time basic clothing).

In 2015 the following standardized needs levels applied nationwide:

- normal requirement for single persons or single parents (standardized needs level 1): € 399;
- if the spouses or partners are living together the normal requirement for each of them is € 360 (standardized needs level 2);
- adults not heading a household nor living in a common household as a spouse or lifetime partner: € 320 (standardized needs level 3);
- for young people when turning 15 until completing 18 years of age: € 302 (standardized needs level 4);
- for children when turning 7 until completing 14 years of age: € 267 (standardized needs level 5);
- for children until the age of 6 (completed): € 234 (standardized needs level 6).

Under Social Code II all recipients are obliged to use their best efforts to end their neediness. This means that they must be available for all measures proposed by the Job Centres and must accept any job they are offered. The recipients of the subsistence allowance cannot insist on employment that corresponds to their level of qualification. The Job Centre may cut the subsistence payments, if the recipient fails to cooperate as required (sec. 31 and 31a Social Code II).

¹⁵ This is the main benefit provided by the basic income support for job-seekers pursuant to Social Code II.

5 Labour market participation

The statistics relating to beneficiaries of protection and their data relevant for residence law are collected in the Central Register of Foreigners (Ausländerzentralregister - AZR), however, this register does not entail data on their employment history. On the other hand, the statistics of the Federal Employment Agency record the nationality in addition to the employment or unemployment history, and the labour market policy

measures; but not the status under residence law. It is therefore currently impossible to provide any quantifiable data on the labour market participation of beneficiaries of protection.

Neither can anything be said about their participation in integration courses, because those statistics do not record the participants' status under residence law.

6 Conclusions

Against the background of the rising numbers of asylum-seekers in recent years and a high recognition rate this study highlighted which services are available to promote and enhance the economic security of beneficiaries of protection. Irrespective of the type of protection status granted the social security system

is just as open for all of these persons as for German citizens. Thus no exclusion mechanisms can be determined that might lead to the fragmentation of the labour market between Germans and beneficiaries of protection.

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Annex

Table 3: Requirements for access to the labour market

Conditions and restrictions	Third country nationals in general:	Refugees:	Beneficiaries of subsidiary protection:	Persons for whom a deportation ban has been determined (humanitarian protection):
Residence title	Yes			
Work permit				
For a definite period	Depending on purpose and title of residence	No		
Limited to a specific employer				
Limited to a specific industrial sector				
Priority for EU citizens				

Table 4: Access to support and benefits

	Minor refugees	Adult refugees	Minors entitled to subsidiary protection	Adults entitled to subsidiary protection	Minors with established deportation ban	Adults with established deportation ban
Education*	Yes					
Language courses	Only, if not attending school					
Orientation courses						
Vocational training	Yes					
Counselling						
Recognition of qualifications						
Basic subsistence allowance						
Housing allowance						

* Unrestricted access to the education system.

Table 5: Support for beneficiaries of protection is conditional on

	Education	Language courses	Orientation courses	Vocational training	Counselling	Recognition of qualifications	Basic subsistence allowance	Housing allowance
Residence title	No	Yes	Yes	No	No	No	Yes	Yes
Work permit	No	No	No	No	Yes	No	No (the decisive criterion is that a work permit can be potentially issued)	No (not explicitly)
Proof of identity*	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Domicile	Yes							
Language skills	Skills in the classroom language	No	No	n/a	No information	No	No	No
Minimum qualification	Depends on the training history	No						
Financial resources	No (if an obstacle to deportation exists BAFöG subsidies will be granted only after four years)							
Credit standing	No							

* Protection may be granted even in the absence of proof of identity.

Table 6: Responsible authority

Support and benefits	Executing agency	Funding
Education	Depends on education history	Depends on education history
Language course	Bundesamt für Migration und Flüchtlinge	Federal Office for Migration and Refugees
Orientation course	Bundesamt für Migration und Flüchtlinge	Federal Office for Migration and Refugees
Vocational training	Employment Agency/Job Centre	Employment Agency/Job Centre
Counselling	Employment Agency	Employment Agency
Recognition of vocational qualifications	Depends on federal state and occupational group	N/I
Basic subsistence allowance for job seekers	Job Centre	Federal Level/Local government
Housing allowance	Local government	For housing allowance: 50% federal state, 50% Federation For subsidized housing: States and Federation

List of Abbreviations

AsylG	Asylum Act (Asylgesetz)
AufenthG	Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory - Residence Act (Gesetz über den Aufenthalt, die Erwerbstätigkeit und die Integration von Ausländern im Bundesgebiet – Aufenthaltsgesetz)
AZR	Central Register of Foreigners (Ausländerzentralregister)
BA	Federal Employment Agency (Bundesagentur für Arbeit)
BAföG	German Federal Training Assistance Act for students at secondary schools and universities (Bundesausbildungsförderungsgesetz)
BAMF	Federal Office for Migration and Refugees (Bundesamt für Migration und Flüchtlinge)
BeschV	Employment Regulations (Beschäftigungsverordnung)
BMAS	Federal Ministry of Labour and Social Affairs (Bundesministerium für Arbeit und Soziales)
BMBF	Federal Ministry of Education and Research (Bundesministerium für Bildung und Forschung)
BMI	Federal Ministry of the Interior (Bundesministerium des Innern)
BQFG	Act on the Determination of Equivalence of Vocational Qualifications (Gesetz über die Feststellung der Gleichwertigkeit von Berufsqualifikationen – Berufsqualifikationsfeststellungsgesetz)
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 (Konvention zum Schutz der Menschenrechte und Grundfreiheiten – Europäische Menschenrechtskonvention)
ESF	European Social Fund (Europäischer Sozialfonds)
GG	Basic Law for the Federal Republic of Germany (Grundgesetz für die Bundesrepublik Deutschland)
IntV	Ordinance on Integration Courses (Integrationskursverordnung)
IQ	Integration by Qualification (Integration durch Qualifizierung)
IvAF	Integration of Asylum seekers and Refugees (Integration von Asylbewerberinnen, Asylbewerbern und Flüchtlingen)
MBE	Migration Counselling for Adult Immigrants (Migrationsberatung für erwachsene Zuwanderer)
N/A	not available
SGB	German Social Code (Sozialgesetzbuch)
StAG	Nationality Act (Staatsangehörigkeitsgesetz)
WoBindG	Act on Securing the Specific Purpose of Social Housing - Controlled Tenancies Act (Gesetz zur Sicherung der Zweckbestimmung von Sozialwohnungen - Wohnungsbindungsgesetz)
WoGG	Act on Housing Subsidies (Wohngeldgesetz)
WoFG	Act on the Promotion of Social Housing (Gesetz über die soziale Wohnraumförderung – Wohnraumförderungsgesetz)

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